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No-Fault Insurance: The Answer to Rising Automobile Insurance Costs

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The University of Montana

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NO-FAULT INSURANCE
THE ANSWER TO RISING AUTOMOBILE INSURANCE COSTS

By

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B.E., STEVENS INSTITUTE OF TECHNOLOGY, 1969

Presented in Partial Fulfillment of the Requirements
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Approved by:

[Signatures]
Chairman, Board of Examiners
Dean, Graduate School

[Date] June 5, 1972
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My greatest debt is to my parents, Mr. and Mrs. Zuendt. My father suggested the topic and checked the paper for technical errors and my mother proofed the early copies.
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CHAPTER I

AUTOMOBILE INSURANCE

In the study of any field, it is often interesting to look back into its history and see how it developed into the present form. The history of auto insurance dates from the turn of the century. The first policy was written for a Dr. T.S. Martin of Buffalo, New York in 1898. The policy cost $11.25 and was written by the Travelers Insurance Company. The insurance policies of that time were looked upon differently from those of today. In fact, in 1912 the Insurance Commissioner of Missouri ordered all companies writing bodily injury coverage to leave the state. He felt that this coverage tended to make people reckless. He also felt that if a car was driven over twenty-five miles per hour, this showed a lack of care. Luckily these ideas didn't govern the minds of all insurance commissioners, and automobile insurance was allowed to begin.

A law was passed in 1925 in Connecticut that was the forerunner of our current financial responsibility laws. The Connecticut law required that if a person had an accident, and therefore proved himself to be a careless driver, he had to prove his financial responsibility or lose his
right to drive. This plan did not require that a driver carry insurance but often forced him to buy some coverage in order to meet his responsibilities. The only problem with the new law was that it in no way protected the victim of the first accident. In 1937, the state of New Hampshire solved the problem by passing a law requiring that the driver furnish proof of his ability to pay the damages at the time of the accident. This law and others that followed it are based on Article IV of the Uniform Vehicle Code. A more recent study of financial responsibility laws will be taken up in a later section of this paper.

In 1927, Massachusetts adopted a different method of solving the auto insurance problem. The Commonwealth passed a law requiring that a motorist prove that he was financially responsible when he registered his car. This plan has been adopted by other states, but only after a thirty-year wait. Many believe, as did the Commissioner of Insurance in Missouri in 1922, that this law tended to increase accidents instead of decreasing them. Also, since all drivers get insurance, the insurance companies are forced to accept bad risks and therefore the rates tend to be higher for safe drivers. In Massachusetts, the insurance companies have set up an Assigned Risk Plan that distributes the bad risks among the companies according to the amount of business the company does.
In the language of insurance policies, bodily injury coverage is called coverage A. This coverage gives the insured liability protection for bodily injuries that arise out of the ownership, maintenance, or use of the owned auto or any non-owned auto. These policies are usually sold at base limits of 10/20. These limits mean that the driver is insured for a bodily injury liability limit of $10,000 per person and up to $20,000 per accident. This means that in the event of an accident the insurance company will pay all claims covered in the policy up to $10,000 to one victim and a total of $20,000 to all victims of this one accident. Today this coverage, in most states, requires that the company pay, to the limits of the policy, all medical and other damages suffered by the victim including compensation for pain and suffering that might have been endured by the victim. However, in most cases the 10/20 coverage is inadequate. Increased limits of 100/300 and even higher are available. At times, however, it seems that no amount is sufficient.

Automobile crashes involving a few cars are bad enough but can you imagine these three multiple-car accidents? (1) a 1963 California crash on the Santa Anna Freeway in a fog which resulted from one stopped car fixing a flat tire with a toll of 1 dead, 24 injured and 20 demolished cars and at least 200 cars involved; (2) a 1964 East River Drive crash in New York City during a slight snow storm which caused a skidding
car to end up in a 34 car pileup; and (3) a 1964 London expressway crash in a fog which caused nearly 100 cars to crash into each other with 5 persons killed and over 100 injured.\(^1\)

**Property Damage**

In the language of insurance companies, property damage in automobile policies is known as coverage B. This coverage gives the insured protection against suits, up to the limits of his policy, that arise out of damage done by his auto to the property of others. This coverage does not protect the driver for the damage that he might do to his own car and is normally written in five thousand dollar amounts. It does not need to be as large as the bodily injury coverage because the only claims that can be made against it are straight property claims.

**Other Types of Coverage**

In addition to the two main types of coverage, there are eight other types of coverage that can be purchased as a part of an automobile policy. The other types of coverage are listed below by their policy letter and title.

C. **Medical Payments.** This coverage compensates for the cost of medical services for the insured, his family, and other passengers of his car. This coverage is needed

because, in most states, a passenger or member of the family needs to prove gross negligence in order to be able to collect under liability laws.

D. Comprehensive (excluding collision). This covers all damage done to a car in a "non-accident". This coverage includes damage caused by fire, theft, larceny, earthquake, floods, hail etc. This coverage also includes protection for articles of clothing and other personal effects in the car at the time of their damage.

E. Collision. This protects the insured's auto up to the policy limits for all losses, caused by collision, that exceed the amount of the deductible.

F. Fire, Lightning, and Transportation. This covers the insured for all damage done to the car by fire or lightning. It also covers the car in the event of sinking or derailment of the conveyance upon which the vehicle is being transported.

G. Theft. Theft Insurance pays for the loss of auto caused by theft or larceny. This differs from coverage D in that it pays if the car is stolen while coverage D covers damages incurred if the car was stolen and latter returned.

H. Additional Coverage. These coverages protect the insured for a variety of items including falling planes and vandalism.
I. **Towing and Labor Costs.** This pays the insured for all towing and labor costs necessitated by the disablement of the car.

J. **Uninsured Motorists.** This covers the insured against all bodily injury claims, up to policy limits, that the insured is entitled to because of an accident with an uninsured motorist.

**Insurance Plans in Effect December 31, 1971**

At the end of 1971, the automobile insurance situation in the United States was changing rapidly and threatened to change even more drastically in the near future. In order to get a base point, automobile insurance as of the end of 1971 will be described. Following that a forecast will be given of where it seems to be heading during the next year.

As of December 31, 1971, every state in the union and all the territories had some form of required automobile insurance plan. In forty-six states or territories, there was a financial responsibility law and in the others there was some form of compulsory insurance. The minimum rates varied from state to state and a breakdown of the bodily injury limits appear in Table 1.
Table 1
Minimum Bodily Injury Limit Breakdown

<table>
<thead>
<tr>
<th>Minimum Limits Required</th>
<th>Financial Responsibility States</th>
<th>Compulsory States</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/10</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>10/20</td>
<td>27</td>
<td>4</td>
</tr>
<tr>
<td>12.5/25</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>15/30</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>20/30</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>20/40</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>20/50</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

A state study would be repetitious since so many of the points are common. The differences that are important will be discussed below. It is important to note here that only one state, Massachusetts, has a No-Fault plan in effect. It has been operational long enough to give accurate results. One territory, Puerto Rico, also has a form of No-Fault insurance in effect, but since it is government operated, it will not help solve the problems of private insurance.

An explanation of rate setting will be supplemented by data, in order to better understand rates, and this in turn will suggest why insurance costs are so high. The insurance commissioners or insurance companies in each state
gather data about persons involved in accidents, where they live, their age, their sex, and the type of use to which the vehicle is normally subjected. The reason why the place of residence is important is because the companies don't know where a person might drive but they do know where they live. This breakdown gives the insurance companies in Massachusetts a total of 260 rate classes. Statistics are kept separately for bodily injury, property damage, and other types of coverage. These data are reported on a quarterly basis to the Insurance Services Office. This office is either a rate making or a rate advisory office depending on the state. In Massachusetts, for example, the yearly rates are filed on the basis of these statistics. In New York, however, because of anti-trust legislation, the Insurance Services Office is only allowed to supply data to companies. Thus, it can be seen that the insurance rates of today are based on an extensive study of the history of claims. One other point that is noteworthy in the setting of rates is that large claims do not effect the rates. Very large claims, ones that exceed the coverage limits, are not used in setting rates because they happen so rarely that the results do not fit into the rate formula.

**Why Insurance Costs are Spiraling**

In attempting to answer the question of spiraling costs and what can be done to stabilize them, it is necessary
to investigate why the costs have risen. The question will be examined from two angles, one of which is an economic study of the behavior of all prices over the last ten years and the other, a comparison of insurance costs and claim costs. The latter will be presented in the second section.

The first answer that comes to mind to explain the rise in insurance costs is that the price of everything has gone up in the last ten years. However it is shown in Table 2 that this does not adequately answer the question.

