

In *Holcomb vs. Davis*, 56 Ill. 413, the court held a majority of the legal voters of the county to be construed as meaning a majority of the legal voters voting on the proposition.

The same principle was followed in *Harrison vs. Barksdale*, 127 Va. 180; *Bradshaw vs. Marmion*, 188 S. W. 973; *Williams vs. City of Norman*, 85 Okla. 230; *Taylor vs. McFadden*, 84 Iowa 262; *People vs. Warfield*, 20 Ill. 159, and cases in many other jurisdictions.

A reading of the act hereinbefore referred to, reveals that the Legislature followed the phrase, "the majority of whom," with the words "desire to be represented," and it would seem that the only way one could officially express his desire to be represented would be at an election held for that purpose.

It is my opinion that based on all of the foregoing the answer must be that the "majority of whom desire to be represented can only mean the majority of those members of a given class or craft who exercise their vote at the election and not a majority of all the members of such group who are eligible to vote.

Nothing in this opinion contained shall be construed as indicating a right in the Passaic Valley Water Commission to enter into any bargaining agreement with a representative of the employees of said Commission.

I trust that the above answers the questions contained in your letter.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: OSIE M. SILBER,
Deputy Attorney General.

MARCH 13, 1950.

HONORABLE C. A. GOUGH, *Commissioner,*
Department of Banking and Insurance,
State House Annex,
Trenton 7, New Jersey.

FORMAL OPINION—1950. No. 24.

DEAR COMMISSIONER GOUGH:

We are in receipt of your letter of March 2, 1950, wherein you request an opinion relative to the scope of insurance permitted by Section 17:17-1(e) of the Revised Statutes of New Jersey and that a previous opinion on the subject, rendered by the Department of Law under date of August 30, 1946, be re-examined in light of developments since that date.

The statute in question reads as follows:

"Against loss or damage resulting from accident to or injury suffered by any person for which loss or damage the insured is liable, including, if the insured is a State or a political subdivision of a State or a municipal corporate instrumentality of one or more States, loss or damage resulting from accident to or injury suffered by any person for which loss or damage the insured would be liable if it were a private corporation."

At this point it is pertinent to observe that the aforesaid paragraph was amended in 1948 to read in its present form. On August 30, 1946, the date of the previous opinion, it read as follows:

"Against loss or damage resulting from accident to or injury suffered by any person for which loss or damage the insured is liable."

It appears that the previous opinion was in answer to a request dealing specifically with liability insurance, as then written, to cover the operation and use of automobiles and you were advised that the authority contained in said paragraph, as it existed at that time, permitted insurance against liability for damages occasioned to personal property, but not to real property. It further appears that said opinion was requested shortly after the enactment of the "Multiple Line Law", Chapter 224, P. L. 1945, and that the full significance of that law was not reflected in the request.

It also appears that since the enactment of the said "Multiple Line Law" the base of insurable liability for damages occasioned to the person or property has been considerably broadened so as to include liability originating from any source and not confined alone to automobile liability or to the other specific risks provided for in paragraphs (a), (b), and (f) of said section of the Revised Statutes, as outlined by you. We also note that companies desiring to insure against liability for damages occasioned to real property must now have such authority specifically set forth in their charters.

You inquire as to whether the present trend to insure against liability arising from any source for damages occasioned to the person or property, as developed by the operation of the "Multiple Line Law" has not sufficiently changed the earlier situation so that the said paragraph (e) can now be said to include damages to real property as well as damages to personal property.

We are of the opinion that your question must be answered in the affirmative.

It is quite apparent that an entirely different situation prevails than that which existed at the time of issuing the previous opinion. At that time the full impact of the "Multiple Line Law" had not been felt and it was considered that only those specific items of risk contained in the statute could be the subject matter of liability insurance. With the advent of the "Multiple Line Law" an entirely different concept of liability insurance was developed which has resulted in a broader coverage of liability arising from any source. This trend of multiple coverage was, undoubtedly, considered by the Legislature when the paragraph under discussion was amended in 1948, for there we see that the addition of certain public bodies, as the insured party to such insurance, included loss or damage for which such public bodies "would be liable if it were a private corporation". Certainly, private corporations are liable for damages caused to real property.

When we examine the case of *Gillard vs. Manufacturers Casualty Insurance Company*, 92 N. J. L. 146, in light of the present situation, we find that the former Supreme Court, in interpreting the said paragraph (e) found that the words "injuries", "damages" and "loss" were broad enough to include injury or damage to property and thereupon held that the contract of insurance under consideration included damages to personal property. It is to be noted that there is no discussion in this case concerning damages to real property as distinguished from personal property. We know of no reason why the same construction cannot be placed on these words when applied to real property as well as to personal property.

Respectfully yours,

THEODORE D. PARSONS,
Attorney General,

By: OLIVER T. SOMMERVILLE,
Deputy Attorney General.