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PUBLIC HEARING

on

ASSEMBLY BILL #118

Held:
Assembly Chamber
State House
Trenton, New Jersey
February 21, 1955

Before

N.J. Legislature. ASSEMBLY COMMITTEE ON BUSINESS AFFAIRS.

Members of Committee present:

Assemblyman G. Clifford Thomas (Chairman)
Assemblyman Reinhart V. Metzger
Assemblyman James C. Jamieson

Absent:

Assemblyman Charles E. Gant
Assemblyman William E. Ozzard
Assemblyman Robert A. Vanderbilt
Assemblyman John J. Farrell

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THE CHAIRMAN: All right, ladies and gentlemen, the hearing will come to order. We welcome you all here today to this hearing on Assembly Bill #118. To my left is Senator Hand, a member of the Financial Responsibility Commission Study Group, and later on as the members of the Committee arrive, I will present them to you. On my right, of course, is my secretary, Miss Cooley.

Now, first, we are going to hear from the proponents of the measure and allow them forty-five minutes to present their case, at the conclusion of which the opponents of the measure will be granted an equal time, forty-five minutes. At the conclusion of these presentations, we will allow fifteen minutes each for rebuttal for both sides.

The first speaker who will speak from the desk is Ralph S. Mason. Mr. Mason -- I beg your pardon, Mr. Robert Watt would like to be heard first.

MR. ROBERT WATT: Ladies and gentlemen: I am here to represent the Motorists' Responsibility Committee. Mr. Newton A. K. Bugbee is chairman of the Committee and Mr. Bugbee is President of the American Automobile Association of Central New Jersey. Unfortunately, Mr. Bugbee couldn't be here in person today and I have been asked to present both his statement and the views of the Motorists' Responsibility Committee.

I would like to give you at this time Mr. Bugbee's statement announcing why the Motorists' Responsibility Committee was organized and the work they hope to carry on. This is a quote from Mr. Bugbee's statement:

"The Motorists' Responsibility Committee has been organized to support state legislation requiring that every motorist on New Jersey highways maintain financial responsibility for death, injury or property damage for which he is to blame." Mr. Bugbee, Chairman of the Committee, pointed out that "under the present law a motorist without insurance or any other form of financial responsibility can obtain a license and operate a motor vehicle until he has had an accident causing death, injury or property damage. The time to establish

responsibility," said Mr. Bugbee, "is before the damage is done, not after. We see no reason," said Mr. Bugbee, "why the responsible motorist who protects himself and others by maintaining insurance should continue to be the victim of those drivers who through indifference or negligence fail to establish financial responsibility for the death, injury or damage they may cause. The situation should be corrected by amending one section of our existing law. The Committee believes that the problem could be solved through the amendment of the New Jersey Motor Vehicle Security Responsibility Law by Bill A-118.

"In organizing the Motorists' Responsibility Committee, there were two objectives in mind: One was to reduce the number of irresponsible motorists on New Jersey highways and the other was to win the greatest possible amount of support for a bill which the Committee believes would help to accomplish this objective, A-118.

"Now, the members of the Committee are not professional insurance men or lawyers. Therefore, we sought two things. We sought the assistance of men who could give us technical advice and we also sought the support of groups throughout the State who would cooperate with us in helping to reduce the number of irresponsible motorists on our highways. As of today, we have approximately twelve local Chambers of Commerce in the State of New Jersey who have pledged their support and their cooperation. Replies are coming in every day from other groups, from Chambers of Commerce and other civic organizations, who have pledged their support. We also notified various insurance companies and insurance organizations of the objectives of the Committee and we have had a number of replies from those people. Some of them didn't agree with us. Some of them stated that they would not support it and that they would oppose it."

Among those who pledged their support and cooperation was the American Mutual Alliance, and the American Mutual Alliance have sent their representatives

here today to help us state our case, and at this time I would like to introduce Mr. Ralph S. Mason who is the New Jersey State Attorney for the American Mutual Alliance. Thank you.

THE CHAIRMAN: Mr. Mason.

MR. RALPH S. MASON: Chairman Thomas and Senator Hand: I represent the American Mutual Alliance, a national association having as members 117 mutual property and casualty insurance companies that write more than half of the insurance written by such companies in the United States.

These companies are convinced that passage of Assembly Bill No. 118 is the only practical answer to the critical situation that promises to explode shortly in the faces of their many thousands of New Jersey automobile insurance policyholders. The explosion will be just as damaging to every financially responsible motorist in this state.

I am appearing to affirm for the record these companies' full support of Assembly Bill No. 118, and to offer this committee a factual statement about the situation it is designed to correct.

Many confusing statements have been made recently on this subject, but there is no reason for confusion. Assembly Bill No. 118 is easy to understand. The situation it seeks to deal with is the following simple one:

In 1952 this legislative body enacted an "Unsatisfied Claim and Judgment Fund" law. It required New Jersey motorists, and companies writing automobile insurance in the state, to contribute to a fund to pay for damage caused by motorists who do not have automobile liability insurance, or evidence of some other acceptable form of financial responsibility. The Fund will start handling such claims on April 1, 1955.

When this law was passed, the theory was that by 1955 nearly all New Jersey motorists would have become financially responsible. The theory did not

work out. Official motor vehicle registration figures as of November 30, 1954 - the latest available - show that only 82.2% of New Jersey motorists even claims to have insurance protection.

Now, if one motorist in five has no insurance, a little elementary mathematics shows the probability that an uninsured motorist will be involved in at least 20% of all accidents, and probably the figure will be much higher. The cost of these accidents can fall upon the Unsatisfied Claim and Judgment Fund. But each uninsured motorist has been required to pay only \$3 into the Fund. Where is the rest of the money coming from to pay for the damage he causes?

If the State of New Jersey decides to make up any deficit in the Fund out of general revenues, the money may have to come from higher taxes. Some of it could be raised by higher special registration fees, such as were paid in 1954.

The mutual insurance companies that I represent here believe it will have to come in large part from responsible motorists, probably in the form of higher insurance rates. Some people may believe that increases in automobile insurance rates are of no real concern to insurance companies, because they can be passed on to policyholders. But in a mutual company the policyholders own the insurance company, and would simply be passing higher costs on to themselves. And they could be put to considerable expense in trying to collect claims from the Fund.

Enactment of the Unsatisfied Claim and Judgment Fund law in 1952 was an experimental approach to the problem of dealing with the person injured by a financially irresponsible driver. An objective look at the situation that has developed indicates that the experiment is not working out as planned.

The four motorists out of five who are financially responsible cannot afford to give the irresponsible fifth motorist a free "piggyback ride" on New Jersey's highways, nor should the law compel them to do so. It is time for the "piggyback driver" to meet his responsibility for the accidents he causes. If he does not, the operation of the Fund may cost New Jersey's responsible citizens

a lot of money - perhaps millions of dollars a year.

Assembly Bill No. 118 gives a common-sense answer to this serious problem. It simply amends the existing New Jersey law to require that all New Jersey motorists maintain financial responsibility at all times.

Now, the question is: What is the statute we are faced with at the present time? Well, we are faced with several. We are faced with the Motor Vehicle Security Responsibility Law, which is compulsion in itself. It compels every driver after an accident to have insurance or some other means of financial ability in order to get back on the road.

We are faced with the Unsatisfied Judgment Fund Law, under which each driver must pay his one dollar even though he is insured or his three dollars. In fact, both of these are compulsion. But New York now has compulsion in the form of the minor drivers having to be insured. Maryland has compulsion requiring minor drivers to be insured. Indeed, the State of New Jersey from 1931 on had compulsion in the form of the Motor Vehicle Financial Responsibility Law, under which a driver who could not satisfy a judgment which had been recovered against him might be removed from the road. This theory of compulsion exists now. It is not something that is a "boogey man" that is going to come up in the future.

Now, we have our statutes and we have our payments into the Fund. We have a Fund now that amounts to some \$2,700,000 that represents an accumulation of the one dollars paid in by the insured motorists and the three dollars paid in by the uninsured motorists in 1954. No payment is required by the motor vehicle owner when he registers in 1955. To this Fund will be added an additional amount of approximately one-half million dollars from one-half of one per cent of the direct writing premiums of the auto insurance companies writing in New Jersey. This again is a tax, an assessment on the motorist who is already insured. He is again asked to contribute. So we have a statute and we have a financial

responsibility in the motorist to make certain that he can satisfy claims that are brought against him after the accident.

Now the question is: With this fund available, the Unsatisfied Judgment Fund, will the individual be able to get satisfaction from the Fund? If so, how long will it take him to get satisfaction? The question also is: Should the responsibility begin now before the accident or should it begin after the accident? Are we going to let the 20 per cent of the uninsured drivers in the State, 17 per cent actually, of the 2,000,000 registered vehicles or 340,000 irresponsible motorists operate on our highways until they have each had an accident and are removed from our highways? How many times will individuals be required to go to this Unsatisfied Judgment Fund? The how-many-times is going to be decided by the number of claims which arise that have to go through the Fund. The Director of Motor Vehicles has already estimated that there will be 9,000 claims that will have to be processed by the Fund each year. Now then, in addition to these 9,000, many more claims will require Board action, although not complete Board action. It is probable that we will find one out of every five accidents involving an uninsured motorist.

Now where will the irresponsible driver end up and where will the responsible driver end up? Well, beginning the first of April, this Fund will be available for the responsible motorist to make a demand for payment. He will draw monies on the Fund and as more monies are drawn out of the fund, more monies will have to be added to it. Any addition to the Fund will be, of course, at the cost and expense of the responsible motorist, and for what purpose? To keep the irresponsible on the highway.

Now how long will it take to get the monies out of the Fund? Well, the Fund Law itself in Section 5 and the following sections spells this out. It will require notices of suits, statements, schedules, doctors' certificates, assignments

of claims for investigation and defense, application for payment of judgment, additional statements and proof in compliance with the act. This is not a procedure which will make speedy or inexpensive recovery against the irresponsible motorist.

