

SUPPLEMENT TO A PUBLIC HEARING

On

ASSEMBLY BILL NO. 118

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Assembly Chamber  
State House  
Trenton, New Jersey  
April 13, 1955

Before

ASSEMBLY COMMITTEE ON BUSINESS AFFAIRS

Members of Committee present:

Assemblyman G. Clifford Thomas (Chairman)  
Assemblyman Robert A. Vanderbilt

Absent:

Assemblyman Reinhart V. Metzger  
Assemblyman James C. Jamieson  
Assemblyman Charles E. Gant  
Assemblyman William E. Ozzard  
Assemblyman John J. Farrell

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INDEX OF SPEAKERS

|  | <u>Page</u> |
|--|-------------|
| HONORABLE ARCHIBALD S. ALEXANDER<br>State Treasurer                            | 1           |
| HONORABLE CHARLES R. HOWELL<br>Commissioner, Department of Banking & Insurance | 4 - 31      |
| HONORABLE FREDERICK J. GASSERT, JR.<br>Director, Division of Motor Vehicles    | 16          |

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THE CHAIRMAN: We will conduct this rather informally, and the first gentleman we will question is the State Treasurer, Mr. Alexander. I will read question number one.

Doubtless you have made a careful estimate as to the total cost of operating the New Jersey Unsatisfied Claim and Judgment Fund for the period April 1, 1955, through April 1, 1956. What is your estimate, and on what assumptions is it based?

MR. ARCHIBALD S. ALEXANDER: Mr. Thomas, we have had estimates made, and I assume that you are asking about total expenditures out of the fund, both for operations and payment of claims.

THE CHAIRMAN: That is right.

MR. ALEXANDER: We do not think that any present estimate is likely to be accurate for that first year because during the first year there will be a lag due to lack of knowledge as to how to press a claim, perhaps, and also because of the time it takes to process a claim. But we have had estimates on probable annual expenditures after the fund is going for a while, and one such estimate was \$3,491,000; another one was somewhat higher. They are both adjusted estimates, but I do not think that they are accurate even probably within ten or twenty percent. Furthermore, for that first year that you speak of, we feel reasonably sure that the cost will be less.

THE CHAIRMAN: What amount is in the Fund now, and how does it compare with your estimate of what will be needed?

MR. ALEXANDER: The amount in the Fund at present is \$3,236,000.

THE CHAIRMAN: Under the present law, could you give an analysis of where the burden of supporting the Fund lies?

MR. ALEXANDER: Yes sir. The first group of people who bear the burden are the insurance carriers operating in New Jersey because they contribute on an annual basis. I believe it would be for the expense of operating the

office, and to defend and investigate claims. In addition, there is the right to assess motorists. The amount now in the present fund came to \$1,100,000. from fees collected in 1954 at the rate of \$3.00 for the drivers who are not insured; and \$1,600,000. in 1954 from \$1.00 fees from insured drivers, plus the assessment versus the insurance companies of \$494,000. I will recapitulate if you like.

THE CHAIRMAN: We have them all right, thank you. How would this change if Assembly Bill No. 118 were enacted?

MR. ALEXANDER: Well, as I understand Assembly Bill 118, each individual motorist would be required to take care of himself, and consequently there would not be separate assessments against the drivers or against the insurance companies, because the insurance company would have to pay the losses on the additional policies that would be in effect if you had compulsory insurance.

THE CHAIRMAN: Which would you consider the sounder situation, as far as the interest of New Jersey citizens is concerned, the present one, or that which would exist if enactment of Assembly Bill No. 118 took some of the burden off the Fund and those required to support it?

MR. ALEXANDER: I can give you a personal opinion only.

THE CHAIRMAN: All right.

MR. ALEXANDER: I would think that in the long run the State as a whole would be better served if there were compulsory insurance which, I understand, 118 provides for. Then each person would bear his own cost, and nobody would bear much of anybody else's. I also think you would have assurance of complete coverage in a short time - all motorists - whereas now there is no such assurance.

THE CHAIRMAN: If Assembly Bill No. 118 were enacted, would it be possible to return any funds to those who contributed them?

MR. ALEXANDER: It would be possible, but certainly very difficult

because of the fact that it has come from three different sources. I think under the present law, as amended by 118, it might be that the Legislature would think it desirable to put the monies now in the Unsatisfied Claim and Judgment Fund to take care of the hit and run feature of the present law. But you would have to refund to approximately two million people if you were going to refund pro rata what you have collected so far, and that would be quite an undertaking.

THE CHAIRMAN: If the present estimate of the Fund's dollar requirements is too low, how will the additional money required be raised next year or during the remainder of this year?

MR. ALEXANDER: There are two ways of raising funds, one by assessment within limits on the insurance company, and the other by further fees paid by drivers. It would have to be one of those two sources under the present law. We do not think in the first year that would be necessary because of the fact of time which I spoke of.

THE CHAIRMAN: You have the statutory duty of estimating what will be needed to pay Fund losses. How will this be done in practice?

MR. ALEXANDER: I am glad to say I no longer have that statutory duty.

THE CHAIRMAN: We will hold that for someone else. What would be the procedure if it were decided that a Fund deficit should be made up out of general revenues of the State?

MR. ALEXANDER: Well, there would have to be a change in the law, as I understand it, and thereafter there would have to be an appropriation by the Legislature, and the revenues to appropriate from.

THE CHAIRMAN: Assuming that certain vehicles owned or operated by the State or by other governmental units are not insured in private companies, and that the standard procedure for self-insurance need not be complied with by such operators, is the Fund liable for damages done by these vehicles, or would such losses be paid out of general revenues through some other procedure?

MR. ALEXANDER: My understanding under the present law is that the Unsatisfied Claim and Judgment Fund would not be responsible in such cases, and claims would have to be paid as they were before the law, either by the state, or by the municipality, or private corporation out of whatever funds they would have.

THE CHAIRMAN: What would be the situation with private organizations of eleemosynary type, in case they have the defense that they are not liable for negligence?

MR. ALEXANDER: I am afraid I can't answer that.

