

# Supreme Court of the United States

OCTOBER TERM, 1970

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Supreme Court, U. S.

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In the Matter of:

Docket No. 5586

PAUL J. BELL, JR.,

Petitioner

v.

R. H. BURSON, DIRECTOR, GEORGIA  
DEPARTMENT OF PUBLIC SAFETY

Respondent.

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C O N T E N T S

ARGUMENT OF

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Elizabeth R. Rindskopf, Esq.,  
on behalf of Petitioner

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Dorothy T. Beasley, Esq.,  
on behalf of Respondent

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on behalf of Petitioner -- Rebuttal

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## IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1970

PAUL J. BELL, JR.,

Petitioner,

vs.

No. 5586

R. H. BURSON, DIRECTOR, GEORGIA  
DEPARTMENT OF PUBLIC SAFETY,

Respondent.

Washington, D. C.,  
Tuesday, March 23, 1971.The above-entitled matter came on for argument at  
1:00 o'clock p.m.

## BEFORE:

WARREN E. BURGER, Chief Justice  
HUGO L. BLACK, Associate Justice  
WILLIAM O. DOUGLAS, Associate Justice  
JOHN M. HARLAN, Associate Justice  
WILLIAM J. BRENNAN, JR., Associate Justice  
POTTER STEWART, Associate Justice  
BYRON R. WHITE, Associate Justice  
THURGOOD MARSHALL, Associate Justice  
HENRY BLACKMUN, Associate Justice

## APPEARANCES:

ELIZABETH R. RINDSKOPF, ESQ.,  
Atlanta, Georgia  
Counsel for PetitionerDOROTHY T. BEASLEY, ESQ.,  
Assistant Attorney General of Georgia  
Counsel for Respondent.

P R O C E E D I N G S

MR. CHIEF JUSTICE BURGER: We will hear arguments next in No. 5586, Bell vs. Burson.

Mrs. Rindskopf, you may proceed whenever you are ready.

ARGUMENT OF ELIZABETH R. RINDSKOPF, ESQ.,

ON BEHALF OF PETITIONER

MRS. RINDSKOPF: Thank you, Mr. Chief Justice, and may it please the Court. This action arises on a petition for certiorari to the court of appeals of the State of Georgia. Basically, we are attacking the constitutionality of the Georgia Motor Vehicle Safety Responsibility Act, which appears as section 92A-601 through 615 of the Georgia Code Annotated.

I will begin with a description of the facts in this case, which I think will serve the dual purpose of making clear the operation of the act. Basically, our contention is that the act violates due process of law by operating to suspend the license plate and vehicle certificate as well as driver's license of certain uninsured motorists involved in certain accidents in the State of Georgia.

The facts in this case are as follows: Petitioner Bell was driving his own automobile in the small Town of Sparks, Georgia, on November 24, 1968. Despite the fact that he was driving ten miles under the speed limit, he was unable to avoid hitting a bicycle ridden by a five-year-old cyclist who had



1 neglected to yield at a stop sign and entered the path of this  
2 on-coming vehicle. The child suffered a broken leg as well as  
3 a broken hip and other injuries, and the accident was duly in-  
4 vestigated by the Chief of Police of Sparks, Georgia, who  
5 noted that the child had failed to yield at the stop sign and  
6 found that petitioner was guilty of no traffic violations and  
7 consequently gave him no citation.

8           Subsequent to the accident, the parents of the child  
9 filed an affidavit with the respondent, the Department of  
10 Public Safety, alleging that the child had sustained damages in  
11 excess of \$10,000 and that these damages had been caused by  
12 petitioner Bell.

13           Now, let me digress here to point out that it was the  
14 affidavit filed by the parents that triggered the operation of  
15 the act, and once triggered the act operates automatically so  
16 that petitioner thereupon was sent a notice of suspension which  
17 required him to do one of three things or to face suspension of  
18 his driver's license as well as the certificates of registration  
19 for his automobile.

20           The three things were (a) he must demonstrate that he  
21 had proof of liability insurance at the time of the accident;  
22 (b) that he had entered into a settlement agreement whereby he  
23 had either already paid the damages claimed or he was doing so  
24 on an installment basis; or (c) he had to post bond in the  
25 total amount of the damages claimed as well as obtain liability

1 insurance for one year in the future.

2 Now these three things are mutually exclusive. He  
3 need not do all but he must do one of the three things to avoid  
4 the suspension.

5 Q Could I interrupt you with one question?

6 A Yes, Mr. Justice.

7 Q Does the state concede that Mr. Bell was not  
8 negligent, was that conceded?

9 A I think it would be improper -- and Mrs.  
10 Beasley shakes her head -- if I said they conceded it. As will  
11 appear in the description of the facts, the petitioner attempted  
12 to question his liability in the administrative proceeding.  
13 This was denied him. He then appealed to the Superior Court of  
14 Cook County, and this appeal is part of the procedure in the  
15 act. At that hearing the judge specifically found that  
16 petitioner was without fault.

17 Q But is that res adjudicata in any subsequent  
18 negligence suit?

19 A No, it is not. The act is very specific in  
20 stating that any findings in the administrative procedure, any-  
21 thing coming under the operation of the act, is not to be used  
22 in an ancillary damage action.

23 Q Now, do I understand that this court proceeding,  
24 it was a court proceeding and is still part of the administra-  
25 tive procedure?

1           A     No, it is an appeal, a de novo appeal from the  
2 administrative procedure.

3           Q     But it is not enough of a court proceeding to be  
4 res adjudicata in a negligence suit?

5           A     That's correct. The parents of this child would  
6 have had the right to go into court on a separate action -- as  
7 a matter of fact, they would have had to go into court if they  
8 hoped to make the suspension continue.

9           Q     Of course they are not parties to this action?

10          A     That is correct, they are not parties.

11          Q     But to the extent that it was settled between  
12 the state and your client, it was a judicial finding, wasn't it,  
13 of no negligence?

14          A     Yes, I think that would be --

15          Q     Well, what is the significance?

16          A     Well, its significance I think fits into the  
17 overall scheme. Our argument is that suspension is improper  
18 unless some sort of possible negligence can be shown. In other  
19 words, you cannot simply suspend the license --

20          Q     What I was trying to get at, why the appeal, for  
21 what purpose was the appeal? Does it have some effect of  
22 finding contrary to the --

23          A     A very good question.

24          Q     What is the answer?

25          A     Well, I think the answer is that as the state

3  
1 would have us determine the act, there is no reason to appeal,  
2 because there is nothing to discuss at the appeal.