Table 2

Rise in Costs over the Last Ten Years

<table>
<thead>
<tr>
<th>Field</th>
<th>Index (1957-1959 = 100)</th>
<th>Annual Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auto Insurance</td>
<td>160.2</td>
<td>4.0%</td>
</tr>
<tr>
<td>Gross Private Output</td>
<td>124.2</td>
<td>2.0%</td>
</tr>
<tr>
<td>Auto Repairs</td>
<td>133.8</td>
<td>2.8%</td>
</tr>
<tr>
<td>Medical Care</td>
<td>155.0</td>
<td>4.0%</td>
</tr>
<tr>
<td>Hospital Services</td>
<td>256.0</td>
<td>9.5%</td>
</tr>
<tr>
<td>Legal Services</td>
<td>-*</td>
<td>5.1%</td>
</tr>
</tbody>
</table>

*Date not available for full ten years (1963 = 100)

It may be noted in Table 2 that auto insurance costs rose at a rate twice that of the average gross private output. The auto insurance rates above are not limited to bodily injury but also include other types of coverage. By comparing the rise in insurance rates, however, to auto repair rates it is obvious that the increase in auto rates is due primarily to increased bodily injury costs. It is shown by further analysis that the probable partial cause of increased rates was not inflation but the rising costs of two specific items, medical and legal costs. The other possible explanation for the rise in rates is that the insurance companies are becoming less efficient and thus require a greater part of the premium dollar to meet overhead costs. This proposition is easily disapproved by examining the expense ratios of insurance companies over the last five years. It is found the companies are using less and less of the premium dollar to cover operating costs.\(^1\) The next point that might explain rising costs is an increase in the average cost per claim.

In order to get as clear and complete a picture as possible about rising claim costs, the data has been limited to Massachusetts. In the Commonwealth of Massachusetts, the Insurance Commissioner sets the rates for all the companies,

---

\(^1\)Montgomery, William M. "Property Companies Record, A Decade of Underwriting" *Spectator* Vol 179, No 2. (February 1971), p. 28-31.
thus there is no competition on rates. All the data for the state are gathered and made public at the time the rates are set. This gives a pool of data that is larger and more highly organized than is available for other states. The cost per claim over the last five years is shown in Table 3.

Since one might be confused by the terminology, an explanation is provided. The average claim listed is the average amount for a settlement during a report. The cumulative average is derived for all reports. A number of different reports are listed for each year. A report is a summation of all the data collected for that year up to the time of the report. The first report is made in March using the preceding year's data. Therefore, the first report for 1966 was made in March of 1967 and included all the claim information that was known at that time. The second report and all subsequent reports are made at twelve month intervals. So the second report for 1966 was made in January of 1968 and included all data available at that time.

The average cost per claim, according to this information, has risen over the last five years. It is also important to note for future reference that the average cost per claim rises as the length of time for settlement increases. As a matter of fact, the average cost of a claim settled in year one is only half of the cost of a claim settled in year three. This point is important to remember
### Table 3
Average Cost Per Claim Over the Last Five Years

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Avg</td>
<td>Cum Avg</td>
<td>Avg</td>
<td>Cum Avg</td>
<td>Avg</td>
</tr>
<tr>
<td>1970</td>
<td>$519</td>
<td>$519</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1969</td>
<td>512</td>
<td>512</td>
<td>781</td>
<td>604</td>
<td>-</td>
</tr>
<tr>
<td>1968</td>
<td>506</td>
<td>506</td>
<td>810</td>
<td>602</td>
<td>1118</td>
</tr>
<tr>
<td>1967</td>
<td>483</td>
<td>483</td>
<td>780</td>
<td>573</td>
<td>1162</td>
</tr>
<tr>
<td>1966</td>
<td>464</td>
<td>464</td>
<td>763</td>
<td>548</td>
<td>1077</td>
</tr>
</tbody>
</table>

Source: Memorandum No. 5 - Compiled August 1971, Exhibit (a)
Analysis of Massachusetts Compulsory Losses.
because politicians have used first year results to compare to total reports of past years and therefore, claimed savings for No-Fault. A further examination of the data revealed that in Massachusetts only one third of the claims were settled in the first year, and after two years only half the claims were settled. In the Commonwealth of Massachusetts, the average claim took twenty-two months (the national average is 15.8 months) to settle. From these data, it would appear that the average cost per claim is rising and will continue to rise unless something is done to stop it.

**Analysis of Claim Costs**

It has been shown that the average cost per claim has risen during the last five years. Cost elements of auto insurance were analyzed for it is only by studying these costs that a plan to reduce costs may be established. It was difficult to obtain data on how much money was paid out in total and for what services it was paid, however in the year 1968, the insurance companies in Massachusetts made a study to show the legislature where insurance costs originated. This information is shown in Tables 4 and 5. The manner in which claims break down at amounts up to $3500 is shown. This figure covered ninety percent of all claims.
The data in these tables apply to bodily injury coverage only.

The opportunity for insurance cost reductions are to be found in the general category is indicated clearly by these data.

A view of how a $500 threshold would effect the pain and suffering suits is shown in Table 5. Of the total $1,982,625 paid out in claims, $946,610 was paid out to people with medical expenses of less than $400. This was 49% of the money paid out.

It may be noted that the largest part of all bodily injury claims in the $500 or less category was made up of pain and suffering payments. This figure agreed with the findings of a Department of Transportation study that in cases under $500 the claims were overpaid and in the instances with medical expenses over $500 the insured was grossly underpaid. This situation is wrong and the form of insurance coverage that is finally adopted must solve this problem or else it is not an adequate solution.
Table 4

MASSACHUSETTS AGENTS’ PROPOSAL (SENATE BILL NO. 500)
COSTING OF FEATURE PROVIDING FOR PAYMENT OF PAIN AND SUFFERING UPON
REACHING THRESHOLD OF $500 MEDICAL EXPENSE

Data Source: AIA 1968 Survey - Massachusetts Bodily Injury Claims

Non-Serious Injuries

<table>
<thead>
<tr>
<th>Total Economic Loss</th>
<th>Bodily Injury Settlement</th>
<th>Medical Expense No.</th>
<th>Amount</th>
<th>Average</th>
<th>Wage Loss</th>
<th>Other Economic Loss</th>
<th>General Damages</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
</tr>
<tr>
<td>$ 0</td>
<td>$ 4,762</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>$ 4,762</td>
</tr>
<tr>
<td>1 - 100</td>
<td>190,087</td>
<td>691</td>
<td>25,965</td>
<td>38</td>
<td>16,786</td>
<td>334</td>
<td>159,105</td>
</tr>
<tr>
<td>101 - 200</td>
<td>146,292</td>
<td>269</td>
<td>22,625</td>
<td>84</td>
<td>24,895</td>
<td>410</td>
<td>80,930</td>
</tr>
<tr>
<td>201 - 300</td>
<td>121,941</td>
<td>155</td>
<td>15,706</td>
<td>95</td>
<td>27,829</td>
<td>596</td>
<td>63,915</td>
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<tr>
<td>301 - 400</td>
<td>107,972</td>
<td>127</td>
<td>15,632</td>
<td>123</td>
<td>20,288</td>
<td>300</td>
<td>37,017</td>
</tr>
<tr>
<td>401 - 500</td>
<td>87,326</td>
<td>68</td>
<td>9,621</td>
<td>141</td>
<td>14,758</td>
<td>0</td>
<td>11,321</td>
</tr>
<tr>
<td>501 - 750</td>
<td>104,353</td>
<td>78</td>
<td>13,780</td>
<td>177</td>
<td>31,073</td>
<td>330</td>
<td>41,026</td>
</tr>
<tr>
<td>751 - 1000</td>
<td>84,910</td>
<td>50</td>
<td>12,481</td>
<td>250</td>
<td>32,144</td>
<td>882</td>
<td>57,547</td>
</tr>
<tr>
<td>1001 - 1500</td>
<td>68,208</td>
<td>34</td>
<td>9,646</td>
<td>284</td>
<td>30,651</td>
<td>680</td>
<td>27,231</td>
</tr>
<tr>
<td>1501 - 2000</td>
<td>28,749</td>
<td>11</td>
<td>2,670</td>
<td>242</td>
<td>14,758</td>
<td>0</td>
<td>11,321</td>
</tr>
<tr>
<td>2001 - 2500</td>
<td>18,475</td>
<td>6</td>
<td>2,923</td>
<td>487</td>
<td>9,619</td>
<td>862</td>
<td>5,971</td>
</tr>
<tr>
<td>2501 - 3000</td>
<td>3,200</td>
<td>1</td>
<td>125</td>
<td>125</td>
<td>2,431</td>
<td>0</td>
<td>644</td>
</tr>
<tr>
<td>3001 - 3500</td>
<td>3,500</td>
<td>1</td>
<td>210</td>
<td>210</td>
<td>2,880</td>
<td>0</td>
<td>410</td>
</tr>
</tbody>
</table>

Sub-Total $949,775 $595,526

(9) Total Bodily Injury Settlements - All Massachusetts Claims, Limited to $10,000 per Claim $1,389,436

(10) Reduction as Percent of Present Bodily Injury at $10,000 Limit: Sub-Total (8) * (9) 10,000 Limit 42.9%

(11) Reduction as Percent of Present Bodily Injury at $5,000 Limit: Sub-Total (8) * (9) * 1.15* 5,000 Limit 49.3%

*Increased limits factor for 5/10 to 10/20
### Table 5

MASSACHUSETTS AGENTS' PROPOSAL (SENATE BILL NO. 500)