THE CHAIRMAN: If the Unsatisfied Judgment Fund law were amended to eliminate the provision for reducing claims because of other insurance, such as life, accident, etc., how much would the Fund have to be increased to take care of this additional demand?

MR. ALEXANDER: I do not believe that we, or anybody, have now the necessary factual information by which to give an intelligent answer on that, sir. I think it would have to develop out of the experience the fund would have.

THE CHAIRMAN: Well, that completes the questions that I have for you, Mr. Treasurer, and we are very grateful for your cooperation in coming in with us today. Thank you very much. Now we turn to the Banking and Insurance Commissioner, Mr. Howell. You have a copy of the questions here?

MR. CHARLES R. HOWELL: Yes.

THE CHAIRMAN: We will start with number one. Although your annual report to the Senate and Assembly may not have been completed as yet, could you give us the following figures: (a) Dollar amount of loss payments by insurance companies doing business in New Jersey during 1954, separately for automobile bodily injury liability and automobile property damage liability?

MR. HOWELL: Yes. For automobile bodily injuries and losses paid,

the figure is \$25,187,156., and for automobile property damage the losses paid were \$14,874,108.

THE CHAIRMAN: (b) Dollar amount expended for adjustment, investigation, and defense of these claims, also separately for bodily injury and property damage?

MR. HOWELL: We do not have those figures. They are not available, not broken down by States. We do not really have any way of getting them for the State.

THE CHAIRMAN: So we have no figures there?

MR. HOWELL: No.

THE CHAIRMAN: (c) What do your records show to be the percentage relationship between loss payments and adjustment-investigation-defense expenses in connection with claims of these two types?

MR. HOWELL: Well, there again we don't have it by States, but I can give you some country-wide data that might be helpful.

THE CHAIRMAN: I am sure it will be helpful.

MR. HOWELL: Country-wide, on the basis of incurred losses and incurred allocated and unallocated claim expenses - and these are for 1953 - we can give you this summary. For stock companies incurred losses and bodily injury, \$455,000,000., and incurred claim expenses, allocated and unallocated, \$87,652,441., which gives a ratio of about 19 percent on stock company incurred losses. Stock company incurred losses for property damage, \$206,044,701.; and incurred claim expenses, allocated and unallocated, \$45,101,352., a ratio of 21.9 percent. On mutuals incurred losses for bodily injury, \$175,012,588.; and incurred claim expenses, \$42,528,902, a ratio of 24.3 percent. On mutuals incurred losses for property damage, \$79,438,734., and incurred claim expenses \$18,211,337., a ratio of 22.1 percent.

THE CHAIRMAN: Under (d). Assuming that 82% of the motorists are insured, could you estimate the expense that will have to be incurred by the

insurance companies to adjust, investigate, and defend claims made against the 18% that are uninsured?

MR. HOWELL: That would really have to be in the field of speculation on my part. I probably should call attention to the fact that assuming 82% were insured, the Fund will not have 18% of the claims to handle. First of all, the \$200. deductible will eliminate a very substantial number of claims, particularly property damage claims. Secondly, a large number of uninsured motorists will come under the Motor Vehicle Financial Responsibility law; and third, a substantial number of accident victims will be persons covered by the Workmen's Compensation law, and thus not able to recover from the Fund. In view of all that the number of claims per hundred uninsured cars which will be filed against the Fund will be substantially lower, probably than the number of claims per hundred of insured cars.

THE CHAIRMAN: (e) In that the investigation by the insurer must not only determine the facts of the accident itself, but also facts as to the existence of insurance of various kinds, financial responsibility, and other matters provided for in Section 10, as well as the time spent in consent judgments and in securing the cooperation of the uninsured, would you anticipate the cost of the investigation, adjustment, and defense of these cases would be greater than where a policyholder is involved? If the answer is yes, do you have an estimate as to how much?

MR. HOWELL: It may be possible that the average cost of handling an assigned claim will be greater than the average cost of handling the claim against the insured motorist. Only our actual experience as it develops from now on will give us the full answer. However, I think it is important to keep in mind that, to answer the question 1 (d), further claims will be made, and that as to claims made, assignment for investigation, or for defense is discretionary excepting in hit and run and default cases. By averaging the cost of handling claims actually

assigned, and those not assigned, the unit expense for adjustment, investigation, and defense may be lower than the average cost of handling claims against insured motorists.

THE CHAIRMAN: Do you think that the expense of adjustment will be higher by reason of the procedure involved in Section 12 of the Unsatisfied Judgment Fund law?

MR. HOWELL: Well, it seems almost impossible at this point to estimate what those expenses of adjustment would be by reason of the procedure prescribed in Section 12. It is a pretty involved section, and I don't believe I would care to make an attempt to guess at it at the present time. It is a pretty tough one to deal with.

THE CHAIRMAN: Under (g). Do you feel that a greater ratio of cases will be litigated under the Unsatisfied Judgment Fund law, because under the law the uninsured must consent to any settlement, and in so doing he loses his right to drive until he has reimbursed the fund?

MR. HOWELL: Well, to really answer this question, it depends on how readily and how frequently the consent of the uninsured motorist could be obtained to a proposed settlement. And again, it seems almost impossible at this time to estimate the ratio of cases that will have to be litigated. We can speculate and assume that it might be quite a substantial number of them, but I just do not feel that I could give too much of a worthwhile answer to that at the moment.

THE CHAIRMAN: Number two. It is assumed that the expenses incurred by insurance companies in investigating, defending, and adjusting claims against uninsured motorists will be included in future automobile insurance rates. Will this mean, as a practical matter, a rate change to take care of this factor as soon as this expense can be determined, or would this be handled as part of a later rate revision on the next general filing of New Jersey experience?

MR. HOWELL: I feel almost sure that it would come in a later revision.

THE CHAIRMAN: Later, you say?

MR. HOWELL: Yes, in a later revision.

THE CHAIRMAN: Number three. What effect will the one-half percent tax on insurance companies have on rates?

MR. HOWELL: I think, like all other taxes, the half of one percent tax, if levied, will certainly somehow have to be reflected in the rates.

THE CHAIRMAN: Number four. What is your opinion as to the effect the operation of the New Jersey Unsatisfied Claim and Judgment Fund will have upon New Jersey automobile liability insurance rates?