Now the cost of defending the fund against the claims is ultimately to be paid for by the responsible motorists. The claims are assigned for investigation and defense of companies doing business in New Jersey in proportion to their premium writings and these companies investigate and defend against a claim by the responsible motorist against the irresponsible. But who pays for it? Again, the responsible motorist. The cost of administering the Fund is charged against the responsible motorist. The responsible motorist again pays. Also in the "hit and run" situation, we are faced again with the responsible motorist paying. The responsible motorists are also asked to pay for the administration of the Motor Vehicle Security Responsibility Law by the apportionment of this cost among the companies doing business in the state.

Now, after all this and after the fellow gets to the Fund, what is the prospect? Well, first, he has a \$200 deductible feature which the Fund has and this leaves the responsible motorist paying the first \$200 of the claim. Then there are other deductions for insurance coverage and Workmen's Compensation and such. Now, what is the answer to all this? The answer is in Assembly Bill #118. Assembly Bill #118 merely provides that prior to an individual using the highway, not after the accident, he will display financial responsibility. Of course, this may be classified as government interference, but we already have government interference in the Unsatisfied Judgment Fund Law with the investigation and defense of these claims, which is a function normally carried on by the carriers themselves in doing their own business and operating their business for a profit, as everybody intends to operate their business. Assembly Bill #118 merely provides

that before you enter on the highway, you become a responsible motorist. It is a very simple and direct amendment. There is nothing changed in the Unsatisfied Judgment Fund Law. It will reduce the number of people who will have to go to the fund. It will not change the present method of doing business in the State of New Jersey for the insurance companies. They will still make their own rates and file their own rates with the Commissioner. There is no further government interference or change in rate-making procedure in the bill.

The question gets down to: How long can we expect the uninsured motorist, the irresponsible motorist, to ride on the back of the responsible? How long can he expect to have a free "piggy-back" ride on the New Jersey highways with assessments against the responsible to keep the irresponsible on our highways, when one out of every five of the accidents will probably involve an irresponsible, uninsured motorist?

Mr. Thomas, not presuming on your time, I would like to present the next person who would speak on behalf of the Alliance or speak on the Alliance's point of view and two more speakers after that.

THE CHAIRMAN: We will be glad to have you present them.

MR. MASON: We have here first Paul Van Wagan, who is a former President of the Mutual Insurance Agents of New Jersey and is Secretary of the Mutual Fire Insurance Companies of New Jersey, speaking not in these capacities, but as Paul Van Wagan.

THE CHAIRMAN: All right, sir.

MR. PAUL VAN WAGAN: Thank you. As I understand Assembly Bill #118, the intent is to put as high a percentage of financially responsible motorists on our roads as possible, to the end that the individuals can meet demands made on them through their negligent acts with automobiles and that as few cases as possible will be settled by the Unsatisfied Judgment Fund. I do not see much

latitude for argument with these objectives. However, depending upon the starting point in the thinking of each individual, there will be much room for honest difference of opinion.

The producer, thinking of commissions, will oppose this move as a device for squeezing the commission dollar even smaller. Many companies will oppose it as interference with selection of risks and undue saddling of investigative and legal expense upon the companies. The socialists, laboring under the allusion that state employees or bureaucracy is more efficient than private enterprise, will say the plan does not go far enough. None of these approaches is sound for each stems from an assumption not true today.

The starting point of my thinking on this problem is the appalling death, injury and property damage in a small state with 2,000,000 registered vehicles, and much of it committed by people who refuse for one reason or another to accept the social and economic responsibility of the lethal weapons they are driving.

It is definitely within the true American tradition to force citizens to accept responsibility for the privileges enjoyed. The solution to the automobile problem should be within this framework. It is destructive of character and basic institutions to permit 20 per cent of the motorists to tell the rest of New Jersey citizens to go hang. Neither is it within our basic concepts for the State under the force of pressure groups to demand that private enterprise carry this burden at a loss or under the allusion previously mentioned, and put the State in the insurance business.

As valuable as I think the unsatisfied judgment fund to be, I would vote for its immediate dissolution if I thought the State were going to come into dominant control over it or the Legislature, to permit demands being made upon it far exceeding its capacity to handle.

To anyone interested in the maintenance of our basic democratic institutions and freedom of enterprise in an era of creeping socialism, it is far better to perceive reality and adopt the policy of wise containment rather than act upon prerogatives that stem from unrealistic conditions which can only lead of a certainty to that very socialistic state which we all abhor.

I believe Assembly Bill 118 is a further step in the right direction, especially if it is accompanied by a vigorous enforcement of the motor vehicle laws to the end that true anti-social automobilists will be put off the roads.

THE CHAIRMAN: Mr. Mason, your next speaker please.

MR. MASON: Our next speaker is the General Counsel of the Lumbermen's Mutual Casualty Company and several other companies which are large carriers, and they operate here in the State of New Jersey. Their home office is in Chicago. And I present to you the next speaker who will go into the effect that the unsatisfied judgment fund and the other acts will have on his companies - the policyholders he represents. Chase Smith.

MR. CHASE SMITH: Mr. Chairman, gentlemen of the Committee and friends: In New Jersey three years ago you passed the unsatisfied judgment fund law and I assume that there is no proposal here to change that law materially or to repeal it. That law is based upon the theory that from some place there must be found a way of paying losses of people who have no other source of indemnity. If you adopt the premise that losses must be paid, it seems to us that you must assume as an absolute that those who inflict the losses should be made to be responsible for the losses. In the unsatisfied judgment fund law now in effect, there is a burden placed; there is a compulsion. There is compulsion that somebody subject to the law shall pay the cost and there is compulsion that losses must be paid.

So we come to the place of deciding where the burden is and where it should be. It seems to us from the standpoint of our policyholders that the law

now is inequitable and that the only way of repairing the inequity, the great inequity of the law, is to pass Assembly Number 118 or another law designed to accomplish the same purpose, and that is to attack the weakest spot in the whole structure, which is that in adopting the principle of compulsion as you have, you should apply the compulsion to the people who merit it, namely, those who drive automobiles on the highway but who are not insured.

In our own company we have many thousands of policyholders here in New Jersey. We have operated in Massachusetts since the Massachusetts Compulsory Law was passed and we consider ourselves familiar with the situation. We have the same objection that all others in the insurance business do to compulsory insurance or even for that matter to an unsatisfied judgment fund law. But looking at compulsory insurance, what are the objections? One is that compulsory insurance freezes coverages where they are and arrests progress and I think that is a proper charge. Another is that rates become a political football.

In this particular case we have in Assembly 118 a bill which bypasses most of the objectionable features of compulsory insurance. They do not change the rate-making machinery. They do not introduce a large amount of paper work. They permit the full impact and effect of a competitive insurance system. Our own policyholders - we are just looking at their situation - are asked to bear the burden of a one-half of one per cent tax on the premiums of our company. That tax has to enter into the cost to our policyholders, but that in itself is not particularly important. We are asked to pay the cost of investigating and negotiating the settlement of losses that are assigned to us in proportion to our volume here. That is an imposition on our policyholders to go out and do a job on behalf of somebody else allowed the freedom of the highway - and our people to pay the bill. In addition, our people are required to pay a dollar now, maybe two dollars at some other time, into a fund. Out of every 5 motorists, if this 8-2 or 80-20 per

cent prevails, if there are 4 insured and 1 uninsured, there will be \$7 paid into the fund, a dollar apiece by the 4 insured people and \$3 by an uninsured. A mathematician could compare that figure with the proper cost of taking care of the one accident that will be inflicted by the uninsured man. If the uninsured paid his fair part of this rate, obviously he would pay the approximation or the equivalent of an insurance premium.

20 per cent uninsured or 18 per cent uninsured or 15 per cent uninsured or 10 per cent uninsured are simply too many uninsured to be placed on the backs of those who have themselves assumed the full civic obligation they have, to buy insurance.

Now feeling as we do, the American Mutual Alliance Companies believe that if the unsatisfied judgment fund law is effected, a state can do no less than ask that all people who use the highways should provide insurance against the effects and consequences of their driving. Thank you.

THE CHAIRMAN: Mr. Mason.

MR. MASON: Thank you, Mr. Smith. Our next witness is from the State of Massachusetts and is a life-long resident of that state. He is a special counsel for Liberty Mutual Insurance Company, which does 20 per cent of the automobile business in Massachusetts and is also a substantial carrier in the State of New Jersey. He is here to speak on the mechanical difficulties of the unsatisfied judgment law and the motor vehicle responsibility law and also on the Massachusetts Compulsory Law. Joseph Leonard.

THE CHAIRMAN: Mr. Leonard.

MR. JOSEPH LEONARD: Mr. Chairman and members of the Committee: I'd like to put the Liberty Mutual Insurance Company on record as in favor of Assembly 118. Now the interest of Liberty Mutual Insurance Company may be somewhat different from that of some other companies that may appear before your Committee today in

opposition to Assembly Bill 118.

The Liberty Mutual Insurance Company is a mutual insurance company owned by its policyholders. Any law that puts an unfair, unwarranted burden on the policyholders is a matter of vital concern to our company. Any bill or any proposal that would eliminate or would alleviate this unfair burden on our policyholders will be supported if the bill is reasonable.

Now we submit, gentlemen, that the unsatisfied judgment law in New Jersey does put an unfair, an unwarranted burden on our policyholders. It compels them to pay directly into the fund. In addition to that, it subjects them to certain hidden costs which will greatly increase the direct payments they have to make into the fund. There are certain assessments on the insurance companies. There is the handling of claims which will have to be taken care of by the companies. All these will find their way into the rates. I assure you, gentlemen, that the cost upon the insured motorist will be greater than the one dollar that he pays directly.

Now we submit, gentlemen, that Assembly Bill 118 will alleviate and will reduce the amount of claims that will find their way into the unsatisfied judgment fund and should reduce the burden upon the insured motorist. Even more than that, gentlemen, Assembly Bill 118 will put the burden just where it should be. It will put it on the backs of the irresponsible, uninsured motorist who is causing damage on the highways and expects he is entitled under the present law to have a portion of those losses he causes paid by the insured. I submit, gentlemen, there is an element of fairness to A118 and we submit that we are very much in favor of it.

