

# MAINE STATE LEGISLATURE

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JOINT SPECIAL LEGISLATIVE INVESTIGATING COMMITTEE

Testimony of Charles A. Jortberg, Jr.

Re: Insurance.

Augusta, Tuesday, Dec. 10, 1940. Counsel: Donald W. Webber,  
Hubert Ryan

Tuesday, December 10, 1940.

CHARLES A. JORTBERG, Jr., having been duly sworn,  
testified as follows:

(By Mr. Donald W. Webber)

Q. Will you state your full name?

A. Charles A. Jortberg, Jr.

Q. Where do you reside?

A. 466 Woodfords St., Portland, Maine.

Q. And you were formerly employed by the State of Maine?

A. Yes.

Q. And that was Executive Secretary of the Safety  
Coordinating Committee?

A. Yes, sir.

Q. And that employment terminated about when, as you  
recall it?

A. On the date your Committee filed its partial report --  
abruptly.

(Off record)

Q. Now, Mr. Jortberg, since you left the employ of  
the State you have been in the insurance business?

A. Yes.

Q. And in what capacity?

A. Well, really as an independent contractor to exercise  
complete supervision on certain classes of business for  
one company.

Q. Are you a duly licensed agent?

A. Yes.

Q. Who is able to write any kind of business?

A. Yes.

Q. If you can recall, what is the date of your license?

A. August 20, 1940.

Q. Now to go back a little, you have in your hand an outline of ~~the~~ chronological events which you have prepared dealing with the matter of this inquiry?

A. That is right.

Q. Of which you have furnished me a copy?

A. Yes.

Q. Now, referring to that, can you tell us what was the situation with relation to the State automobile fleet insurance at or about May, 1940?

A. There was in existence at that time basic coverage that was applicable to owned automobiles, and, as a result of a series of conferences that were made necessary by a railroad wreck which was alleged to have been caused by a State Highway Commission power shovel, the Highway Commission decided that they wanted to have insurance that would cover the operation of all hired commercial cars, and on the 8th of May an endorsement was attached to the basic policy, giving the same coverage with limits to all commercial cars hired by the Highway Commission.

CHAIRMAN TOMPKINS: Pardon me a moment. When you speak of "commercial cars" do you take into consideration other motor vehicles than passenger cars?

A. All other than passenger. That is what it is intended to mean, trucks.

Q. And anything else?

A. In this instance it would mean anything other than a pleasure type of car, anything other than that.

MR. McNAMARA: Steam shovels?

A. Yes, anything that was used for a commercial purpose.

(By Mr. Webber)

Q. What company was carrying this business at that time?

A. The Idemnity Insurance Company of North America.

Q. Do you know through whose office in this State that business was written?

A. No; I do not.

Q. Do you know where that information might be obtained by this Committee?

A. There are three sources: First, the company; second, the former Insurance Commission, and, third, the member of the Governor's Council who advised the Insurance Commissioner, Mr. Weston. Either of those three sources should be able to give that information.

Q. Now what was the rate on the former coverage?

A. On the commercial cars that were covered by endorsement, the rate sent down by the company was \$1.52 per \$100 of hire paid. In other words, for the use of ~~xx~~ commercial cars there are so many dollars and cents paid to those who rent those cars to the Highway Commission. The rate of \$1.52 is applied to each \$100 of that hire, the original premium being estimated and the final premium being adjusted on audit which divulges total cost of hire paid. Based on estimates furnished by the Highway Commission of \$1,200,000 a year, that would produce a premium of \$18,240.

Q. Now on August 31, 1940 was this insurance written by a new company?

A. Yes, it was.

Q. And the name of the company is what?

A. Zurich General Accident and Liability Insurance Company.

Q. Now, Mr. Jortberg, what agent in the State of Maine wrote the business with the State of Maine for the Zurich Company?

A. I did.

Q. What agency in the State of Maine has the general agency for the Zurich Company?

A. The Dunlap agency, in Auburn, Maine.

Q. Now, going back a little, will you trace the chronological developments through the summer of 1940, leading up to the placing of this business?

A. Well, in the first place the rate of \$1.52 paid for hired car commercial coverage was the straight manual rate that would be used if you as an individual were buying that for the hire of one car. On the basic coverage there was a graded reduction of 24 per cent that was applicable because of the number of automobiles owned by the State.

On July 8, 1940, the representatives of the Zurich Company were holding a meeting at the Augusta House in the afternoon to present a new method of sales promotion which dealt very largely with the general subject of safety. I was invited to attend that meeting with Mr. Lovejoy, the Insurance Commissioner. We attended the meeting and both agreed that it was rather a unique method and had much of merit in it.

On the second or third day following the filing of

Committee's first partial report, I returned from the University of Maine and was looking for some expense checks of my own money that had been tied up as well as a salary check, and was told by the Controller as well as the Insurance Commissioner that there were certain sections of your partial report that made any further payment to me, even of expense money tied up, impossible.

Skipping detail, about the first week in August, while still endeavoring to collect my own expense money, Mr. Lovejoy volunteered to write a letter to a Mr. Neville Pilling, the United States Manager of the Zurich Company, in which he suggested to Mr. Pilling that possibly my background of insurance experience plus safety experience might be of interest to them from the point of view of their employing me. This was followed by a conference with officials of this company at their branch office in Concord, New Hampshire, the second week in August. Naturally the report that was completed at the end of the fiscal year for the activities of the Safety Coordinating Committee was discussed with these individuals when they asked as to the type of work done, and in that report is revealed the experience on automobile liability and property damage on the automobiles of the State for the first ten months. So the company began to get interested and asked if there was any possibility of their being able to secure this business through me. I told them that I did not know, very frankly -- and I didn't know, because all of the relations existing between the carrying company and the Insurance Commissioner had been very cordial and nothing of criticism as to what the

company had done; and if they were to anticipate receiving any consideration it would have to be on the basis of major differential in cost. I requested the privilege of quoting rates from Mr. Lovejoy, which he very nicely accorded to me. I had previously talked with the Governor and one member of the Executive Council, Mr. Schnurle. I had finally got together all the information, rating data, and made a quotation on August 20th., which was the normal date of expiration of the previous policy. This quotation was at the same basic rates for the owned automobiles, but the coverage for the hired cars was quoted at a rate of 74 cents in place of the \$1.52, which, when applied to \$1,200,000 of hire, I estimated would mean a difference of \$9630.

One other difference was made in the quotation. On the previous year's policy with the Indemnity Company of North America there was a profit-sharing agreement that I never quite agreed with. In fact, it stated this: That the State and the Company agreed to a maximum permissible loss ratio of 62-1/2 per cent of the premium paid, and if at the end of the policy period the losses paid plus allocated claim expense totalled less than 62-1/2 per cent, that the company would refund to the State one-half of that difference. But in that agreement it provided for a final settlement ten months after the expiration of the policy. Well, if you have a public liability, a personal injury claim with a serious injury where there is a permanent impairment and litigation, ten months would make it necessary to set it up as an unpaid reserve and the unpaid reserve would be in the 62-1/2 per cent. So it was all in the company's favor. If they



had enough open claims the reserves could equal 62-1/2 per cent. So in quoting for the Zurich this same profit-sharing was incorporated in the policy but with periods of twelve, eighteen and thirty months after the expiration of the policy, being flexible enough for a case that might go in the lower court and then into the higher court, where there might be an impairment and where the claim could not be determined as to amount in the shorter period.