MR. HOWELL: Well, I think it might be anticipated or expected that there would be some reduction in accident frequency, as we like to think that this type of law will tend to encourage safe driving. I think, if anything, there will be some gain in that direction; how much it will turn out to be substantially is pretty hard to tell, but I think there should be some expected reduction in accident frequency.

THE CHAIRMAN: What would be the effect of enactment of Assembly Bill No. 118?

MR. HOWELL: Well, I know that some people believe that enactment of a compulsory insurance bill would increase claim consciousness and, of course, theoretically, at least, everyone would be covered, and in that respect it might make them more claim conscious. Whether that would be a real big factor or not, I do not honestly know. It might have a little effect in that direction.

THE CHAIRMAN: Number five. You have had extended professional experience in the insurance business. What are your practical opinions as to the following: (a) Since there is a \$200. deductible in all claims paid by the Fund, do you feel that there will be efforts to pad claims to take care of this at least in part?

MR. HOWELL: I think I ought to respond to your preface there, and say a little bit first about my vast professional experience in insurance. Actually, I have been in the insurance business most of my business life, and in and out of politics, if that can be called experience, but I have mainly been in the selling end of it as an agent, and most of my insurance experience has been in the field of life insurance. There, perhaps, I know a little more beyond the agent's viewpoint. But in this particular connection, I have had little experience that would make me an expert in the operations of rate making, claim payments, and that type of thing.

In my experience in the insurance business, I found that the overwhelming majority of insured and claimants are honest and law-abiding. We also find, of course, the limited number who pad claims, or attempt to pad them, and it is not unreasonable to assume that the same people will continue to do that kind of thing under the Unsatisfied Claim and Judgment Fund law.

THE CHAIRMAN: Under (b). In cases which are litigated, do you feel that juries will take into consideration the fact that there is a \$200. deductible, and so award at least \$200. more than they would otherwise?

MR. HOWELL: I think that could be answered "no", perhaps not a complete, emphatic "no", except in hit and run cases. It has been a problem with courts and juries over a period of time, and I do not think there is a whole lot of substance to it. I think generally I can answer that in the negative.

THE CHAIRMAN: Under (c). Do you feel that this inflation would have the effect of raising the level of claim settlements artificially all along the line, with a consequent necessary increase in rates?

MR. HOWELL: I think that has been mainly covered by my answer to question 5 (a) and (b).

THE CHAIRMAN: Under (d). Do you feel that the complex conditions which must be complied with to recover from the Fund will lead to employment of attorneys

in a great many more cases than at present, and that this will have an effect upon rates for all motorists?

MR. HOWELL: I do not believe anyone can answer this question until there has been an opportunity for us to more fully observe the operation of the law. I do not believe it will have any effect on the number of attorneys retained for claims involving insured persons.

THE CHAIRMAN: Number (6). On the basis of your practical experience, do you feel that settlement costs per claim will be higher in connection with those against the Fund than they would be in connection with claims made where an insurance company stands behind the defendant?

MR. HOWELL: I think I can best answer that question by referring you to my previous answers to questions 1 (d) and (e). I don't believe I can produce anything very substantial beyond that.

THE CHAIRMAN: Upon the assumption that more claim personnel time would be required in connection with claims against the Fund, have you made any estimate of the number of claims personnel that would be required to handle claims against the Fund, or of average claim-man-hours per claim?

MR. HOWELL: Well, I think that has to follow along the same line as my answer to the other question.

THE CHAIRMAN: Number seven. At a recent public hearing on Assembly Bill No. 118, representatives of some insurance companies and of some insurance producers spoke against the bill. Arguments advanced included fear that enactment of the bill would put the State into the insurance business, that political pressures would be introduced into rate making, the coverage purchased would be the minimum required under the law. What is your opinion as to (a) How enactment of Assembly Bill No. 118 could put the State of New Jersey into the automobile insurance business, and whether by minimizing the importance of the Fund it would not actually be an influence in the opposite direction?

MR. HOWELL: Well, I suppose it could have an effect in that direction by generating public pressure toward a State fund and providing the necessary market. Many people, as your question suggests, do have that feeling. I do not honestly know how substantial that pressure would be, or whether it would exist in a real substantial form. There are undoubtedly some pressures in that direction, and once you made it compulsory there would be, perhaps, more people trying to move the direction of the State fund.

THE CHAIRMAN: Under (b). How enactment of Assembly Bill No. 118 would influence the type of automobile liability insurance coverage now being made available to New Jersey motorists under standard provision policies?

MR. HOWELL: Well, if we are talking about the amount of coverage, in many cases, that could only be by statutory limits. If you want to go beyond that and talk about the type of coverage, policy provisions, and the extent of the coverage, and so forth, that might come in in some phases. For instance, probably it would not be constitutional to require policies to cover others on the public highways, and it might be conceivably possible for a company to issue a policy that would just cover what is required by law, perhaps a different rate which would not provide as extensive coverage as a standard automobile policy, and some other angles like that. I do not know whether they would be actual or just potential happenings.

THE CHAIRMAN: Under (c). How enactment of Assembly Bill No. 118 would necessitate or encourage any changes in your Department's rate-making procedures?

MR. HOWELL: The regulatory law provides for regulation under a compulsory system. There might be some public clamor for actual rate making by the State, and if that did come about and happen, that would require a larger staff of technicians in our rating division. But that only would happen if the law and the public demands behind it were such that we actually were given the job of rate making rather than just rate regulation.

THE CHAIRMAN: Now, number eight. Do you think that enactment of Assembly Bill No. 118 would have any effect upon the amount and methods of compensating New Jersey agents and brokers for the sale of automobile liability insurance policies?

MR. HOWELL: It could possibly have. Workmen's Compensation Insurance does give us a precedent in that direction, where commissions were reduced. I am not sure that it would happen, but we do have that precedent, and there undoubtedly might be some tendency in that direction.

THE CHAIRMAN: Number nine. On the basis of your own long familiarity with the insurance business, can you see any legitimate reasons why anyone except irresponsible motorists should oppose enactment of Assembly Bill No. 118? If so, what, in your opinion, are these reasons?