COSTING OF FEATURE PROVIDING FOR PAYMENT OF PAIN AND SUFFERING UPON REACHING THRESHOLD OF $500 MEDICAL EXPENSE

Data Source: DOT Closed Claims Survey - Massachusetts Claims

#### Non-Serious Injuries

<table>
<thead>
<tr>
<th>General Damages</th>
<th>Mid-Point</th>
<th>Number of Claimants</th>
<th>Number of Claimants with Medical Expense ≥ $400</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range</td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>15.00</td>
<td>122</td>
<td></td>
</tr>
<tr>
<td>1 - 25</td>
<td>15.00</td>
<td>89</td>
<td></td>
</tr>
<tr>
<td>26 - 50</td>
<td>37.50</td>
<td>129</td>
<td></td>
</tr>
<tr>
<td>51 - 75</td>
<td>67.50</td>
<td>120</td>
<td></td>
</tr>
<tr>
<td>76 - 100</td>
<td>87.50</td>
<td>121</td>
<td></td>
</tr>
<tr>
<td>101 - 150</td>
<td>125.00</td>
<td>187</td>
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<td>151 - 200</td>
<td>175.00</td>
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<tr>
<td>201 - 300</td>
<td>250.00</td>
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<td></td>
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<td>301 - 400</td>
<td>350.00</td>
<td>269</td>
<td></td>
</tr>
<tr>
<td>401 - 500</td>
<td>450.00</td>
<td>228</td>
<td></td>
</tr>
<tr>
<td>501 - 750</td>
<td>625.00</td>
<td>342</td>
<td></td>
</tr>
<tr>
<td>751 - 1000</td>
<td>875.00</td>
<td>118</td>
<td></td>
</tr>
<tr>
<td>1001 - 1500</td>
<td>1,250.00</td>
<td>94</td>
<td></td>
</tr>
<tr>
<td>1501 - 2000</td>
<td>1,750.00</td>
<td>34</td>
<td></td>
</tr>
<tr>
<td>2001 - 3000</td>
<td>2,500.00</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>3001 - 4000</td>
<td>3,500.00</td>
<td>7</td>
<td></td>
</tr>
</tbody>
</table>

(4) Σ(2) x (3) $946,610

(5) Six Claims with General Damages Greater Than $4000 Included at $4000 General Damages to Allow Some Economic Loss in Settlement Limited to $5000. 24,000

(6) Bodily Injury Settlements on All Massachusetts Claims

(a) Settlements not over $5000 - $1,767,625

(b) Settlements over $5000 - 43 cases at $5000 - 215,000

(c) Total 1,982,625

(7) Reduction as Percent of Present Bodily Injury $5000 Limit: Σ(4) + (5)7 + (6) 49.0%

(8) Adjustment for Increase in Proportion of Claims with Serious Injuries (Permanent Disfigurement, etc.) (7) x .80 39.2%
CHAPTER II
HISTORY OF NO-FAULT INSURANCE

The condition of automobile insurance in the United States today has been presented. The opportunities for restructuring of auto insurance in the future and the extent to which the current problem of rising costs may be cured are the main topics of this analysis.

It was found that rising costs were tied to the cost of claims or the cost per claim must be reduced. Reducing the number of claims would involve a long driver retraining program and the difficult process of designing of safer cars, which will also take time. The second possible solution, cutting the average cost per claim, is analyzed here. It has been shown that the major part of all costs is the amount paid to cover pain and suffering claims or judgements and this appears to be the section in most critical need of reform.

The need for change in our tort liability system has been recognized for many years. As a matter of fact, the first proposed change in the system was made in 1932.
by a Columbia University study group. The system proposed in their study, modeled strongly after workmen's compensation, would have made every driver liable for personal injuries caused by the operation of his auto. The amount of his liability would have been determined by a special board similar to a workmen's compensation board. This system would have required that all motorists buy insurance to cover their liability. This plan was opposed by insurance companies and lawyers. Both were reluctant to give up the tort system. Other points that they fought strongly were the requirement for compulsory insurance and the difficulty of determining appropriate benefits for victims with such divergent jobs as housewives and doctors. All parties brought up another point that was first raised in 1912, that this form of insurance would remove one form of control over drivers and cause them to be more reckless.

This plan, despite its age, has never been enacted by any state, however, it has been adopted by the Province of Saskatchewan and other Canadian provinces. The modifications to the plan made in Canada included the addition of the right of a person to sue beyond the board settlement and it is relevant that the plan is operated by the provincial government. Since the thirties, other similar plans have been proposed by groups in Texas and California with slight modifications but have received no public support.
The current push towards No-Fault was begun with the publishing of a work by Professors Robert Keeton and Jeffery O'Connell in 1965. The plan recommended was the result of years of study and was built on the plans mentioned previously. The basic concepts of the Keeton-O'Connell plan are:

1. Compulsory basic protection will compensate all persons insured in automobile accidents, regardless of fault. Pedestrians will collect from the insurer of that car.

2. Compensation benefits will cover net economic losses only—primarily medical expenses and work loss—(loss of earnings and the expense of hiring someone else to provide services, normally household, ordinarily provided by the injured party)—not pain and suffering. Property losses are not covered, but the pain could be modified to provide this protection.

3. Net economic losses are determined by subtracting from the gross losses (1) 15 percent of any income loss to allow for tax savings and reduction in work expenses, (2) reimbursement from other sources such as private life and health insurance and (3) a deductible equal to $100 or, if higher, 10 percent of the work loss. To illustrate, if the victim suffers a loss of $5000 in medical expenses and $4000 in earnings, his recovery, assuming a $2000 recovery under private medical insurance would be $9000 - 0.15 ($4000) - $2000 - 0.1($4000) = $6000.

4. The maximum benefit is $10,000 per person and $100,000 per accident, but if the accident claims exceed $100,000, provision is made for recovery from an assigned claims plan. Work-loss benefits are also limited to $750 per month.

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5. Benefits are not paid in one lump sum but instead are usually payable monthly as losses accrue.

6. If tort damages for pain and suffering exceeds $5000 or if other tort damages exceed $10,000, the injured may start tort action. Any recovery, however, is reduced by these amounts.

7. Private insurers write the necessary insurance and an assigned case plan is established to provide benefits when the vehicle is uninsured or a hit and run car.¹

The authors of this believe that it will cure many of the problems of the present tort system. They claim that it would mean that more people would get paid although the average amount paid would go down because of the removal of pain and suffering clauses. Critics of this plan have used the same arguments that they have used in the past. However, this time, because of the rising cost of insurance, people are interested in the new ideas and they have become more than intellectual play things.

The Massachusetts Plan

At eight P.M. on Thursday, August 13, 1970 Governor Francis W. Sargent of Massachusetts signed

Massachusetts Senate Bill S.1580 and the field of automobile insurance in the United States entered a new era. This bill established for Massachusetts a form of No-Fault insurance. Why this bill passed at all and why it passed in Massachusetts is relevant. All insurance rates for cars in Massachusetts are set by the commissioner. Massachusetts is a compulsory insurance state and has some of the highest auto insurance rates in the United States. In the fall of 1967, the insurance commissioner refused to grant the rate hikes asked for by the insurance companies and he froze all auto rates for 1968 at the 1967 levels. The insurance companies took him to court but because of the crowded courts the case did not come up until after the rates had been set for 1969 and 1970 at the frozen 1967 levels. In the spring of 1970 the insurance companies won their case and the courts ordered the commissioner to increase the rates as experience indicated. 1970 was an election year in Massachusetts for both governor and the state legislators. Since these candidates didn't want to go to the public and explain why insurance costs were going up 40%, they adopted a plan that the insurance companies said would cut costs 15%. This plan was written to include certain clauses that the insurance companies couldn't accept and these conditions were thrown out by the courts shortly after
election day. Thus it can be seen that the first No-Fault plan in America, which was passed thirty-eight years after the first proposal and five years after the Keeton-O'Connell plan, was not adopted expressly because of the crying need for insurance reform but because the politicians in Massachusetts were afraid to allow insurance rate increases to become an election issue.\textsuperscript{1}

After its passage, the how and why of the bill became irrelevant and the important point was that the bill passed and that it was a plan that the insurance companies could live with. The Massachusetts plan is a limited No-Fault plan. This means that the plan allows tort action above a certain point. In the Massachusetts plan, the bodily injury limits were kept at the same levels as before, that is $5,000 per person and $10,000 per accident. The major change was the No-Fault clause which states that below $500 medical expenses the injured party has no right to sue for pain and suffering, except in the case of death, disfigurement, loss of hearing or sight or a fracture. This plan took effect on January 1, 1971 and has been carefully watched by the proponents and opponents of No-Fault. In the first three months that the plan was in effect, it appeared that the expectations of

proponents were underestimated to a large degree. Damage claims had dropped to the point where the governor speculated that maybe the insurance companies ought to return twenty-five percent of their compulsory premiums. However, as was indicated above, the first few months of claim experience should not be used as a basis for judgement. Added to the normal delay in accident reporting and settlement was the fact that many people did not understand the new law and were afraid to make claims against their own company from fear of cancellation. However, the drop of almost eighteen percent in claims in the first quarter did not continue, and in time claims started coming in. The rate at which they were made was slow enough so that by August the legislature and the governor were fighting over who would initiate the plan to force the insurance companies to give a rebate of 27.6% and a similar cut for the next year.

