



Province of British Columbia

Royal Commission on Automobile Insurance

Report of the Commissioners
July 30, 1968

VOLUME II

Chapters 13 to 25

Epilogue

Appendices

Index

Pages 407 to 828

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CHAPTER 13

TRAFFIC SAFETY



CHAPTER 13

TRAFFIC SAFETY

The premiums on automobile insurance are regulated in a considerable degree by the incidence of accidents upon the highway. The causes, frequency and severity of these, therefore, warrant the most careful consideration.

In this regard, and as the problem is of real concern to most communities in the Province, **the Commissioners believe that much planning and effective action must be undertaken in the whole area of traffic safety in British Columbia.**

Before giving serious consideration to the problem of how to initiate an intensified program of traffic safety, it is necessary first that an assessment be made of the statistical data available showing to what degree deaths, injury, and property damage are increasing as a result of the use of automobiles in British Columbia, and, perhaps of less significance, how the automobile accident rate for B. C. compares with that prevailing in the rest of Canada.

It will be seen from the following Table 13:1 (based on a five year average 1962-1966) that insofar as the ratio of deaths caused by traffic accidents is concerned, British Columbia's position is close to the average in comparison with other provinces. It holds the same position with respect to total accidents per million miles driven. On the other hand, British Columbia has the highest ratio in Canada of casualties, and higher than all provinces except Newfoundland in property damage.

Table 13:1 shows the only comparative data between provinces available to the Commissioners. It has been developed on the basis of accidents in relation to

estimated mileage driven -- a figure arrived at by using gasoline sales as a factor. A better comparison, if available, would have been the relationship of accidents to the number of vehicles registered in each province. This is the method used in later accident tables applying to British Columbia.¹

TABLE 13:1
COMPARISON OF M. V. ACCIDENT STATISTICS, 1962-66
(Five-Year Average)

	NFLD.	P.E.I.	N.S.	N.B.	QUE.	ONT.	MAN.	SASK.	ALTA.	B.C.
Deaths per 1,000,000 Motor Vehicle Miles	10.4	10.2	11.6	15.0	10.4	7.1	6.9	7.6	7.2	8.4
Casualties (Deaths & Injuries) per 1,000,000 Vehicle Miles	2.8	1.9	2.1	3.1	2.7	2.6	2.8	2.3	1.9	3.3
Property Damage Per 1,000 Motor Vehicles Miles	3.85	2.10	3.24	3.67	N.A.	2.76	2.47	2.89	3.09	3.83
Total Accidents Per 1,000,000 Motor Vehicle Miles	8.5	5.0	7.3	7.4	8.7	5.5	6.0	6.1	6.6	7.1

Source: Motor Vehicle Traffic Accidents, 1962-1966, Dominion Bureau of Statistics.

British Columbia's high ratio for property damage may well result from the relatively higher repair costs in this province. But it is difficult to justify the considerably higher ratio of accidents, casualties, and deaths in comparison with Ontario, which has a comparatively greater traffic density than B.C.

Each year the Annual Report of the British Columbia Motor Vehicle Branch emphasises the percentage increase in deaths, injuries, and property damage caused by automobile accidents as compared with the previous year's statistics. The