MR. HOWELL: This is a hard one to answer. I am sure you wouldn't want me to answer it literally, with the complete load that is put into it. I think if A 118 were enacted, it would tend to make a major line of insurance compulsory, and compulsory insurance laws can possibly bring about some encroachments in what we think of as the present type of free private enterprise system by the State either making rates, or eventually those pressures lead to the State fund. And they probably are legitimate points of concern with some people that you would not completely find would fall in the category of irresponsible persons. I have, over a period of years, as an individual, and even as an insurance agent, wrestled with this problem, and have never known what the completely right answer to it is. I have always felt that something leading toward more universal coverage of motorists would perhaps be faced some day, and we have taken a couple of steps - partial steps, perhaps - in that direction by our present Financial Responsibility law and the Unsatisfied Claim and Judgment law which were thought by the Legislature, and by many people in the industry, as being a solution to the problem, or to a substantial part of it, probably without getting into what some people consider the

perils of getting into compulsory insurance. I am not sure. Frankly, I like to look at it rather objectively, and perhaps since those steps have been taken, and since the second step is just starting into operation, perhaps there is some logic in saying that I would like to see how that works for a year or two before we go beyond that. I am a little bit inclined to that philosophy at the moment, although I try to keep an open mind, and the facts as developed in your hearings and otherwise could convince me that that would not be the answer, and that something further, such as 118, is needed. I certainly won't close my mind to it.

THE CHAIRMAN: Number ten. It is possible that in order to prevent penalizing of their policyholders insurance companies may be forced to consider seeking authority for some changes in the wording or policies and changes in operating methods. Do you have an opinion as to what your reaction as Commissioner of Banking and Insurance would be to insurance company requests to: (a) Insert in some types of accident and life insurance policies a provision that no payment would be made under the policy if the other party in an accident were an uninsured motorist, upon the theory that any payment made by an insurance company would be deducted from the settlement received from the Fund?

MR. HOWELL: I doubt very much if the law would permit such a policy provision; or, unless we had a whole change of philosophy, there would be anything that would lead them to do that. It is pretty much of a long range guess, and I doubt very much if that would happen. Certainly, in our department, we would look with favor on it, and sensible people in the industry and in the public would be apt to let that happen.

THE CHAIRMAN: (b) Insert in the workmen's compensation law or workmen's compensation policy, a provision that, in case recovery were possible from the Fund, the insurance company would not be expected to furnish medical or compensation benefits?

MR. HOWELL: I think the answer to that substantially is the same as 10 (a). That same answer would apply.

THE CHAIRMAN: Number eleven. Do you feel that, as Commissioner of Banking and Insurance, you should have authority to examine such aspects of the Fund as its reserve policies just as you would in the case of a private insurance company?

MR. HOWELL: I think that is a legislative problem, and if the law so provided, it would become my duty to do it. Unless the law spelled that out, I do not believe that I should have the authority. I certainly do not have that duty at the moment. Since the revision of the U.J. law, I have become one of the six board members there and, of course, in my operations on the board, I have become familiar, not in great detail, but in general, with some of the workings of the board as to reserves and claim practices, and so forth.

THE CHAIRMAN: Should you have authority to criticize the claims policies of the Fund, or would any possible criticism by your Department be directed against the insurance company which had been assigned a case for investigation, adjustment, and defense?

MR. HOWELL: I think that the second part should be answered in general, as I have answered the first phase of that question, that it is pretty much a legislative problem, and it would be a matter of what the Legislature figured our Department's duties, and my duties should be in this regard.

THE CHAIRMAN: Number twelve. Do you think it would be desirable or feasible to incorporate the loss experience of the Fund into the general statistics used for rate making?

MR. HOWELL: No. I don't believe it would be the same kind or type of information.

THE CHAIRMAN: Thirteen. In your opinion will the increase in the work

load placed on insurance companies in settling claims under the Unsatisfied Judgment Fund law cause a general slowup by the companies in the handling of the cases of their own policyholders?

MR. HOWELL: I don't believe there is any real possibility of that happening. I believe about 65% of it would be done by a general adjustment bureau with specially trained employees for that purpose, and it would not interfere with the ordinary operation of their claims and adjustment departments. The same would apply largely to the same extent in cases of those that are not going to the general adjustment bureau. They have certain companies that will do it for others in certain instances, and the operation would be analagous to that of the general adjustment bureau. And in the cases which do not come into either of those two categories, there will be very small companies, very small claim operations, that would have no more than a negligible effect on the claim operations.

THE CHAIRMAN: Under 14. In your opinion, do you feel that the existence of the Unsatisfied Judgment Fund law will decrease the sale of life and accident insurance? Would this situation change if A 118 were enacted?

MR. HOWELL: I very much doubt that the Unsatisfied Judgment Fund law, or Assembly 118, if enacted, would have any real effect on the detailed life and accident insurance policies.

THE CHAIRMAN: Bob, have you any questions of the Commissioner?

MR. VANDERBILT: In answering question number 4, I think you intimated that there would be an increase in the automobile liability insurance rates if Assembly Bill No. 118 was enacted. Could you give an estimate of what you think the increase might amount to?

MR. HOWELL: I am far from being an expert on it. I would say that it would be definitely there. It would be modest, very modest, not nominal, to the extent, perhaps, the insurance company pay in half, or even one percent, getting into a little bit of loading as you go along. But I do not think it would have

any real appreciable effect as far as you can tell at this time. I could be wrong about that.

THE CHAIRMAN: With us today is Senator Hand who is a member of the commission that has been studying this problem of the uninsured motorist. Perhaps as an observer, you may have a question, Senator?

MR. HAND: No, not at this time.

THE CHAIRMAN: Commissioner, we are very grateful to you for coming down and giving us your time and knowledge. Now, Mr. Director, we come to you. The available figures on the percentage of insured motor vehicles in New Jersey apparently are based upon the declarations made by motorists when they applied for 1954 license plates. It has been stated that when the New Jersey Motor Vehicle Security-Responsibility Law was enacted, only about 60% of New Jersey motor vehicles were insured, and now more than 80% say they are insured, and that this is an indication that steady progress in percentage of insured New Jersey motor vehicles can be expected.