It appears that the political needs of Massachusetts have accomplished a needed reform, for the wrong reasons. In the fall of 1971, the insurance commissioner and the legislature also set up a No-Fault property damage system. This system is just now going into effect so no results are available. Probably these results will not be as good as in bodily injury since the main cost in bodily injury of pain and suffering never existed
in property damage suits. This new idea will be studied carefully by other states which are considering adoption of No-Fault plans and it may appear elsewhere with No-Fault bodily injury as a package plan. In Massachusetts, the new property damage coverage has caused some problems because it includes some of the coverage formerly included in collision and thus, the rates are difficult to study. In the first year of its existence, the new property damage coverage has also caused confusion due to the way it appears on the application. (Appendix 1). A driver has the choice of three options. The first option includes all the coverages of property damage plus the coverage that existed in collision. The second option covers the car if it is hit in the rear or while it is legally parked or if it is struck by another car and the driver of the other car is known (it does not cover the car struck in a hit and run accident). The third option covers the driver as the former property damage clause would have whenever the accident occurs out of state. In the 1971 rates, the total cost of option one is greater than last years property damage costs, but part of the increase is due to a rate increase. This is the position of auto insurance in the Commonwealth of Massachusetts today.
The Illinois Plan

During 1971, the State of Illinois followed the lead of Massachusetts and enacted a limited No-Fault plan. The Illinois plan differed from the Massachusetts plan in a few ideas but the basic concept of No-Fault, limited tort liability, was present. It is interesting to note the differences in the two plans because it shows how two plans that were both advertised as No-Fault can differ and why the title No-Fault needs examination in every case.

The first point of difference in the two plans is that while in Massachusetts auto insurance is compulsory, Illinois still has only a financial responsibility law. This is an important point as will be brought out in the chapter on court decisions. It is noted here that the Illinois plan gives the owner of an uninsured vehicle no course of legal action to recover claims under the limit set by the state legislature.¹

The second point of the Illinois plan that differs from the Massachusetts plan is the minimum amount needed to allow suits. In Massachusetts, no suits are allowed for pain and suffering if the medical expenses

¹Grace V. Howlett, 71CH4737 (1971).
are less than $500. In Illinois, the victim could recover pain and suffering up to one half of the medical expenses if the total medical expenses were less than $500. If the medical expenses exceeded $500, then the victim could sue for pain and suffering in an amount equal to the medical expenses.

The Illinois plan did not include any property damage section and thus also differed from the Massachusetts plan in this respect. From these two plans, it may be seen that No-Fault, unlike the current tort system, does not have a single plan but actually includes many plans all claiming the No-Fault title. This fact is important to remember because it explains why organizations that oppose No-Fault in one state are supporting it in another.

**The American Insurance Association Plan**

Under the three plans that have been presented so far (Keeton-O’Connell, Massachusetts, and Illinois), the idea of No-Fault was present but the basic structure of the policy remained the same. That is, the driver could buy a policy covering himself for specific limits and the company would be liable up to these limits. The American Insurance Association (AIA) supports a further
change and has proposed a No-Fault plan that is even more radical.

The AIA proposes a policy written without limits for bodily injury and property damage. The insurer would be liable for all medical payments and funeral expenses up to $1000. This is a drastic change from the current policies in effect in the United States, but policies of this kind exist today in England and Germany. The policies in these European countries however are not No-Fault. The reason the insurance companies are willing to write this kind of policy is that the juries in Europe are not as willing to award large claims as the juries in the United States have been. As an example, since the end of World War II the largest pain and suffering payment made in Germany was $12,500. The AIA feels that by eliminating pain and suffering from the judgements the companies should be willing to cover other expenses.

The AIA plan also includes payments, up to $750 a month, for loss of wages and the needed replacement labor. Payments would be made as they were incurred and there would be no time limits on these wage loss payments.

The final change that the AIA proposes, that is not included in any other presently working plans, is that tort liability in auto insurance would cease to
exist entirely. All of the plans to date that have been approved allow suits at some point and it is this item that has angered the opponents of No-Fault the most. The AIA contends that it is this point that allows them to make the other changes.

The AIA plan is not in effect in any state at this time. It is however under consideration in New York and appears to have a good chance of passing. This means that possibly part of the AIA plan might be put to a test next year.

Other No-Fault Plans

Besides these systems that either have taken effect or are proposed on a national level, there are other plans that should be examined to give the reader a more complete knowledge of what is happening. The newspapers and the television news shows could lead a person to believe that No-Fault plans exist in other states besides those mentioned. However, a closer study of these other systems reveal that they don't really offer No-Fault insurance except in the territory of Puerto Rico and the State of Florida.

The Puerto Rico plan is the only No-Fault government run plan in effect in the United States. This plan is
run by the territorial government and all medical benefits (in government hospitals) and funeral expenses up to $500 are paid. This plan is compulsory and covers all drivers for a cost of $35 a year. It also includes payments for other economic losses up to $50 a week and $5,000 for dismemberment. The policyholder is allowed to sue for losses over and above policy limits. This plan has many supporters on the mainland because of its low cost and high benefits but it must be remembered that few states have enough public hospitals and the $50 a week for lost wages would not go far for most wage earners. However, results from Puerto Rico seem to support contentions of proponents of No-Fault that insurance claims don't increase and the insured is satisfied with what he gets.

Delaware and Oregon have adopted plans that they call No-Fault, but are actually only immediate medical policies. The unusual thing about the plans in these states is that the sides of the argument seem to have switched. The American Trial Lawyers Association (ATLA) has favored these plans but the insurance companies don't like them. Why? First of all it is wrong to even call these plans No-Fault because they take all the bad points and none of the good ones of No-Fault. When the laws were passed in these states they did not grant tort exemption for pain and suffering at all. As was noted above, the
strongest point in support of No-Fault that was supposed to reduce premium cost was the elimination or limitation of pain and suffering payments. In Delaware and Oregon, however, the laws have added the cost of No-Fault to the cost of present policies. This will increase premium costs not reduce them.

The law in Florida is similar to the law in Massachusetts except for a change in the minimum limits for suits. In Florida, the medical expenses must exceed $1000 or include disfigurement, loss of member, hearing, or sight before pain and suffering suits may be filed. The economic loss section provides for 100% recovery if benefits are not included in income tax up to $5000. The big difference is that claims against auto policies are primary and thus all medical expenses would be paid by the auto company before a medical insurance policy started payment.

**Hart-Magnuson Plan**

The final plan that must be mentioned is the Hart-Magnuson bill that is in committee in the U.S. Senate. This bill is not unusual in any way and it closely parallels other plans except for one point. The Hart-Magnuson bill is a U.S. Senate bill and thus would have an effect on the
whole nation, not just a single state. The senators feel that the states are taking too long in solving a major problem so their bill would set up minimum standards for insurance that the states would have to meet. The bill does not stand a good chance of passing this year or in the near future but the fact that the U.S. Congress is considering legislation might spur the states on to act. This point makes the Hart-Magnuson bill important in the future of No-Fault.
CHAPTER III

CONSTITUTIONALITY OF NO-FAULT

So far in this paper, the concept of No-Fault has been presented in a highly favorable light and one might be persuaded that the only people who could possibly be opposed to it are those lawyers whose practices would be placed in jeopardy. It is these lawyers, however, who are opposing No-Fault, but their opposition is not entirely unfounded. The motives of opponents are questioned because of the amount of money that they would lose, but the points that are raised can not be ignored. Once again a good cause is being supported for the wrong reasons.

The American Trial Lawyers Association (ATLA) is leading the fight against No-Fault and is basing its arguments on constitutional grounds. Their basic argument is that the right to recover for personal injury is a fundamental right which can not be abrogated without due process of law. The ATLA further states that no right can be taken away without the substitution of another equal right. In the brief, submitted to the Massachusetts court hearing the test case, the ATLA presented six main points.1

The first was that the rights of those not involved in criminal cases are just as inviolate as those in a criminal case. In arguing their point, they cited the ruling of other courts and the constitution of the United States and Massachusetts.¹

The second point was that the right to recover for personal injury is fundamental to the American justice system and it can not be abrogated without due process of law. The important point brought out in the brief was that since Massachusetts was the first state to adopt this type of law, it was departing from the norm. Court rulings were cited that described an action for tort for personal injury as a valuable right and that it might be treated as coming "within the protection of some broad provisions of the Declaration of Rights in the Constitution of Massachusetts."²

The next point argued in the brief was that the bill abrogates the fundamental right of personal security and bodily integrity. The brief mentioned that Department of Transportation studies showed that 78.9% of all paid claims involved a total economic loss not in excess of

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of $500. It was also contended in the brief that a comparison of No-Fault to alienation of affection suits is wrong. The point being made was that when the courts declared alienation of affection laws unenforceable, it was because the cause of action produced greater evils than the crime. The trial lawyers held that this was not true for pain and suffering claims, that is that the claims do more good than damage.

The fourth point is important, but it is not widely known. The courts have ruled that a law is unconstitutional if its purposes could have been accomplished in other ways that are less restrictive of fundamental rights. This point is valid except that the ATLA has never explained fully how it would accomplish the same good in a less restrictive manner. The trial lawyers stated that they were unable to define other means because the General Court (the Massachusetts Legislature) never defined the goal they were trying to accomplish when they wrote the No-Fault law. The trial lawyers have instead tried to show that the points causing the switch to No-Fault are not valid. First, they contended that depriving the victims with less than $500 damages of the right to sue would have removed rights without replacement. They also answered the court congestion arguments by offering ideas that included hiring more judges and reducing the
number of people on a jury. Another goal of No-Fault that was attacked was that of prompt payments. The law, as written, sets up no penalties for late payment of benefits. Using these arguments, the ATLA claim the law is unconstitutional because similar goals could have been obtained without abrogating individual rights.