3 Q What did the Georgia Supreme Court hold?

4 A The Georgia Supreme Court held in fact, yes --

5 Q This is what they held?

6 A Right. The things that in fact can be considered  
7 first at the administrative hearing and then secondly at the  
8 court of appeals from the administrative hearing are very much  
9 circumscribed. You can consider whether in fact there was an  
10 accident, whether there was insurance, whether the person fell  
11 under a few limited exceptions, one of which would be the car  
12 was parked at the time of the accident or the car was used  
13 without permission. But you can see that the subject matter,  
14 both of the administrative hearing and the court appeal from  
15 that, are very limited.

16 Q The license is restored if in an accident be-  
17 tween the injured party and the driver, and the driver wins  
18 under de novo?

19 A That's right. And of course our contention there  
20 is naturally it would be possible for the petitioner in this  
21 case to bring his own suit for declaratory judgment against the  
22 child and her parents, but by the time we reached a decision in  
23 that case the suspension would have run its course anyway.

24 Q May I ask one more question, while we have  
25 interrupted you?



1           A     Yes.

2           Q     Could Georgia constitutionally provide that no  
3 one may drive an automobile without insurance?

4           A     I don't think there is any question, and certainly  
5 we are not questioning that here, and your question then is why,  
6 if they can do that can they not implement the system that we  
7 have here. My answer is that simply with compulsory liability  
8 insurance, such as was upheld by this Court in Ex Parte Poresky,  
9 then the burden falls equally on all people. One simply doesn't  
10 discuss who is going to be responsible for an accident, everyone  
11 must have insurance. That is not the case here.

12          Q     But it does mean, though, that one -- your answer  
13 means that one doesn't have a constitutional right to remain un-  
14 insured?

15          A     Well, let's rephrase it slightly. I would say  
16 that if one is going to be insured then the burden must equally  
17 distributed on all persons, and one does have a constitutional  
18 right not to be discriminated against as to who will have in-  
19 surance and who not.

20          Q     Why did Mr. Bell not have insurance?

21          A     Well, now, I hasten, Your Honor, that I didn't  
22 represent him in the lower court, but I am told by his attorney  
23 that as a methodist minister this is not provided in his salary  
24 and he did not obtain the insurance. He is not required to have  
25 it.

1 Q I am not sure that I heard you, what did you say  
2 about a Methodist minister?

3 A He is a person of very low salary and the lawyer  
4 who represented him at the lower level said he simply did not  
5 have or did not allocate funds for insurance.

6 Q They are not all of low salary.

7 A I'm sorry?

8 Q I say they are not all of low salary.

9 A I suppose not, but I gather there were financial  
10 reasons that he did not decide to place money on insurance, and  
11 he did not require to do so.

12 Q And Georgia doesn't require everyone who gets in  
13 an accident to have insurance?

14 A That's correct.

15 Q If it is ultimately proved that he wasn't at  
16 fault, he doesn't need to --

17 A Yes, that's true. However, the question is  
18 where does he get an opportunity to decide whether or not he was  
19 at fault, and of course that would not occur in an administra-  
20 tive procedure under this act. It would only be in a separate  
21 damage action.

22 Q But Georgia can't claim that they are using an  
23 accident simply to require insurance?

24 A That's right.

25 Q Because that is what happened.

8  
1           A    That's correct. For example, a person who is in  
2 an accident and who has the notice of suspension sent to him  
3 can avoid getting insurance by settling, and this is frequently  
4 what is done because, of course, that is the less expensive  
5 route for a person who needs his automobile perhaps for work,  
6 what have you, is simply entering into a settlement agreement,  
7 even though he may not believe himself responsible, because he  
8 can't afford the expense of a bond on the one hand and the  
9 expense of insurance on the other. So really what you have is  
10 a situation where persons who admit that they are liable are  
11 allowed to go without insurance, and one would assume that they  
12 would be the ones you would want to insist on having insurance.

13           Q    And if didn't take the judgment, you don't need  
14 to carry insurance with you?

15           A    Well, that is a complicated question but I think  
16 the answer is yes, without going into it.

17           Q    You may get your license suspended but --

18           A    Yes. By the time there was a judgment, probably  
19 your license had been suspended and reinstated and then, of  
20 course, you would have to pay the judgment or face suspension  
21 yet a second time.

22           Q    Would you raise your voice a little?

23           A    I'm sorry, yes.

24           Q    You anticipate that if you prevail here that  
25 Georgia will change its law to require insurance as a condition

1 precedent?

2           A     No, I don't. I think that the state -- and let  
3 me add that the state keeps no legislative history but I have  
4 done some looking into some of the journal, and it seems that  
5 they are very anxious not to employ a system of compulsory  
6 liability insurance. I think what they could do and what they  
7 probably would do would be to allow a hearing on the question of  
8 possible or probable liability, as is done in approximately  
9 four other states in the country at this time. And this would  
10 be -- this liability could be considered both at the administra-  
11 tive hearing as well as at the subsequent court hearing. I  
12 think that is probably what they would do. Of course, I can't  
13 speak with any authority on that.

14           Q     Well, that would satisfy you, I suppose?

15           A     Yes, it would.

16           Q     If they would do what?

17           A     If they would simply allow at the administrative  
18 procedure a consideration of whether or not the person was  
19 liable for the damages, whether there was a possibility that  
20 he could at a later date be responsible for those damages. And  
21 I would add that it seems to me it would be highly proper at  
22 such a hearing for them to consider, as they do not do now, the  
23 accident report which is submitted after every accident by the  
24 police officer who investigates the accident. As things stand  
25 now, there is absolutely no investigation made. The state



1 simply proceeds to suspend licenses on the say-so of another  
2 person who has been damaged.

3 Q What defense could he make for not giving bond?

4 A I don't --

5 Q Getting insurance?

6 A I don't think that he needs to make a defense  
7 because the state does not require him to have insurance. In  
8 other words, he is given a license without being told that he  
9 must have it. There is no such requirement in Georgia.

10 Q Suppose the complaint is made of an accident  
11 turns out to be a fraudulent one or a mistake one, does he have  
12 any opportunity to contest that?

13 A In this provision in the fact, the state statute,  
14 there is a penalty for perjury but, frankly, I am not able to  
15 answer your question because I do not know of a case where  
16 perjury has been made use of. In other words, the affidavit  
17 which is submitted simply is the opinion of the person and I  
18 gather that everyone is entitled to his opinion as to whether  
19 or not he is responsible, and this might not be grounds for  
20 perjury, even though in a subsequent damage action he was found  
21 to be responsible for the accident.