(a) Do you know the data upon which the original estimate of only 60% insured New Jersey motor vehicles were based, and do you have an opinion as to the accuracy of these data?

MR. FREDERICK J. GASSERT, JR.: Well, basically, Mr. Chairman, the 60% figure was based, as most State Motor Vehicle Departments do it, on the theory that you get a fair spread of vehicles involved in accidents. In other words, you will have just as many insured motor vehicles in accidents as you will have insured motor vehicles in total registration, and just as many uninsured as uninsured registrations. Prior to April 1, 1953, the old form of accident reports that the Motor Vehicle Division had simply asked the question, "Is car insured? Yes or No", and the 60% figure was based upon the yes answer made on those accident reports. In April of 1953 we adopted a new accident report form (I should say the Division did) and it contains now the requirement of detailed information - the name of the

company, policy number, and that sort of thing. Now, as to whether that 60% was then an accurate figure, it is rather difficult to say. It is difficult in the first place to say whether that yardstick that is used, the assumption that you will get the same spread in people involved in accidents, or vehicles involved in accidents, as there are vehicles registered, but that was the basis for the 60% figure.

THE CHAIRMAN: Under (b). Have any checks large enough to be statistically significant been made in an effort to determine whether those registrants who said they had insurance when they got last year's license plates actually did have the types and amounts of automobile liability insurance which the question sought to determine, or whether some registrants were referring to life insurance, various types of accident and health insurance, or the property coverages which finance companies require of installment car buyers? If such checks have been made, what did they reveal?

MR. GASSERT: There has not been sufficient statistical information to give you a percentage, but there have been enough of those cases that have come to our attention through the operation of the security law to give us concern about the accuracy of the figures we compiled on the basis of the 1954 registration applications. We have found a considerable number of cases - I actually do not have the figure, nor was I able to get it accurately, because these things occurred in the normal operation of the Security Responsibility Law, and no effort was made because of the pressure of business to calculate them. But in a lot of cases, where the driver actually had collision insurance, or some other type of insurance, and thought that he was answering our question correctly - on the form the statement was made that this means insurance for injury and damage to other persons or property, not collision insurance, covering your vehicle for damage, fire, and theft. We actually even have a few cases of people who thought that simply by paying the three dollars in that they were becoming insured, and they answered

"yes" when they paid the three dollars. They actually thought they were insured by the State of New Jersey.

The answer is that we do not have any statistics, but there are enough of those cases to give us some concern about the accuracy of our figures.

THE CHAIRMAN: Under (c) What is shown by any actual studies of New Jersey accidents during the past year as to the percentage of uninsured motor vehicles involved?

MR. GASSERT: Well, in the administration of the Security Responsibility Law, about 24% of the vehicles involved in reportable accidents during the year 1954 were reported; in other words, both reportable and reported to the Division - 24% of those vehicles were uninsured. Actually, the insured percentage was about 70%, but we had a factor of 5%, or approximately  $5\frac{1}{2}\%$  to cover the exemptions in the Security Responsibility Law, such as a vehicle which was legally parked, so that the thing does not come under it. So our figure is roughly 24%. Now, you see, again, if you apply that back to the formula that I discussed in the answer to 1 (a), you do get a higher percentage of uninsured vehicles than the 18% that we have generally been talking about.

THE CHAIRMAN: 24 against 18?

MR. GASSERT: That is right.

THE CHAIRMAN: Under (d). Do you have any theory to account for the fact that periodic estimates of the percentage of New Jersey motor vehicles insured have indicated a month-to-month decline from a high of about 91% reported by Mr. Dearden last March to a figure of about 82% for early 1955?

MR. GASSERT: What Bill Dearden was talking about in March of 1954 was based on the number of these answers we had to 1954 registration applications that were brought in during the renewal period of March of 1954. Since that time there have been two other factors which have come in, one of which I have outlined to you, and that is the error on the part of the registrant. Incidentally, I am

presuming here that most of that was honest error. I think it was. But, secondly, since March of 1954, all through the 1954 registration year we have been, of course, getting applications for registration of new vehicles or used vehicles, and those applications have been coming in constantly during the period from March 1st of 1954 up until March 31st of this year when the 1954 registration year ended, and that brought the percentage down.

THE CHAIRMAN: Under 2. A reportable accident in New Jersey involving property damage only is one in which damage is more than \$50. Do you have any figures or estimates indicating how many accidents occurring in New Jersey need not be reported?

MR. GASSERT: Actually, Mr. Chairman, it is \$100.

THE CHAIRMAN: \$100. is right, yes.

MR. GASSERT: We have no way of knowing how many accidents occur where there is less than \$100. damage involved, which makes them reportable accidents; nor do we know how many in excess of \$100. are not reported, because the report is the only way we have of knowing whether these accidents occur.

THE CHAIRMAN: Under number 3. It has been stated by many that because 18% of New Jersey motor vehicles are not insured, it can be expected that about 18% of New Jersey accidents will involve a motor vehicle that is not insured. We are advised by competent insurance mathematicians that a motor vehicle that is not insured will be involved in about 30% of New Jersey accidents, assuming that the figure of 18% uninsured is correct. Do you have any information from actual New Jersey accident statistics of the past year that indicate this 30% figure is approximately correct?

MR. GASSERT: Well, this goes back again to some of the answers I have given to you before. You can see that the 18% is based on the theory of the number of vehicles involved in accidents being a good indication as to the total registered vehicles.

The close to 30% figure, you will notice, approximates the other figure I gave you of about 24%. But it does not mean to us that there are more accidents involved in uninsured motor vehicles as the juxtaposition of the figures 18 and 30 would indicate. In other words, we are not positive that the 18 is correct, and it could be 30%. Just theoretically I do not think it is that high, but it could be 30%, and it could be an accurate reflection. In other words, there might actually be 30% uninsured. I am inclined to think it is closer to the 24% figure I gave you.