The fifth point presented was that the No-Fault law is unconstitutional because it removes the guarantee of equal protection. Here it was brought up that the specifying of an extent of damage at which tort action was possible was establishing a capricious standard that had no rational relationship to legislative control. A Louisiana case was cited in which the courts ruled that the state of Louisiana could not bar an illegitimate child from recovering through tort action for the wrongful death of its mother if such rights were available to a legitimate child.\(^1\)

The final point made by the trials lawyers was that the law as written was unfair to poor people. This idea comes from the fact that a poor person is less apt to run up a medical bill of $500 than a well to do person. The exact points mentioned are that the poor tend to demand less in medical treatments because of a lack of knowledge,\(^1\)

\(^1\)Levy v. Louisiana, 391 U.S. 68 (1968).
health care units in poor neighborhoods tend to charge less, and finally the economic loss of the poor people is less. Therefore, they are paying the same price for smaller benefits.

These are the essential legal points made in the brief the trial lawyers presented in court but the real ideas that they were fighting for are better illustrated in other ways. The ATLA has stated their views on No-Fault in their magazine TRIAL. They said that they oppose No-Fault because it pays the same benefits to all whether right or wrong, law-abiding or law defying. It was pointed out in the article that of the three payment systems possible (1. The victim pays, 2. the guilty party pays, and 3. the state pays), the tort system includes the best part of each.¹

Having reviewed the evidence that the trial lawyers used to argue against No-Fault, the next obvious question is whether or not the courts agreed. So far there have been two test cases and the opinions differed although the reasoning is similar. The first test case involved an accident in Massachusetts on January 3, 1971 shortly after that plan took affect.

¹"The ATL Position" TRIAL, October/November 1970, pp. 50-54.
The Massachusetts case is Milton Pinnick v. Carl Cleary. The court found that the law as written was constitutional and answered the plaintiff's charges in a forty-six page decision with a concurring opinion of seventeen pages written by the Chief Justice of the Massachusetts Supreme Court. The facts of the case were that the plaintiff, while driving his car on the streets of Boston, was involved in an accident which was caused exclusively by the negligence of the defendant. The plaintiff suffered injuries including a concussion and back sprains. His medical expenses totaled $115, and the lawyers from both sides agreed his settlement for pain and suffering would have totaled $800. During the course of his treatment, the plaintiff lost seventy-three hours of work from the Post Office. However, because of accumulated sick pay, he lost no wages. He also had a second job at which he earned $96.25 a week for which he was not compensated. Under the old tort system, he would have collected $1565 ($115 + 650 + 800).

The court, having established the facts, then proceeded to rule on the legal points. The first point brought up was the fact that the new law stripped the plaintiff of legal rights. The court ruled that the only right

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changed was altered with extreme caution and in only one regard. In exchange for this right, the plaintiff had been given the security of prompt and certain recovery of his claims. The court explained that the same points were covered in the new policy as in the old policy but under different sections. The second point mentioned in the ruling is that the benefits left under the tort action after minimum benefits are paid are liable to legal fees. The court dismissed this charge as being no different from the old tort system.

Whether or not tort action is a vested right, the purpose of which is to protect personal security as guaranteed by the Bill of Rights, was the next point brought up for ruling. The court ruled that the grounds used do not prove their point. The court also ruled that the law could not be disallowed on the grounds that it accomplished something required but that other actions could have been accomplished by less restrictive laws. This type of ruling requires proof that the law will affect interstate commerce and the plaintiff failed to prove that point. Court congestion was also mentioned and it was argued that this law could cut down on it. The final point ruled on was whether or not the setting up of a cutoff point for pain and suffering is merely arbitrary and unreasonable. The courts decreed that since these are minor claims which entail no monetary loss to the plaintiff, the legislature has the right to limit these claims.
Chief Justice Tauro wrote a concurring opinion, but his main point differed and his overall opinion disagreed with the general ruling. The Chief Justice based his ruling on the point of law that all legislative action is assumed to be constitutional unless proved otherwise. He agreed that the court had been shown no proof of unconstitutionality and therefore, it had no choice in its ruling. The point that the Chief Justice brought out in his opinion was that given this point of law the other judges should not have even mentioned court crowding nor should they have praised the new law in their opinions. He further stated that the court should have studied the new law more critically. He also implied that he would like to see the law tested again when more data were available.

The case in Illinois differed from the Massachusetts case in that it was an attempt to get a ruling that would disallow the expenditure of public funds to enforce a law that the plaintiff said was unconstitutional. The court in this case ruled with the plaintiff and thus, the Illinois plan was declared illegal three days before it was to have taken effect. However, in this instance the courts ruling was based on a point that was never even brought up in the Massachusetts case. Illinois, it
must be remembered, was not a compulsory insurance state and the No-Fault bill did not change this point. The argument against No-Fault that really decided the case was that it discriminated against the poor who do not carry insurance and these people would lose all first party rights unless they were a pedestrian hit by an insured car. The court also mentioned, that the difference in hospital costs (a semi-private room varied from $14.00 to $115.00 a day) made any cut off point invalid for a pain and suffering claim. The court did mention the fact that it thought the intent of the law was good but that good intentions alone could not make it legal. The court also ruled that attempting to clear up the jam in the courts by taking away rights is just as wrong as trying to clear the congestion by disallowing blacks or old people to use the courts.

These two rulings brought out most of the legal points concerning No-Fault, and except for the point about where pain and suffering claims can begin the courts didn't disagree. The main point that these cases brought out was that courts have not allowed No-Fault unless the state has also enacted a compulsory insurance law. An example of this is found in Florida, which has the only other working No-Fault system. Auto insurance is compulsory and the trial lawyers have not attempted to challenge the law.
Workmen's Compensation vs. No-Fault

Workmen's Compensation is an important parallel that has been used to justify No-Fault insurance. It is of such major importance that it deserves separate treatment. The proponents of No-Fault have cited in all their briefs the landmark decisions on Workmen's Compensation, as proof that No-Fault is constitutional. Basically Workmen's Compensation is a No-Fault indemnity and medical plan for employees which covers them for all injuries suffered while working. This law provides immediate medical and economic aid to the employee without his having to take his employer to court. The proponents of No-Fault have pointed out the similarity of the two laws. To a person not knowledgeable in legal matters, this would seem on the surface to answer all constitutional questions. However, the opponents of the law have brought up some points that must be considered.

The first point raised is that under Workmen's Compensation the employee is voluntarily giving up his rights and he can elect not to give up these rights. The second point is that in the case of Workmen's Compensation the cost of the insurance was passed on to the customer and the courts ruled that the cost of producing industrial goods should be passed on to the consumer. In the case of
auto insurance there is no other party to pass the costs on to, and because of this, the opponents claim the costs are unfairly allocated. The third point brought up was that Workmen's Compensation was set up, not to change the tort system, but to force the employer to include some sort of accident policy as part of his employment contract. Auto insurance does not have any contract between parties that the removal of tort action can build upon, so this is another dissimilarity.

The courts ruled that the similarity of No-Fault and Workmen's Compensation in both the laws and their intent shows that the exchange of rights set up in each case is the same. However, the Illinois court cited other Workmen's Compensation cases to justify its ruling. The case they cited covered a worker who was injured by a third party while working. The courts ruled, using this as a precedent, that some allowance must be made to cover drivers without insurance.

The American Trial Lawyers Association has also brought up other points that do not question the legality of the law but the operation of it. The ATLA stated that

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in Workmen's Compensation cases it was easy to determine how much an employee was worth since he was an employee and his wages were known. However, the case becomes much more difficult when the courts or boards are required to decide what to do with housewives and claimants who are unemployed. The ATLA has also pointed out that Workmen's Compensation was designed to give redress to a man who was hurt by an inanimate machine while auto insurance protects when the damage is done by a thinking human being.

**Lawyers After No-Fault**

The final defense of the tort system given by the ATLA questioned the expected savings of No-Fault because law fees will still exist. On the surface, this seems like an incorrect statement but it is true. In all cases that exceed the minimums and include death and disfigurement a lawyer's service will still be needed. Added to this is the fact that most people are ignorant of the full meaning of the law and they may seek legal advice in cases where it is not needed. This ignorance will decrease with time but in Massachusetts at the start of the plan the number of claims dropped and the only explanation that made any sense was that people didn't understand the new
system and were afraid of losing their insurance. Lawyers can provide a useful function in helping people understand the new laws.

The other point on which lawyers can help is in deciding the proper amount of the claim. In all the insurance literature, the claimant is led to believe that under the new system the insurance companies are going to be overjoyed to settle all claims just as they get them without a single complaint. However, insurance companies are businesses and they will try to pay the minimum amount and therefore, turn in the maximum profits and so a lawyer's help might be needed to either insure proper or prompt payments.

1"No-Fault Catches Fire" Time Magazine, March 6, 1972, p. 64.
CHAPTER IV
SUMMARY OF FINDINGS

Some facts on both sides of this issue have been presented. It is necessary now that a determination of an answer to the auto insurance controversy be made. A review and clarification of the arguments on both sides is made first.

The group in support of No-Fault is now headed by the AIA and the stock insurance companies. No-Fault is favored because it is contended that it will result in lower insurance premiums for the car owner. The points that are claimed in support of No-Fault are, first of all, that the present system is costly. It is pointed out that fifty-six cents of every auto premium dollar is used up in lawyer’s fees and overhead expenses. These data compare unfavorably with data from other types of insurance for example only three cents in Social Security is overhead, only seven cents in Blue Cross and only seventeen cents in most health and accident policies.\(^1\) The second point is that auto insurance of today is slow in the settlement

of claims. To substantiate this point, proponents cite the fact that after six months more than 96% of all burglary, health and accident, and home owners claims are settled while at that point less than 50% of all auto claims are settled. These data are nationwide averages and in the crowded urban areas the time to settle cases increases because of the court backlog. The number of cases in court caused by auto problems take up 50% of the court docket in some areas and in Suffolk County, Massachusetts the rate of auto cases is 2,000 a month out of a total monthly load of 43,000 cases. Proponents also bring up the fact that even in the cases that are not brought to trial there is usually some court work required by clerks and court personnel.