I was told on the 28th of August by Mr. Lovejoy and Cony Weston of the Executive Council, in the office of the Insurance Commissioner, that the rates quoted were approximately the same, but if it meant a job for me Cony Weston told me he wanted me to have the business. But all they had from the company was what I told them and they wanted something in the file. So I called the company collect from the Insurance Commissioner's office and told the company what they had requested, as a result of which a letter, copy of which you have, was sent by the company to the Insurance Commissioner.

MR. WEBBER: I will read into the record at this point the letter referred to, from a copy which Mr. Jortberg has supplied me from the files of the Zurich Company:

"Concord, New Hampshire  
August 28, 1940

"Honorable C. W. Lovejoy  
Commissioner of Insurance  
State of Maine  
Augusta, Maine.

State of Maine  
Automobile Fleet

Dear Commissioner:

We should like to supplement our premium quotation of

August 20 for Automobile Bodily Injury and Property Damage Insurance with information as to our proposed accident prevention activities in connection with the operation of automotive equipment to be insured if we are favored with the order for this coverage.

"If we write this insurance, we propose to provide our Safety Zone Insurance Service of which you witnessed a demonstration at the meeting at the Augusta House on July 18, 1940. We feel that this service can be most efficiently rendered by Mr. Charles A. Jortberg, Jr. in view of his complete understanding of the accident prevention problems in connection with the State automobiles, his thorough knowledge of the fundamental principles of our Safety Zone Service, and his unusual ability along accident prevention lines.

"We have discussed this matter with Mr. Jortberg and have arranged for his services in rendering our Safety Zone Service if this business is given to the Zurich. We feel confident that the application of our program through Mr. Jortberg would be of material benefit to the State.

Very truly yours,

Zurich General Accident and  
Liability Insurance Co., Ltd.

SHG:ep

S. H. Gregg, Branch Manager."

Q. (By Mr. Webber) Now can you continue from that point?

A. As a result of that letter, Mr. Lovejoy gave me instructions to have the company bind the coverage as of noon, August 31, 1940, which was done. This was followed -- it took about five weeks to make up accurately

a schedule of the automotive equipment, due to the fact there was in existence in no one place anywhere in the State House a list of the total equipment owned by the State and the various institutions. I had to travel around to eight of the institutions to get an accurate list. The policy was delivered in the latter part of September and bills for each State department delivered in triplicate. Then on October 2 of 1940 a letter was sent to the branch office of the Zurich Company at Concord, New Hampshire, by Mr. Lovejoy.

MR. WEBBER: At this moment I will read that letter into the record.

(Off record)

THE WITNESS: They are from the company's file in Concord, New Hampshire. There is a letter of transmittal attached to two of these that I just received from the company. To me that would be evidence of that. The others I got while in Concord personally. These last two I gave to you were within a week mailed to me. I left the letter of transmittal with these two, thinking that question might come up.

MR. WEBBER: I will now read the copy of the letter which has been supplied me:

"State of Maine  
Insurance Department  
Augusta

"October 2, 1940

"Zurich General Accident & Liability Ins. Co. Ltd.  
206 Patriot Building,  
Concord, New Hampshire.

Attention: Mr. Gregg

Dear Sir:-

I have had some talk with Mr. Jortberg in connection

with the commission to be paid on the Automobile Public Liability and Property Damage Policy for the State of Maine. I would like to have you advise me regarding gross commission which will be allowed, and to further say that this commission will be allotted to properly licensed agents in the State by the Governor and Council as has been done in connection with past policy.

Very truly yours,

C. W. Lovejoy

L/H

Commissioner."

Copy:eg.

THE WITNESS: The Company called me on the telephone and read this letter and asked just what it meant. I told them very frankly I did not know, but I would try and find out. So I came to the State House, to Mr. Lovejoy, and told him that apparently through something over which I had no control there had been an assumption that I had received a salaried job and that there was a commission available to be paid on this business. I told him very frankly that I had, in accordance with the original letter that was sent to me, made an arrangement with this particular company on this particular business on a fee basis and that a definite portion of the fee was the commission payable on the business and that every dollar that was allotted to anyone else than myself on this would be taken out of my pocket.

Mr. Lovejoy was quite upset, told me he didn't know how Mr. Weston would like it; so I asked for the privilege of using his telephone and made an appointment and went down to see Mr. Weston in his office. I presented the same story to him. He told me that he didn't know what could be done, inasmuch as the matter had already been

laid before the Governor, so I asked then if it would be all right with him if I went to the Governor with it. He indicated that he preferred to handle the matter himself and that it would be properly taken care of and for me not to worry.

I told the company in discussing the matter with them to answer the letter in a very general way without committing themselves, and they answered the letter as follows, and there is a copy of this letter from the same source.

MR. WEBBER: I will read the copy that has been supplied me:

"Concord, N. H.  
October 5, 1940.

"Hon C. W. Lovejoy  
Commissioner of Insurance  
State House  
Augusta, Maine.

Dear Commissioner Lovejoy:

In reply to your letter of October 2, the maximum commission payable on the Automobile Public Liability and Property Damage policy covering the State of Maine automobiles is 5%.

We are pleased to advise you that it is a positive rule of this Company, to which we have always strictly adhered, to accept business from and pay commission to only properly licensed agents in any territory.

Very truly yours,

S.H. Gregg  
Branch Manager."

SHG:N  
Copy:eg

THE WITNESS: This letter produced another letter from

Mr. Lovejoy within a few days, copy of which you have.

MR. WEBBER: I will read the copy:

"STATE OF MAINE  
Insurance Department  
Augusta

"October 7, 1940

"Zurich General Accident & Liability  
Ins. Co., Ltd.

Concord, New Hampshire

Attention: Mr. Gregg, Branch Manager

Dear Sir:

Wish to thank you for your letter of October 5th and to further correct an impression which I apparently gave in my letter of October 2nd. We do not question the procedure of your company of paying commission to only licensed agents, but in this particular instance the licensed agents will be designated by the Governor and Council, and the amount of commission in dollars to each will also be designated.

Very truly yours,

C. M. Lovejoy

L/H

Commissioner"

THE WITNESS: Seemingly that letter required no reply. The next thing that happened -- nothing was said. On November 5th. Mr. Lovejoy resigned as Insurance Commissioner, to be effective November 12th. He left the office after having said goodbye to his personnel, to go hunting and not be back. I naturally assumed this matter had been discussed between Mr. Weston and the Govern and that nothing further would develop.

During that week three different interests in the

insurance business in Portland that are affected more or less by whoever may be in the office of Insurance Commission suggested to me that I set myself up as a candidate for that office, based on previous experience, and one of these suggested that I talk with Cony Weston, and I did on November 8th., which was the day that the State House closed down for three days on account of Armistice Day.

I came down, went down to Mr. Weston's office by appointment, told him what I was there for, and we entered into quite a discussion. I told him that I felt definitely that based upon experience and knowledge I should be qualified to discharge the duties of the office. He agreed, and told me that if I really decided that I wanted it seriously to let me know, but he advised me against attempting to get the appointment because he didn't think it was the type of work under present conditions that would be very satisfactory. He did tell me in the course of that conversation that there was one man that could have had that appointment had he wanted it, that the Governor had offered the appointment to this man through Weston. That man is Brooks Brown, who is employed in Cony Weston's insurance firm, Macomber, Farr and Whitten. He then, as I was leaving, referred to this commission matter and told me not to worry, that it would be taken care of. Now that was the only reference I had had from October 7th. to November 8th.

