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JUDICIARY

CONNECTICUT
GENERAL
ASSEMBLY
1915

HEARINGS BEFORE THE
COMMITTEE ON THE JUDICIARY
ON HOUSE BILL 777.

Friday, Feb. 26, at 2:15 P.M.

The Chairman: Is there any one here in favor of the measure?

Mr. Henney: There are a number here opposed to it.

The Chairman: We will make a record of that fact. If there appears to be any occasion for a hearing, we will endeavor to give you a chance to be heard. We would rather not hear it unless it is necessary.

Thursday, March 4, at 2:15 P.M.

Representative Williamson: I appear for House Bill No. 777, which repeals section 3916 of the general statutes. No. 3916 was passed in 1903. It was first called to the public's attention at the session of 1909. At that time the Howland situation came up in Bridgeport. The Howland Dry Goods Company run a department store and they have their private electric plant, which is more than sufficient for their own purposes. They have the opportunity to sell to the neighbors and the neighbors wanted to buy because they could purchase at a lower rate than they get from the local company. In 1909 the right was extended on the part of

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privatemanufacturers to supply property within the block. That met the Howland situation; they were perfectly satisfied and accepted the proposition of the committee. Now, under the present law, if A, owning a building on one side of the street and another one on the other side of the street, and he has a plant in one of them, he can extend a pipe line and supply his other building. If he has more than he needs for himself and has a neighbor across the street who wants to buy from him, he cannot run a pipe across the street and sell to him. I think it is perfectly obvious that the man who has the private plant ought to have the right to sell to his neighbor. I think it ought to be a right on the part of the neighbor to get it if he sees fit.

The Chairman: Mr. Williamson, it seems that Mr. Hyde and Senator Kætt - that we agreed to let Mr. Henney and others know when this matter was set down. They haven't had notice of this hearing today. Under the circumstances would you just as soon -

Mr. Williamson: I would like to have Mr. Wheeler heard. I am perfectly willing to have it set down for another hearing and let Judge Henney and Judge Beers be heard. I would like Mr. Wheeler to say a word. I got notice through the mail and I assumed everybody else had.

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MR. H. S. WHEELER, of Bridgeport: Mr. Chairman and gentlemen, I was present when the compromise that Mr. Williams is speaking of was made. That was not made, I am sure, because it was in accordance with the judgment of the parties before whom the hearing was had, but it was accepted because we were told it was all we could get. It afterward transpired that it was not so. Most of the Committee were in sympathy with it and would have supported the call for the repeal of the bill. Then it was brought up afterwards and it was stated there was no general demand for its repeal. Of course there was not the general indignation aroused that there had been before that, so there was not the general demand expressed, but a demand arises every once in a while and it is general, because when some enterprise is started they have not the same rights as other towns or neighbors who are located on routes just over the line. The property holder of one locality is handicapped because his property is not available for a service that his friends or neighbors have. Of course there are a thousand and one arguments, but it is generally said - I know it was claimed when this first law was passed - that it was on account of the danger of allowing every one to handle electricity for power or light. Now things are very different from what they were then. It

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has worked in this way, that the monopoly has not taken proper care of electrical installation, and in places where there is no competition and the work of installation is in the hands of a few people, it is more carelessly done and there is more danger, as was evidenced in a few cases where fire started not so very long ago. That is the way it works, so that argument is done away with.

Then it was stated that the controlling company would not exercise any tyrannical influence; that they would not interfere with enterprise, but people who are starting large enterprises do not wish to have their capital jeopardized by living under the sufferance of any company. They want their rights, if they are going to invest largely in any new enterprise and their property should have the same rights as the town or towns, instead of being cut off by some imaginary line of land or population for which there is not the slightest basis. Of course this was done so that the law would not have the opposition of the representatives of the smaller places. For a great many years new enterprises have suffered on account of this law and I think it should be very carefully considered.

Mr. Taylor: In relation to the public utilities that now furnish electricity, are they required to safeguard

life and property?