Now, naturally, there are some people who do not carry insurance who are irresponsible, and who just do not carry it because they don't give a hoot about the rest of the drivers on the road. But there are also plenty of people who do not carry it for one of a number of reasons - economic, people who have been cancelled out by insurance companies for good reasons or otherwise. I do not think that we have any basis for saying for certain that there is going to be more accident involvement by uninsured motor vehicles than their normal percentage would indicate.

THE CHAIRMAN: Under number 4. What do the records available to you show as to the percentage of hit and run accidents in New Jersey during the past year or so?

MR. GASSERT: All I have to give you on that are the convictions which were reported to us by the magistrates' courts. All magistrates' courts report violations of Title 39, the Motor Vehicle Act, to us. The convictions for leaving the scene of an accident in 1953 were 1798; in 1954, 1881.

THE CHAIRMAN: If I might just ask a question that isn't here. I want to refer back to that number 2. You corrected me when I said \$50. is the reportable amount. When was that changed?

MR. GASSERT: As I recollect, Mr. Chairman, it was changed about 1953, the same time the Division put the new accident report into effect. It used to be

\$25. as I recall it.

THE CHAIRMAN: Do you recall that, Senator, or Bob?

MR. VANDERBILT: Yes.

MR. GASSERT: It used to be \$25., and then I think it went to \$100., probably at the same time the Security Responsibility Law went into effect, Mr. Chairman.

THE CHAIRMAN: Under number 5. How does the Fund propose to defend hit and run cases? What can the Fund do to protect itself from fraudulent claims in hit and run cases?

MR. GASSERT: To defend hit and run cases, and for necessary investigation in order to enter a proper defense, the best way we - when I say "we", I mean the board - can protect itself from fraudulent cases is to notify the insurance company to which the investigation is assigned, particularly if this is that type of case, and to make the investigation as thorough as possible, including an investigation to show whether there is any other possible cause for the plaintiff's injuries. Other than that, I don't know how much further the insurance company investigating it can go. In my mind, that is one of the imponderables in the Unsatisfied Claim and Judgment Fund Law - what our experience with that sort of a situation is going to be. Needless to say, it proceeds on the theory, and a very proper one, that most people are honest. And I hope our experience indicates that.

THE CHAIRMAN: Well, what can the Fund do to protect itself from these fraudulent claims?

MR. GASSERT: Actually, I think I answered that already, that in my mind about the only way they can do it is by making as thorough an investigation as possible. Of course, if you come right down to a situation where there are no witnesses, and the injury certainly could have arisen out of being struck by an automobile, if the Fund were to say, "We are not going to pay your claim", and the plaintiff went into court, it might well be that the judgment would be against the

Fund, and there wouldn't be a thing the Fund could do about it.

THE CHAIRMAN: Under number 6. What do the records available to you show as to the percentage of out-of-state drivers involved during the last year or so in the twelve types of accidents used in the summary published by the Bureau of Traffic Safety of the New Jersey Department of Law and Public Safety?

MR. GASSERT: Well, actually we have complete statistics from the Bureau only for the year 1953. They haven't completed their statistics for 1954. It shows that there were some 19,659 accidents in which an out-of-state driver was involved. That is approximately 22% of their total figure for that year of 88,145. Surprisingly enough, and I know no reason for this statistic, but about 32% of the fatal accidents that year involved out-of-state drivers.

THE CHAIRMAN: Did you say 32%?

MR. GASSERT: Thirty-two. 203 fatal accidents out of a total of 686. Again I caution you, the Bureau of Traffic Safety reports on accidents come from the same source as do those of Security Responsibility. In other words, the accident reports that come in to Security Responsibility are photostated and sent over to Traffic Safety, and they compile the statistics on that basis. Again we have to eliminate accidents under \$100., and also those not reported. That may, incidentally, be an explanation of why the percentage is higher in the fatal case, because it is almost out of the question that that would be an unreported accident.

THE CHAIRMAN: Under number 7. In respect to the work of your Department, what effect do you anticipate from the operation of the New Jersey Unsatisfied Claim and Judgment Fund during its first year?

MR. GASSERT: Well, there is some disagreement as to this. My own personal opinion is that the work of Security Responsibility is going to increase in several ways. I might state first that, as provided in Chapter I of the Laws of 1955, one of the things that we felt necessary to do was to have the basic

administration, the basic collection of facts from the motorist, in connection with the Unsatisfied Claim and Judgment Fund Law, handled by Security Responsibility, because otherwise you would have the one motorist report the same kind of information to two different State offices in almost identical form. That in itself will increase Security Responsibility's work. But, of course, they would be reimbursed for that proportion of the work. However, I do not think that is really what you are after.

First of all, one possibility is that because of the very existence of the fund the number of unreported accidents will decline. In other words, we will get more accident reports from people who do not report than at the present time. There again, for the same reason, there probably will be more civil litigation which goes to judgment, and if the judgment is uncollected, the defendant then becomes subject to the provisions of Security Responsibility, requiring suspension of his license, possible payments in installments of the amount of the judgment, and filing of proof of financial responsibility for the future.

THE CHAIRMAN: What change would prompt enactment of Assembly Bill No. 118 make in this opinion?

MR. GASSERT: Well, obviously if the number of uninsured motorists were to decrease after the passage of A 118, the work of the Security Responsibility section would be decreased, and vice versa, because Security Responsibility only comes into play where there is an uninsured motorist involved. You do require, in 118, of course, that a person who operates a vehicle without insurance shall then establish with us proof of financial responsibility for the future. That, of course, is not a major part of our operation. It is a fairly routine thing, but we do have to police it more carefully in the future than we do at the present time because I don't believe that A 118 put a time limit on proof of financial responsibility. Most credit regulations have proof of financial responsibility for three years and we, of course, would have to police that.

THE CHAIRMAN: Number eight. Have you made, or caused to be made, any study of the actual steps which must be taken by a claimant before he can collect anything from the New Jersey Unsatisfied Claim and Judgment Fund, and if so, please describe these steps?