On Tuesday, November 12th., I came to the State House to the Insurance Department to get more complete

information upon a minor accident that had been reported. I got there at about twenty minutes past ten, and was told that Mr. Lovejoy had just left. I had just missed him. He had come in for about an hour and had taken the plane for Boston.

The following day, November 13th., the manager of the Zurich for New England met me at the Eastland Hotel early in the morning by appointment to discuss some other possible business. While we were talking he was paged, called by his office, and a letter was read to him on the telephone that had just been received ~~by~~ <sup>from</sup> Mr. Lovejoy, and he asked me to listen, to get the information contained in this letter. I did, and I requested that photostatic copies of that letter be made. Copy of that letter has been furnished to Mr. Webber.

MR. WEBBER: I will read the copy:

"STATE OF MAINE  
Insurance Department  
Augusta

"November 9, 1940.

"Zurich General Accident & Liability Ins. Co.  
206 Patriot Building,  
Concord, New Hampshire.

Attention: Mr. Gregg, Manager.

Dear Sir:

I have today received advice from the Governor and Council that they wish to have the commission on the State of Maine Automobile Fleet paid to the following individuals and in the following amounts:

Brooks Brown - \$600.  
Charles A. Jortberg, Jr., - \$293.63

When the premiums have been paid, checks for these amounts are to be sent to this office for transmission to these individuals through the Governor.

L/h (Rec'd 11/13/40)

Very truly yours  
C.M. Lovejoy  
Commissioner."



THE WITNESS: As a result of that letter, discussing it with the manager, I told him he could not legally pay the Commission to Brook Brown because I didn't believe the licenses in the files in his name would permit it. So we drove to Augusta <sup>and</sup> ~~on~~ I went into the Insurance Department, found Mr. Brown was not licensed for the Zurich and did not have a broker's license, nor was there a record of his ever having had a broker's license.

Q. (By Mr. Webber) What do you mean by his not being licensed for the Zurich? How does that work?

A. The laws of the State require that if you are to do business with a company you have to be licensed by that company and the State. That means that you complete an application as an individual which in turn the company approves and the company forwards the application with the fee of two dollars to the Insurance Department, then the license is issued in the name of the person applying to conduct certain definite lines of insurance as permitted by the charter of the company for a period usually of a year but all licenses expire as of July 1 of a given year. That is the agent's license.

Now that license designates the individual to whom it is issued as an agent of the company, with full authority to bind the company and act for the company.

Now you have another class of licenses termed "brokers licenses". The insurance broker is the individual who acts for the insured, the purchaser, he does not act as agent of the company but he has to be licensed because

he assumes knowledge of the business which would permit him to take your insurance policy, analyze it, and obtain maximum coverage at minimum cost by going to any one of the companies in the State. The broker is the agent of the purchaser and usually places his business with general agents who in turn collect an overriding commission for the work they do. The fee for a broker's license in the State of Maine is \$25 a year. Because of the size of that fee, there are very few brokers' licenses issued.

Q. Now you say Mr. Brown had neither of these?

A. According to the records in the Insurance Department as of that date there was no record. I had it verified by the department.

Q. Up to the time that we have covered now, or up to the present time, so far as you know, what has Mr. Brooks Brown ever done in connection with the writing of this Zurich business?

A. Nothing to my knowledge.

Q. And was this letter of November 9, 1940, the first knowledge that either you or your company had that Mr. Brooks Brown was supposed to have performed some valuable services?

A. That is right.

Q. But you are still in ignorance as to what those valuable services were?

A. Yes.

Q. Now do you wish to continue? Was there anything that transpired between the 9th and the 18th?

A. I would like to go back and put one thing into your record which was very revealing.

Obviously, after having received the order to write the insurance, the first place one would go would be the expired policy to use as a guide. So I asked Mr. Lovejoy to furnish me with one of the copies that he had, and in checking that copy for the various endorsements I discovered that a second endorsement had been issued on hired cars superseding the first one, dated May 8th., but dated back to May 8th., cutting the rate from \$1.52 to 95 cents, which meant a 37-1/2 per cent cut, and, stamped on the back of the endorsement is the receiving stamp of the Insurance Department showing it to be received on August 22, 1940, two days subsequent to the quotation of 74 cents for the Zurich. In other words, this quotation of 74 cents not only affected the cost of insurance under the present carrying company but retroactively to May 8th brought a reduction of 37-1/2 per cent. What that may mean in figures I do not know, because I have never seen the figures on the amount of hire developed from May 8th to the expiration of the policy.

Q. Now was there anything that transpired between November 9th and November 18th?

A. No. On November 18th the Zurich acknowledged receipt of Mr. Lovejoy's letter of the 9th in the form of the letter which you have a copy of.

MR. WEBBER: I will read the copy.

"Concord, New Hampshire  
November 18, 1940

Honorable Lewis O. Barrows,  
Governor of the State of Maine, and  
The Members of The Governor's Executive Council  
State House  
Augusta, Maine

Honorable Sirs:

On November 13 we received letter from the Honorable  
C. W. Lovejoy, Insurance Commissioner, informing us that  
the Governor and Council had advised him that they  
wished to have the commission on the State of Maine  
Automobile Fleet Policy paid to the following individuals  
and in the following amounts:

Brooks Brown ..... \$600.00  
Charles A. Jortberg, Jr. \$293.63

Commissioner Lovejoy further instructed us that when the  
premiums had been paid to us, checks payable to the  
above individuals in the respective amounts indicated  
were to be sent to the Commissioner's office for  
transmission to these individuals through the Governor.

We interpret the laws of Maine to require that commission  
on any policy may be paid only to properly licensed agents  
or brokers. Mr. Brooks Brown is not a licensed agent  
of our company nor do we find record of a Maine broker's  
license having been issued in his name. Consequently,  
it appears to us that to follow your wishes as outlined  
by Commissioner Lovejoy would be in violation of law and  
we feel that this situation should be called to your  
attention before any commission is paid. We are therefore  
taking the liberty of writing direct to you in view of  
the fact that Commissioner Lovejoy has resigned and we  
understand his successor has not been appointed.

We await further advices.

Very truly yours,

Zurich General Accident and  
Liability Insurance Co., Ltd.

S. H. Gregg, Branch Manager"

SHG: ep  
cc - Charles A. Jortberg, Jr."

Q. (By Mr. Webber) Did anything transpire between the  
~~RE~~  
writing of that letter and the writing of a letter in  
answer by the Governor?

A. No.

MR. WEBBER: And I will read the Governor's answer:

"STATE OF MAINE

Executive Department

Augusta

November 20, 1940.

S. H. Gregg, Branch Manager  
Zurich General Accident and Liability  
Insurance Company, Ltd.  
Concord, New Hampshire

Dear Mr. Gregg:

We acknowledge receipt of your letter of November 18 relative to commission payments of the State of Maine automobile fleet policy.

For your information, we quote below that portion of Section 122, Chapter 60 of the Revised Statutes of 1930 which pertains to the subject matter in question:

"Agents of duly authorized insurance companies may place risks with agents of other duly authorized companies when necessary for the adequate insurance of properties, persons, or interests."