Mr. Wheeler: Not that I know of; I never heard of it. I know that they do not use ordinary precautions. In other places, for instance in New York, they cannot make an installation but what has some sort of safeguards around it, but in our town there is nothing of that kind. They are given the use of the streets for their subways and conduits without any compensation whatever. In New York state if the company makes application for the use of a street or subway or conduits they say, yes, you can have our streets but you cannot monopolize them; you must provide what will be required by others and you must let them have that at some reasonable rate. But the case in Bridgeport is this - they are given the use of the streets with no conditions whatever. It happened in this last season that the business people of the town wished to install what they called a white way, that is a thorough illumination of the main streets; they called upon the public company to do it. The public company said, yes, we can do that, but it will be a very costly operation. We have got to make new conduits and subways and tear up all the streets for that. When we said you already have the subways and conduits, they said we want those conduits for our natural growth and we cannot put this into them; therefore we want this extra compensation for doing that. The public had

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given them the use of the streets for this very purpose and they turned right around and denied it and denied the use of it again for the very use the public wanted of it. There are hundreds of instances I could give but I won't delay you to listen to more. I thank you.

Mr. Williamson: This right already exists under in towns under 15,000. The statute only applies to towns exceeding 15,000. If the right exists in one town, why not in another.

The Chairman: Would you prefer to be heard now while you are at it? If you want Judge Henney to come in, we are bound to give you notice.

Mr. Williamson: All right.

Wednesday March 17, 2:15 P.M.

The Chairman: The first matter on the list this afternoon will take quite some time. There are one or two others which I believe are very short. The attorneys who are here would like to be heard and get away. It has been our custom to hear cases in the order in which they have been assigned. If, however, those who are present and interested in a long matter are willing to waive their rights and permit short matters to be heard, it will be an

accommodation to them and it will be a little relief to the Committee.

Mr. Henney: I think most everybody here is interested in those other matters. As far as I am concerned I am perfectly willing to have that course taken.

Mr. Banks: I wish to speak on the bill proposing the repeal of section 3916.

The Chairman: Is there any one here who would object to taking up House Bill No. 777 first? If not, we will assume that everybody is agreed to it.

Mr. Banks: I am obliged for the courtesy of the Committee; also for the courtesy manifested by gentlemen who are here in relation to the other measure, in permitting us to go ahead out of order. I appear for Mr. Samuel H. Wheeler of Bridgeport, one of the largest property owners in our section of the state, a gentleman who was formerly at the head of the Wheeler and Wilson Sewing Machine Company before it was sold out to the Singer people. He has, I think I may fairly say, done more to improve business real estate in Bridgeport than any other one man. He is a resident of the town of Fairfield and has also been a public benefactor to that town. This is, of course, merely preliminary. I may say that he feels very deeply and earnestly about this measure and for this reason.

In the first place, can anything be said in favor of this legislation? It was adopted, I think, in 1893 originally at a time when because the general assembly was rather easy in permitting matters to go through in favor of special interests. In 1909 an attack was made upon this law. I remember it very well - I was not on the committee at the time, but I was speaker and I remember the discussion in relation to it. The injustice of the law was clearly pointed out then, but those who were here asking its repeal were pacified by an amendment of the law which took care of them. In carrying out that course of procedure, it was amended by chapter 254 of the public acts of 1909.

Now, to illustrate, Mr. Wheeler's view of it is that in substance this law creates a defect in the title of his real estate. That is, of course, stating it broadly, but in a sense it does, for he cannot use his real estate to the full advantage that he would like to use it. He owns the Stratfield Hotel, a large hotel which has, as I understand it, a private lighting plant. Two short blocks distant he owns on Main Street in Bridgeport an extremely valuable piece of business property unimproved. He desires to improve that property, putting a large business building upon it and he desires to supply that second

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building with electricity from the one plant, but this law stands in the way of his doing it. Why shouldn't he have permission to supply his two pieces of property in close proximity to each other with one plant? There is no reason at all except, of course, the reason that the law giving the public utility company which is lighting the city of Bridgeport the right, does not permit him to do it.

The Chairman: Is that a concrete case or an illustration?