Now, before I conclude my remarks, gentlemen, I'd like to just comment very briefly on the Massachusetts Compulsory Insurance Law. Before this hearing is over, you will probably hear the Massachusetts Compulsory Law condemned and torn

to shreds section by section. I want to warn this Committee that the bill you have before you today, Assembly 118, is a far different proposal than the Massachusetts Compulsory Insurance Law that is on the books today. The authors of Assembly Bill 118 very wisely avoided the pitfalls we have made in Massachusetts under our present compulsory law. I don't mean to condemn the law-makers in Massachusetts for the law they put on the books because they were faced with a far different situation in 1927 than you people are faced with in New Jersey today. Back in 1927 in Massachusetts we had only 30 per cent of the motorists insured. We did not have the adequate rating laws that you have on your books today. I submit that you have very wisely kept the making of the rates under your bill out of the hands of the government - out of the hands of the Insurance Commissioner. That seemed necessary in 1927 in Massachusetts and has proved difficult for the Insurance Commissioner and has proved difficult for the insurance companies. There is no such danger under Assembly Bill 118.

Now you will hear comment here today that the Massachusetts Compulsory Insurance Law is defective because it doesn't cover guests. You can cure that in your 118. You can make it broad enough to cover anyone that you wish. You can fill in the gaps that they have at present in Massachusetts.

Likewise you may hear Massachusetts law condemned because of the fact that all registrations expire at the end of the year. There is no need for you to put that in your law here in New Jersey.- the termination at the end of the calendar year. It is not inherent in a compulsory law and you need not get into that difficulty here that we have in Massachusetts.

Now, gentlemen, you will hear arguments that the compulsory insurance law will lead to a State fund. I submit we have had a compulsory insurance law in Massachusetts for 28 years and we do not have a State fund. The Massachusetts Compulsory Insurance Law has never been repealed. There has not been serious

agitation to repeal it. Polls that have been taken have indicated that the public likes it. Year after year in Massachusetts we have had bills filed for unsatisfied judgment funds and for hit and run funds. Within the past month, the Massachusetts Legislature killed such a proposal. The unsatisfied judgment fund, a proposal that put an unfair burden on insured motorists, was killed. The hit and run fund was killed because it opened the gates to fraud.

I submit, gentlemen, to bear in mind if you hear the Massachusetts Compulsory Law condemned today, it is a far different vehicle than what you people propose in this wisely drawn Bill, A-118. Your bill is very fair. It removes inequity and in your Commonwealth far more will be protected than at present.

THE CHAIRMAN: Mr. Mason.

MR. MASON: Mr. Thomas, we'd like to reserve the remaining portion of our time, about 20 minutes, for rebuttal.

THE CHAIRMAN: In other words, you are satisfied that your case is in.

MR. MASON: Yes.

THE CHAIRMAN: At this time, before asking the opponents of this measure to speak, I would like to present, to my right, Assemblyman Metzger, a Member of the Committee, and Assemblyman Jamieson, also a Member of the Committee.

At this time, for the opponents, I am going to present Mr. James McGrew, who tells me that he wishes to be excused immediately after making his statement. So I will call on Mr. James McGrew, representing the New Jersey State Chamber of Commerce.

MR. JAMES W. MCGREW: Thank you, Mr. Thomas.

My name is James W. McGrew and I am Research Director of the New Jersey State Chamber of Commerce. The State Chamber is opposed to Assembly Bill 118 and I should like to briefly explain the basis for our opposition.

This bill would amend the Motor Vehicle Security-Responsibility Law of 1952 to transform it into a compulsory insurance law, very similar to a law which has been in effect in Massachusetts since 1927 and which no other State has seen fit to adopt since that time.

Our New Jersey Motor Vehicle Security-Responsibility Law has been in effect for less than two years and can hardly be said to have been given a fair trial as yet. Nevertheless, all indications are that this law has already had the very desirable effect of increasing the proportion of insured motorists from an estimated 60% in 1952 to 83% in 1954. Even allowing for some margin of error in the 60% estimate, it is evident that after just one year of operation of the new law there has been a very substantial and significant increase in the proportion of financially responsible drivers. There is every reason to believe that the percentage of insured motorists will continue to increase as time goes on until it approximates the 96% insured in New York State which has virtually the same type of law.

One of the persuasive arguments in favor of the Security-Responsibility Law approach is found in the large number of states which have adopted it in preference to the compulsory insurance approach of Assembly Bill 118. There are deficiencies in the Security-Responsibility Law, but New Jersey has attempted, through means of the Unsatisfied Claims and Judgment Fund Law to correct these deficiencies. The Unsatisfied Judgment Fund has not yet begun to operate and must be classified as somewhat of an experiment. We at the State Chamber of Commerce believe that this experiment is in the public interest, however, and we have every hope that it will work. It should be pointed out that the compulsory insurance approach of Assembly 118 does not insure complete coverage, for experience indicates that there are a large number of out-of-state drivers involved in accidents in New Jersey and there is no way that New Jersey can require these drivers to carry insurance. In recognition of this deficiency the sponsors of Assembly 118 do not propose to repeal the Unsatisfied Judgment Fund. This in itself, we believe, is an admission that compulsory insurance is far less of a panacea than its proponents would have us believe.

There have been many reports on, and debates on, the pros and cons of compulsory automobile insurance. There is no doubt that some of the arguments raised against the proposal have been pretty much demolished by the experience in Massachusetts. There is, however, one bad feature which inevitably accompanies compulsory insurance and this feature by itself is so evil that it affords sufficient reason for rejecting compulsory insurance proposals. I refer to the fact that compulsory insurance is inevitably accompanied by extensive and continual political meddling with automobile insurance and particularly with the rate making function which is essentially a part of the actuarial sciences and not conducive to solution or regulation by a legislative body.

I want to make it clear that we at the State Chamber recognize that the sponsors of this legislation have no desire to introduce politics into

rate making and other aspects of automobile liability insurance. We are aware that they are sincerely convinced that this admitted evil can be avoided. On that point we must beg to differ with them. In 1951 a technical report to the New York State Superintendent of Insurance contained the following statement:

"The Massachusetts experience also seems to indicate that the fear of politics in the rate-making process is well founded. Since its inception in Massachusetts the compulsory automobile insurance law has been a matter for constant legislative activity."

In proof of this the New York report shows that between 1933 and 1951 there were 441 bills introduced in the Massachusetts Legislature dealing directly with the compulsory insurance law. This was an average of better than 27 bills a year, and in some years the number of bills introduced on this subject exceeded 50. Of the 441 bills, 199, or 45%, were directly concerned with rate making. In 1950, the people of Massachusetts were asked to vote on a proposition setting a single rate throughout the State. When matters which can be decided only by skilled actuaries are submitted to public referendum, I think it is safe to say that politics has come into a field where it does not belong. When governors campaign on a promise to reduce automobile insurance rates, then I think it is safe to say that politics has come in where it does not belong.

You may ask, "Why is it inevitable that politics enter the automobile liability field along with compulsory insurance?" I quote to you from an address before the American Bar Association by Henry S. Moser,* of Chicago:

"When payment of insurance premiums is required instead of being voluntary, the premium is similar in impact to a tax, but one apparently levied by private and not public agencies. The resentment and suspicion thus engendered against insurance companies rises with the premium increase which accompanies augmented claim-

*Henry S. Moser, General Counsel and Director, Allstate Insurance Company

consciousness. When fanned and organized these resentments result in enormous political pressures. This is reflected in the constant clamor for rate reductions, rate investigations, flat rates and State funds which has sounded so long and persistently in Massachusetts."

While many people and public officials of Massachusetts have supported the compulsory insurance law, it is a fact that the weight of quotation is not entirely on one side. As recently as 1953, Governor Herter of Massachusetts said: "The operation of our compulsory insurance law has been a source of constant vexation to our people and I have never been satisfied with it."

I think it is fair to say that, whether you are for this bill or against this bill, all of us here today have one primary aim and that is to secure the safest highways that New Jersey can possibly have. Our disagreement is not over the goals but over the approach by which we seek those goals. In securing safe highways we believe that some sort of financial responsibility law plays an important but not a major role. It is quite true that the New Jersey Security-Responsibility Law as now written will not immediately force all bad or dangerous drivers off the roads. By the same token, neither will a compulsory insurance law such as Assembly 118. It should be remembered that there is no statistical proof that there is any positive correlation between safe driving and the ability to buy automobile liability insurance. The only drivers that will be forced off the roads by compulsory insurance who would not be forced off the roads by a security responsibility law are those drivers who are too poor to purchase liability insurance. Among this class of people we will find good drivers, poor drivers, and indifferent drivers.

In short, we at the State Chamber of Commerce do not believe that the compulsory insurance approach as embodied in Assembly Bill 118 would solve any problems that could not be solved by the Security-Responsibility Law combined with the Unsatisfied Judgment Fund Law. We are convinced, based upon the experience of Massachusetts, that it will bring with it concomitant evils that our

people will rue for many years.

Thank you for the privilege of appearing here today.

THE CHAIRMAN: Mr. McGrew, will you be kind enough to leave a copy of your remarks at the desk here for the use of the stenographers. Thank you very much.

At this time we will hear from Mr. Robert N. Gilmore representing the Association of Casualty and Surety Companies.

MR. ROBERT N. GILMORE: Mr. Chairman and Members of the Committee, with your permission I would like to read a brief statement, and I have extra copies which I will be glad to leave with you.

The Association of Casualty and Surety Companies is a voluntary Association of one hundred and sixteen capital stock companies authorized to write casualty insurance, including automobile liability insurance. Our membership is nationwide and with few exceptions all member companies are entered and doing business in the State of New Jersey. Five of our member companies are domiciled in New Jersey.