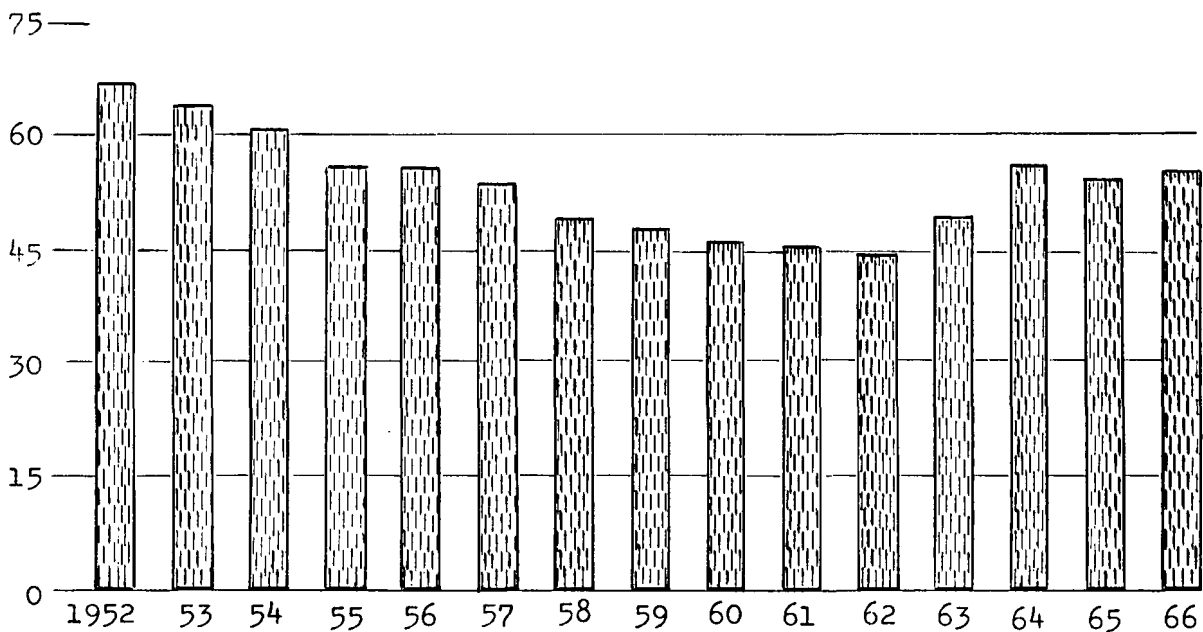
1. Refers to subsequent tables in this chapter.

Commissioners endorse the apparent intent of this data as a means of bringing home to the Legislature and the public at large the gravity of this economic loss in manpower and material, and the urgent need for a co-ordinated effort to reduce this senseless waste.

Informative as these increasing percentages are in comparison with the previous year's figures, in reality, they do not indicate on a relative basis how the increased number of deaths, injuries, and property damage relates each year to the increased number of registered vehicles on the highways and streets.

Figure 13:1

Accident Ratio in B.C. per Thousand Vehicles Registered
Fifteen Years



Source: Annual Reports of B.C. Motor Vehicle Branch.

If, over a period of 15 years from 1952 to 1966, the number of automobile accidents each year in British Columbia is compared with each 1,000 vehicles

registered in this province, some interesting facts are disclosed. In the last recorded year, 1966, the accident ratio in B.C. was 54 per 1,000 vehicles registered. While this ratio is higher than that of some of the intervening years it is lower than was that for 1952 when the ratio was 67.²

It will be seen from the following table that the ratio of deaths caused by automobile accidents in this province compared with the number of vehicles registered each year in B.C., shows no discernible trend.

TABLE 13:2

DEATHS PER 10,000 VEHICLES REGISTERED IN B.C.

1952 - 6.5	1957 - 5.1	1962 - 6.3
1953 - 5.9	1958 - 5.5	1963 - 5.6
1954 - 5.7	1959 - 5.7	1964 - 5.6
1955 - 5.6	1960 - 5.2	1965 - 6.5
1956 - 7.0	1961 - 5.4	1966 - 6.4

Source: Annual Reports of B.C. Motor Vehicle Branch

Figure 13:2 shows a comparison of both injuries per 1,000 vehicles registered, and the average dollar property damage per vehicle registered in this province, over the same fifteen year period. From this figure it will be noted that the injury ratio over the years has not increased over time, with the 24 injuries per 1,000 vehicles registered in 1966 being about the same as that in 1952. Property damage, on the other hand, is shown to have been \$20 per registered vehicle in 1952, but had risen 60% to \$32 in 1966.