Mr. Banks: It is by way of illustration. That is not the only illustration I could give in relation to Mr. Wheeler's property. He owns other business property which he would like to treat in the same way. But on general principles, entirely aside from Mr. Wheeler's interests, there is nothing that truthfully and fairly can be said in behalf of this law, nothing at all, except that it grants a monopoly which the company who enjoys it would like to have continued. I don't criticise the company for liking to have it continued, - that is human nature, but that is the only thing that can be said in favor of the law. Nothing else ever has been said in favor of it. Nothing was advanced four years ago and nothing else can be advanced in its favor. It arbitrarily draws an imaginary line around towns having 15,000 inhabitants and puts them in one class, and all towns below 15,000 in another class. That was

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done because when it was passed they desired the support if the representatives from those towns having less than 15,000 population and they secured it, but there is no logical reason that can be advanced why towns of 15,000 should be placed in one class and towns below 15,000 put in another class.

Now, to illustrate again. The town of Norwalk is perhaps a striking illustration. That town is very close to that population of 15,000, and people who have their own plants there, when the town becomes of more than 15,000 population as it probably soon will, will be adversely affected,- their circumstances will be changed by the operation of the law. Take the town of Fairfield as an illustration. That town is now growing by leaps and bounds. Only within the past two or three years has it come to grow rapidly. In 1900 it had about 6,000 population. Now it has practically 10,000 and in five years will doubtless go beyond the 15,000 period. Some factories are being started there. Why should they be differently affected the minute the town in which they are located goes beyond the 15,000 mark. There isn't any reason for that arbitrary provision of the statutes that ~~xxx~~ towns ~~be~~ of 15,000 should be treated one way but towns below 15,000 should be treated the other way.

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I may say without question that this law would have been repealed in 1909 except that the gentleman who was proposing the repeal backed down because it was amended to take care of the particular situation which those who came here in favor of the bill, happened to represent. Now, it ought to be repealed; it ought to be repealed for the good of the community at large. I think I know how fair this committee is and I don't care to amplify it for I have stated in a general way the reasons why it should be repealed.

Mr. Beers: As Brother Banks has sort of localized this situation, placing it upon Bridgport, and as I am connected with the United Illuminating Company which furnishes light in Bridgport, it is perhaps very proper that I should speak first in regard to the matter. I think it is perhaps unfortunate that Brother Banks should speak about Mr. Samuel H. Wheeler, who, it is true, is a tax-payer in the city of Bridgport also in the town of Fairfield, and a large tax-payer; but if it is a question of taxes, I would say to the committee that the United Illuminating Company is the second largest taxpayer in the city of Bridgport, while Mr. Samuel Wheeler, in comparison to the United Illuminating Company is very small indeed, a pigmy in the matter of taxes. The gentleman spoke of his desire to connect his properties. I think if he had made inquiry, he would have found that Mr. Wheeler has connected

his property upon the opposite side of the street from which his hotel stands.

Mr. Banks: That is not the property I referred to.

Mr. Beers: He has already connected it without the warrant of law; he has simply done it and yet no one has complained of that. I don't speak of it as a matter of complaint, but he has other properties in which he is interested in other parts of the city, and so he is interested in having this law repealed so that he can utilize his plants that he has in other properties in various parts of the city, not alone for furnishing electricity and power for his own building, but for the purpose of furnishing electricity and power within the immediate vicinity of all these buildings of his, without having the expense and without being under the burdens that the electric light company is under in doing that same work. The motive for it is very clear - it is purely a personal matter and not one actuated by a desire for the public good. That is all I care to say about that phase of it

Mr. Peasley: What expense or burdens do you refer to that he would escape.

A The matter of poles upon streets and the maintenance of wires in the open; the matter of conduits in streets, as we are ~~at~~ obliged to have in the city of Bridgport costing thousands

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of dollars per mile to place wires above the surface of the street and underground for the protection of the public. Those burdens he would not have to bear. Now the purpose of this law was very evident.