22 Q But you did he could be cited if he wasn't  
23 driving the car?

24 A I'm sorry, Mr. Justice.

25 Q You say he couldn't defend at this hearing that

1 the car wasn't being used by him and it was used without his  
2 knowledge or something?

3 A Your Honor, that is a very limited exception  
4 and it brings up a good point. The exception is that the car  
5 was being used without his permission.

6 Q Right.

7 A In Georgia there are three exceptions to the  
8 rule that there is no vicarious liability for an owner who lends  
9 his automobile, so that in many situations you have an owner  
10 who lends his automobile who could not be held responsible in  
11 an action at law and yet who under this act could have his  
12 driver's license as well as the documents needed to operate  
13 his vehicle suspended.

14 I think that the argument we are making here is  
15 probably clear. We are arguing basic due process contentions  
16 that it is improper to suspend a license that involves such  
17 important rights as the property, in this case of the auto-  
18 mobile as well as liberty and interstate travel, without  
19 affording some sort of prior due process hearing. We would  
20 add that naturally a balance has to be struck between the in-  
21 dividual rights that we are asserting and the state rights  
22 that the state is asserting.

23 On that point we would add that we don't think that  
24 the state has demonstrated how the act as described here pro-  
25 motes public safety. Even if the act, which we do not concede,

1 did promote public safety, we fail to see why it is impossible  
2 to implement some sort of a due process hearing before sus-  
3 pension occurs. The state has nowhere in its brief explained  
4 why this would be such a hardship on it.

5 Q They give you a hearing before suspension --

6 A Yes.

7 Q -- but you say here the hearing must include --

8 A We are saying that the hearing --

9 Q -- a fault determination?

10 A That's right. We are saying that the hearing as  
11 now construed is a nullity. It really accomplishes no end.

12 Q Wouldn't you think the state should have a rule  
13 that at any time, from the moment anybody is in an accident  
14 you have to have insurance?

15 A I think that would be possible, but that is  
16 again not what we have here.

17 Q I know, but in that event all you would have is  
18 the same kind of a hearing that you have got.

19 A Well, I wouldn't agree with your point until we  
20 waive the bond provisions. In other words, what I am concerned  
21 about here is the fact that this individual will be required to  
22 post over \$1,000 in bond as well as obtain insurance in order  
23 to retain the use of his license.

24 Q Do you make an equal protection argument inde-  
25 pendently of your due process argument?

1           A     No, there has been no equal protection argument  
2 raised in this case. I think it would be possible to raise one  
3 but we have not done so.

4           Q     What would be the basis for the equal protection  
5 argument?

6           A     I think that our equal protection argument would  
7 be simply that it is improper to require more of one person  
8 than another without showing some reasonable basis for doing so,  
9 and here this individual, who has not been shown financially  
10 responsible nor negligent, is being required to post a fairly  
11 substantial bond, over \$1,000, as well as obtain insurance for  
12 one year, while other individuals who may or may not be wreck-  
13 less and financially responsible are not being required to do  
14 that.

15           Now, we don't raise this point here.

16           Q     Suppose he was indigent?

17           A     Suppose who was injured, the petitioner here?

18           Q     Suppose he was indigent?

19           A     Oh, I'm sorry.

20           Q     What would you say about equal protection argu-  
21 ment under our recent opinions?

22           A     I think again I would say that equal protection  
23 does not allow access to a court to be conditioned on posting  
24 so large a bond, but I think partially what we are dealing with  
25 here, if he feels he is not responsible for the accident and



1 wants to have his case tried in court, where he will either be  
2 found negligent or not negligent, he has to put up a substantial  
3 amount of money in order to enter and defend against such a  
4 court action.

5 And let me point out again that the driver who decides  
6 that it is either too much money to post the bond or feels per-  
7 haps he is responsible and enters into a settlement agreement,  
8 is through with the act at that point. He never has to obtain  
9 insurance. Yet our person who contends that he is not respon-  
10 sible for the damages in this accident, and I think any inves-  
11 tigation of even the most basic documents on how it showed,  
12 it showed that he was not responsible, is being required both  
13 to get insurance as well as to post a large bond.

14 Q Would it be proper for Georgia to pass a law  
15 that a person who has five accidents without insurance should  
16 take out insurance?

17 A I don't think there is any question on that, be-  
18 cause --

19 Q How about one accident?

20 A One accident wouldn't concern me, if the person  
21 could be shown -- as long as there is a basis to require this  
22 person to get insurance. Of course, if you want to require  
23 everyone to have insurance --

24 Q The point is that you were involved in one acci-  
25 dent and from now on you are required to get insurance, but

1 only because you had an accident.

2 A I would be slightly concerned with that.

3 Q Then you must be concerned about any states who  
4 have a rule that you have one accident you get points, whether  
5 you were at fault or not.

6 A Of course, that is not at issue here.

7 Q I realize that.

8 A I think that if you were found responsible for  
9 the accident --

10 Q Well, you can get points toward losing -- if you  
11 have enough of them you can lose your license, whether you are  
12 at fault or not.

13 A Well, as long as that is required of everyone,  
14 I think -- let me amend my answer -- I would say that it would  
15 be all right. Of course, in Georgia, you understand, two  
16 drivers can be involved in an accident and only one of them is  
17 required to obtain insurance. In other words, a person who  
18 settles is not required to obtain insurance. I wouldn't object  
19 to the hypothetical you are posing, Mr. Justice Marshall, as  
20 long as every driver --

21 Q You aren't talking about equal protection now,  
22 are you?

23 A I beg your pardon?

24 Q You said one can pay and one can't. That is  
25 equal protection, isn't it?

1           A     No, I am saying one is required to pay and one is  
2 not required to pay. In other words, the driver who settles is  
3 not required then to also have insurance. He may have settled  
4 because he felt he was responsible in the accident. In answer  
5 to your hypothetical, I am saying that as long as every driver  
6 after involved in an accident is required to have insurance, I  
7 would not object to that.

8           Q     But that is not this case?

9           A     That is not this case, no.

10          Q     Why not?

11          A     Well, in this case, given an accident with a two-  
12 party involvement, one person may be required to get insurance  
13 simply because he feels he wants to take the case to court. He  
14 wants court adjudication as to whether or not he was respon-  
15 sible. In that case he must post bond and also get insurance.  
16 Another person may be totally responsible for the accident and  
17 because he agrees to settle before suspension, in other words  
18 does not insist on court adjudication, he is --

19          Q     I don't see your due process argument on that.

20          A     Well, the due process --

21          Q     I can see the due process on the point that you  
22 don't allow him to show that he wasn't at fault.

23          A     And that is the argument we are raising. As I  
24 said, we are not raising an equal protection argument.