Reference to the records on file in the Insurance Department reveal that Mr. Brooks Brown is a licensed insurance agent in this State and in view of the fact that Mr. Brown placed the State of Maine automobile fleet policy through an authorized agent of your company, namely, Charles A. Jortberg, Jr., it is my opinion and that of the Council that Mr. Brooks Brown can legally be paid a commission on this business in accordance with proper interpretation of the insurance laws of this State.

Very truly yours,

Lewis O. Barrows

Governor"

LOB/pcw

Q. (By Mr. Webber) I suppose, Mr. Jortberg, you have no information or means of information as to where Governor Barrows got the impression that Mr. Brown had written this business and placed it through you?

A. None at all.

Q. Is that in accordance with the facts?

A. No.

Q. What has your company done since then?

A. They sent their chief counsel from Chicago to Portland with the manager from Concord, and reviewed the entire facts up to date. He returned to Chicago after having advised the manager of the company to acknowledge the Governor's letter. I haven't a copy of that acknowledgement but I understand it merely acknowledged receipt of the letter and advised that the matter had been referred to the legal department in their Chicago office.

Q. Have the commissions been paid?

A. No.

Q. Now what would be the practical result in connection with the general agent, the Dunlap agency, who are, I understand, the people in the State of Maine directly responsible to the Zurich Company? Suppose that these commissions were paid in accordance with these instructions but at the end of the period there turned out to be a return premium based on experience over the period, would there not be then a return commission due?

A. That is right, there would be.

Q. And to whom would the company legally look for the return commission?

A. To the general agent, as a matter of accounting.

Q. And is there any way to determine under this procedure what Mr. Brown should be expected to pay back if any return commission were found to be due?

A. None at all.

Q. Is there any contractual relationship between the Dunlap agency and Mr. Brown?

A. None to my knowledge. I have been informed by them there is not.

Q. Would it be fair to say that as a practical matter the Dunlap agency might eventually end up by accepting a loss?

A. Yes. For your information: Rates for automobile insurance are determined by the rating bureau, the National Bureau of Casualty and Insurance Underwriters, and when a risk of this character comes up, if a company decides they are willing to write the risk at a given rate with certain endorsements such as a profit-sharing agreement, they in turn submit the method of writing to the company before quoting, and the Bureau designate that portion of the premium that shall be paid as commission to the producer and that portion which shall be allocated to the general agent. In this instance the Bureau designated four per cent to be paid to the purchaser and one per cent to the general agent. This correspondence indicates that any amount of money accruing to the credit of the general agent because of his handling of the detail of the business and acting for the company in the territory was completely ignored, inasmuch as the gross commission of five per cent is allotted in the amounts of money incorporated in these letters.

Q. As a matter of fact, representatives of the Dunlap agency ~~represented~~ did assist you to some extent?

A. Very materially. When this first came up, the negotiations

to obtain the seventy-four cent rate required ~~xxxxxx~~ quite a bit of time, inasmuch as no company would accept a rate that was less than fifty per cent of the rate already being paid without being convinced they could carry the risk at such a reduction. At least half a dozen trips to Concord were made by Mr. Erland Dunlap and myself, the expense of these trips being paid by him.

(Off record)

There is one thing I would like to bring out. Section 122 of Chapter 60 of the insurance laws as quoted in the Governor's letter from a practical point of view was never intended to apply to casualty lines of insurance. That section was put in the statutes to take care of the case where up say in Aroostook County a risk of \$50,000 is given to the agent to place. He has four fire companies in his office and no one company wants to accept more than \$5000 of that line. This law was passed giving the agent in Aroostook County the opportunity of giving this business to other agents so he in turn could deliver \$50,000 of insurance and do it legally; but the very nature of casualty insurance is such that such a subdivision can never come up. The only subdivision that ever arises is where an assured wants extremely high limits of coverage and they buy from the average commercial company the primary basic coverage and then from an excess insurance company they will buy excess limits; but such a thing as dividing casualty business such as this is not intended to be



covered under that statute.

Q. Of course, moreover, it is very obvious from reading the statute that the statute has nothing to do with this situation.

A. Yes. I would prefer to have that go into the record.  
SENATOR LAUGHLIN: In that case he would have to be the one that placed the insurance?

A. Yes.

Q. So, as applied to this case, Mr. Brown would have been obliged to place it through you?

A. Yes.

CHAIRMAN TOMPKINS: Did anybody assist you in effecting this insurance contract?

A. Not in effecting the contract. All negotiations with the State were conducted by myself alone.

Q. Did you consult with any representative of any other insurance agency?

A. Only the general agency of the company, the Dunlap agency referred to.

Q. Did you consult with any representative of any other agency?

A. No; at no time.

There is one other point you have raised in my mind by asking that question that is not relative to the question. I was asked at the time the order was given to me by Cony Weston and Mr. Lovejoy in the Insurance Commissioner's office what amount of commission was included in the rates that were quoted and I told them five per cent. That came to my mind when you asked the question relative to the commission.

CHAIRMAN TOMPKINS: Would they have had any other method of knowing the amount of commission allowed on this piece of business other than <sup>what</sup> you told them?

A. Why, yes indeed. It would be a natural assumption that the commission would be the same as paid the previous year, because the basic rate structure was practically the same, so they naturally assumed it would be the same. Then they could find out by writing direct to the company or writing to the bureau.

SENATOR LAUGHLIN: Through what agency was this insurance at the \$1.52 rate placed?

A. I don't know.

Q. You do not know who received the commissions on it either?

A. No; I was never able to find out. I have a copy of the policy. It was countersigned by Mr. Tozier, who was ~~an~~ agent for the Insurance Company of North America, which is a fire company and a companion company of the Idemnity Insurance Company of North America. He is a salaried man who has office space with Macomber, Farr & Whitten, but he does not receive commissions.

Q. Do you know whether or not that commission was paid to anybody?

A. I was told by Mr. Lovejoy it was paid to somebody and I would be better off not to know who it was paid to, when I raised the question a year ago.

Q. (By Mr. Webber) Do you know whether when the Idemnity Company of North America got their business in the first place that they got it on bids as you did?

A. I can answer that question perhaps best by giving you a

little resume of what transpired. The normal expiration of the insurance in 1938 was July 20th. It had been carried for two years by the Traveler's Company. They didn't care at any rate to stay on it further because of the losses they had sustained. They agreed to stay on for thirty days on a binder, bringing it up to August 20th. From what Mr. Lovejoy has told me, it was my understanding that he and Cony Weston went to Boston and negotiated the contract for the Indemnity Company of North America. I do not know that there were any bids. I know of no other company that quoted.

SENATOR LAUGHLIN: Do you know whether or not the insurance company records would show whether or not a commission was paid to anybody?

A. I assume there would be in the files copy of a letter similar to this letter, inasmuch as it has been the practice for the last two years at least for the Insurance Commissioner to follow the instructions of the Governor and Council in allotting commissions on insurance bonds and insurance other than fire insurance. That has been the practice. Those letters should be available.

CHAIRMAN TOMPKINS: Under what heading would those letters be filed?

A. I imagine they would be in the private file in the Insurance Commissioner's office.

(Off record)

CHAIRMAN TOMPKINS: You would not go so far as to say, Mr. Jortberg, that the collaboration which you received from Mr. Weston might not be interpreted to mean that for that collaboration his agency was entitled to it, part of it?