In cities of 15,000 inhabitants or under, it is not likely that there would be more than one electric light company. There would not be any incentive to any speculator to come in and establish a second light company, because no community having 15,000 population or less could furnish business that would pay the running expenses of two electric light companies, let alone one. Then again it was for the purpose of giving people who were inclined to invest their money in this public utility, some thought of an assurance in regard to their investments of money. Most of you gentlemen are old enough to know that the electric light business, like the telephone business in its infancy, was looked upon by suspicion by investors. People did not believe in either case that these inventions would make any money for the investor, so they hesitated about investing their money in enterprises of this character. The law was for the purpose of giving stability to the corporations that should engage in this business. So people came, for instance, into a community like Bridgeport and invested their money under this law, and

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upon the faith of the law, in an electric light plant, and provided a plant with all the modern improvements capable of supplying that community. They have invested large sums of money in doing that, upon the faith of this bill, that their investments would ~~may~~ be in some way protected.

Now there is no complaint, certainly not in our community - there is no complaint that the electric light companies are not treating the people fairly and that for that reason there should be a change in the law. There is no reason except that some one wishes to get in and get some of the fruits of the labors and of the investment of these people who went into this company and into this business when its outcome was doubtful.

Again, it seems to me that the object of the law was that in the larger communities the general assembly of this state should have some control over the use of the streets and the manner in which they should be used and who should carry on the business in these communities, - so I say that for all of these reasons the law ought to be repealed. I don't think the gentleman can produce a witness who will show that the interests of any community have been injured by the fact that this law is on the statute books, and that the only time it has been attacked has been when some private individual desired for his own personal gain to come in and make a little

money if he could out of the situation. The law as it stands is a protection to the people who have invested their money. It works to give to the communities to which the law applies better plants and better service than they could get if there were competing companies. You gentlemen of course know the facts that where there are competing companies in matters of sort, telephone or electric light, or whatever it may be, that the competition is not for the benefit of the community in which they are located. The service you get is not as good a service as that rendered by the single company. In addition to all of that, if there were a cause of complaint against the electric light company or companies; that they did not furnish adequate and proper service, or that their charges were unreasonable, there is a tribunal in the state of Connecticut to which they can go and get relief; but that the people are satisfied is evident from the fact that there are no such applications.

We say, if the committee please, that it would be an injustice to the people who have put their money into these corporations which are engaged in this business, and have built up their plants and are able and willing to furnish all of the commodity that is required and at reasonable prices, and throw the matter open to a general competition.

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Mr. Hyde: If this were repealed would a private individual have no right to erect poles or string wires on the street without the consent of the municipality?

Mr. Beers: No, sir.

Mr. Henney: Yes he would, why not?

Mr. Beers: The right to do it without the consent of the municipality?

Mr. Henney: Yes. If this went off the statute book what law is there to compel him to get the consent of the municipality?

Mr. Beers: The municipality possibly would not have anything to do with it. At the present time the consent of the municipality must be obtained before any wires or poles can be erected in the street.

Mr. Henney: There are certain city charters to that effect, but that is not true universally.

Mr. Beers: And that the consent of the city must be obtained in order to place conduits in the street.

Mr. Back: I was going to ask a question that went any further. Would they have any right to put poles and wires in the street anyway, even with the consent, -a private individual?

Mr. Beers: My understanding of the law is that the property owner has something to say about that.

Mr. Henney: Suppose you got the consent of the adjoining proprietors to put his wires high enough so they would not interfere with public travel - what has the municipality got to do with it?

Mr. Stoddard: Under the present law can an individual construct wires across the street to another piece of property, assuming he owns property on both sides of the street?

Mr. Beers: No, sir.

Mr. Henney: I think you are mistaken about that.

Mr. Stoddard: I am thinking of Malley & Company of New Haven, who owned property on both sides of the street. As a matter of fact, they are connected, but it may be a question of law whether they can legally do so or not. Is there any objection on the part of your company to extending the law so that Malley & Company could extend their wires across the street?

Mr. Beers: I am speaking of Bridgeport alone. I say as to us, that we are not in favor of extending this law so as to take away the income of the company.

Mr. Stoddard: I gathered that from your attitude. I didn't know whether there was any serious objection to extending the law so that an individual user could light all of his property.

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Mr. Beers: Wherever it might be situated?

Mr. Stoddard: It would have to be within a given radius of course.