The issue presented by Assembly No. 118 is really a very simple one. If one favors compulsory insurance, one can willingly and enthusiastically support Assembly No. 118. If, on the other hand, one is opposed to compulsory insurance, one must, in our judgment, oppose Assembly No. 118. Some, based on their literature, would have you believe this bill has little or nothing to do with compulsory insurance. However, any measure which makes it a crime to operate an uninsured motor vehicle and which requires the applicant for a motor vehicle registration to certify that the car is insured is compulsory insurance beyond a shadow of a doubt. Bills similar in form have been introduced in the State Legislatures for a number of years. They were always recognized for what they are -- bills providing for compulsory insurance.

A little less than a year ago, following the memorable debate on compulsory insurance in the State of New York, someone suggested that a law making it a misdemeanor to own or operate an uninsured car was the answer to compulsory insurance. Overnight a proposal which for years had always been recognized as compulsory insurance suddenly became a "misdemeanor bill" and a proposal which in the minds of some had nothing at all to do with compulsory insurance.

Perhaps there is an explanation for this strange phenomenon. In the great debate of the past few years some phases of the Massachusetts type of compulsory law were criticized including the provision making insurance co-extensive with registration. It was also charged that the Massachusetts type of compulsory law interferes with a company's freedom to cancel a policy. It could well be that some, worn and weary from the battle in New York, decided a compromise was in order. The compromise turned out to be the old misdemeanor type of compulsory insurance which on its face does not require insurance to be co-extensive with registration and on its face does not restrict a company's right to cancel a policy. Part of the compromise appears to have been the elimination of the word "compulsory" with the hope that some may be thus deluded into thinking this is really not compulsory insurance.

Our member companies rejected such a compromise. Our objections to compulsory insurance go far beyond some of the administrative hardships it would impose on companies and agents. We could not justifiably and in good conscience have opposed compulsory insurance over the years on such relatively minor grounds.

Our Association and an overwhelming majority of all casualty companies, both stock and mutual, are opposed to compulsory automobile liability insurance. The views of our membership on compulsory insurance are well known to you and it will serve no useful purpose to do more than summarize some of the principal reasons why we oppose this type of legislation:-

1. Political pressures harmful to the public welfare are inherent in any system of compulsory automobile liability insurance.

2. Compulsory insurance inevitably leads to less protection. Under such a law there is a strong tendency to purchase only the coverage required by law and even the scope of the required coverage shrinks under political pressures on the rate structure.

3. Compulsory insurance threatens free enterprise because sooner or later the hue and cry for a state fund would commence.

4. Compulsory insurance leads to rigid rate control and even state-made rates. This stifles competition and prevents the use of different classifications and discourages the development of new forms of coverage.

The insurance industry is not alone in its opposition to compulsory insurance. A number of widely representative non-insurance organizations - representing automobile users, the legal profession, business and industry and agriculture - have also rejected compulsory automobile insurance. We also have confidence in the soundness of our position because of the fact that over the years numerous state legislative commissions have considered the problem created by uninsured motorists and have rejected compulsory insurance as a solution.

We would like to revert again to the literature prepared by the group which has endorsed Assembly No. 118. As heretofore indicated, there is an almost complete silence on compulsory insurance. In addition, we find that the real culprit is the Unsatisfied Claim and Judgment Fund Law. It is argued that this law was never intended to operate unless at least 90% of the motor vehicles were insured. Therefore, the way to increase the number of insured cars is to enact a compulsory law, the very thing the New Jersey Legislature rejected after careful study just three years ago.

We have no authoritative figures on the percentage of insured cars, nor do we believe anyone can now predict how this law will operate if the number

of insured cars is below the anticipated 90%. We think you can reasonably anticipate a further increase in the number of insured cars when the Unsatisfied Claim and Judgment Fund Law commences to operate April 1st of this year. Under the New Jersey Safety Responsibility Law an uninsured driver who is unable to post security has his license suspended but this suspension only lasts one year unless an action is commenced against him. It is well known that such actions are rarely prosecuted against uninsured drivers, but when the Unsatisfied Claim and Judgment Fund Law goes into effect, such actions will be prosecuted and this means his license will remain suspended until he has repaid the fund for any compensation it has paid out as a result of his negligence.

We believe there are other workable means of increasing the number of insured cars without adopting the drastic extreme of compulsory insurance with all its attending evils. First, may we suggest for your consideration, the desirability of amending the present law which places the cost of administering the Safety Responsibility Law on insurance companies by imposing such cost on the uninsured motorist. This would not only encourage a further number of car owners to purchase insurance, but it would also relieve the companies, and ultimately their policyholders, of the cost of administration. The latter feature should appeal to those, and there are many of them, who shun any solution to the problem caused by the uninsured motorists which places any cost on the insured motorist even though the public as a whole, including the insured motorist, profits thereby.

It will be recalled that in 1952 the Insurance Industry Committee on Motor Vehicle Accidents in its New Jersey Report indicated the insurance industry would support an impoundment law if the same had some kind of official endorsement. Speaking for our Association, we would support such a proposal at this time. Such a law has been highly effective in two Canadian provinces in increasing the

number of insured cars and has met with public favor. You may also be interested to know that from latest reports there is a strong probability that New York will enact such a law this year.

In closing we wish to reaffirm our position that compulsory insurance, no matter what name you give it, is definitely not in the public interest. If you conclude that something must be done now to increase the percentage of insured cars, this can be done by either or both of the measures briefly outlined herein. We earnestly urge that Assembly No. 118, providing for compulsory liability insurance, not have your favorable action. Thank you, sir.

THE CHAIRMAN: Mr. Barclay Shaw of the National Association of Insurance Brokers.

MR. BARCLAY SHAW: I have a prepared statement which I have copies of and which I would be glad to give to the members of your Committee.

THE CHAIRMAN: Thank you very much.

MR. SHAW: The National Association of Insurance Brokers is a national association composed of State and local broker associations and individual members from coast to coast. Our Association is opposed to Assembly Bill No. 118. We are opposed to this Bill because it is in substance a compulsory automobile insurance bill with all of the disadvantages and dangers which flow from such legislation.

We are not here to reiterate our reasons for our opposition to compulsory insurance or again state our affirmative program on the general problem. But we do desire to point out the national implications of whatever action your committee and, in turn, the august bodies of your Legislature, may take. Because of New Jersey's leading position among the states, we know that if New Jersey adopts this form of compulsory insurance, many other states may follow without complete examination of the merits of the case.

Proponents of Assembly Bill No. 118 would have you believe that it would amend and strengthen the existing Motor Vehicle Security Responsibility Law "without encountering the pitfalls that exist in a standard type of 'compulsory financial responsibility' law". Not only do we strongly disagree with such contention, but firmly believe that in addition to such pitfalls, there would be created other pitfalls not common to such "standard type" of law.

A careful reading of the proposed bill will show at once that it is nothing other than compulsory automobile insurance legislation under a disguise which has been proposed in a number of other states and rejected in all instances. The bill makes it a crime for the owner of a motor vehicle to permit his vehicle to be operated on a public highway without an automobile liability policy or bond or an adequate deposit of collateral, other than in the case of a qualified self-insurer. The proposed bill provides in part that an applicant shall certify in his application for registration of his motor vehicle that he has the requisite insurance or other security. Is there any doubt if he fails to so certify or affirmatively states he does not have such insurance or security, that he will not receive his license plates? While no specific obligation is placed upon the Director of the Division of Motor Vehicles to withhold a license plate unless the applicant certified that he has the requisite insurance or security, we find it difficult to believe that the Director would issue the license plates without the required certification. Surely, the Director would be derelict in his duty if he allowed issuance of license plates to an applicant refusing to so comply with the law, especially since such disobedience would be punishable as a crime. It follows that if the applicant cannot, as a practical matter, register his car and obtain license plates without having insurance or other security, he is compelled to obtain insurance or provide other security just as in the case of the "standard type" of compulsory insurance law.

Even if one took the extreme position that a compulsory automobile insurance law should be adopted, the proposed bill does not even provide for some of the safeguards present in the so-called standard type of such law. All an applicant has to do under the proposed bill is to certify that he has the required insurance or security; he does not have to prove it. Even if he should have insurance in force at the time of application, he could thereafter cancel it without losing his license plates.

These are some of the reasons why we believe Assembly Bill No. 118 is unwise legislation. We urge you to disapprove it and vote against it, should the occasion arise.

THE CHAIRMAN: Mr. Arthur Mertz of the National Association of Independent Insurers. Mr. Mertz --

MR. ARTHUR MERTZ: I have a prepared statement which I will be glad to give to the stenographer, but I am not going to read all of it because our time is limited here.

I am attorney for the National Association of Independent Insurers, a national trade association of over 250 companies of all types including stocks, mutuals, reciprocals and Lloyds. Our member companies write well over one-third of the automobile liability insurance premiums in the United States and our members domiciled or licensed in New Jersey account for over 15 per cent of the automobile liability insurance premiums written in your state.

I want to make it clear that the American Mutual Alliance does not represent all of the Mutuals. We have in our membership a considerable number of Mutuals including several of the largest mutual companies writing in the automobile field.

Our Association has long been opposed to any measures which would make it mandatory to carry automobile liability insurance or its equivalent. We are not unmindful of the problems which give rise to these proposals. However, we

believe the problems can be solved effectively and yet safely by other methods which do not involve the dangers of the compulsory approach. Thus we have always supported tightening up of the traffic safety and licensing laws to reduce the total injuries and damages, strengthening of financial responsibility laws to further reduce accidents and to increase the percentage of insured and, if necessary, enactment of vehicle impounding laws. We are constantly studying this problem.

We are actually somewhat surprised that in New Jersey, of all states, a compulsory automobile insurance law should now be proposed. In 1952 this Assembly carefully and exhaustively studied the problem of the ininsured motorist, and proclaimed as New Jersey's answer to that problem a program consisting of a modern security responsibility law, an unsatisfied claim and judgment fund law, and certain related measures. At the same time, they rejected the compulsory approach. Yet, today, on the very eve of embarkation upon the main leg of the new program, we see a proposal to introduce that same discredited principle of compulsion which the New Jersey program was designed to avoid.