MR. GASSERT: Well, a claimant expecting to collect from the fund first must file the notice of intention to collect within 30 days after the accident. After it is received, the Board will review the notice of intention. Our present thinking is that we should wait a few days, at least until we are sure whether or not there is insurance involved. In other words, if the person against whom the claim is made has insurance, and Security Responsibility gets the information that he has it, there is no need to do anything further with that claim, because the claimant is ineligible. Assuming that does not happen, the claim will then be referred to an insurance carrier for investigation and they, of course, will have to contact all the parties involved in the accident. If it appears that the case involves damages for less than \$1000., and the uninsured agrees to a settlement, agrees there is liability on his part, then the insurance carrier to whom the case is assigned will have to help the claimant and the uninsured in the preparation of the necessary papers to be submitted to the Board. Under \$1000. the cases can be settled with the approval of myself and one other Board member. Where the damages are over \$1000., and all of the requirements in the statute are met as to the settlement of the claim, then it would be necessary for the claimant, after getting the Board's consent to a settlement, to obtain his own attorney in order to process the case. The law requires that cases over \$1000., if there is to be a settlement, they have to be approved by a court order. In the cases that cannot be settled, of course, the claimant will be advised that a settlement cannot be reached, and he will have to institute suit. That, as you know, he can do without an attorney, but it is hardly advisable that he do so. And, of course, what you are getting into here is the same procedure that is involved in almost any negligence case at the

present time. And after the obtaining of a judgment, the claimant then has to apply to the court for an order to secure payment of that judgment from the Fund, and in so doing, he has to establish that he has exhausted his remedies under the execution provisions of the laws and court rules, and cannot get the money. In other words, it is quite a process.

THE CHAIRMAN: In the latter part of this question it says, "In your opinion, can the usual claimant process a claim without the assistance of a lawyer?" You have given us the answer.

MR. GASSERT: May I answer that question solely in my official status, and not in my status as a member of the Bar. Naturally, when a claim is assigned to an insurance company, and there is a possibility of settlement, there may not be a need for an attorney, if the settlement is a fair one. If the insurance adjuster can bring the two parties together, and they agree on a settlement, and it is under \$1000., there is no physical necessity for the presence of an attorney.

As to the other two steps, I think I have already answered that. To get a settlement approved over \$1000., it is necessary to appear in court, and we have a definite feeling that the claimant should be represented by independent counsel there. And certainly, if he has to institute suit in order to get a judgment before he can collect from the Fund, he should have his own attorney. I don't know whether I stuck to my original statement or not on that, but I tried.

THE CHAIRMAN: Number 9. What is your estimate of the number of notices that will be filed with the Fund's board, taking into consideration the possibility that the rules will lead to the filing of many notices by lawyers to protect the technical positions of their clients that would be unnecessary otherwise?

MR. GASSERT: It would take someone with supernatural powers, I think, to give you an estimate at the present time. If the Board had been in operation at this point for a number of months, we might be able to give you an estimate. But frankly, we haven't the faintest idea.

THE CHAIRMAN: The latter part of the question is: "In your opinion, how many of these cases will have to be assigned to each insurance company for investigation?"

MR. GASSERT: Well, I can't again answer that because of my answer to the previous part of the question, except to note that in your previous part of the question you suggested that attorneys would advise the filing of claims in order to make sure that their client was protected in the thirty day rule. Now, a lot of those, I would assume, would be cases where the client could not determine that the other party involved in the accident was insured, and if it turned out he was insured, of course, then the claims would go no further. I think that is about the only other factor that I can introduce in answering that question. There probably will be a lot of claims filed where there is insurance, and where the claimant consequently is ineligible. Those cases, we hope, will never get beyond the Board itself. If they go to an insurance company for investigation, of course that fact will turn up sooner or later, and very soon probably if the insurance companies investigate.

THE CHAIRMAN: Under number ten. Do you have an estimate as to the number of cases that must be investigated and either settled or litigated?

MR. GASSERT: Well, I think the answer, of course, is no. The Board has had several studies made by the insurance companies, but these studies have varied so widely there is really no point in using them. I don't know how to answer the question beyond what I have given you in the two previous answers, Mr. Chairman. We have had no experience, to my knowledge, at the present moment with the Board, and actually have nothing to base it upon. This is, as you know, something for which we cannot go to some other State and ask them how they have handled it, because I think outside of the State of North Dakota, which is difficult to compare to New Jersey for many reasons, we do not have any other State of comparable size or population to compare it with.

THE CHAIRMAN: Number eleven. Do you anticipate that an increase in litigation under the Unsatisfied Judgment Law will increase the burden on the courts of New Jersey?

MR. GASSERT: It is difficult to say that it will not increase the number of claims. Certainly the basic purpose of this law, as I understand it, is to provide funds from which a motorist can collect from people who are ordinarily judgment proof. Now, in my own experience as an attorney, I know that in many cases, if a man is judgment proof, and you weigh all the factors, there is no point even in filing a suit. Certainly here that situation would be changed, and litigation will be increased that way.

THE CHAIRMAN: Number twelve. Do you feel that the fact that motor vehicle registrants last year were asked whether they had insurance had the effect of increasing the percentage of insured motor vehicles? And do you feel that the fact that this question is not being asked this year will result in a decrease in the presently existing percentage of insured motor vehicles?

MR. GASSERT: May I just add one thing in answer to number 11, Mr. Chairman. I have already pointed out to you that extra fillip in the Unsatisfied Claim and Judgment Fund Law which requires court approval of settlements. That, of course, is going to mean taking the judges' time too.

Now, in answer to your question 12. First there again we are getting back into the early questions. We have no way to know whether the question asked last year had any effect in calling the public's attention to this.

In answer to the second part of the question, whether the fact that it is not asked this year is going to decrease the presently existing percentage, we do not know either because there again we don't know what last year's question accomplished. It certainly points up to us the need of some definite public education on the different types of policies that we are talking about here. There is so little understanding of the basic difference between a collision and a

liability policy. And, as you know, at the present time in the purchase of cars on time, which is a very common practice in this State today, the prospective purchaser is told he is going to be required to carry insurance. The insurance that is placed on the vehicle is collision insurance to protect the interests of the lien holder, and very often the motorist is under the impression that he is covered. Actually I think there is an awful lot the industry can do in that direction to increase the public consciousness of what we are talking about, and what the Legislature is talking about when they enact laws such as this.