Fault is sometimes hard to determine. If both parties are at fault, no one may collect. The idea of fault is almost unique to auto insurance in the United States. If a person dies, his life insurance company doesn't try to get out of paying just because he smoked and if a house is robbed, the insured's rights are not decreased because he forgot to lock the door.¹ Another concept that is unique to the United States is the fact

that forty-four states have contributory negligence laws which specify that if a party was even one percent liable for the accident then he can not sue. Six states have seen the foolishness of this requirement and have passed comparative negligence laws that allow both sides a percentage recovery. One of the most important arguments for No-Fault is that the current system overpays on small claims and underpays on large ones. This is caused by the fact that on small claims the companies settle because it is cheaper than a court fight but on large claims they fight with all the resources they have available.

Table 6

Percentage of Losses Recovered

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<thead>
<tr>
<th>Portion of Loss Paid</th>
<th>Amount of Loss</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$1-999</td>
</tr>
<tr>
<td>Less than \frac{1}{3} of Loss</td>
<td>0%</td>
</tr>
<tr>
<td>Equal to or more</td>
<td>87.4</td>
</tr>
<tr>
<td>Two times or more</td>
<td>41.5</td>
</tr>
<tr>
<td>Four times or more</td>
<td>14.0</td>
</tr>
</tbody>
</table>

It can be seen from Table 6 that the current tort system does not allocate funds in a just manner. The final argument brought up by the proponents concerns lawyer's fee is unique to the United States and is considered illegal in other countries. As a matter of interest, it is still illegal for a barrister in England to sue for his fee, because English law is based on the old Greek theory that a lawyer was doing a friend a favor.

The other side of this argument is led by two groups, the American Trial Lawyers Association and the mutual insurance companies. The interest of lawyers is obvious, although the interest of the mutual companies might be somewhat perplexing. The mutual companies oppose No-Fault because it brings auto insurance closer to health insurance in which they have no experience. To clarify, as auto insurance goes toward No-Fault, many people believe the next step is a conclusive health policy and the mutual companies don't write health policies. Both sides agree that the current system is costly and they agree that something must be done, but at that point positions are firmly established. The ATLA says that the cost of insurance will not go down under No-Fault in the long run, They believe that the number of claims will increase and that the immediate savings are (off-set) by a loss of benefits. They quote the immediate savings for the lost
coverage as averaging only about a dollar a month in the State of New York. On the second point the defenders of the tort system say that only 6% of all auto cases go to court and of these only 2% go to juries. They further claim that two thirds of all claims are settled in three months and the bulk (90%) are settled in one year. They also remind people that all delay is not bad because it allows complete and thorough investigations and complete medical results to be compiled. The amicus curie brief presented to the Massachusetts court also included a letter from the Chief Justice of the Massachusetts Supreme Court that stated that only 13% of the total time of the superior courts judges was spent on auto cases.¹

Conclusion

It is often said that in an argument both sides can't be right but in this argument the reverse seems to apply, both sides can't be wrong. Going over the arguments point by point, it is obvious that both sides have valid ideas and the final solution to the problem of auto insurance is not yet in sight.

The first point of the problem is agreed to by both sides, that is, that the system we have now is not working as well as it should. The insured is not getting the return on his premium dollar that he should be getting. His claims are settled slowly and with little regard for his immediate financial needs. The AIA wins the first point because it is obvious that the only way to speed up the process is to get the claims out of court. However, the argument that says that taking auto cases out of the courts will provide a side benefit is a poor one. Any time the courts want to clear up the congestion they can throw out all old people or all hippies and get the same effect with about the same justification. The idea that under No-Fault the number of claims will increase just doesn't hold up under examination. In Puerto Rico and Massachusetts the results show that the number of claims has dropped substantially.

The difficulty of determining fault is a point that the ATLA wins. However, they also lose some of their argument because, in most cases, both sides are at fault to some degree, and therefore, under the system in effect in most states no suits are allowed. On the idea of fairness of payments, the proponents of No-Fault win and this is one of their most telling arguments. The DOT study
(the only source on this subject) has shown clearly that the current system needs reworking or revamping.

The weakest point in the ATLA argument is that they have not really proposed a plan that would solve the problems and until they do, they should learn to live with No-Fault.

A Better Plan

Up until this point, the easy position has been taken, that of a critic of the current systems and the proposed No-Fault plans. Now the time has come for a statement of attitudes about auto insurance. The Massachusetts plan will be used as a starting point and then a statement of the seven changes that are felt needed will be made.

The first point that is important is that any plan should be adopted on a state by state basis. The differences between New York and Montana for example are too great to try and force both states to have the same program. In New York, compulsory insurance is an accepted fact of life while in Montana it is thought of as an infringement on the personal rights of the individual. In some states, Louisiana for example, changes to the state constitution would be needed before enactment of a No-Fault law is possible. The only national legislation that would
make any sense is to set up minimum standards that the states would be allowed to meet in the manner of their choice.

The base limits that should be required are at least 15/30. At this time, thirty-five states require less than this but it is time that the limits were raised. It is also thought that a good law would include a clause to insure a regular review of what the minimum limits should be.

Most people will agree that the cost of driving an auto should be paid for by the drivers of autos and not by the general public. Given this contention, auto insurance should pay medical costs before private health policies take over. Proponents of No-Fault have used private health policies to finance lower rates and this is unfair. The same point is true for income insurance. The auto policy should pay first and then the private policy can cover any extra losses.

In talking about the wage loss section, there is also another point that needs to be changed. At this time, a person who has a guaranteed income (someone in the military or a retired person) is paying for coverage that he can't collect on. There ought to be a separate set of classes and rates for this type of driver. A
person could then be given the choice on the application (see Appendix 2) of whether or not he wanted wage loss insurance.

In order to get as many auto cases out of the courts and still give every case a fair chance, a board should be established similar to a Workmen's Compensation Board. This board could have jurisdiction over all cases of $1000 or less if no pain and suffering claim was made.

At this time, none of the plans in existence have a penalty fee for slow payments by insurance companies. In the field of auto insurance, this amounts to about 2.8 billion in claims a year and the interest that could be earned by delaying each payment one month is large enough to tempt the insurance companies. If a severe penalty could be set up for the failure to pay legal claims within a thirty day period, this temptation would be decreased and the victim would be assured of receiving his payments in a prompt and orderly manner.

The final change that could be made in the Massachusetts plan is to make the rates competitive. This would lower the cost of insurance. Basing rates on the present cost of claims and overhead, plus a percentage profit encourages inefficiency and doesn't give the consumer the right to reward a well run company by giving it his business.
One final point to remember is that cutting the cost of claims will not stop the rising cost of auto insurance. It will slow it down. A cutting of rates by 25% means that next year's rise will be 25% less. To solve the total problem, the number of claims must be reduced and this can only be accomplished through the designing of safer cars and stricter law enforcement.
Appendix 1

Current Massachusetts
Insurance Application
APPLICATION FOR MASSACHUSETTS MOTOR VEHICLE INSURANCE

THE INSURED IS NOT REQUIRED TO CARRY MORE THAN STATUTORY COVERAGE (COVERAGES A, C AND U) TO SECURE REGISTRATION OF THE MOTOR VEHICLE IN MASSACHUSETTS. THE INSURED HAS THE OPTION OF PURCHASING COVERAGES B, D, E, F, G, AND H, AS FURTHER DESCRIBED IN THIS APPLICATION UNDER SECTION C — COVERAGE AVAILABLE.

Notice: The following Pertains to the Fair Credit Reporting Act

In addition to routine verification of information pertinent to the insurance applied for, if the application is by an individual for insurance primarily for personal or family purposes, the insurer to which it is assigned may have an investigative consumer report made including information bearing on character, general reputation, personal characteristics or mode of living and, upon the individual’s written request, will disclose in writing the nature and scope of the investigation requested, if such a report is procured.