Mr. Beers: In practice an objection is never made. Certainly for our people I should not wish to see it legalized

Mr. Henney: Mr. Chairman and gentlemen, I appear for the Hartford Electric Light Company, and we are very earnestly opposed to the proposition to repeal this law. There is a point which has not been touched upon that I think had a great deal to do with the passage of the law in the first place. Electricity, of course, is a highly dangerous commodity to deal with, and every electric light company in this state and every electric power company in this state knows that to their sorrow. You are liable to do very grave damage to person and property by transmitting through the highways or any where else currents of electricity, and it is only the public convenience and necessity that want a community in taking any such risk. Now, in answer to one of the Committee's inquiries, as to whether there is any objection to a man running a wire across the street from one piece of property to another, I must express the objection, that you are allowing any irresponsible individual to use the highways for the purpose of conveying across them and under them and

above them this very dangerous commodity. You are exposing to the risk of fire and loss of life and injuries, the citizens, if it is handled in a reckless way.

Now what does this law propose - what is there that is unjust or unfair about it? It simply says that so long as any one wishes to have the privilege of using the highways for the transmission of a current of electricity, he shall to the legislature and get specific authority for doing so, recognizing the dangerous character of the current which is transmitted in these wires. You might have a wire running from one building to another across the street owned by the same party, and that might communicate a conflagration to that section of the town. The party might not be able to respond in damages and it might be his own fault; ~~but~~ it might be his method of operating it, or the method of construction, and there would be a loss possibly of life or property and nobody liable because nobody was of sufficient responsibility to pay. Now you are going to let loose that kind of an animal upon the highways of Connecticut. I am right, I think you will say, gentlemen, that there is reason in this too, and the reason is apparent on the face of it. That law as amended by chapter 254 of the general statutes is as follows:

(Judge Henney read chapter 254)

It simply says unless you get special authority from the legislature, you must keep this dangerous current out of the highways. That is all it says, and yet it is proposed to repeal that. How is there any protection to the public using the highway against damage to person and property from this highly dangerous commodity which they propose to put through the wires? What is the remedy? If there is a situation where the law presses somewhat heavily, let them come to the legislature and, as the law says, and get their authority of this electric company, and let them incorporate if they want to. Mr. Wheeler may be all right, very careful and highly responsible; his successor entitled to that property may be entirely irresponsible. This thing they ask you to sanction might kill people or destroy property and nobody would be found who could respond in damages. That is the reason of this law. I take it to be pretty settled that the municipality has in these highways simply a right of way, with a right to use them for passing and re-passing and such other purposes as the municipalities may naturally require. But the supreme court of the state of Connecticut has said that by the condemnation of that land for highway purposes the community did not take pay for the right to erect poles and wires in the highway and that if anybody wants to erect poles and wires in the highway they

must get the consent of the adjoining proprietor. I know that law sometimes to my great grief - the concerns that I am interested in have been up and against it over and over again. They cannot put anything in the highway in the shape of a pole or wire without getting consent of the adjoining proprietor. You have got before you this afternoon a proposition to require that that consent shall be evidenced in writing, signed by the party to be charged, or it won't ^{amount} ~~held~~ to anything, it won't be valid. You have got that before you this afternoon. Under the law as it is a man owning on both sides of the highway can put his wire where it will not obstruct public travel - can put his wire across there and nobody can stop him. If he cannot get his neighbor on the other side to consent to it, he can put his wire across there and nobody can stop him. You are asked to repeal this law and allow Tom, Dick and Harry to go and fool with this dangerous element and let the community that you represent take the consequences. I say there is no sense or reason, because there is a given case where the operation of the law may be harsh, in repealing this statute. Rather let the gentlemen come here to the legislature and ask for the right. That is all they are told to do in this law they are trying to eliminate. I trust the report of the committee will be unfavorable.

Mr. Banks: Tom, Dick and Harry can fool with this now in towns under 15,000.