A. It would be rather difficulty forme to say that, inasmuch as the conversation with him didn't last four minutes.

CHAIRMAN TOMPKINS: Well, you can make an awful lot of conversation in four minutes sometimes that is very binding.

SENATOR LAUGHLIN: The fact that Mr. Weston and Mr. Lovejoy went to Boston to make this \$1.52 contract would suggest to you, would it not, that it was made through somebody at the Boston agency as the representative of the company?

A. I wouldn't think so, Senator, for this reason: The Company's branch office was in Boston and I would be very reluctant, from what I have observed, to think that any agency from outside of the State of Maine was ever given any consideration.

Q. Why did they make it in Boston?

A. Because that is where the company's ~~agent~~<sup>branch</sup> office was, and they dealt direct with the company.

Q. They dealt direct with the company, not as in this other case through an agent as they dealt with it through you?

A. That is right.

Q. Of course you do not know anything about the arrangement on other insurance, fire insurance and so forth that the State places?

A. The fire insurance is placed through eight master policies. The agent that has to write the master policy is selected by the Governor and each member of the council. Now that is very well divided in that the individual who

places that with the agency designates to the agency as to whom they will give the reinsurance orders. In other words, one-eighth of that total schedule would run into many millions of dollars and a very considerable premium. So the key agent gets instructions from the Governor and Council as to whom the various agents will be who will write reinsurance. ~~They designate~~

Q. They designate ones that are brokerage agents for the State?

A. Yes.

(Off record)

CHAIRMAN TOMPKINS: Where can we get a copy of the Insurance Commissioner's speech?

A. It is in the file of the publication in New England called The Standard.

Q. Was it ever published in any publication?

A. This magazine, The Standard.

Q. How long ago?

A. I would say about a year ago.

Q. Wouldn't any insurance agent be apt to have a copy?

A. They might have. That is a weekly publication that comes out of Boston, published in Boston as a trade journal. Whether they would retain their copies back that far I don't know.

Q. Would your agency possibly have one?

A. I don't know. I will find out.

Q. (By Mr. Webber) Mr. Jortberg, this allocation of fire insurance as you have described it does not result in any monetary disadvantage to the State of Maine, does it?

A. Oh no.

Q. And why doesn't it?

A. For the simple reason that there is a gross fire commission of 20 per cent. If the master agent that wrote the one-eighth retained all that business he would retain 20 per cent of the premium paid. As it happens, however, when he gives an order for reinsurance the agent that writes that reinsurance gets the 20 per cent and the agent to whom the gross premium is paid must return to the agent issuing the policy the full amount of the premium, so there can be no disadvantage to the State of Maine.

Q. My question is a little different. That fire insurance doesn't go out on bids, but isn't it true if it were put out on bids the State would not get any better rate on fire insurance?

A. That is right.

Q. But is that true on liability or casualty insurance?

A. Well, it is supposed to be true. For instance, there is a manual that states that the rate for this hire car coverage should be \$1.52. Now attaching that to a basic policy that has a graded reduction because of the number of vehicles of twenty-four per cent would normally justify a reduction of twenty-four per cent. But here was a company that was anxious enough to get this business so they gave me a quotation low enough to practically guarantee getting the business and they got the Bureau to approve the quotation they were making.

Q. Does it boil down to this: All casualty and liability coverage should be put out by the State through bids to get

the best financial response?

A. If those bids are handled in the proper way, yes; if not, no. I mean by that this: That a fly-by-night gyp company could set up an artificial financial structure and could come into the State of Maine and get admitted, and then to get the State's business they could cut the heart out of the rate below the minimum at which it could be carried. If it were on a basis of qualified bidders such as ~~as~~ adopted oftentimes in building contracts where a bidder must prove his qualifications before he can have the privilege of bidding and then decision made on value received rather than dollars and cents alone -- for instance, you might have a quotation of \$1000 from A Company and a quotation of \$950 from B Company, but the coverage that A Company was giving for the thousand dollars might be of twice the value when it came to the payment of a claim as the coverage being given by B Company, so it should lend itself to interpretation. I do not believe that the State could justify making a purchase on just a dollars and cents basis alone, if I make myself clear.

SENATOR LAUGHLIN: Isn't the casualty insurance allocated to the members of the Council also? The whole Council does that?

A. It is supposed to.

Q. It is by vote of the entire council, whether it is to please one member or another?

A. That is what I am told.

Q. But it is allocated?

A. Yes.

MR. McNAMARA: Then this rate they were given of \$1.52 would be the same rate any other company would give them?

A. The same as you would as an individual if you said to me: "I am in the habit of hiring a truck in my business maybe ten days a month. I want you to be sure to get insurance for me because if that truckman doesn't have insurance and is trucking for me I might have to be in a position of having to defend myself on a claim." You would get the same.

MR. McNAMARA: Had the State of Maine ever had a fleet insurance lower than \$1.52?

A. They had never had this form before. To give you an idea of how it has happened: When this railroad wreck occurred I had not been down here twenty-four hours and I was given the job of investigating, and I went over there and it was the most peculiar thing I ever saw in my life. Here is a company told that they have got to pay the maximum limits on a policy of \$5000 of property damage plus \$1100 or \$1200 for minor personal injuries. That was brought about in a manner where there could be no conceivable negligence on the part of any State employee. The only State employee involved was the power shovel operator. His power was off, the shovel chained to three trucks and the dipper of the shovel in the third truck. The road supervisor of the Town of Gloucester had started with them three miles back to supervise this convoy so he could signal the operators of the trucks and they could follow his signals, because if you leave a convoy like that alone the three men wont work in unison. He left the convoy to go home to supper. They went up under the trestle without any guide.



The boom of the power shovel bogged, and when it bogged the shovel operator tried to stop these truck drivers but they couldn't hear him. The net result was the boom caught under part of this steel trestle and lifted it over twelve inches and spread it out. They sent out men to stop the train and one fellow built a fire on the track with what paper he could collect. He finally had to jump from in front of the locomotive. The locomotive didn't slow down. It was a special train carrying 350 boy campers. The locomotive went over on its side and seven cars accordianed. Fortunately there was no one in the first three cars.

Now in following that through the Attorney General drew out two decisions under Workmen's Compensation Insurance where injured employees of towns working on road work where the money was furnished in part by the Highway Commission according to decisions of the Supreme Court were employees of the Highway Commission and of the State and as such were definitely entitled to the benefits of the Workmen's Compensation Act. That meant in this instance that this road commissioner and these three truck drivers were on an operation where the shovel had been loaned them by the State and that particular operation was in digging out gravel for State Aid highways, and because a portion of the funds would be reimbursed to the town by the Highway Commission the various conferences seemed to result in the fact that the Highway Commission were responsible. Now, peculiarly enough, there was specific insurance on two of those trucks

in the name of the owners. The third truck didn't have specific insurance, but the Town of Gloucester carried contingent liability insurance covering its liability for all trucks it hired. But it is now claimed that because highway funds were used to reimburse the town for that operation that therefore the Highway Commission is responsible for the operation.

Now if that same principle is applicable to these thousands of trucks that are hired on every little highway and byway to sand roads and do such things -- an actual survey indicated that less than ten per cent of them carried any insurance, which would be easily conceivable in the condition they are in -- there could be a serious accident for which the Highway Commission could be held responsible and possibly have to pay considerable money.