25          Q     I am not saying I agree with it.

1           A     No -- and this was in answer to a question of  
2 Mr. Justice Black, I believe.

3           Q     Does your due process argument stop short of  
4 saying a full hearing on actual liability?

5           A     Under the terms of the act it would be improper  
6 to have a final adjudication as to liability. That is not what  
7 we are asking. We are seeking assistance such as what is  
8 presently operative in Arizona, where there is an administra-  
9 tive hearing where they consider the possibility of a judgment.  
10 And I should add that at one time the Georgia act had such a  
11 provision, and it read that anyone who is obviously free from  
12 fault will be allowed to -- in other words, escape the pro-  
13 visions of the act and not be required to comply with it, and  
14 that is really what we are seeking again.

15          Q     Well, putting it in the converse, a hearing as  
16 to whether there is probable cause to believe that he is  
17 liable?

18          A     That is correct.

19          Q     That would satisfy your due process part?

20          A     I believe it would, and again this would not be  
21 a finding that would be used in a damage action against him.

22          Q     What other states have this system?

23          A     Every state has some form of either compulsory  
24 insurance --

25          Q     I mean this particular system.



1           A     Yes. I would say that there are roughly half of  
2 the states that operate this act exactly as Georgia does. Now,  
3 I don't want to be understood to say that --

4           Q     Is this the model act?

5           A     Yes, this is the model act, with minor embellish-  
6 ments. Other state have almost an identical act, but there are  
7 perhaps -- well, one example would be many states allow the  
8 administrative officer discretion as to what the bond will be.  
9 Georgia did not allow that. The act reads that the bond cannot  
10 be lower than the amount sworn to on the affidavit. And states  
11 that have such an act, I would say, are perhaps 25.

12          Q     What is the basis of the state choosing this  
13 system rather than compulsory insurance?

14          A     Well, the basis is simply that insurance compan-  
15 ies have lobbied very powerfully against compulsory insurance  
16 which they feel would be very costly to them. They would be  
17 required to absorb risks of all people rather than just those  
18 that they chose, and I think that the congressional hearings  
19 have pointed this out, that it is the insurance companies that  
20 lobbied against it.

21          Q     It is very difficult to hear what you say, or a  
22 complete sentence, because you drop your voice on the --

23          A     I am sorry. Should I repeat that?

24          Q     I didn't hear that last part of it.

25          A     The question was why have states not employed

1 compulsory liability insurance, and my answer was -- and I base  
2 this answer on some reading I have done in the Georgia legisla-  
3 tive journals -- that the insurance lobby has powerfully pres-  
4 sured the state not to have compulsory liability insurance.  
5 They feel that it would be expensive for them to have to insure  
6 the entire driving public. They would much rather have this  
7 kind of a system, and of course the Motor Vehicle Safety  
8 Responsibility Act is under attack here, fits hand and glove  
9 with the uninsured motorist provision. In Georgia, every in-  
10 surance policy must include a provision which allows the in-  
11 sured to have coverage should he be in an accident with an un-  
12 insured motorist. The insurance company then goes against that  
13 uninsured motorist on a system of subrogation. It is not  
14 called subrogation, but it is the same thing. And that points  
15 up again that this act is generally brought into play by in-  
16 surance companies who have already paid off the other driver  
17 and are now seeking to either sue or to pressure into settle-  
18 ment the uninsured motorist.

19 Q But doesn't this mean that you and I have to pay  
20 the insurance premium increment to have uninsured motorist  
21 coverage?

22 A Yes. Yes, it does.

23 Q Aren't there some states which have unsatisfied  
24 judgment funds?

25 A I believe Michigan is such a state, but I am not

1 able to --

2 Q That is an alternative, isn't it?

3 A Yes. Yes, it is. I would like to reserve the  
4 rest of my time for rebuttal, if I may.

5 MR. CHIEF JUSTICE BURGER: Very well.

6 Mrs. Beasley?

7 ARGUMENT OF DOROTHY T. BEASLEY, ESQ.,

8 ON BEHALF OF RESPONDENT

9 MRS. BEASLEY: Mr. Chief Justice, and may it please  
10 the Court. It appears that the petitioner here has missed the  
11 point of the statute. What causes us concern is with the  
12 financial responsibility and the safety responsibility that  
13 goes with those who traverse its highways. While Georgia could  
14 go to a system of compulsory liability insurance -- and I don't  
15 know what the motive of the legislature is, nor is it our  
16 place to question the motives of the legislature -- but what we  
17 have done here is say, in Georgia, that if you are going to  
18 have insurance, liability insurance, we know that the persons  
19 who may be injured will be covered, will be compensated for  
20 their injury on the highways. If you choose not to have  
21 liability insurance, then we are going to require you to put up  
22 security in the amount claimed until the question is settled in  
23 a court of law.

24 Now, there are exceptions --

25 Q How much security?

1           A     In the amount that is claimed by the injured  
2 party under affidavit with the statements of the attending  
3 physician to back up and to substantiate these claims. Now,  
4 the directive --

5           Q     Suppose they claim \$100,000, he has to put up a  
6 bond of at least \$100,000?

7           A     That isn't quite so in practice, Mr. Justice,  
8 because the director does have a discretion to increase the  
9 amount or decrease the amount, and although the statute says  
10 that it is not to be below the amount that is claimed, he does  
11 in fact do so if he believes it is too much, and he did so in  
12 this case. The amount claimed was \$10,000. The bond that was  
13 required or the security that was required was \$5,000. So this  
14 is a concrete example of the practical aspects of it, where it  
15 is limited to an amount that in the judgment of the director  
16 would be sufficient to cover the possible judgment that might  
17 be obtained.

18          Q     There is no ceiling on the amount?

19          A     Yes, there is. It is \$10,000 -- the security is  
20 \$10,000 for a serious injury or death, or \$20,000 for one  
21 accident and \$5,000 for property damage, which is the same  
22 amount of minimum insurance that is required.

23          Q     If the claim by the injured party was for  
24 \$50,000, the director might be satisfied that that wasn't an  
25 illusory claim, he still would be limited to the figures you

22  
1 have given?

2 A That's right.

3 Q The complaint here though, on the due process  
4 ground, is that while this determination is being made as to  
5 amounts, no determination whatever, even a preliminary deter-  
6 mination, is made on liability, so it throws into one kettle  
7 all the people, all the drivers, whether they are at fault or  
8 not.