In the first place, we ask: Why is this now necessary? In 1952, when the ratio of insured motorists in New Jersey was only about 60%, the insurance industry and the New Jersey legislators considered the compulsory step unnecessary. Again, in 1954, your Business Affairs Committee were asked to consider a compulsory measure, and again they deemed it unnecessary. What has happened that has suddenly made that step necessary now? The ratio of insured has not dropped, but in fact has increased greatly - over 33 per cent between 1952 and 1954. I submit that that is a dramatic increase and if it is projected into the next year and the year to come, I think it is safe to assume that the ratio of insureds in New Jersey will be in the middle or high 90's as it is in New York. If necessary, the security responsibility law in your state can be further

amended and not by means of a bill such as Assembly 118, to strengthen it and to bring the ratio of insureds even higher. I have in mind a measure such as is in existence in New York requiring proof of financial responsibility for the future by all persons involved in an accident and an impounding law would further enhance that effect.

We, therefore, believe that if compulsory insurance was unnecessary in 1952 and 1954, it is certainly not necessary now. We also think that the compulsory step at this time would be a mistake because it would prevent New Jersey and the rest of the states from ever learning just how effectively a detailed unsatisfied judgment fund law of the New Jersey type, coupled with a security responsibility law, can operate to meet the uninsured motorist problem.

The eyes of legislators and officials of all other states, as well as major segments of the automobile insurance industry, are on New Jersey. They want to see how the new program will work. But their question will never be answered if before the program goes into full operation, a foreign and entirely unpredictable ingredient in the form of compulsory insurance is thrown into the picture.

This does not mean that we propose academic experimentation at the expense of the public. If we thought there were a glimmer of hope that a compulsory law could save lives or diminish suffering, or result in any net benefit to the public, we would support it wholeheartedly rather than oppose it.

What can we expect under Assembly Bill 118? The drafters of this bill have made only two basic departures from the so-called standard version of compulsory automobile insurance measure such as the one introduced in New York in each of the past several legislative sessions, and note that certain of the proponents among the Mutual Alliance representatives have indicated that they are in principle against compulsory insurance legislation. The one departure from

this was that they have stripped the bill of most of the detailed provisions covering the mechanics of administering the law, and secondly, they have stepped up penalties by adding certain criminal actions.

It is naive to assume that these changes eliminate the objectionable features of the compulsory approach. Actually, if we were ever faced with the prospect that enactment of a compulsory law seemed inescapable, and we certainly aren't at that point in New Jersey, we would hardly choose a measure of the design of Assembly Bill 118. Assembly Bill 118, like every compulsory measure, would make insurance or its equivalent a prerequisite to the right to drive. It is this basic principle and not the form or phraseology of any particular measure which brings about the consequences we fear. When the state tells the motorist he must have insurance to drive, the motorist naturally looks to the state to assure him that someone will insure him, and at a price he thinks is reasonable, whether it bears any relationship to the loss and hazard or not. He will fall easy prey to those who would like to make political capital of insurance rates and practices.

When politics once enters the rate-making picture, all concerned, the public, the legislators, the regulatory officials, and the insurers, suffer. Thousands upon thousands of dollars of taxpayers' money is consumed in useless legislative activity. Countless hours of the time of you legislators, as well as the regulatory officials and industry personnel, that would better be devoted to safety measures and other worthwhile endeavors are wasted in pointless bickering. The atmosphere becomes unhealthy for insurance companies, and the resulting exodus of many companies destroys the competitive forces which normally operate to provide the motorist with constantly improving benefits and forms of coverage. Such has been the experience in Massachusetts, and I submit that it is not because of any peculiarities in the Massachusetts law. True, the Massachusetts law does contain some provisions which are not present in this law, to which some

of the evils in the Massachusetts system can be attributed. But we sincerely believe it would be but a brief period until this simply worded and seemingly innocuous law, A-118, would develop into a full-blown compulsory law of the type that exists in Massachusetts. Thank you.

THE CHAIRMAN: Thank you. Mr. Frank Harrington, Executive Vice-President of the National Association of Casualty and Surety Agents, and representing the New Jersey Association of Insurance Agents.

MR. CHARLES F. J. HARRINGTON: Mr. Chairman and members of the Committee: I will necessarily be brief because the time is lapsing. I am Charles F. J. Harrington, Executive Vice-President of the National Association of Casualty and Surety Agents, a national organization of insurance agents, many of whom operate in the State of New Jersey; and also representing the New Jersey Association of Insurance Agents.

I perhaps more than any other individual have been exposed to the vicissitudes and difficulties of compulsory automobile insurance, first, as an employee of an insurance company some thirty-five years ago, then as an insurance agent for some twenty-five years, and as Commissioner of Insurance for thirteen years who administered the Massachusetts Law, and now as a trade association representative and an insurance agent. We, the insurance agents, are in close contact with the insuring public, and through the insuring public, with their families who do not provide automobile insurance. Obviously, we are in a position to know what is good for the people whom we serve by the training and experience that we have had in this very intricate business. The people whom we serve are your constituents and the residents of your state, and we believe unequivocally that Assembly 118 is a bill which is not in the interest of your constituents.

We believe this for the very first reason, lest I forget it, that it is legislation which will be catapulted upon them if this bill is enacted, as

it is presently devised, on April 1, 1955, a little more than a month from this time, and certainly less than a month from the time you would enact it. Now, when your Legislature considered this subject as exhaustively as has been referred to, you rejected the principle of compulsory insurance. This is a compulsory insurance bill stripped, as Mr. Mertz has said, of the administrative safeguards which would make the bill a workable one. We are not in favor of a compulsory automobile insurance bill of any type, but if you enact this bill, you will be legislating against your own constituents to a far greater extent than you would if you enacted a more clearly defined bill and one which had been thought out at greater length.

On the top of page 2, line 16A - "The provisions of this subparagraph shall not apply to any nonresident's operating privilege as defined in this act," and so with a thoroughfare as you have from north to south you are exempting from any provisions of this law the many hundreds of thousands of people who come through your state and who may cause accidents to your citizens. It seems to me that the proponents of this bill who are insurance companies -- and I find myself on the opposite side from my good friends, Chase Smith and Joe Leonard, for the first time on this subject of automobile insurance. But I give full credit to any convictions they may have, as I know they will to those I have. And I say to you that if the insurance company proponents of this bill are sincere in wanting to give you a bill which will do the things they claim for it, they certainly would be willing to certify that people have insurance in their companies and not leave it upon the uninformed man who may have fire and theft or some other form of insurance while thinking he has an automobile insurance policy, or may find himself with a policy which these companies or other companies may have cancelled and in the flurry that accompanies a compensation case fail to notify the registry of the cancellation. There is no provision in this

law to take care of the man who may be rejected as an insurance risk, and certainly if you are going to compel people to insure, you should accept, it seems to me, the principle laid down by our Supreme Court that a compulsory insurance law is compulsory as to insurance companies as well as to the insured. Without such machinery, you are going to have a law which will irritate, annoy and do grave evil to the people whom you represent.

The non-admitted companies are authorized to file certificates or to insure cars under the provisions on page 3 in lines 66 to 73. You will find no provision is made there for the standards which these non-admitted companies shall meet financially or through the kind of facilities that they will provide to take care of the cases. And when we stop to consider that there are companies that can operate in the casualty field on a \$25,000 policyholder surplus, you can see the weak kind of companies you are willing to accept as against the admitted companies that you are requiring to pay heavy taxes and will ask to assume far greater burdens under your U.J. Law.

There is another provision which should be included in a law that is going to compel people to buy insurance, namely, that the certificate of insurance shall be coterminous with the registration, and I agree with Joe Leonard that there is no necessity of having it on the same date. But it can be made a requirement of the law that the policy shall run coterminous.

Those are a few of the defects in this quasi-compulsory law and I say "quasi" because it is quasi as to the kind of details to make it an effective compulsory law, but it is a compulsory law in fact nevertheless.

Now there has been a lot of "brushing off" of the fact that state funds haven't come into being in Massachusetts. Gentlemen, let me say to you that every single year since the law has been in effect, there has been a fight, tooth and nail, to prevent that eventuality from coming about and nobody knows about it better than Joe Leonard, whose people are at the State House constantly fighting that

sort of thing.

There is no appeal board provided for if a company arbitrarily refuses to insure a car. When we have in mind that at great length representatives of some of the proponents in the State of New York worked out a very lengthy, but very unacceptable compulsory automobile insurance bill, it is a little difficult to understand why they would come here with this kind of a bill. Now I was greatly surprised really to find some of the proponents of this bill pressing it before you today. Perhaps the whole story is a disagreement with the unsatisfied judgment fund law, which, I understand, is not being heard today, although a good part of the debate has been directed against part of that law. Perhaps if your group read, "Which Road for the Insured Motorist," by Paul Wise of July, 1953, you would find some of the underlying reasons for the opposition or for the proposal of this bill. And I say that to Paul Wise who sits over there, without any charge for the commercial, but it is a very well written article and one that deserves your consideration if you are going to consider the passage of a compulsory law.

We say to you in all seriousness, if you are going to do the best thing for your constituents, do not pass this bill. It is an inadequate, totally unsatisfactory and unworkable bill in our opinion. I am not going to burden you with any more and probably I will disappoint Joe Leonard by not tearing the Massachusetts law apart. I wasn't going to do it anyway.

I have Senate #280 of 1930, which, if you could procure a copy of, you will find all the reasons why the Legislature of our state decided that compulsory automobile insurance, even in the state that it exists in Massachusetts, was a law that needed considerable revision, and that document, incidentally covers 270 pages, and is again a document that was prepared three years after the effective date of our law - after our law had been in effect for three years.

So, not to burden you further, I do hope on behalf of the people whom I represent that you will consider that your constituents deserve better consideration than a hastily conceived bill drawn without adequate protection for them in the matter of providing insurance. Thank you very much.

THE CHAIRMAN: Are there any others who wish to be heard for the opponents? Before proceeding with the rebuttals, I thought it might be well to permit an opportunity to those at the table here to ask questions if they have any.