SECTION A

APPLICANT MUST PERSONALLY COMPLETE AND SIGN THIS FORM

<table>
<thead>
<tr>
<th>Name of Applicant</th>
<th>Date of Birth</th>
<th>Single ☐</th>
<th>Married ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Address: Number Street City or Town State Telephone Number</td>
<td>☐ Individual ☐ Co-partnership ☐ Corporation ☐ Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mail Address (if different): Number Street City or Town State Telephone Number</td>
<td>☐ Individual ☐ Co-partnership ☐ Corporation ☐ Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupation (i.e. nature of duties of Applicant): “Occupation” includes Position or Business</td>
<td>Owner’s License Number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Automobile will be principally garaged in City or Town: in ☐ covered garage; ☐ open lot; ☐ on street</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If the vehicle is currently registered, give Plate Number and date of Expiration: Month Day Year

INFORMATION FOR CLASSIFICATION OF PRIVATE PASSENGER AUTOMOBILES OWNED BY INDIVIDUALS

1. BUSINESS USE — Is the use of the automobile required by or customarily Involved in the duties of the applicant or of any other person customarily operating the automobile, in his occupation, profession or business? ☐ Yes ☐ No

2. COMMUTING USE —
   (a) Is the automobile customarily used in the course of driving to or from work a distance of ten or more road miles one way? ☐ Yes ☐ No
   (b) Is the automobile customarily used to transport fellow employees or students for a consideration, expressed or implied? ☐ Yes ☐ No

3. AGE OF OPERATORS — Is the applicant an operator of the automobile under 25 years of age or is any operator of the automobile under 25 years of age (a) resident in the same household as the applicant (b) employed as a chauffeur of the automobile or (c) customarily operating the automobile?
   ☐ Yes ☐ No

If the answer to question 3 is “Yes,” complete the following information with respect to each operator (including the applicant) of the automobile under 25 years of age:

<table>
<thead>
<tr>
<th>Name</th>
<th>If held for 3 yrs, give date of origin</th>
<th>Sex</th>
<th>Yes ☐ No ☐</th>
<th>Married</th>
<th>Yes ☐ No ☐</th>
<th>Married with Children living in household</th>
<th>Yes ☐ No ☐</th>
<th>Owner of Pr. Op.</th>
<th>Yes ☐ No ☐</th>
<th>Driver Training Completed</th>
<th>Yes ☐ No ☐</th>
</tr>
</thead>
</table>

* IF APPLICANT QUALIFIES FOR "BEHIND-THE-WHEEL DRIVER TRAINING PROGRAM" (CLASSES 26, 40 OR 42), THE FOLLOWING SHOULD BE COMPLETED AS PART OF THIS APPLICATION:


<table>
<thead>
<tr>
<th>SUCH LICENSED DRIVERS UNDER 25 ARE</th>
<th>NAME</th>
<th>DRIVER LICENSE NUMBER</th>
<th>SCHOOL WHERE TRAINING PROGRAM COMPLETED</th>
<th>DATE OF CERTIFICATE</th>
</tr>
</thead>
</table>

I HEREBY DECLARE THAT I HAVE READ THE ABOVE STATEMENT AND IT IS COMPLETE AND TRUE AS OF THE INCEPTION DATE OF THE INSURANCE.

DATE ________________________________

SIGNATURE OF APPLICANT

Note: The original certificate as issued and approved by the Registrar of Motor Vehicles must accompany the assignment papers and be furnished the Plan at the time of application for assignment.

* If the operators under age 25 have successfully completed a driver education course sponsored by a recognized secondary school, college or university in a state other than Massachusetts, a separate form must be completed.
7. (A) DURING THE LAST 3 YEARS HAS YOUR OPERATOR'S LICENSE, RIGHT TO OPERATE, OR REGISTRATION BEEN UNDER SUSPENSION OR REVOCATION? YES OR NO

(B) DURING THE LAST 3 YEARS HAS ANY OTHER WHO WILL OPERATE THIS MOTOR VEHICLE HAD HIS OPERATOR'S LICENSE, RIGHT TO OPERATE, OR REGISTRATION UNDER SUSPENSION OR REVOCATION? YES OR NO

IF ANSWER TO (A) OR (B) IS YES, GIVE NAMES, DATES, AND REASONS:

<table>
<thead>
<tr>
<th>NAMES</th>
<th>DATES</th>
<th>REASONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8. HAVE YOU OR OTHERS WHO WILL OPERATE THIS MOTOR VEHICLE ANY PHYSICAL IMPAIRMENT? YES OR NO

IF ANSWER IS YES, STATE NATURE OF SAME:

9. (A) DURING THE LAST 3 YEARS HAVE YOU OR ANY OTHERS WHO WILL OPERATE THIS MOTOR VEHICLE BEEN INVOLVED IN A MOVING AUTOMOBILE LAW VIOLATION WHICH RESULTED IN A FORFEITURE OF BAIL OR A CONVICTION OR A SENTENCE OR A FINE PAID IN COURT OR BY MAIL? YES OR NO

(B) DURING THE LAST 3 YEARS HAVE YOU HAD A COURT CONVICTION OTHER THAN ANY AUTOMOBILE LAW VIOLATION REFERRED TO IN 9.(A)? YES OR NO

IF ANSWER TO (A) OR (B) IS YES, STATE WHEN AND FOR WHAT:

10. (A) WILL THIS MOTOR VEHICLE BE RENTED TO OTHERS? YES OR NO

(B) WILL THIS MOTOR VEHICLE BE USED TO CARRY PASSENGERS FOR A CONSIDERATION? YES OR NO

(C) WILL THIS MOTOR VEHICLE BE USED TO CARRY YOUR OWN EMPLOYEES? YES OR NO

I am the owner of the motor vehicle described herein and I warrant that the above statements are true and complete, and that they are made with the intent and knowledge that the insurance company will rely upon the statements herein made, to the end that I may obtain the motor vehicle insurance coverages selected.

DATE SIGNATURE OF APPLICANT

TO BE COMPLETED BY PRODUCER

The information contained in this application is as told to me by the applicant and is true and complete to the best of my knowledge.

Name of agent or broker who assisted applicant in completing this application.

MOTOR VEHICLE VIOLATIONS — Since August 31, 1970 have you or any other member of your household who will operate the motor vehicle been involved in a moving violation which resulted in a conviction followed by either suspension or revocation of license or registration. YES □ NO □ If YES check which of the following offenses in Item A resulted in conviction and complete the information requested in Item B.

**ITEM A**

<table>
<thead>
<tr>
<th>VIOLATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Operation under the influence of liquor.</td>
</tr>
<tr>
<td>2. Operation under the influence of narcotic drugs or barbiturates.</td>
</tr>
<tr>
<td>3. Using a motor vehicle without authority.</td>
</tr>
<tr>
<td>4. Leaving the scene of an accident resulting in personal injury.</td>
</tr>
<tr>
<td>5. Leaving the scene of an accident causing property damage.</td>
</tr>
<tr>
<td>6. Operating recklessly.</td>
</tr>
<tr>
<td>7. Operating to endanger.</td>
</tr>
<tr>
<td>8. Exceeding speed regulations established in accordance with G.L. c. 90, Section 17 &amp; 18.</td>
</tr>
<tr>
<td>9. Improper operation.</td>
</tr>
</tbody>
</table>

**ITEM B**

<table>
<thead>
<tr>
<th>Name of Operator</th>
<th>License No.</th>
<th>Date of Birth</th>
<th>Violation Number From Item A</th>
<th>Date</th>
<th>Place of Conviction</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

IF PHYSICAL DAMAGE COVERAGE IS REQUESTED, COMPLETE THE FOLLOWING

Does the car have any cracked or broken glass? □ Yes □ No If "yes" explain__________________________

Have there been any alterations to engine or body? □ Yes □ No If "yes" explain_____________________

Is vehicle described herein in good mechanical condition and free of any evidence of physical damage? □ Yes □ No If "no" explain______________________________

LOSS PAYEE If automobile is financed or encumbered, loss if any, will be payable to applicant and (Give Name and Address).
SECTION B

1. WAS THIS OR ANY OTHER VEHICLE REGISTERED BY YOU DURING THE PRESENT CALENDAR YEAR? YES OR NO. DURING PRECEDING CALENDAR YEAR? YES OR NO.

<table>
<thead>
<tr>
<th>NAME OF INSURANCE COMPANY</th>
<th>REGISTRATION PLATE NUMBER</th>
<th>YR. OF INSURANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tr>
</tbody>
</table>

2. WAS THIS VEHICLE REGISTERED BY ANY MEMBER OF YOUR HOUSEHOLD DURING THE PRESENT CALENDAR YEAR? YES OR NO. DURING PRECEDING CALENDAR YEAR? YES OR NO.

<table>
<thead>
<tr>
<th>NAME OF INSURANCE COMPANY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

3. WAS THIS VEHICLE REGISTERED DURING THE LAST 24 MONTHS BY ANY RELATIVE? YES OR NO.

<table>
<thead>
<tr>
<th>NAME AND ADDRESS OF PERSON VEHICLE REGISTERED</th>
<th>NAME OF INSURANCE COMPANY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. FROM WHOM DID YOU ACQUIRE THIS MOTOR VEHICLE? ____________________________________________ PURCHASE DATE.

5. DOES ANY OTHER PERSON, OTHER THAN UNDER A CONDITIONAL SALES AGREEMENT OR MORTGAGE, OWN OR HAVE A FINANCIAL INTEREST IN THIS CAR? YES OR NO.

6. HAS COMPULSORY MOTOR VEHICLE INSURANCE BEEN CANCELLED OR DECLINED FOR ANY REASON DURING THE LAST 2 YEARS? IF YES, FOR YOU ___________________ OR ANY MEMBER OF YOUR HOUSEHOLD ___________________ ON ANY MOTOR VEHICLE? IF ANSWER IS YES, BY WHAT COMPANY OR COMPANIES?

<table>
<thead>
<tr>
<th>NAME OF COMPANY</th>
<th>REASON</th>
<th>DATE INSURANCE CANCELLED OR PLATES RETURNED TO REG.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

7. HAS ANY MOTOR VEHICLE WHILE REGISTERED IN YOUR NAME BEEN INVOLVED IN ANY ACCIDENTS (OTHER THAN AS DISCLOSED IN ANSWER TO QUESTION 6A ABOVE) DURING THE LAST 3 YEARS? YES OR NO.