9 A That is --

10 Q How do you meet that due process?

11 A The state feels, Mr. Chief Justice, that since  
12 the court, we believe, institutes a system of compulsory in-  
13 surance, we are merely delaying the requirement until the  
14 occurrence of particular incidents which is related to the  
15 liability, and that is involvement in an accident in which a  
16 claim is made, and so we are simply delaying the requirement  
17 and the person at the outset of getting his license and of  
18 licensing his car knows that. It is contained in the driver's  
19 manual, what the requirements of the safety responsibility law  
20 are.

21 So if he chooses to bear the risk of having to put  
22 up security at a later time, then it is his own choice; he can  
23 avoid that by getting insurance at the beginning, and that is  
24 what the state is trying to get people to do, is trying to en-  
25 courage them to get insurance at the beginning. But they say



1 we won't require it because we know there are some people that  
2 aren't of great means and would rather not pay insurance pre-  
3 miums over the years and take the risk of being involved in an  
4 accident and having to post security. So that in the event  
5 there is a judgment against him there will be money there to  
6 cover that judgment, otherwise perhaps he will be judgment  
7 proof.

8 Q Mrs. Beasley, am I correct that if you had an  
9 accident between two cars and somebody was injured, and the  
10 police file charges against one driver and he is convicted of  
11 wreckless driving and has insurance and the other driver is  
12 found not guilty of anything but doesn't have insurance, he  
13 would lose his driver's license?

14 A No, he doesn't lose his driver's license, Mr.  
15 Justice, he is given the choice of putting up security of the  
16 amount that is claimed by the other driver. Now if that in-  
17 sured driver who has been found at fault files a claim in good  
18 faith with an affidavit that he believes he has reasonable  
19 possibility of a judgment, then he will be required, the unin-  
20 sured driver, to post some amount of security.

21 Q Does the uninsured driver have any right of  
22 action against the driver become a lie?

23 A Yes, he does because there is an affidavit in-  
24 volved here.

25 Q Perjury?

1           A     He could do that. He could also bring a de-  
2 claratory judgment to show that he is not at fault. And of  
3 course he could if he obtained a release, if the man would  
4 agree to that.

5           Q     And you say the interest of Georgia is in giving  
6 maximum protection to the man that can't afford to take out  
7 insurance?

8           A     That's right.

9           Q     What is your idea of maximum protection?

10          A     Well in some cases the fault -- there may be no  
11 fault. We certainly would concede that.

12          Q     Well, did you concede in this one that there was  
13 no fault?

14          A     In this particular -- no, because there hasn't  
15 been a finding. We don't know what the facts were in this  
16 particular case. The hearing that was held in the superior  
17 court, in the lower trial court, was an appeal from the  
18 administrative decision in the Department of Public Safety.

19          Q     Did that court say that he was without fault?

20          A     And that court held that he was without fault,  
21 that is correct, but the claimants weren't there and had no  
22 notice of it so that the basis upon which he found there was no  
23 fault, we don't even know.

24          Q     Have the claimants had their day in court yet?

25          A     No, they have not.

1 Q When will they?

2 A They may not ever. They may not bring suit.

3 Q Now suppose this was out of the clear blue,  
4 there is nothing that man can do about the time his license was  
5 suspended, nothing, am I right?

6 A He can post the security until two years elapses,  
7 and that is the statute of limitations for injury actions.

8 Q Does he get interest on that?

9 A No, he does not, but --

10 Q Well, he is pretty much of a dead pigeon, isn't  
11 he? I mean the man who is protected is really in bad shape,  
12 isn't he?

13 A Not the man that is protected, I don't think so,  
14 because by the same token --

15 Q You said the purpose of this was to protect the  
16 man without insurance.

17 A The purpose is to protect the persons who are  
18 injured on the highway, not being able to be compensated for  
19 their injuries.

20 Q That I can understand.

21 A And that is the basic proposition behind this  
22 statute, as I think this Court has recognized in Ex Parte  
23 Poresky, where there was an exhaustive discussion of the safety  
24 responsibility laws.

25 Now, as far as -- I would like to make a comment about

20

1 the facts of the case in this instance. This man had posted  
2 security, if he had he would not then be required to also have  
3 insurance. He is only required to put up the insurance for  
4 future financial responsibility, when he doesn't do it within  
5 the thirty-day period from which he gets his notice of suspen-  
6 sion. So that if he during this period is an uninsured  
7 motorist and if he comes to the Department of Public Safety  
8 even with a security or with a release or with a settlement or  
9 something of that nature, security being one of several kinds,  
10 he has the alternative of, he does not have to get future proof  
11 of financial responsibility. It is only when he has shown that  
12 he is not willing to take the financial responsibility that he  
13 is required to post this.

14 Q I take it that supposedly the driver is found  
15 at fault in an accident and action is taken against him, that  
16 all bets are then off as far as you are concerned, the license  
17 is then suspended, it is restored?

18 A That's right.

19 Q He has put up a bond and the bond is cancelled  
20 and he is under no obligation to buy insurance?

21 A If he has put up security at the outset, then it  
22 is the -- if he has put up the security the man does not have  
23 to buy the insurance later. He can go through then without it.

24 Q In any event he is found to be without fault?

25 A Right.

1 Q In the ensuing court action?

2 A Right.

3 Q He is right back where he started from in the  
4 first place. He doesn't have to keep a bond up, he doesn't have  
5 to buy insurance and he has his driver's license.

6 A That's right. And of course he has had his  
7 driver's license all along if he has posted the security.

8 Q I understand that. But the fault ultimately is  
9 a very relevant factor as to whether or not his license is  
10 suspended or restored?

11 A It is indeed a relevant factor and the State of  
12 Georgia feels that that determination belongs in the courts.

13 Q Why should the State of Georgia be able to say  
14 until the last five or six months or a year from now, until  
15 the court acts we are going to automatically suspend your  
16 license without regard to fault? That is the real question,  
17 isn't it?

18 A The state is not saying we are going to suspend  
19 your license. What the state is saying is put up the security,  
20 put up as security --

21 Q Suppose he doesn't have any money?

22 A Well, then of course his alternative should have  
23 been to get insurance in the first place to cover it.

24 Q He has no money for that either. You don't make  
25 everybody in Georgia buy insurance.



1           A     They leave it up to the discretion of the person  
2 as to whether he wants to (a) get insurance or (b) bear the  
3 risk of coming under the provisions of the Safety Responsibility  
4 Act.

5           Q     He says he is getting railroaded this way, where  
6 fault is really the determining factor ultimately, how can you  
7 just presume it and suspend my license?