(Off record)

(Recess to 7.30 P.M.)

7.30 P.M.

(Mr. Charles Jortberg, Jr., Continued)

Q. (By Mr. Webber) Mr. Jortberg, when you were working for the Safety Coordinating Committee you made your headquarters in the Insurance Department? Is that right?

A. That is right.

Q. And then since you have been on this insurance, State insurance, you first had direct contact with a lot of insurance problems and so forth of the State?

A. Yes.

Q. Now, first, what have you found the situation is with regard to reporting accidents by State employees, and is there an opportunity for the State to improve that system and save some money?

A. The best way to answer that I think is to start back when the responsibility for handling the State insurance was given to me when I first came down here.

An analysis of the experience of previous carrying companies indicated very clearly that there had been many delayed reports and I soon ran into obstacles in endeavoring to get reports. For instance, I was told by the State Police that they didn't have to complete a report before the insurance company, that all they would do would be to forward a typewritten copy of their own police report. This led to one particular case where there was an apparment damage that could run into five to seven hundred dollars and lead me to the point of where I put the thing right up to the company by mail and asked them if they would ~~expe~~ accept such reports and would pay on the basis of typewritten reports, and they said no. They sent their claims attorney down here from Boston and he said it was his responsibility to approve the payment of claim drafts and he couldn't do it on that typewritten report. So, after some pulling and hauling, I went to the Governor and we set up a procedure whereby all accidents were supposed to have been reported promptly when they happened, to clear through one central agency. Past experience with the Travelers, who had been on the insurance for two years, showed that they had considerable difficulty in finding out about accidents which had occurred and didn't have an opportunity to investigate many times until after it was so old investigation would disclose nothing.

So on October 10th the Governor sent out a mimeographed memorandum which outlined the procedure. Now in this procedure it also developed that there was State-owned property that was being damaged through the negligence of third parties, that is where a State-owned automobile would be in collision with another car where the negligence was on the other fellow's part and where the State employee was absolutely clear. In one instance there was a car practically demolished. The car was in the jurisdiction of the departmental garage, and I raised the question as to what was being done to collect for the damages to the State-owned property in this instance because I happened to know that the car that caused the damage was insured and that damages were collectible where the facts seemed to indicate there was clear liability on the other fellow's part. And in that case, Lewis, who was in charge of the garage, said he would take care of the matter himself, and he came to me some few weeks later with a letter from the firm of Stern & Stern, ~~in~~ attorneys in Bangor, where they were attempting to reverse the situation and toss the bill back into his lap. That lead me to discuss what was happening first with the Attorney General as to whether there was any procedure set up by statute for the purpose of collecting such damages, and I was informed there was not. I then went to the various departments and found that particular phase was being handled a good deal like accident reporting -- what is everybody's business is nobody's business, and there was no centralization of responsibility. And as I dug into the thing I began to find out, for instance, the Highway

Commission have under their jurisdiction rights of way on State roads, ~~xxx~~ property that will run into hundreds of thousands of dollars in value. They have a number of guard rails that are damaged by vehicles, many of which are insured and many not insured but owned by people that are responsible. I found with the larger firms of ~~xxx~~ trucks that are operating under the Public Utilities Commission that they had a standing arrangement at the end of the year they would take and send bills to the trucking firm for damages caused to guard rails. They set an arbitrary value of one dollar on each pole in a guard rail. While I was driving to Portland December 3, 1939, just as I was going into Y<sub>a</sub>rmouth a drunken driver coming in the opposite direction went off the road, ripped off seven poles and went down into the ditch. I was done of three witnesses and I just followed that particular case through to see whether or not the damage to the poles was being billed, and in that instance nothing was being done. A conservative estimate for a period of a year would seem to indicate there are many thousands of dollars, upwards of twenty-five thousand dollars, that should definitely be collected by the St<sub>a</sub>te for damage caused to St<sub>a</sub>te-owned property, not only motor vehicles and guard rails but other State-owned property, but no definite procedure had been set up. I took the matter up with the Attorney General and we worked out a procedure whereby if accidents were reported to a central location the facts concerning those accidents could be put in such shape so he as representing the State could attempt collection, but we found in most instances most departments had set up their own procedure and

that on some they would collect and on others they would not. Incorporated in the report I made out at the end of the fiscal year is the suggestion that where the average claim of the State against another party might be small, the aggregate in the course of a year could run into a tremendous amount of money. There has never been, up until this thing was set up, a centralization of reporting of accidents so that any one agency know. For instance, I was amazed to learn on setting this up that upon receipt of an accident report a very simple letter of acknowledgement was sent to the department head, and I soon found myself answering telephone calls to explain to department heads what the accident was, because they had no knowledge of it. In other words, accidents could occur and reports go many times to the insurance company and many times no report until the claim was presented. An illustration of that is the case of one of the University of Maine cars, a car being driven in February up in the Dead River region by a wild life student of the University of Maine. He struck a pedestrian; he was alone in this car; there were no witnesses. He stopped, picked this man up, found out he was injured, took him to his home, got a doctor for him, and he reported it to his immediate superior at the University and it died there, nothing happened. Along in April the University, through the treasurer's department, wrote a letter asking me to come over. They were all upset because they had had a letter from a firm of attorneys in Farmington demanding immediate arrangements for payment of this particular claim or they were going to bring suit; and there had been

no report whatsoever.

Q. What have you found with relation to the ratio of losses paid in the past to passengers in State-owned cars?

A. Well, the one big problem that is very evident from an analysis of the experience over five years showed that the reason that no companies would want to continue to stay on the risk at the rates the State would pay was because of the claims being presented by the so-called "guests", in other words, people that were not employees of the State but who were riding in State-owned cars being driven by State employees and who became injured. The Travelers had very much difficulty with them, and when that question was raised -- that became evident along toward the latter part of 1940 -- and Mr. Lovejoy said they had discussed that with the Governor and Council before --

Q. You don't mean 1940, do you?

A. 1939. They had discussed that particular thing with the Governor and Council before, but conditions were not such that any definite set rule could very well be made by any elective officer of the State because that would cover and hit so many employees of the State and deprive them of a privilege that they always had had. The bulk of the claims that had arisen in that class had come up on State Police cars. So I took the matter up, as long as there could be nothing done to cover all State cars, I took that particular matter up with the Chief of the State Police as to the usage of cars, and questioned as to whether or not there was any rule or regulation relative to other than employees of the State

riding in State cars. And about that time one of the sergeants of the State Police had made a request to use a State Police car on a vacation trip through Quebec with his wife, and the chief of the State Police refused the request on the ground that there would be no insurance in force. Well, that raised the whole issue. The net result of it was a ruling was made by the Chief that the usage of State Police motor vehicle equipment would be confined to official use, and the reason given when the question was raised in various police districts was because of insurance. The big problem up to that time -- and the proof or evidence that was true lies in the fact that up to the time of a centralized source of reporting of accidents and having department heads have knowledge of accidents taken place, the experience had been real serious. Subsequent to that time the experience, with the exception of this railroad wreck, has been particularly good. As a matter of fact, there has only been \$1409 disbursed in the period that the Indemnity Company of North America policy was in force. There are reserves set up for unpaid claims.