To my left is Senator Hand, a member of the Commission which studied the problem of uninsured motorists of the State of New Jersey. Senator Hand, do you have any questions?

SENATOR HAND: Mr. Mason, would you submit to a question?

MR. MASON: I will, Senator.

SENATOR HAND: Through you, Mr. Chairman, will you describe the procedure for rate-making in New Jersey?

MR. MASON: Rate-making in New Jersey, if you please, Senator, is a process whereby the companies prepare, with the help of actuaries, rates and file them with the Commissioner and the Commissioner approves the rates after they are filed, or the companies may act through rating bureaus, which do the same filing.

SENATOR HAND: Thank you. Does the Legislature have any direct participation in rate-making at the present time, Mr. Mason?

MR. MASON: Not under the present statutes.

SENATOR HAND: Another question - has Assembly Bill #118 been tried in other states?

MR. MASON: Assembly Bill 118 has not been tried in other states. There is one fund in the country and that is in one of the Dakotas. Oh, 118 - no. 118 has not been tried.

SENATOR HAND: That is a new approach?

MR. MASON: It is a new approach, yes.

SENATOR HAND: You have no experience then for us to consider?

MR. MASON: No, we have no experience.

SENATOR HAND: Thank you.

THE CHAIRMAN: Is that all, Senator Hand?

SENATOR HAND: Yes.

THE CHAIRMAN: Assemblyman Metzger, have you any questions?

MR. METZGER: I have one, through you, Mr. Chairman, for the proponents, I was a little late - I may perhaps have missed it - but I do not recall since coming in any statement regarding the effect of this proposed legislation through the indirect action or secondary action of claims. I am wondering what the viewpoint of the proponents is with regard to the effect of this proposed legislation on claims, both as to volume and numbers and amounts, having in mind, of course, that under this bill the illegal drivers who presently do not carry insurance because they are not registered or because they are car thieves, or what have you, are not covered, also because out-of-state drivers are not covered, etc. But among those who would be compelled to carry coverage who do not now carry coverage, and particularly thinking of the younger drivers - underage drivers - as we call them, what do you believe the effect might be of this type of legislation with regard to claims and claim settlements?

MR. MASON: May I have Mr. Wise answer that?

THE CHAIRMAN: Mr. Wise.

MR. WISE: Well, I think you will find, sir, that if this law is enacted, the result will be a diminishing in the number of claims that are going to be made against the unsatisfied judgment fund. The reason that we are so concerned about the practical operation of the unsatisfied judgment fund is that the percentage of insured motorists in New Jersey is now only 82 per cent. This means that someone

has to take care of that other 18 per cent and it means that those people are going to be involved in accidents and it means that claims are going to be made against the fund for anyone who is involved with those people. And I might say also that when this act becomes well known, it is going to be second nature on the part of a good lawyer to automatically file a claim with the fund, regardless of whether he knows the other party is insured or not. That is what any prudent lawyer would do. To protect yourself, you have to file a notice within 30 days. Consequently, there is going to be a tremendous burden on this fund, not only from the cases that are actually going to be settled and litigated, which we say are 10,000, but there is going to be maybe hundreds of thousands of claims that will be filed that are going to have to be processed. Now, this means a terrific problem and it means the establishment of a terrific staff, and as to this idea about it being a noble experiment, one in which - well, let's try it out and see how it works - it can be a very costly and expensive experiment. Our figures indicate that the handling of the claims under this unsatisfied judgment fund will equal the combined claim operation of the three largest carriers in this state. That means having to obtain claim personnel, which are just not available, in order to handle this problem. I'm sorry. I don't want to -- I was saving some of this for rebuttal. I hope I have answered your question. I didn't want to get too far.

THE CHAIRMAN: Anything further?

MR. METZGER: That answered it partially, but I think there is still something to be answered with regard to the extent of claims, the fact that under the compulsory law there would be a minimum amount of bodily injury and property damage coverage compulsorily to be taken. Claims generally run higher than those amounts and what would be the situation under the proposed legislation and also under the proposed legislation, would your number of claims that you spoke of against the unsatisfied judgment fund be any less? Would the total number of

claims filed and the amount of claims filed be any less? In other words, do you think this new law will reduce or make any change in the number and volume of claims?

MR. WISE: In answer to the first question, as I understood it, this law will have no effect on what we call the excess coverage, anything above five and ten limits. That is all that I understand that would be required under the law. So you would be in the same position that you are now or even under the unsatisfied judgment fund which only covers five and ten limits. There is no requirement above that.

Now in regard to the last part of your question, I would say that even with the unsatisfied judgment fund, with the passage of this law, there will still be filing of claims that are going to have to be processed and as we tried to stress here before, the purpose of this law is to mitigate the hardships that arise out of the administration of the unsatisfied judgment fund law. We don't think even with the passage of this law, it is going to be what you might say a "cure all." I don't think there is any legislation that is a "cure all" for a problem such as this. I don't think that to be fully realistic we can expect such, but we think that this is a step in the right direction and that it is going to relieve our policyholders of the burden that is being placed upon them.

THE CHAIRMAN: Senator Hand would like to ask a question of Mr. Harrington. Would you submit, sir?

SENATOR HAND: Mr. Harrington, if Assembly Bill 118 should be enacted into law, are you in a position to estimate whether the coverage in New Jersey would then be as great as it is in Massachusetts?

MR. HARRINGTON: Well, as I understand it, Senator, 118 makes no prescription as to the extent of coverage; it simply requires that a policy be made available covering liability and property damage. It is pretty hard to make that

comparison in the reading of this bill in view of the way this bill is drafted. I would say, however, that the compulsory law in Massachusetts applied to accidents which occurred on the ways of Massachusetts only and not off of the ways or outside of the state nor the property damage --

SENATOR HAND: Just to refresh my recollection, in Massachusetts does the insurance required cover the driver, the owner of the car, or both?

MR. HARRINGTON: It covers anybody operating the car with the permission of the owner.

SENATOR HAND: I see. That was quite a point that has been made here in some of our hearings. Thank you, Mr. Harrington.

Mr. Chairman, for the record may I recall, sir, that the Commission which sat and reported in 1952, I believe, was composed of six members, both from the General Assembly and from the Senate, and my recollection is three favored the type of legislation which was enacted and three favored compulsory insurance of some type. Is that correct?

THE CHAIRMAN: That's correct.

SENATOR HAND: I mention that, although the legislation was rejected, there was considerable support for it among the members of the Commission.

THE CHAIRMAN: Assemblyman Jamieson informed me that at this time he has no questions.

MR. JAMIESON: There is one question that I would like to ask - I think this is of Mr. Gilmore and maybe some others that are opposed to this law or proposed law and also compulsory insurance - and that is: Why does he or these folks say that politics would enter into the compulsory insurance law?

MR. GILMORE: Sir, that would really be more suitably addressed to Mr. Harrington who lived with that political situation for twelve years, was it, Frank?

MR. JAMIESON: All right - Mr. Harrington.

MR. GILMORE: I could say on my own that I don't think anybody, even the

most ardent proponents of compulsory insurance, have ever differed on the well-known fact that in the 28 years that that law has been in existence, it has been a matter of politics and political rate-making from the very beginning, but I defer to former Commissioner Harrington on that score.

THE CHAIRMAN: Would you care to comment, Mr. Harrington?

MR. HARRINGTON: Mr. Chairman, I don't want to enter any pleas of avoidance here, but I can say here to you that whoever the Commissioner was, he was subjected to political pressures. He didn't always yield to them. However, there were more than political pressures on rates. There were political pressures for the formulation of companies which were born but to die within a year, leaving thousands of people without any returns. As a matter of fact, the last two mutual companies that collapsed, which are in the process of being wound up, collapsed in 1938 and assessments are still being made on their policyholders and only 50 per cent of the claims against those companies have been liquidated up to the present time. Those were politically formed companies. There are many ways in which politics manifests itself as, for instance, each Governor has tried to find a way of reducing rates and has made a pronouncement upon that. You heard Governor Herter quoted, Governor Allen, Governor Ely, Governor Curley, right down the line, and one commissioner had to resign because his Governor had made statements that were impossible for him to go along with conscientiously. Yes, Assemblyman, politics do enter into compulsory automobile insurance and this is a foot-in-the-door piece of legislation and politics will infiltrate it because as the claims increase, as they do increase under compulsory automobile insurance, and as rates increase, as they will have to increase, you will be asked to find ways of reducing those rates and that will bring politics in here.

THE CHAIRMAN: Any other questions?

MR. JAMIESON: Another question - Mr. Harrington, then would you say that

the original compulsory insurance law in Massachusetts through political pressure has been weakened considerably, and also, if so, how has it been weakened?

MR. HARRINGTON: Well, in 1925 the law was enacted. It didn't become effective until 1927. From 1927 on, ways and means were being sought to reduce costs and in 1936 it was decided to eliminate from the compulsory portion of the law guest claims, so that we diminished the coverage under the law in so far as it applies to guests riding in the cars, even though it can be proven that many of the guests' claims were legitimate claims and might have been paid. Because there was some collusion between guests and operators, the law was changed and we were restricted from compulsion. When compulsion was sought, and it is continually sought for property damage insurance, the Legislature very wisely stayed away from it and enacted a financial responsibility type of law. We have never had a fair coverage of property damage under the law. Now, when the law was originally conceived - it wouldn't be as broad as the policy that you now have issued - the policy prescribed was not as broad as the one you have now in New Jersey for constitutional reasons and therefore it was confined only to the ways of the Commonwealth and for liability insurance only, so that there have been those, and there are many other ways in which the coverage afforded the people of Massachusetts has been eliminated and reduced under the compulsory law. And as I say, this volume plus a great many more volumes of investigations by the Legislature year after year after year pile up the ways in which the law has been attacked.

MR. JAMIESON: Thank you.

THE CHAIRMAN: Anything further? At this time we will allow fifteen minutes to each side to present rebuttals. Mr. Mason.

MR. MASON: Paul Wise will speak for the proponents.

THE CHAIRMAN: Mr. Wise.