8           A     We are not presuming it. As a matter of fact,  
9 either in those cases where there isn't any, it would be re-  
10 quired for us to put it up until there is a determination of  
11 fault. The department is not in the position to make that de-  
12 termination because it is not equipped to make judicial deter-  
13 minations.

14          Q     But certainly the court is, and here there was a  
15 court in this particular case, there was a court finding of no  
16 liability.

17          A     But it wasn't a negligence suit. It wasn't --

18          Q     But it was a judicial determination.

19          A     It was a determination that was reversed by the  
20 Court of Appeals of Georgia because they found that it had no  
21 right to make that judgment.

22          Q     The Court of Appeals of Georgia just said that  
23 it is irrelevant.

24          A     That's right, but as far as the fault being de-  
25 termined is concerned, that would not hold true with respect

1 to -- it is not res adjudicata as to the parties that were in-  
2 volved.

3 Q By the way, is this part of the license act --

4 A No, it has never been suspended because the  
5 stays have been granted and so on and, as a matter of fact,  
6 that points up a very good thing about this particular case.  
7 When Mr. Bell was brought under the provisions of the Safety  
8 Responsibility law, the provision says that it would be a three-  
9 year suspension. That has since been changed by the Legislature  
10 to a one-year suspension. There were two cases that were taken  
11 to the Court of Appeals to determine whether the one-year  
12 suspension was retroactive so that in cases like Mr. Bell's, a  
13 person who was going along with a three-year suspension could  
14 all of a sudden get his license back.

15 Well, one of the cases has been decided but not on  
16 that question, and as of yesterday the second case which has  
17 that question in it has not yet been decided. So that we could  
18 have a situation here where Mr. Bell, by virtue of the Court  
19 of Appeals decision in the Dobson case, could very well get his  
20 license -- never have a suspension, because it may be moot.

21 The department takes the position that when they order  
22 a suspension as of a certain date, no matter what happens that  
23 date -- and if we go back now and the court here affirms the  
24 Court of Appeals, the only period of time for which the  
25 suspension would occur would be until the three years up in 1972.

1 Q June 10, 1972.

2 A Right. And as far as the future proof, he does  
3 not have to bother --

4 Q If it is retroactive, then he gets his license  
5 back, doesn't he?

6 A He has it.

7 Q He has it?

8 A It wouldn't be suspended.

9 Q Even until June 10, 1972?

10 A That's right.

11 Q Where is that Dobson case pending?

12 A It is in the Court of Appeals of Georgia, and it  
13 was argued on --

14 Q That is not your highest court, is it?

15 A For this particular question, it will be.

16 Q Oh, it is? I see.

17 A Yes, unless certiorari is granted by the Supreme  
18 Court of Georgia, which is probably unlikely.

19 Q Are they waiting on us here or not?

20 [Laughter.]

21 A I haven't any idea.

22 Q How long has it been pending?

23 A It was argued on January -- I believe the 18th,  
24 and there have been cases argued since then on which the de-  
25 cisions have been rendered, so I don't know what they are

1 waiting for.

2 Q Going back to the question Justice White put to  
3 you, what is the state interest in not giving a hearing on the  
4 fault or probable fault?

5 A It is two-fold, Mr. Justice, and the first thing  
6 is that the state believes that that question is a legal ques-  
7 tion which is best reserved for the judicial processes of  
8 evidence gathered, evidence presented, the legal questions in-  
9 volved in negligence, contributory negligence, and all the  
10 things that come into play.

11 In this particular case for example, you have got a  
12 child, what is the care required of a child. It is a legal  
13 question, although --

14 Q You can suspend his license for a while. I mean  
15 you have a right to do that, but why do you choose the alterna-  
16 tive interim posture of suspending the license?

17 A Only as a sanction to try to get him to post a  
18 security. The thing that the state is interested in is his  
19 posting of security, and if he doesn't do that the state has to  
20 have some sanction in order to encourage him to post it, so  
21 that in the event there is a judgment it will not be an empty  
22 one.

23 Q Well, yet the state is stopped short of doing  
24 what I suppose your opponent concedes, namely, say we won't  
25 give you a license at all in the first instance unless you get

1 some insurance.

2 A Well, certainly the Legislature could do that, we  
3 believe.

4 Q I don't suppose any contention would be made if  
5 a man is unfortunate enough not to be able to post his security  
6 he can get his license, but the state hasn't done that.

7 A I'm sorry, the state hasn't done what?

8 Q Hasn't done what you say is the real state's  
9 interest here in forcing him to put up security.

10 A The state has not been able to. It says he must  
11 post security but it doesn't go out and attach anything, that is  
12 correct. The alternative is up to the motorist. He may decide  
13 not to post security but then the alternative is that he is  
14 going to lose his license for a year or his licenses for a year.  
15 But the reason that the suspension provisions are in our code  
16 is for people to put up security, and the state is interested in  
17 the security being put up for people on the highways and not  
18 really in suspending his license.

19 Q What is the second state interest you said?

20 A The second state interest is that the procedural  
21 problems --

22 Q Administrative --

23 A -- that would come up. As I mentioned in the  
24 latter part of our brief, last year over 18,000 of these cases  
25 were brought up. Now there wouldn't be 18,000 hearings



33

1 necessarily. There would have been, although this figure is  
2 not cited in our brief, about 13,000 situations where the affi-  
3 davit and the report, that is the claim, were filed and the  
4 thirty days elapsed and there was no compliance with the act,  
5 so that there would have been a suspension. And those 13,000  
6 that probably would have been heard before the suspension be-  
7 cause the request would have been made.

8 Q Can this process be triggered other than by an  
9 affidavit from the injured person? Suppose the injured person  
10 is gun-shy of litigation and says, well, I am not going to sue?

11 A No, that is the trigger, if there is a claim  
12 made along with the accident.

13 Q Even though the police officer is on the side  
14 and sees a severe accident and real injury, if the injured  
15 person doesn't choose to complain, the driver still goes on  
16 driving?

17 A That's true, Mr. Justice, but the act is trying  
18 to reach the most general situation and that would be -- it  
19 would be outside of the act but it would so rarely occur that  
20 -- the state is trying to protect those people who are on the  
21 highways and it is very important to recognize also that it is  
22 the state that put those drivers on the highways. It is the  
23 state's highways and the state is licensing them so there is  
24 a compelling state interest to be sure that its highways are  
25 kept clean from accidents.

1 Q Is there anything that prevents the insurance  
2 company representing the complaining party from using this as  
3 a weapon to get the man responsible for making a settlement?