Q. Now under this profit-sharing arrangement all that reflects savings to the State of Maine?

A. Definitely.

Q. Have there been instances in the past where there have been insured State-owned vehicles that the State did not actually have?

A. Yes. It is rather ridiculous, but, in making up the schedule of equipment for the Indemnity Insurance Company of North America I learned they always used the



Secretary of State's registration records to make up the schedule, and the Travelers at that time had an audit billing. I wanted to confirm the information that was on the Secretary of State's records from another source, and so I went through the departments. We found up in the Adjutant General's office that there were seven or eight Nash Quad trucks, the old 1917 or 1918 army truck, given to the Adjutant General by the army department, that had been carried as insured and on registry records in the Secretary of State's office for a period of five years, where they had been junked, and they were carrying ten vehicles where there were really only two vehicles in existence. In the Highway Commission, in checking the bill we ran into a discrepancy. There were thirty-two cars we could not locate. We chased those thirty-two cars for some weeks and finally found out the Highway Commission would requisition the S-plates at the first of January when they would come out shiny, bright and new and go on their vehicles. Along toward the latter part of April or sometime in May they traded about thirty or thirty-two cars each year. When they traded those cars and got new cars in, the plates had become a little discolored and rusty and therefore didn't look good on the new cars, so they would take those and toss them into the ash barrel, wouldn't change the Secretary of State's records, but would requisition new plates, so that the cars when new could go out with brand new plates, which made a duplication of thirty-two cars on the registration records, because no

record was made of the vehicles when the plates were thrown away.

Up at the University of Maine there were two trailers that had been junked, for which premium was paid, but that was because the treasurer's office had not been notified by the particular department which had junked those vehicles.

Q. Whose responsibility does it seem to you it is to see those things do not happen?

A. Well, it has never been anyone's responsibility as far as I was able to find out. In other words, I was told when I started to build a schedule for the Indemnity Insurance Company of North America that the only man who knew anything about what motor vehicles the State owned was the special agent of the Travelers Insurance Company. That didn't sound just right, so I started around through the departments, and in no one place was there any record.

Now at the present moment, at the time this schedule was made up for Zurich -- and the test of whether a schedule is accurate is when you mail out bills to the departments, because if there are any inaccuracies they question the bill -- there was one change only, and that was at the University of Maine, and that has been paid back.

In discussing the thing with the Controller, I furnished him copy of this list which he told me was to be the foundation for a perpetual inventory of motor vehicle equipment, a thing which they didn't have.

Q. So this list you prepared of motor vehicle equipment, which work you did simply as agent for the Zurich Company, is, so far as you know, the first complete round-up of motor vehicles ~~xxxx~~<sup>of</sup> the State of Maine that has been made?

A. The first one of which we could find any record. It took about six weeks to make up that list accurately. We had to go to the State School at Pownal, The State hospitals, University of Maine, normal schools. They automatically renewed and reissued plates on the same vehicle year in and year out, so that the Secretary of State's records did not reflect accurately what vehicle was being registered. You would have a different year and possibly a different motor and serial number.

Q. Well, how could the State Controller's office, prior to your preparing this list, carry the value of these motor vehicles on the State's books if they didn't know what they were?

A. Unless each particular subdivision of the State or each particular department had some particular set-up for carrying that motor vehicle equipment as an asset and they combined the assets of the departments without having them specially classified, I don't see how they could.

Q. Now when you speak of making up a schedule in connection with the policy of the Indemnity Company of North America, that was work you were doing as Secretary of the Safety Coordinating Committee?

A. That is right.  
(Off record)

Q. Mr. Jortberg, I hold in my hand two expired fire and theft policies on a State-owned car insured in the name of the

name of the Insurance Department of the State of Maine. Can you explain to me why there should be a single car coverage like that on fire and theft?

A. I wouldn't attempt to explain that, but I know that there is no blanket fire and theft policy on State-owned motor vehicle equipment, and that certain departments have followed the practice of having new policies issued covering the equipment assigned to their department. I presume that would explain the existence of these particular policies.

(Off record)

MR. MacNICHOL: Mr. Jortberg, because I was not here the first part of the afternoon, there are some questions I would like to have answered for my information.

Whose duty is it to collect in cases where a State-owned car is in an accident due to the fault of another?

A. As far as I can find out, it is not specifically assigned as a duty to anybody.

Q. Has it ever been assigned to anybody?

A. Not that I could find any record of.

Q. You spoke of a centralized point for reports of accidents. Does that centralized point for the report of accidents now exist?

A. Other than this: I asked for the privilege of the Insurance Commissioner to have reports clear through the Insurance Department on policies covering State-owned cars. I asked that for the reason that the actual reporting to one agency and the acknowledgement of that report to the head of a department acts as a deterrent.

Q. Is that carried out at the present time?

A. That is being followed at the present time. The report goes into the Insurance Department and they in turn mail it direct to the claim department of the company and acknowledge its receipt to the head of the department.

Q. In this case of the Zurich Insurance Company which you represent and whose policy the State now has for public liability, does the State have the same protection at your rate of 74 cents as they formerly had at the rate of \$1.52?

A. Identical. The endorsements for hired car patronage are defined in a manual. The manual says the endorsement must contain certain phraseology. Now that same endorsement is used by all companies because it is the only one that receives the approval of the Insurance Department. The form of that endorsement is incorporated into the manual, so that the endorsement the State receives on the one is identical to the other.

Q. Then to what do you attribute the fact that one insurance company in competition with other insurance companies can cut the price of premiums to less than one-half?

A. Well, you are going into insurance rating structure. I can as an underwriter, we will say, insure your car if it is garaged principally in the City of Portland, and we will say it is an Oldsmobile, for five thousand public liability and five thousand property damage for the minimum premium of \$40. Your car is one car. But let me take 800 of those cars and distribute those cars in various sections of the State under one control and one supervision, and automatically the manual says

I can reduce that premium 24 per cent. Now if someone presents this risk to the underwriter in that this method of supervision is going to be of such a character so that he sells the underwriter the idea he can carry it at a lower rate, then the underwriter will accept or reject that rate. In other words, when you get into volume under one control you do not take the manual rate, you try to make the risk stand on its own rate.

(By Mr. MacNichol)

Q. Well, I cannot understand why the difference between the rates.

A. You were out when this question came up. This endorsement was added to the existing policy. The policy was to expire August 20th., and the endorsement was added as of May 8th. You wouldn't buy separate coverage on a separate policy for just the hired cars; you would buy it by endorsing a basic automobile policy. This was added by endorsement. The conditions surrounding this railroad wreck made the Highway Commission decide they wanted to cover those commercial cars. They called up the Insurance Department, and this happened to be on a day I was the only one available, and I went over and explained various ways this could be done. They decided they wanted to do it this way, and asked the Commissioner to obtain the coverage. The company issued the endorsement at the manual rate. In other words, they charged the rate there because it was being added to existing insurance that would be charged you as an individual if you went out to insure a few cars you might hire in the course of your business in the next six or eight or ten months. Now you

get a difference in that you have got a definite spread, not a concentrated exposure.