<table>
<thead>
<tr>
<th>NAME AND ADDRESS OF OPERATOR AT TIME OF ACCIDENT</th>
<th>DATE OF ACCIDENT</th>
<th>DESCRIPTION OF ACCIDENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8. HAVE ANY OF THE ABOVE NAMED OPERATORS BEEN INVOLVED IN ANY MOTOR VEHICLE ACCIDENTS DURING THE LAST 3 YEARS? IF YES, COMPLETE THE FOLLOWING.

<table>
<thead>
<tr>
<th>NAME OR OPERATOR AT TIME OF ACCIDENT</th>
<th>DATE OF ACCIDENT</th>
<th>DESCRIPTION OF ACCIDENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. HAS ANY MOTOR VEHICLE WHILE REGISTERED IN YOUR NAME BEEN INVOLVED IN ANY ACCIDENTS OTHER THAN AS DISCLOSED IN ANSWER TO QUESTION 6A ABOVE DURING THE LAST 3 YEARS? IF YES, COMPLETE THE FOLLOWING.

<table>
<thead>
<tr>
<th>NAME AND ADDRESS OF OPERATOR AT TIME OF ACCIDENT</th>
<th>DATE OF ACCIDENT</th>
<th>DESCRIPTION OF ACCIDENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Description of Motor Vehicle

<table>
<thead>
<tr>
<th>Year Model</th>
<th>Trade Name</th>
<th>Body Type - Truck Size</th>
<th>(E) Identification or Maker Number</th>
<th>No. of Cyl.</th>
<th>(A) List Price New</th>
<th>Purchased New - Used</th>
<th>1/26 or Later Models</th>
</tr>
</thead>
</table>

### SECTION C COVERAGES AVAILABLE (See policy for full description of coverages)

<table>
<thead>
<tr>
<th>COVERAGES</th>
<th>LIMITS OF LIABILITY</th>
<th>PREMIUM</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STATUTORY</strong> — (Compulsory)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Division 1 — Bodily Injury Protection</td>
<td>$5,000 each person</td>
<td></td>
</tr>
<tr>
<td>Division 2 — Personal Injury Protection</td>
<td>$2,000 each person</td>
<td></td>
</tr>
<tr>
<td>DEDUCTIBLE OPTION — Per Person</td>
<td>Insert Limits Desired</td>
<td></td>
</tr>
<tr>
<td>none □ $250 □ $500 □ $1,000 □ $2,000 □ NAMED INSURED ALONE □ NAMED INSURED AND MEMBERS OF HIS HOUSEHOLD</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **PROTECTION AGAINST UNINSURED MOTORISTS** — (Mandatory limits $5000 each person, $10,000 each accident) | Insert Limits Desired |         |
|                                                                                                      | $_________ each person |         |
|                                                                                                      | $_________ each accident |         |

| **PROPERTY PROTECTION** — (Compulsory)                                         |                     |         |
| Division 1 — Damage to Property of Others                                      |                     |         |
| Option 1 — Collision Coverage                                                 |                     |         |
| Option 2 — Restricted Collision Coverage                                       |                     |         |
| Option 3 — No coverage on insured motor vehicle                               |                     |         |
| (Persons electing Option 3 must sign the statement below.)                     |                     |         |

| **AUTOMOBILE MEDICAL PAYMENTS**                                               |                     |         |
| Protects against medical expenses                                              |                     |         |

| **COMPREHENSIVE**                                                            |                     |         |
| Protects against loss to motor vehicle except by Collision but including Fire, Theft and Abandonment |                     |         |

| **LOSS OF USE** — Rental Reimbursement                                       |                     |         |
| F-1 Resulting from collision or upset □ (Check block to indicate choice of coverage desired) | No more than $10 per day, $300 in total |         |

| **FIRE, LIGHTNING AND TRANSPORTATION**                                       |                     |         |
| $_________ each accident                                                      |                     |         |

| **THEFT**                                                                    |                     |         |
| $_________ each accident                                                      |                     |         |

### IMPORTANT NOTICE — PLEASE READ IT CAREFULLY FOR YOUR OWN PROTECTION

I understand that I am entitled under Massachusetts law, at my option, to purchase from the company providing Coverage A the following coverages: Coverages B and U at limits up to $20,000 each person, $50,000 each accident; Coverage G up to $5,000 and Coverages E, F, G, and H and that such coverages cannot be cancelled by the company as long as Coverage A is in effect. The coverages and limits that I request are as indicated above.

I further understand that the Massachusetts Insurance Department strongly recommends that I purchase all of the automobile coverages I am entitled to from the company providing my compulsory coverage. It is further understood that the Commissioner of Insurance recommends against the purchase of so-called "personal effects coverage" and recommends that automobile death indemnity or benefit and disability coverage be purchased only from the company providing compulsory insurance.

I fully understand that my election of Option 3 of Division 2 of Coverage C means that I will not have any insurance coverage for loss to my own motor vehicle, and furthermore that in cases governed by Chapter 97B of the Acts of 1971 I will be unable to recover for such loss in a legal proceeding against any other person.

Signature of Insured (Applicant)

**TOTAL PREMIUM** $
Appendix 2
Possible Future Insurance Application
Name of Insured ____________________________________________
Address of Insured ____________________________________________
Approximate Valuation of Home $ _____________________________
Average Price of Homes in your Neighborhood $ __________
Occupation and Description of Job ___________________________

A. PERSONAL INFORMATION ON DRIVERS AND POTENTIAL PASSENGERS

Give following information on yourself, every driver of the car, your wife, children or relatives resident in your household: (If you drive your car in a car pool, answer these questions for each member of the car pool.)

Driver, Relative or Car Pool Member

<table>
<thead>
<tr>
<th>No. 1</th>
<th>No. 2</th>
<th>No. 3</th>
<th>No. 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Name _______</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Relationship to named insured _______</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Age _______</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Income earned or not Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Self-Employed Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Retired Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### APPLICATION FOR BASIC PROTECTION COVERAGE

<table>
<thead>
<tr>
<th>Driver, Relative or Car Pool Member</th>
<th>No. 1</th>
<th>No. 2</th>
<th>No. 3</th>
<th>No. 4</th>
</tr>
</thead>
</table>

7. Average monthly income
   (a) What part of this is earned income? (Do not include pensions.)

8. Are any Accident and Health Benefits available to named person?
   Yes | No

9. What type of benefits are available?
   (a) W.C. Benefits
   (b) Medicare
   (c) Basic Medical
   (d) Major Medical
   (e) Hospital Costs
   (f) Wage Continuation

10. Do these other benefits exclude automobile accidents?
    Yes | No

11. How many dependents do these named people have?
    (Need not answer for yourself, wife or your children who are listed.)
APPLICATION FOR BASIC PROTECTION COVERAGE

Driver, Relative or Car Pool Member
No. 1 No. 2 No. 3 No. 4

12. What doctor does each person normally visit?
   Name
   Address

13. What is his usual visitation fee?
   ________ ________ ________ ________

14. What hospital does each person normally use?
   Name
   Address

15. What is its usual Semi-Private rate?
   ________ ________ ________ ________

16. Does any person listed have any present physical disability?
   ________ ________ ________ ________

17. If yes, describe __________________________________________
   __________________________________________
   __________________________________________
   __________________________________________

B. USE OF CAR

1. What percent of time is car used in your business?

2. What percent of time do you carry passengers?

3. Average number of passengers carried

4. Is car driven to and from work? Yes _____ No _____

5. Miles driven to work one way

6. Used to pull camp or home trailer? Yes _____ No _____
C. MAKE AND DESIGN OF CAR

1. Make, Year and Model of car? Make _____ Year _____ Model _____

2. How many passengers can car carry? ______________

<table>
<thead>
<tr>
<th>Driver, Relative or Car Pool Member</th>
<th>No. 1</th>
<th>No. 2</th>
<th>No. 3</th>
<th>No. 4</th>
</tr>
</thead>
</table>

3. Is it equipped with:
   (a) seat belts?
       Yes _____ No _____
   (b) padded dash and sun visor
       Yes _____ No _____
   (c) Collapsible steering wheel?
       Yes _____ No _____
   (d) Other safety features
       Yes _____ No _____

Describe ___________________________________________________________
___________________________________________________________________
___________________________________________________________________

D. PAST ACCIDENT RECORD (ANSWER QUESTIONS FOR EACH DRIVER)

<table>
<thead>
<tr>
<th>Driver, Relative or Car Pool Member</th>
<th>No. 1</th>
<th>No. 2</th>
<th>No. 3</th>
<th>No. 4</th>
</tr>
</thead>
</table>

1. How many accidents has driver been involved in in last five (5) years? _____ _____ _____ _____
APPLICATION FOR BASIC PROTECTION COVERAGE

2. Give date and describe the circumstances of each accident.
   Accident #1 ______________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   Accident #2 ______________________________________________________
   ______________________________________________________________
   ______________________________________________________________

3. Was driver or passenger in insured car injured?
   Yes ____________  No __________

4. If yes, give estimate of wage loss and medical and hospital cost of injuries. ______________________
   ______________________________________________________________

5. Was driver or passenger a resident of household?
   Yes ____________  No __________

6. If not, what was relationship to named insured?
   ____________________________
BIBLIOGRAPHY

BOOKS


PROCEEDINGS


UNPUBLISHED MATERIALS


Heap, Ian. Speech before the Massachusetts Senate for Senate Bill number S-1430. (Xeroxed).
Heap, Ian. Statement by Mr. Heap to the Joint Committee on Insurance, Massachusetts General Court, Feb 24, 1970. (Xeroxed).