MR. PAUL WISE: Mr. Chairman and members of the Committee: First, I want to tell the Committee that we certainly appreciate the opportunity of being

permitted to present our views on this subject. I don't want to transgress on the time. I think this matter has been fairly well fought out. I think you know pretty well what the issues are. I have listened with a great deal of interest to what the opponents to this measure have had to say and I can say that their arguments are not without some substance. It is true that the situation in Massachusetts has not been desirable. But unfortunately, I think, and I think you gentlemen on this Committee will agree, that legislators are not faced with problems of black and white. You are faced with problems of balancing out the equities of a situation, and I think we have got to consider this thing in the right perspective. I think there is a danger of losing sight of the forest because the trees are in the way, and you have got to take a good look at the forest.

Now the word "compulsory" has been bandied about here and always with a sneer, and I think perhaps justifiably so in some respects. But we must be careful, I think, about the old trick of guilt by association. I think it has a tendency to obscure the facts. We are not talking about the Massachusetts law; we are talking about Assembly Bill #118. This wasn't a hurriedly prepared draft. As I understand it, it was given a great deal of consideration and we gave it a great deal of consideration in our organization before we decided to support it. We are very much opposed to the Massachusetts type of law. We are very much opposed to the unsatisfied judgment fund. But as indicated and testified here by representatives of two of our largest carriers and one who writes 20 per cent of the business in Massachusetts, they think this is a different law. They think it is worthy of your consideration and that it should be adopted, and I think you should give that some weight.

I think you should consider also -- there was mention made of what your constituents would feel about this. I will be glad to leave this report with the Committee if they desire it. This was a report made by the Assembly Interim

Committee on Finance and Insurance in California, and they compiled many statements, including Commissioner Harrington's statement on compulsory automobile insurance, but also included in here was some unsolicited comment on compulsory automobile insurance gratuitously offered by Massachusetts residents in connection with their answer to the questionnaire from this California Committee. It is rather enlightening to see what the constituents in New Jersey feel about the law that they are under. So I think it would be safe to assume that if you asked 90 per cent of the people that you would stop on the street if they believed that the other drivers should have insurance, they would say "yes" that they believe that the people who operate their cars should be financially responsible.

Now I say that you have got to get this in the right perspective because there is no middle ground between this bill and the unsatisfied judgment fund. You can't straddle the fence. If you are for the status quo, you are for the type of operations that is the unsatisfied judgment fund and you can't get around it. And we feel on our part that we cannot look to our policyholders and say to them, "You are going to have to bear the burden of these uninsured motorists. You have got to carry the load on your backs." We do not think that that is fair to our policyholders and consequently we think that we must do whatever we can to relieve them of this burden that is placed on their backs by the unsatisfied judgment claim.

Now there was one idea that was proposed, the idea of requiring people to have insurance before they have the right to drive. Now, that is nothing new. As a matter of fact, most of these groups have proposed that, practically everyone here. The Security Responsibility Law, the one that you have now, requires any motorist who is involved in an accident to have insurance. Even though that individual is not responsible for that accident, because of the mere involvement in it, he has to have insurance.

Look to New York and see the 96 per cent. But there is compulsory insurance for minors in New York. I don't know whether that is what is to be proposed, that you are to follow New York's idea to that extent of compulsion, but that is how they have helped climb the ladder to the 96 per cent.

Now, as to the question of the non-residents, the coverage, it is true, is not in this bill. As far as we are concerned, we would not be opposed if the Committee and the Legislature in its wisdom decided to include non-residents. In any event, the unsatisfied judgment fund law is there. That takes care of the claims in the event that the people who are involved are non-residents. So, as far as the non-residents are concerned, I don't think there is too much of an argument. I think it is a question of legislative policy as to what the Legislature would like to do with that.

Now in regard to the objections that were made to this specific bill, all of the objections were made to the administrative features; that is, the requirement that the company has to tell the Motor Vehicle Commissioner that they are no longer on the list. That is the very reason that we left it out, because of the administrative measure. We are concerned under the Massachusetts law with the terrific amount of detail that is involved, which is extremely expensive, which is imposed upon the companies in trying to mesh themselves with the cumbersome operation of an administrative department. We say that this bill provides that the motorist himself is to get his insurance. It is not up to the government to step in and say, "We have got to see exactly how you get this done." It is up to him.

Now in regard to one question - and I'm glad it was brought up - and that is as to how are you going to make sure that the fellow gets insurance, I think it is a companion measure to this bill and it is my understanding it will be drawn up that there should be some sort of an assigned risk plan so that those who are

entitled to drive will be allowed to obtain insurance. We have no objection to that. But I wanted to point out that this bill was designed specifically to get away from that idea. We don't want the Massachusetts type of bill. That is why we drafted it, and the objections that were made to this measure were such, if we followed through and accepted those objections, we would be right back in Massachusetts. That is the very thing that caused all the trouble in Massachusetts.

Now it is true that there are perhaps some companies went broke. Mention was made of that. But I think if you will examine the record, you will find that in Massachusetts the rates are state made. They are not filed by the companies. They are made by the state. And the reason for failures was because of the inadequate rates that were permitted in those states. Now as far as getting the government in business, I do not think that you can avoid this fact, that the State of New Jersey is already in the insurance business. 340,000 drivers of this state beginning on April the first are going to be effectively insured in a state fund here in New Jersey. That is what it boils down to, and there isn't any other way you can slice it, as I see it. And it is my understanding that there even is some movement afoot to bring the unsatisfied judgment fund board more under the control of the state. So it is our feeling that the unsatisfied judgment fund is the direct road to state insurance.

I think that I have covered most of the subject matter. Oh, there was one other point, and that is in regard to the policy - the requirements here for the policy coverage are the same requirements that are made under the security responsibility law. It is the same type of law that is in many other states. There is no question as to the type of coverage. It is an automobile liability policy and it indicates in the law as to what the limits are and what the coverage is for, so I don't think there is any question as to the extent of the coverage..

It may be that this bill needs amendment. It may be that some suggestions

that have been made here are very worthwhile and the Committee should consider them. But we think in sum and substance that this is a good bill and that it is needed in New Jersey. And we think to be fair to our policyholders and to all insured motorists in the State of New Jersey that the Committee should give this serious consideration and we urge its adoption by the Legislature. Thank you, gentlemen, very much for your attention.

THE CHAIRMAN: Thank you. Anything further from the proponents?

MR. MASON: Nothing further.

THE CHAIRMAN: Thank you, sir. Mr. Gilmore, would you present the case of the opponents or would you rather someone else do it?

MR. GILMORE: Mr. Chairman and members of the Committee: I believe perhaps one or two others will also wish to make some remarks in rebuttal.

THE CHAIRMAN: They are welcome to do so.

MR. GILMORE: If I could, I would just like to refer very briefly to some figures. It seems to me that the real meat of the cocoanut here is our concern with the number of uninsured drivers and the result that that will have on the number of claims assigned to this unsatisfied claim and judgment board. Some time ago the National Bureau of Casualty and Surety Underwriters studied this matter solely for the purpose of the benefit of its own member companies. I should tell you that the National Bureau is a nation-wide rating organization in the casualty field whose membership consists of stock companies. They took a figure, I believe, of 30 per cent uninsured. This was done, I believe, on the basis of figures available in November of 1954. And making due allowances under the law, they came up with a figure of 10,679. As I said initially, these figures were not prepared in any sense for this meeting. I learned about this study just last week and a copy of it was made available to me.

At the same time, just a day or so ago, I learned that the Director of the Division of Motor Vehicles now estimated that some 81.7, I believe, are

presently insured. So I asked the National Bureau if they would take that new figure and correct their figures accordingly, and using that new figure of insured cars, they came up with a potential number of 6,514, which might be assigned to the board. I should say that both the 6,000 figure and the 10,000 figure do not take into consideration workmen's compensation cases. If you are covered under the workmen's compensation law, you are not qualified to make a claim against the fund. I don't know what the weighted factor would be which you would have to apply to these figures to correct them, but the point I am making is that both of them are outside figures.

I think that all the companies and the board are well advised to look at it from the worse possible view.- that is dictated by good sense and good management - to see what the very outside load they will be forced to handle will be. That is why I believe this 10,000 figure was forthcoming. But I do suggest that it is very likely an outside figure and that if we have reason to believe that there are 80 or in excess of 80 per cent insured, it is much more likely to be closer to 6,500, and then, as I stated before, that figure is not taking into account the number of cases involving claimants who would be covered by workmen's compensation. They would not have a claim against the fund. Thank you, sir.

THE CHAIRMAN: Mr. Harrington.

MR. HARRINGTON: Mr. Chairman, I am glad that Paul Wise admits the bill should be improved. That is indeed statesmanship. I say to you that this is a compulsory bill and nobody has denied that it is. It is the foot-in-the-door policy to start toward a compulsory program. Whatever we may think of the unsatisfied judgment fund and its future, it is on your statute books. There is no proposal before you to repeal it or amend it so far as I know. Hence, isn't it good judgment to live with it and see whether or not all these fears develop? In

Massachusetts we went through fears with respect to the compulsory automobile insurance law, but we lived through them and we didn't adopt any other programs until we could determine just exactly how that law would operate.

I suggest to you that before you go into the compulsory automobile insurance field, you see whether or not the legislation that you now have is going to work or isn't going to work and in retrospect you can decide whether or not you need a compulsory insurance law either of this kind or another kind. But I do not share the optimism of Paul Wise that this bill will work without the responsibility on the company to certify that there is insurance. I admit that it is going to cost money, but so is the compulsory automobile insurance law going to cost money. It is going to cost money by encouraging more claims just as sure as we are sitting here and that phase of the picture is not going to be diminished. As you have more claims and more money expended, you will have more and higher rates. So once you go into these social reforms, you must make up your mind that it is going to take millions and millions of dollars to carry them on and that you will have more of them before you have less and more expense before you have less.