(By Mr. MacNichol)

Q. This is the first time there has ever been such a policy?

A. That is true.

Q. And it is wise to suppose when the rate is remade that the price will continue at 74 cents?

A. It is wise to suppose this, that if the ~~xxxxxx~~ facts as presented to the underwriter that agreed to a 74-cent rate are borne out by this year's experience that rate could be lowered. However, if the experience during this year should point out that was an inadequate rate, the rate would be raised somewhat. In other words, you have got an exposure that can be rated on its own without regard to other classes of business.

Q. Probably the other members of the Committee understand this. At the present time there are cars not employed by the State but State cars of their own right that are insured on public liability at the \$1.54 rate?

A. Not at the present time. They are all included as of the date of this policy, August 31. There is one point you haven't got yet, I think, and that is after the 74 cent rate had been quoted the company that had the endorsement in force since May 8th to the 20th of August, when they found out what this quotation was, there was issued a new endorsement ~~giving~~ cutting that \$1.52 to 95 cents, making it retroactive to May 3th.

Q. But still the thing that determined your price was

the new volume of business on State-leased cars to cut down the liability throughout the State?

A. Yes.

(By Chairman Tompkins)

Q. The fact of these thirty-eight or thirty-nine cars that the University of Maine used and registered in the name of the State of Maine, would that be detrimental to a still lower rate?

A. Why, based on past experience I would say it would, because the worst types of drivers I have seen in my life are the professors and instructors at the University. Year before last an instructor came sailing out of a pasture and struck a car broadside, and he gave the information to the insurance investigator that called on him that he had absolutely every right in the world because he had an S-plate on the car. There is a reserve set up by the carrying company for cases such as where this wild life student hit the man at Dead River. Your ultimate rate as you go along is predicated on actual experience. If you can exercise stronger control and supervision, you can reduce your experience to an almost irreducible minimum and in that way your rate is reduced. Now you do not get the same control over University of Maine cars as those at the State House, because my experience in the treasurer's office is I have had it made very plain indeed that the trustees of the University did not want anything to come up to tie them any closer to the State, being identified as part of the State, than possible.



SENATOR LAUGHLIN: So far as you know, does this same condition exist in other State institutions?

A. No; I don't think that condition exists at all, because other State institutions have everything come through the Controller's office. They have their own treasurer's department.

Q. There is no other institution that owns its own cars?

A. No.

MR. MacNICHOL: Then, Mr. Jortberg, it would be fair to assume that if the ~~State~~ University of Maine pays a proportionate share of the insurance as to the pre-rating of cars, that its rate of expense might increase the entire State's cost of car insurance?

A. Yes. Take as an illustration this one accident last year. I have got the actual record broken down here. There have been disbursed in <sup>the</sup> twelve months' period \$1409 in actual claims paid from August 20th to August 20th by the Indemnity Company of North America. Now there is set up \$5450 of reserves for property damage. \$5000 of that is the railroad wreck, and the \$450, I would estimate they would be closed for less than \$150. It is good insurance procedure to reserve high. If the claims department does not reserve high and losses come in, there is nowhere to get the money. Under the public liability there is \$5740 reserve, and of that \$2100 is that University of Maine accident.

Q. That is about half?

A. A little less than one-half.

MR. MacNICHOL: And they operate what percentage of cars?

A. 38 out of 800.

Q. And that 38 out of 800 can increase the rate for the whole 800?

A. Yes. And, furthermore than that, there were 109 accidents reported in the year, of which 59 were closed with no payment. That is the first time they didn't have to pay. In other words, there was some effectiveness to the Governor's bulletin. Five cost \$336 in the State Police, six cost \$333 in the State Highway Commission. Those are going to be your two big departments because they are the departments that own the most motor vehicle equipment and drive the biggest number of miles. One for \$226 in the Departmental Garage; one for \$6 in the Central Maine Sanatorium; one for \$9 in the Bureau of Accounts and Control; one for \$8 in the Department of Agriculture; two for \$58 in the Bureau of Social Welfare; one, \$450 in the Department of Education; one \$3 in the State School for girls; or a total of \$1409 for 19 accidents.

The whole theory -- and it is a practical theory that has worked out in Workmens Compensation Insurance, and it has even worked with the longshoremen on the waterfront in Portland -- is where you have centralized control and centralized supervision and people feel these things are being traced, they seem to disappear.

I drew up for the University of Maine a comprehensive community safety plan last year at the request of

Professor Hauk, setting up the University as a little community of its own, not only from the point of view of motor vehicles they operated of their own, but also from the point of view of pedestrian accidents, occupational accidents, and they agreed tentatively in the fall to go ahead. I have been up there twice, and they have assigned the responsibility to a professor in the college of Technology, but they don't feel they are definitely unreasonable. The State employees have begun to learn if they have an accident it is reportable to one agency and that agency is going to notify the department head.

That raises one point I wanted to bring out. There is one other phase I believe your committee should give some consideration to if you are going to talk on safety as applied to the State, and that is that the State through the Highway Commission, because of these Supreme Court decisions, is probably the biggest insurer under the Workmen's Compensation Act. The disbursements in the Highway Commission alone run to approximately \$50,000 a year. Now in mercantile commercial business the application of these simple fundamental principles of accident prevention have produced rates fifteen to twenty-five per cent lower. The handling of these claims by Special Attorney General Farris has brought the claim cost down as low as possible, but you have a very big expenditure without there being any centralized responsibility for trying to eliminate or prevent it.

(Off record)

MR. MacNICHOL: Mr. Jortberg, just one more final question from myself. What, as an insurance man, is your opinion of the State carrying its own insurance?

A. That is quite a question to put up to me at the moment. On the other hand, I will try to put myself off to one side and not give a biased answer where by pocket book would be hit. It would seem to me entirely logical that the State should carry its own insurance with the proviso -- I am talking now about public liability and property damage insurance -- there is a sufficient spread for the State to be a self-insurer with the proviso that it set up reserves of the amount of premium each year and carry excess insurance to cover catastrophes. But the only way an excess company will accept that insurance to cover catastrophes is that the State agrees to put someone in charge to handle each detail whom the excess company feel sufficient in their qualifications so the excess company is not going to have somebody paying insurance who knows nothing about the claim. Under workmen's compensation insurance that has become quite common. Some of the larger accounts throughout the State are doing it, but in each instance the companies are writing that stop loss. The insurer that is getting that is paying a fixed fee for a qualified safety organization to do the safety engineering and claim work. The State as a State can have no liability; there can be no such thing. The apparent purpose of the insurance, so far as I can find out, is for two purposes fundamentally: First, to

protect the unsuspecting public from the negligence of the State employee who might not be financially responsible because the State employee operating a State car can be negligent, otherwise there would not be the payment of claims; and, secondly for the benefit of the general public at large.

MR. MacNICHOL: The Federal government on its mail trucks, they carry no property coverage; the driver himself is the person who is liable.

A. The City of Portland carries no coverage on its motor vehicle equipment.

MR. MacNICHOL: The City of Portland is wiser than the State of Maine.

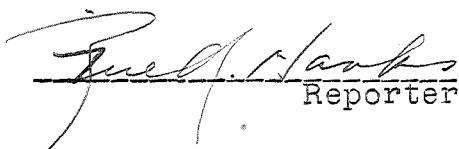
A. The State carries no fire and theft insurance.

MR. MacNICHOL: The City of Portland is not a sovereign power and may be sued for acts of its agent, and the State can not.

(Off record)

(Witness excused)

The foregoing is a true transcript of my shorthand notes in the above matter.

  
Reporter