Mr. Henney: I will answer that, Judge Banks. You take the communities of Hartford, New Haven, Meriden, Waterbury and any other great centers of population - I won't take the time of the committee to enumerate them - it is a different thing to string a wire across a street in a community of that kind than it would be to string a wire across the street in a community like Farmington, Connecticut. In the first place, the people passing under it would be immensely less than in the other. I don't know as you do the origin of that 15,000 restriction and I don't care to know, but the reason of it is perfectly apparent upon the face of it and that is, while this law might be required in congested centers, it would not be necessary or so necessary in smaller places. I think that is logic and that is reason.

Mr. Banks: No trouble has arisen in these towns under 15,000, has there?

Mr. Henney: My experience with electricity is that it is never safe to say that no trouble has ever arisen, or that it will not. If you had an experience in paying damages such as some of the concerns I represent, I don't think you would make that statement.

Mr. Banks: I was asking you to tell the committee of

any instance of trouble arising in a town under 15,000.

Mr. Henney: There may have been. I don't suppose Suffield has 15,000, has it?

Mr. Banks: I presume not.

Mr. Henney: Something like that. Mr. Alcorn would count for a great many - perhaps he would make 15,000, but in that case very serious trouble might arise in the town of Suffield or any other town, but I haven't any statistics and I don't suppose you have as to whether it happened or did not happen.

With all the safeguards which you have thrown around the distribution of electricity in public highways by your public utilities commission and by your examinations and inspections and all that, - with all that you have very serious accidents and very great danger to the community, and it stands to reason that you will have many more if you let Tom, Dick and Harry do this work.

Mr. Stoddard: Didn't the public utilities commission find that the Suffield case was caused by the negligence of the telephone company?

Mr. Henney: They did not; you are mistaken about that. They said it was a sort of combined negligence of the electric light company and telephone company.

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Senator Klett: Who paid the damages?

Mr. Henney: Both of them. I am very glad that you asked that question, Senator, because that is an answer to the whole thing. They both of them paid.

Mr. Back: I don't know as it is very important in this discussion, but do you understand that a pole can be erected in a highway without the consent of the local authorities?

Mr. Henney: The United States Supreme Court has said this with reference to postroads, and I suppose that is good enough authority for any of us, that they may erect poles and string wires in the highway but that that gives them no title in the soil at all. It is a mere license and if they interfere materially with the uses of the highway by the municipality they must settle with the municipality and pay for that diminished use. They say that the municipality has nothing to do with it, because they say that when the land was condemned for highway purpose it included all these modern improvements. Unfortunately the supreme court of the state of Connecticut has differed with them and its difference seems to stand up to date.

MR. JOHN J. WALSH:

It is claimed here, as I understand it, that this amendment to the original act was passed in behalf of the

public, to protect them from injuries which might be inflicted upon them because of negligence on the part of any one using the highway. That original bill was passed in 1893 when we were running crazy on trolley charters and electrical charters of all kinds. You read that original act and it will at once strike you gentlemen - you are all lawyers - that you might just as well pass an act to prohibit a man from selling the produce that he raises on his farm to his adjoining neighbor, or to stop him from furnishing hay from his land or water from his mill to his adjoining proprietor and say that was constitutional, as to say that you cannot manufacture a commodity, a necessity of life, and furnish it to the man next door to me. Of course when men did this throughout the State of Connecticut, when they consulted counsel and said: "Have I a right to establish a plant in my store, and can I furnish heat or light to the adjoining store," the lawyers advised them to go ahead if they wanted to go to the supreme court; that they believed the supreme court would say it was unconstitutional. That was brought to the attention of the counsel for the companies and it was amended but not for the purpose of protecting the public, but for the purpose of putting a peg in it upon which to hang the saddle. For that and that only was it amended - that was the only purpose in amending it. There would have

been no other.

Mr. Taylor: Didn't the amendment proceed on the theory of police regulation, of safety to life and property?

Mr. Walsh: That was when they came before the legislature and asked to have it, but the question of constitutionality was not raised in the court, on the original act; had it been, it would have been at once apparent.

That new legislation was enacted, in my opinion, for the purpose of giving to the company a standing in the supreme court if the constitutionality of the act was attacked on the ground of its being classed legislation, by saying that it was an exercise by the legislature of the police power of the state of Connecticut to enable them to protect the citizens against irresponsible parties who might use the streets to the detriment of the public. That was the purpose. It was not for the purpose of extending the power which an individual property owner might have to all the other owners in the block. That was not the idea, but that was an incident.

