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telephone exchanges in cities and villages of different classes, as herein defined, to charge a higher rental for exchange telephone service in any city, or village, of a lower class than he or it shall charge for a like service in any city or village of a higher class. For the purposes of this section, cities and villages shall be classified as follows, according to the last preceding state or federal census, to wit:

- Cities of the first or highest class, those above 100,000 population.
- Cities of the second class, 75,000 to 100,000 population.
- Cities of the third class, 50,000 to 75,000 population.
- Cities of the fourth class, 40,000 to 50,000 population.
- Cities of the fifth class, 30,000 to 40,000 population.
- Cities of the sixth class, 25,000 to 30,000 population.
- Cities of the seventh class, 20,000 to 25,000 population.
- Cities of the eighth class, 15,000 to 20,000 population.
- Cities of the ninth class, 10,000 to 15,000 population.
- Cities of the tenth class, 7,000 to 10,000 population.
- Cities of the eleventh class, 5,000 to 7,000 population.
- Cities of the twelfth class, 3,000 to 5,000 population.

This section shall not apply to telephone exchanges owned, controlled or operated by any individual, company, partnership or corporation in cities or villages having a population of less than three thousand according to the last state or United States census. Any individual, company, partnership or corporation violating or failing to comply with any of the provisions of this Act, shall, for each and every such violation or failure, forfeit not less than fifty dollars nor more than five hundred dollars, one-half thereof to belong and be payable to the person prosecuting.

Section 2. This Act shall take effect and be in force from and after its passage and publication.

No. 252b.

OPINION OF ATTORNEY GENERAL

May 31, 1905.

To the Honourable Senate of Wisconsin:

GENTLEMEN,—I am in receipt of the request of your honourable body that I give you my opinion as to the constitutionality of Bill No. 263, A., entitled: 'A Bill to prohibit discrimination in charges of telephone rentals in different cities and villages, and fixing a penalty for the violation thereof.'

The Bill classifies cities, according to population, into twelve classes, and forbids telephone companies operating telephone exchanges in two or more cities from charging greater or less rental for exchange telephone service in any city of the same class, and also prohibits a higher rental charge for exchange telephone service in any city of a lower class than shall be charged for a like service in any city of a higher class.

The purpose of the Bill is said to be to prevent telephone companies having exchanges in more than one city from levying tribute on the people of one city in the form of higher rentals for the purpose of driving a competitor in another city out of business. In other words, the purpose of the Bill is said to be to prevent a monopoly in the telephone business.

A telephone company is a common carrier of messages and enjoys those rights, and must perform those duties that exist in all cases where private property is used in a business in which the public has a common interest.

A telephone system is simply a means for the transmission of intelligence and news. In other words, it is a common carrier of information.

It is an undisputed proposition that the legislature has the power to regulate the charges of, and to prescribe reasonable regulations for all common carriers. The tele-