4 A I don't think so, Mr. Justice, because in the  
5 first place the affidavit must be filed or the report must be  
6 made within ten days of the accident. Now, if there is going  
7 to be a claim, you know it or at least you are going to say  
8 that you believe you are liable right away, and the party would  
9 have to make that determination.

10 Q Suppose the insurance company says if you don't  
11 settle you are going to have to put up \$1,000, and I am only  
12 asking for \$750?

13 A Well, of course, if he will settle, that is his  
14 choice. The state is not compelling him to settle either, but  
15 if he has --

16 Q The state is saying if he doesn't settle he is  
17 going to lose his license or put up \$1,000.

18 A Until it is determined by the court that you are  
19 responsible, that's right.

20 Q You don't think insurance companies would use  
21 that?

22 A I don't know whether they do or not, but it is a  
23 determination to be made by the driver himself. If he is going  
24 to bear the risk of getting involved in an accident, then he is  
25 going to have to put up security.

1           Q     Suppose there are a lot of people in Georgia,  
2 either cotton farmers or day laborers, who couldn't put up a  
3 bond of \$1,000 or so, what would you do about them?

4           A     Well, of course, if they can't put up a bond,  
5 then they are probably going to lose their license for a period  
6 of one year.

7           Q     Take their license away from them?

8           A     We would have to do that if they were unable to  
9 put up the bond.

10          Q     Suppose their next-door neighbor had a big farm  
11 and he didn't have to limit himself to \$1,000, what would you  
12 do about that neighbor? Would you let him make a bond?

13          A     Yes, as a matter of fact --

14          Q     Even though the other man cannot?

15          A     The situation is this, if the man who has the  
16 accident is a poor man, for example, and he has a neighbor who  
17 has property and he could get him perhaps to put up the proper  
18 bond for him -- he doesn't have to put up cash, he can put up --

19          Q     I know, but putting up a bond for some people,  
20 \$1,000 or \$2,000 or \$5,000 is just impossible, of course.

21          A     That's right.

22          Q     For some people in Georgia.

23          A     That is a condition that is put on --

24          Q     He is physically able to drive a car. Now, what  
25 do you do? As I understand this, the due process question

1 raises an equal protection question. What do you say about the  
2 equal protection question there?

3 A Well, as far as equal protection is concerned,  
4 we are interested also in protecting the poor person who is  
5 injured on the highway and getting him compensated. Perhaps  
6 he has no funds either. But we don't think that this raises  
7 any equal protection problem because the state's delaying of  
8 the requirement for security which would be akin to or equal to  
9 insurance, if he had insurance, is to the benefit of the poor  
10 person. If we could have compulsory insurance where everybody  
11 had to have it, that would be fine.

12 Q The state could have put that on, couldn't it?

13 A That's right, and what we are saying is we are  
14 favoring those who are poorer and who may not have the money to  
15 buy insurance by delaying it, delaying the requirement for  
16 showing financial responsibility until you are involved in an  
17 accident. So we don't think that that favoritism brings up an  
18 equal protection problem except that it is perhaps discrimina-  
19 tory against those who buy insurance, because there is  
20 responsibility at the beginning.

21 Q Suppose last week or the week before the person  
22 who is getting a divorce, if he doesn't have any money left,  
23 he can't be made to pay costs of his divorce proceeding. Do  
24 you think a divorce case should be on a higher basis than a  
25 person for injury?

1 A That a divorce case should be on a higher level?

2 Q Yes.

3 A No, not necessarily. Here we have persons who  
4 are injured on the state's highways and if the person doesn't  
5 have enough money to post a security --

6 Q This other person is about to have a marriage  
7 settled. That is pretty important, too, isn't it?

8 A Yes, it is, it certainly would be to those per-  
9 sons that are involved. I think it depends on who you are  
10 looking at as far as that is concerned, but there is really no  
11 right, constitutional right involved in driving on the highway.

12 Q There is a constitutional right not to be denied  
13 equal protection of the law, isn't there?

14 A That's right, there certainly is, but we don't  
15 believe there is an equal protection problem here and, of  
16 course, there is not one at issue in this case. It is a ques-  
17 tion of whether there is due process.

18 As far as the situation of other states having reason-  
19 able possibility of judgment, we feel that would be a very  
20 difficult thing for administrative officers to determine. More  
21 over, Georgia is not compelled to accept the procedures that  
22 other states have just because other states find that they are  
23 good.

24 As I mentioned, there would be about 13,000 hearings  
25 necessary in Georgia whereas Arizona, which apparently likes



38  
1 this system that is suggested by the petitioner, had only 900,  
2 so that the situation is just entirely different. But we don't  
3 believe that constitutional due process would require us to  
4 adopt Arizona's situation. As a matter of fact, the cases  
5 that are cited where a reasonable possibility of judgment are  
6 discussed, the basis of those cases is statutory construction  
7 and not constitutional requirement, not mandate, although it is  
8 mentioned in some manner. The states are saying well our  
9 statute on safety responsibility requires there to be a consider-  
10 ation of fault or responsibility before there is a suspension.  
11 so that is what we are requiring. That is true in the  
12 California cases. The Arizona case of Schechter. It is true  
13 in Hague, the Utah case, and it is true in Williams vs. Sills,  
14 a New Jersey case of last year.

15 As a matter of fact, in the New Jersey case, Chief  
16 Justice Leintrob of that state suggested in his concurring  
17 short opinion that he saw no constitutional problem as far as  
18 due process is concerned, that it was, and he recognized it as  
19 being a statutory requirement. So that we believe there is no  
20 due process requirement for consideration of fault at that  
21 point, which should be left to the courts.

22 Q Couldn't Georgia protect every one of the inter-  
23 ests and rights that you have been arguing for and do so by  
24 giving a preliminary hearing on the question of probable or  
25 likely liability and thus avoid all of these due process

1 questions perhaps?

2 A It could with a preliminary court hearing, but  
3 the --

4 Q It could be an administrative hearing, too,  
5 could it not?

6 A We believe that --

7 Q Some determination that the man was probably  
8 liable for the injury?

9 A We think we have that to a degree, Mr. Chief  
10 Justice, in this respect. We do have here at least involving  
11 in an accident, we are sure that, no insurance, a claim made  
12 with affidavits and with the statements of the attending  
13 physicians and if it is necessary other evidence of damage  
14 and other damage so that we think we have got that already, a  
15 reasonable possibility of judgment. If there is a dispute be-  
16 tween the parties involved in the accident, and we don't feel  
17 that the department is in a position to make that judgment --

18 Q Would you care to address yourself at all to two  
19 cases in our Court, that are in the briefs, of course, Sniadach  
20 and Goldberg vs. Kelly?