Mr. Taylor: I presume that there was a sinister motive back of that on behalf of those who had charter rights. The theory of the law itself was of police regulation and protection of life and property.

Mr. Walsh: I don't know what the theory of the

legislature was. I assume that when that amendment was asked, it was asked because they said to the committee that we are extending the rights of citizens to a black of various owners where it heretofore has existed only in the individual member of that black and therefore we are giving away something which we now possess, for the benefit of the people of the state. You ought to allow us to do that, because, of course, we seldom do it.

I want to say one other thing in relation to this. It is, as of course appears on the face, class legislation, selecting out one particular commercial enterprise for particular protection at the hands of the state as the law stands at the present time, and it does not extend to all the other articles that are manufactured by men and sold to the inhabitants of the state - it goes to the manufacture of electricity and that alone. In that sense it is class legislation. What is the purpose in asking for its repeal? All of you gentlemen know and my friends here know that no human being ever invented a commodity since the dawn of history that furnishes the energy, the aid and the assistance to man, which can be manufactured in proportion to its quantity, as cheaply as electricity. That is, you increase the quantity and ~~the~~ you decrease the price of manufacturing that to a greater extent than any other form of energy that

man ever devised and harnessed for his own use, so the larger the plant the lower the cost of the product of that plant. They have by that very fact which cannot be ignored an economic protection that places the large manufacturer of electricity so far in advance of the small manufacturer that he does not need any protection from you or anybody else against competitors unless they approach his size in the manufacture of that article. We want to have this large manufacturer so conduct his business that individuals of the state of Connecticut will not be driven by his arbitrary conduct to making it themselves; but that if he does so conduct himself, then they can manufacture their own electricity and use it themselves. In other words, we want a check there because there is no man in the state of Connecticut can light his building or a block of buildings, or turn power into his plant and do it as economically as the lighting company can furnish it to him - it cannot be done. Therefore the only effect it will have upon them is to check their conduct and the acts which every citizen of the state feels that he should not be called upon to stand up under and be forced to accept. I think that ought to be considered seriously. The state cannot do them any harm and it may possibly do the people good. It may do them good to have a salutary check placed upon them.

The Chairman: Are you agreed with Judge Henney in his view, whether you would like the matter left with no regulation, no state regulation?

Mr. Banks: If the committee deem that the public safety requires some regulation of this matter, very well - some regulation that is individual, let the committee advise it as a general law. I don't think there is need of it, but if the committee find there is, let there be a general law passed providing for such safety. The fact is there has been trouble in towns under 15,000, and in towns under 15,000 the repeal which we are asking for ~~the same~~ does not apply, and certainly if safety is required in one town it is required in another. To be sure there may be some need in greater proportion in larger towns than in small towns. It is evident the need must be present in towns of 15,000 or under. There are electric light plants in little towns of 10,000 or 12,000.

As I said, there has been no reason given here except that these corporations have this right and they want to retain it. To be sure they do not put it in quite such blunt language as that. They clothed it in pleasanter words, but analyzed it means that just the same. Of course no one can put poles on highways without the consent of the municipality; everybody knows that. The United States supreme court may have held that they don't ~~re~~ acquire any title in the land which they occupy, but that is not the question at

all. It is quite true, as Judge Walsh has said, that probably the only practical effect of the repeal of this law will be to require these public corporations, electric light and gas companies to give more reasonable rates, because, as Judge Walsh well said, they can manufacture and deliver electricity cheaper than any small concern and sell the commodity at a profit, and they hold this statute over the heads of the people at the present time. That is the very purpose of it. It has been used in that way by the corporation which Judge Beers represents in Bridgeport here. He says you haven't any complaints. You can't find anything but complaints about that company. I know of no public service corporation in Fairfield County about which complaints are so universal as they are about that corporation, in Bridgeport and in Fairfield. That is rather wide of the mark perhaps, but it is true that the main purpose of this statute is to use it as a club over corporations when they ask for reasonable rate for electric power or lighting purposes.