THE CHAIRMAN: Number thirteen. How do you propose to handle cases where a conflict of interest appears between the Fund and the uninsured motorist, and both have retained counsel to defend the claim?

MR. GASSERT: That is a very interesting question. Of course, we can best answer that when we get the first concrete case. In a lot of the cases there won't be a conflict of interest but the law, of course, specifically makes a provision that the defendant will not be deprived of his right to have his own counsel. And I think the only answer to that is to just see how it works. It certainly could produce conflicts, but whether or not the defendant's attorney would feel that the insurance company was doing a proper job, or vice versa, only our experience, I think, with cases of that sort will tell. That is one of the provisions of the law, I think, that you can put up among the imponderables as well. The law does require that the defendant cooperate with the insurance carrier, and that he may be forced to do so under penalty of contempt, but cooperation is such a subjective thing that I don't know how effective the contempt power of the courts can be in that direction. Other than that, we are in the ethereal field again as far as the present law is concerned.

THE CHAIRMAN: This is not one of the questions on your sheet. When did your Board organize?

MR. GASSERT: Well, it actually took effect on April 1st, except for the collection provisions, and the Board officially organized on the 6th of April. It had been meeting unofficially for many months prior to that time, with the Treasurer sitting in.

THE CHAIRMAN: Is the Commissioner sitting in with you now?

MR. GASSERT: Oh yes, and he was before April 6, and prior to that time, the Acting Commissioner McKenna, and prior to that time, Mr. Gaffney. To my personal knowledge it has been going on since I first went over to the Motor Vehicle office, which was in September, and I think it was going on before that.

THE CHAIRMAN: When we were talking with the Treasurer, we asked him question number five, which became somebody else's question. You have the statutory duty of estimating what will be needed to pay Fund losses. How will this be done in practice?

MR. GASSERT: That is going to be a very interesting proposition, Mr. Chairman. You see, at the present time, as in my answers to some of the other questions, we feel that until the Fund gets actually in operation to the extent that we have a considerable number of claims, it is going to be very difficult to estimate what the needs of the Fund are for the next year, meaning the year April 1, 1956 to March 1957, and yet the law requires that estimate to be made in September of 1955. In a sense, I am a little bit thankful that the passage of the motor vehicle legislation last week has given me an awful lot of other things to think about, because frankly, I intend to call upon all the Treasurer's people to help me in that. But it is going to be, at least for the first year, it seems to me, a lot of pure projection. We are charged with the duty of having enough money in that Fund. We turn to the insurance companies first to get their half of one percent, and if that isn't sufficient, we then have to go to the motorists again in 1956 and ask them to pay one dollar and three dollars respectively.

THE CHAIRMAN: Is it planned for you to set up a system of case loss reserves in much the same way an insurance company would?

MR. GASSERT: I am not quite positive I am on sound ground in talking about reserves. I do recall that in discussions on the Board that we planned to ask the carriers which the case was assigned to, that one of the first things that they do when they receive a case is to estimate a reserve, and set it up and report it to the Board. But actually I am a little bit out of my field on the question of reserves, and I don't think I can answer you further on that.

THE CHAIRMAN: Well, suppose a reserve were set up as soon as a case could be evaluated, and the amount required for reserves became greater than the Fund's balance, would it be possible to get out of this situation simply by decreeing an across-the-board cut in reserves, and by whom could such a decision be made?

MR. GASSERT: I assume if the Board can set them up, the Board can reduce them, but in so doing it would have to be very conscious of its duties toward the public and the Fund in making such a decrease. The only other way to get the Fund out of a hole, if it were going under, if the time for collection under the provision I just described to you were not allowed, would be that we would have to come to the Legislature and ask for an appropriation, and the Treasurer would have to find the revenue from which the appropriation came. It is not a very pleasant prospect and one that I relish.

THE CHAIRMAN: If reserves are set up, would the accounting necessary to determine whether the Fund needed more money follow accepted insurance accounting principles, so that any experienced examiner could determine at any time whether the Fund is solvent?

MR. GASSERT: I am not familiar with the procedure, but I think I can speak for the Commissioner and myself, and I am quite sure I can speak for the other members of the Board, that the Fund will be operated in the soundest and best possible way, and in the best interests of the public. We are charged with

that duty, and we are certainly going to do it in the best possible fashion. If that is the accepted way to do it, then it certainly will be done that way, at least as far as my vote in the commission is concerned. And I can say this too - certainly the other members of the Board to date have indicated an awareness of the fact that they are now public officials and are doing their best in that regard.

THE CHAIRMAN: Would the office of the New Jersey Commissioner of Banking and Insurance have authority, or opportunity, to examine the adequacy of the Fund, as he does in the case of private insurance companies?

MR. GASSERT: I don't know whether under the law he has the authority to do it. Certainly it would be to the advantage of the Fund, if he has the people available, it would seem to me, to ask for certain examinations. But I assume he has the same problems I have in not having a sufficient number of examiners, and that sort of thing. But certainly, it does not seem to me we should attempt to plow an uncharted course, such as we have here, without bringing in as many checks on our operation as we possibly can.

THE CHAIRMAN: Would you like to comment on that, Commissioner?

MR. HOWELL: Well, I would say that to do it formally, we probably would have to have some authorization by the Legislature, and some duty under the law in the powers of our Department. But we often are consulted in an unofficial capacity by various arms of the State government, and we usually try to cooperate with them in supplying our resources, and whatever information and help we can develop. So that I would guess that if the Board decided that they needed some help in that direction, and we get the actual examining positions that we hope the Legislature will authorize this year, that we might be able to contribute something along that line.

MR. GASSERT: I must say I didn't know the Commissioner was asking for more examining positions.

THE CHAIRMAN: Do you have any questions, Bob?

MR. VANDERBILT: No I don't.

THE CHAIRMAN: How about you, Senator?

MR. HAND: No, I have none.

THE CHAIRMAN: Fred, we appreciate you and the Commissioner being with us this afternoon. The report of these proceedings will be attached to our complete record of the public hearing of February 21, and as soon as that is done, they will be available to you. Thank you again. The meeting is adjourned.

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