21 A Yes, I would like to thank you very much for  
22 having that opportunity. Sniadach, of course, is the garnish-  
23 ment case --

24 Q Yes.

25 A -- and in that case there were, as a matter of

fact, two cases mentioned where some of the proceedings were regarded to be warranted because of what the court called extraordinary situations. One of those was Cortham Brothers and that was a situation in which the bank stockholders were assessed after a bank had been closed for the purpose of paying off depositors, and the assessment that was made and execution was allowed thereon before there was a determination in court, there was allowed to be execution, and due process was raised in that situation and the court felt that that was an extraordinary situation and that the state had a right to protect depositors this way and that it was not a denial of equal protection or of due process to require the stockholders to put up that money without a question of there being first of all a court hearing.

And I think it was very important to this case that in Cortham Brothers, of course, which is cited in Sniadach, the court found that when they became stockholders they agreed to do this and it is the same thing when you become a driver and take on a license, you agree to put up the security if you are involved in an accident. It is a condition of your license, just like obeying the other traffic laws would be, or having inspections or getting tags. It is a condition that is put on at the outset, and that was one of the differences that was recognized in Cortham Brothers.

Now, Owenby was another one that was mentioned, and

1 that involved a foreign attachment where in order for you to  
2 contest or to defend against foreign attachment, you had to put  
3 up security before a determination, which is the same thing  
4 we have here, and the court found that that was not a violation  
5 of due process.

6 Now, as far as the garnishment situation, the court  
7 said in the due process cases we have got to look at two  
8 things, the nature of the property and the problems of procedure  
9 of due process that are involved.

10 In Sniadach, the nature of the property was the man's  
11 wages and the court regarded that as a fundamental right that  
12 he had to his wages without the state stepping in to help a  
13 creditor first. We think it is very different from what we  
14 are talking about, posing of security, and the only right that  
15 he is deprived of there is the right to the interest on that  
16 security for two years.

17 Q You have a person in Georgia, if he put up his  
18 security, where would he get it other than wages?

19 A Property, it could be --

20 Q I am talking about the average rural person in  
21 Georgia.

22 A It could be his property, his farm or someone  
23 else's.

24 Q Well, what about the sharecropper?

25 A Well, they probably wouldn't have property, but



42  
1 it is a condition we go back again to the --

2 Q I don't see the difference between wages -- this  
3 poor man has to take it out of his pocket if he has got it, if  
4 he has got it in his pocket, from wages. So here you take out  
5 \$1,000. In Sniadach, how much was it, \$50 or something?

6 A It was a small amount, I believe, Mr. Justice.

7 Q That is what I mean.

8 A But you were taking his wages prior to any hear-  
9 ing. He had no control over it. In these situations, where  
10 you have a driver's license which is conditioned on your meeting  
11 the requirements for driver's licenses, one of the conditions is  
12 to get insurance or be willing to put up security, and that is  
13 not analogous to a wage situation where a man goes out and has  
14 a right to his wages without any interference from the state  
15 except for tax-withholding. But here the whole right is con-  
16 ditioned on a privilege which is given by the state and which  
17 may be conditioned so long as the general welfare is being  
18 encouraged thereby. So we think it is different from Sniadach  
19 in that view.

20 Also again the problems of procedure of due process  
21 was another view or another matter that was to be taken up as  
22 the court did in the Sniadach case, and we here have discussed to  
23 so some extent the problems of procedural due process which we  
24 see if we have to have administrative hearings to determine  
25 fault.



1 MR. CHIEF JUSTICE BURGER: Your time has expired now.

2 MRS. BEASLEY: Thank you very much.

3 MR. CHIEF JUSTICE BURGER: You have five minutes  
4 left.

5 ARGUMENT OF ELIZABETH R. RINDSKOPF, ESQ.,

6 ON BEHALF OF PETITIONER -- REBUTTAL

7 MRS. RINDSKOPF: Thank you. I will try and be brief.  
8 I have only a few points I would like to make. My first point  
9 goes to what Mr. Justice Marshall just asked Mrs. Beasley. I  
10 would like to point out that when these documents that are  
11 required for the operation of a driver in Georgia are suspended  
12 the person is not only losing his ability to drive his car, he  
13 can't sell his car. He can do nothing with it. I suppose he  
14 could sell it for junk. But he cannot sell it because he  
15 doesn't have registration papers for it. The state has taken  
16 those.

17 Secondly, I would like to go perhaps a little more  
18 deeply into the individual facts in this case. The accident,  
19 as you remember, occurred on the 24th of November 1968. The  
20 affidavit which triggered the operation of this act is filed,  
21 I believe, February 28th. I may not be exactly right in the  
22 date. It was in February. So there was quite a lapse of time  
23 there and it is interesting to note that it was an attorney who  
24 sent the first letter asking how to start the act operating  
25 for the parents.

1           Now, from that time to this there has been no suit  
2 filed. As a matter of fact, the father's right to sue has now  
3 lapsed. The statute of limitations in Georgia is two years and  
4 it has run. The child may still have an opportunity to sue  
5 after his disability, his minority is removed, but I think this  
6 shows clearly the point that what is happening here is this is  
7 being used as a pressure tactic to attempt to get a settlement  
8 where you might not stand a ghost of a chance of getting a  
9 judgment if you were forced to go to court.

10           My third point concerns the discussion we have had on  
11 the administrative procedure here. We are not asking that be-  
12 fore this act is ever called into operation a hearing must be  
13 held. We are simply saying that in a case where an individual  
14 believes himself to be not liable to get a chance to have a  
15 hearing, to request it. And I will simply refer the Court to  
16 the letter from the Arizona Department of Public Safety. I  
17 think the statements -- this appears at the end of my brief,  
18 the petitioner's brief -- I think the statements in there are  
19 helpful as to the operation of that act. They haven't found  
20 it a hardship and they have also found that of the administra-  
21 tive hearings they have held, some 700 per year, there have  
22 been a total in a three-year span of eight appeals. I think  
23 that shows the success of the operation of the act as we see  
24 it should properly be interpreted.

25           I have nothing further. Thank you.

1 MR. CHIEF JUSTICE BURGER: Thank you, Mrs.  
2 Rindskopf. Thank you, Mrs. Beasley. The case is submitted.

3 [Whereupon, at 2:00 o'clock p.m., argument in the  
4 above-entitled matter was concluded.]

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