Now, to be sure, I appear personally for Mr. Wheeler. I believe in the general proposition, and I have no hesitancy in saying that I urged the Judiciary Committee to pass it in 1909 and they came mighty near doing it too, but I appear here today specially for Mr. Wheeler. It is true that he does own a building directly across from the Stratfield

Hotel. And it is true - I don't know whether with or without warrant of law - it is true anyway that he is connected up and is supplying electricity from one plant to light those two buildings. He has tunneled under the highway and there has been no opposition to it. This company did not dare object to it, and whether with or without warrant of law, it is true he has tunneled under that highway and is lighting the two buildings on opposite sides. But, as I have said, he owns other lands a block or two away; he owns a valuable piece of property located within a block or two and he can get the consent of the municipality and everybody except this electric light company. That statute stands in his way. And he would like to have it repealed in order that he may light his several pieces of property as is most economical for him from a central plant, and light the others from it. Why shouldn't he have it? I know of no reason at all.

Mr. Taylor: Is there any requirement of the law that would prohibit the Bridgeport Company from discriminating in favor of Mr. Wheeler? Don't be shocked at the question - I think you want to know the facts.

Mr. Banks: I think there might be some trouble with the public utilities commission, if has any force at all. My own view is that that commission won't make any order which it

thinks may likely take it into the appellate court. I think it does not, as I understand the law. Assuming that the law under which it is operating is valid and will stand any test, then I think the answer to your question is that they could not do it without coming in contact with the public utilities commission.

Mr. Henney: Judge Banks, will you pardon me for a question or two? Isn't it a fact that the public utilities law would cover any complaints such as have been alluded to here - inefficient service, unreasonable rates and discrimination and all that? The law itself would cover it, wouldn't it, - the law relating to public utilities?

Mr. Banks: I think the form of the law does cover that. Suppose some one has a serious complaint, - don't you think he would prefer to smart under it rather than travel all the way to Hartford and take it up before the public utilities commission?

Mr. Henney: My experience is that he would delight to come here and get into the lime light. One other question. Isn't it a fact that there was a private concern, not an incorporated concern, in Windsor Locks that distributed electricity across the street and that it made a great deal of trouble by its wires falling because they were put up so insecurely?

Mr. Banks: I never heard of it.

Mr. Henney: I think there are people in the room who can tell about it. That is Mr. Healy's town. I don't think it has over 15,000 inhabitants when he is absent.

Mr. Phelps: I represent the Rockville and Willimantic gas and electric light company, which furnishes electricity and gas for Rockville, Willimantic, Stafford Springs and Willington, and I desire to protest against the proposed repeal of this law. I come prepared to make a statement of the reasons why I make that protest, but I don't care to take the time of the committee and I wish particularly to say that I approve what has been said in opposition to the proposed repeal. You gentlemen do not care to hear the same arguments twice and I agree with you. I wish to register my protests against the repeal. There is no section that is wiser or safer to the public upon the statute books than that section 3916. The companies have been established and have grown up upon the faith of that law and it is not the time to knock that prop from under them. There is also great danger in these small places. The most serious accident that has come to my knowledge within the last ten years occurred in a town of less than 15,000 inhabitants where a party owning property endeavored to himself adjust some electric apparatus and transmit some fluid from one place to the other because

he was impatient about the arrival of the expert sent by the company. He thought he could do it but it was a serious accident, one of the worst I ever heard of and he lost his life. Those matters ought to be taken into careful consideration. It is a statute that people depend upon, the public depend upon, and the corporations who are paying a large amount of taxes must have the protection which you have given them by their charter. If this is repealed the benefits and protection given to them by the legislature through their charters are taken away.

Mr. Beers: I want to call the attention of the committee to the fact that no complaint has ever reached the public utilities commission; that our company has never been called before that commission, and that I think is a sufficient refutation of any claim that there have been complaints which had any just foundation.

Mr. Stoddard: You speak of the United Illuminating Company?

Mr. Beers: I do.

Mr. Henney: The idea is that it ought to have been, if it is not.

Mr. Beers: I know what the gentleman has in mind.

The Chairman: Unless we take up the first measure, I am afraid the little one will be bigger than the big one.