The form of policy in Massachusetts is defined in the statute more completely than it is defined here, and in comparing the form of policy with the Massachusetts on the liability side, the Massachusetts form of policy will provide more coverage on the liability side alone - now I am not talking about the extra-territorial, simply the statutory coverage - than will the present policy issued in the State of New Jersey.

So it seems to me that this subject of compulsory insurance needs further study if you are going to seriously consider it, and certainly we urge you not to catapult it upon your people with such short notice as this bill provides. I know the argument in controvert to that would be that you have got to enact it now if you are going to save the unsatisfied judgment fund. Bob Gilmore has given you

some figures here. Other figures can be devised. We are not going to know what the true figures are until we see the fund in operation. And regardless of whether we are for or against it, gentlemen, experience is far more logical than prediction, so we hope that you certainly will not adopt this law.

Now, one more remark with respect to the questionnaires, questionnaires on matters of insurance are easy to prepare and send out, but they are very difficult to answer. You hand questionnaires to laymen on any kind of insurance and you will get all kinds of different answers, and the man who is sending them out probably wants to prove something and he will select those which prove his case. So I don't lay too much stress upon these inquiries that are sent out willy-nilly to people in Massachusetts concerning the operation of the compulsory automobile insurance law. If you get your questionnaires directed to people that understand the law, that have had experience with it, you can have a more reliable result. Thank you very much.

THE CHAIRMAN: Are there any others?

MR. MERTZ: Yes, sir.

THE CHAIRMAN: I believe your name is Mertz?

MR. MERTZ: That's right. I would just like to say a few words. I have a little difficulty in determining exactly what the position of the American Mutual Alliance is, first, with respect to the theory of compulsory automobile insurance, and, secondly, with respect to this proposal, A-118. One of the speakers, Mr. Chase Smith, recognized that the compulsory automobile insurance, if adopted, had many - I don't know the exact words now - possible dangers. It was indicated anyway that they were opposed to that principle. And yet, nothing they have said has convinced me that A-118 is not a compulsory insurance law.

Now I think I gathered that the principal reason for the Alliance supporting A-118 is their fear that the existing unsatisfied claim and judgment fund law when

it goes into effect will impose unreasonable burdens, and apparently those burdens they believe will be two-fold: one on the motorists and the other upon the insurance companies in the form of having to increase their claims and investigatory staff.

Now, first, as to the so-called burden on motorists - I think that there has been a picture created here, and I am sure it is inadvertent - but several remarks that were dropped created the impression that the uninsured motorist gets some benefits under the unsatisfied claim and judgment law, that that fund provides him with cheap insurance. Now I am sure I don't have to tell you gentlemen that that is not the case. You are certainly familiar with your own law and realize that the uninsured motorist gets nothing under the unsatisfied claim and judgment fund law. He is ineligible to make a claim. If a claim is made against the fund by an insured motorist and a judgment is recovered and the uninsured motorist against whom it is made does not pay the claim or judgment, he is under the safety responsibility law barred from the highways until he does pay that claim or judgment. I don't really feel that there is any ground for opinion from the public in New Jersey antagonistic to the unsatisfied claim and judgment fund law.

The second point seems to be that this is going to impose a burden upon insurance companies, that it is going to require them to hire more claims personnel, that with the number of uninsured motorists that remain, they think it is going to be too much of a burden for a fund of this type to handle. Now, first, let me repeat that if we assume or agree that the ratio of the insured motorists is not high enough for the practical operation of the fund, and only time will tell that, I repeat that there are other measures which the Alliance itself has I am sure supported on occasion which can operate safely to bring that ratio of insured motorists up; namely, further strengthening of the financial responsibility law, not by making it compulsory before you drive that you have a policy, but by

requiring proof of financial responsibility in the future by persons who are involved in a reported accident. Now they ask, if you are going to have that, why not require it beforehand? Well, for one thing, we say let's go into this thing gradually. Let's not jump in head first. If we take each step, one at a time, and strengthen the financial responsibility law, and after we have taken all these measures which we consider safe and after the unsatisfied judgment fund law has been in effect for an appreciable period and if the ratio of uninsured motorists is still too high, then we say they can reopen the question of whether to take this last, and we think, very drastic step and that is compulsory insurance. Why take it now? The ratio of insurance is going up. It is a very healthy situation. It is very encouraging. Why change the pattern of things when you are winning, when you are going up? We just don't see the logic of it.

Now one other thing about this problem of the burden on the insurance companies - we gathered the Mutual Alliance Companies are apprehensive about carrying the so-called burden of administering this plan. Let me say that we are not; our companies are not. True, there are problems that will have to be met, but we say we are willing to go into it and give it everything we have got and make the best of it and we think it is going to work. Now when I say "we," I think I can speak for the Association of Casualty and Surety Companies, and I would like to point out that in the State of New Jersey in 1953, the members of the Association of Casualty and Surety Companies on whose behalf Mr. Gilmore is appearing, and the members of our Association, together, wrote approximately 83 per cent of the automobile bodily injury and property damage premiums. Another approximately 5 per cent were written by two companies which to my knowledge do not belong either to our Association, the Association of Casualty and Surety Companies, or the Alliance, namely, the New Jersey Manufacturers and Selective Risk Indemnity. And approximately 12 per cent were written by companies belonging

to the American Mutual Alliance. Now if I am off on those figures, I stand corrected.

We say this: These figures are not given with the intention of saying that the majority is for it, therefore, it should be placed into effect. We don't believe in that. We don't believe that a question of this magnitude, of this intricacy, can be solved by mere majority rule. But we submit those figures merely to show this, that 83 per cent of the industry has committed itself that it thinks this plan, the New Jersey fund, can be effectively administered without all these dangers that are talked about. Another 5 per cent are apparently uncommitted and the other 12 per cent are apprehensive. We say if the large segment of all of these who have this much at stake are willing to take that so-called chance, then we feel that ought to have some weight with the Committee in deciding what the burden, what the effect would be, on the insurance industry. Thank you.

THE CHAIRMAN: Thank you. Have you something to say?

MR. SMITH: I wondered if I might respond in a few thousand well chosen words to that.

THE CHAIRMAN: I think we can permit that.

MR. SMITH: The gentleman's comment was - what we might have said is inadvertent and not logical in view of what we had also said about compulsory insurance. Our comments may not have been intelligent, but they certainly were not inadvertent. The situation here is this: We have a situation here where the unsatisfied judgment fund law is in effect. I do not see any less logic in our saying that we favor 118 while being critical of the unsatisfied judgment fund any more than their own attempts to picture as a pretty good deal the unsatisfied judgment fund proposition. A couple or three years ago, an industry committee representing our group and the National Association of Independent Insurers and the Association of Casualty and Surety Companies said this in a report on

New Jersey. It said, "Some suggestions have been made in a number of states for the adoption of an unsatisfied judgment fund. In addition to the objections that such a fund is unsound, inequitable and not in the public interest, it is unquestionably true that such a fund is impractical in any state where the percentage of uninsured motorists is substantial." Now we submit that the percentage of uninsured motorists in New Jersey is substantial. We submit that the unsatisfied judgment fund idea today is just as unsound and inequitable and not in the public interest as it was then or we were all crazy at that time. We don't reform in the insurance business that quickly. We don't even improve that quickly. The situation is that, whether unsound or what not, the unsatisfied judgment fund is a fact and an institution here. You have adopted it. Now our point is that while we do not favor the unsatisfied judgment fund or compulsory insurance, either of them, as being in the public interest -- we are opposed to both as unnecessary and not the best remedy for this situation -- but having one, you have made it compulsory that the losses shall be paid. Now at whose expense? Our objection is that the man who has bought insurance has paid his full debt to society and has made provision for everything that is to be expected of him, and there is no justifiable reason why directly and indirectly an additional cost should be imposed upon him. Whether the figure is only 7,000 claims or whether we take the figure there are 340,000 uninsured motorists in the state, our position is that they are the ones if compulsion is to be applied, must bear it. They are the ones who should carry the cost of those accidents and not the people who have already done their full share. The principle here will merely repair the inequity that is imposed in the present statute - the unsatisfied judgment fund law. To repair that is very simple, you merely say to the man who drives an automobile - you do your share; you buy insurance. Thank you.

THE CHAIRMAN: Senator Hand.

SENATOR HAND: I have a question for Mr. Gilmore, if you please. Does any other state have the unsatisfied judgment fund law in effect?

MR. GILMORE: I believe one other state, North Dakota.

SENATOR HAND: And how long has that been in operation?

MR. GILMORE: I believe it has been in operation for six or seven years.

SENATOR HAND: What is the experience there, do you know?

MR. GILMORE: I am not too well advised on what the experience has been there. I don't think there has been any movement to repeal the law. I wouldn't say it is as good a law as New Jersey by any means.

SENATOR HAND: Do you know whether the fund has been growing or shrinking?

MR. GILMORE: I wouldn't want to try and answer that. I could give you the statistics, but mine would be merely a guess, sir.

SENATOR HAND: Thank you very much.

MR. GILMORE: Could I just make one further remark in a sense pointed to Mr. Chase Smith's statement?

THE CHAIRMAN: You may.

MR. GILMORE: I think we have all benefited by this discussion. One of the things that slightly puzzles me is that the American Mutual Alliance, it is my understanding - I wasn't present at the hearing; but it was reliably reported - took no public position against the unsatisfied claims and judgment fund act when it was aired at public hearings some three years ago in this very Assembly.

MR. JAMIESON: There is just one statement that Mr. Wise made and I doubt whether he actually meant what he said and believe it should be corrected. I think I took the statement down that he stated that our present financial responsibility law requires motorists to have insurance or prove insurance or prove that they are insured. I think that was his statement. As I understand the

law, it isn't necessary they prove they are insured, but that they have financial responsibility.

MR. WISE: If I made that statement, it was incorrect.

MR. JAMIESON: Thank you.

THE CHAIRMAN: Assemblyman Metzger, have you anything further?

MR. METZGER: No.

THE CHAIRMAN: This will bring to a conclusion then our hearing this morning. I want to thank you on behalf of the Committee for your participation. I trust that the Committee will get some help from your informative presentations.