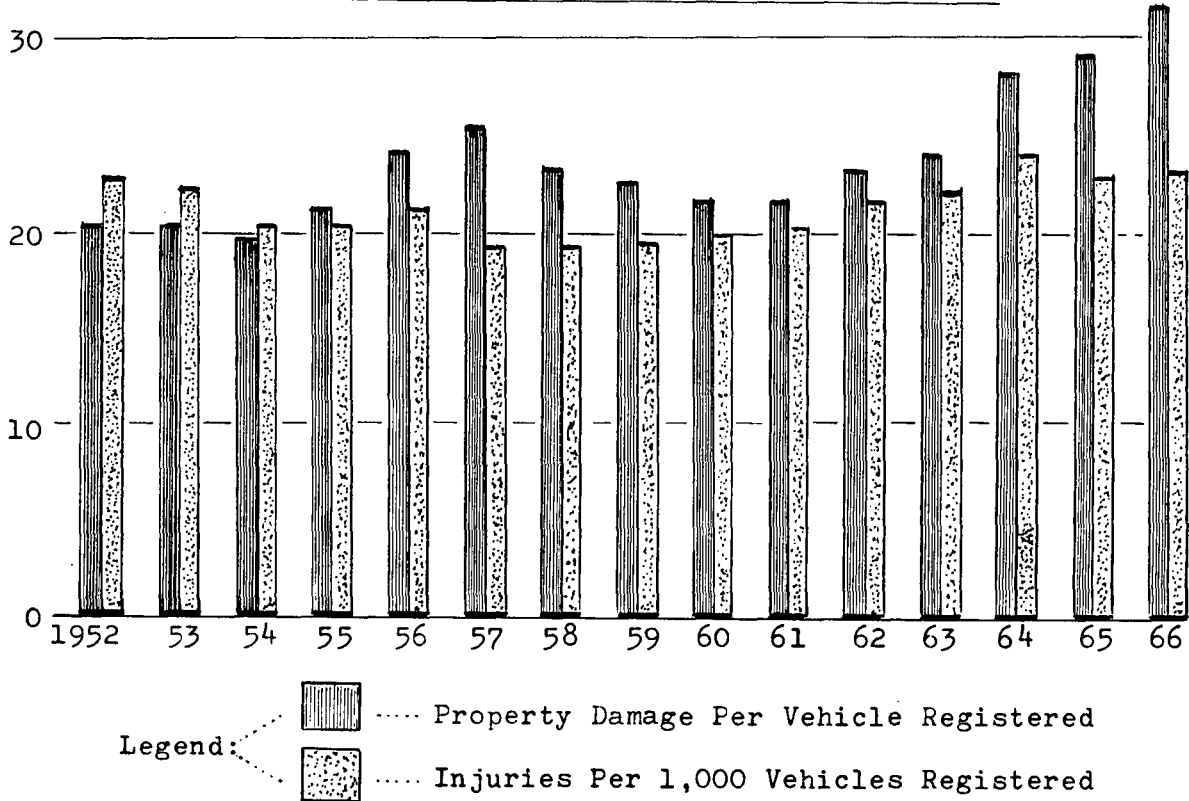
These data indicate that it is not the relative number of accidents, but rather the cost of accidents, that has increased over the years. This has resulted in increases in premiums for automobile insurance.

2. Average ratio for fifteen year period shown is 53.12.

Figure 13:2

BRITISH COLUMBIA

Property Damage per Vehicle Registered and Injuries per
1,000 Vehicles Registered, Fifteen Years Comparison



Source: Annual Reports of B.C. Motor Vehicle Branch.

Cursory acceptance that the frequency of automobile accidents and the resulting deaths and injuries have not increased over the past fifteen years does not justify complacency. Ignoring the resultant serious economic waste to this province through the loss of life, and loss of employment time through injury is equally unjustified. In the latest year of record, 1966, a total of 520 were killed and 19,451 injured.³

3. Annual Report of the Motor Vehicle Branch for the Year 1966, Queen's Printer, British Columbia, 1968, p. J13.

Traffic Safety in British Columbia, as was seen from Table 13:1, does not stand up well in comparison with that of many provinces in Canada. In Canada as a whole there are more fatalities from automobile accidents than all other causes, excepting only cancer and cardiovascular diseases. In fact, for the age group 1 to 19 years, automobile accidents are the greatest cause of loss of life.

From 1954 to 1966, 46,000 people were killed on Canadian roads. This is 4,000 more than all the servicemen Canada lost in the entire World War II.

It seems incongruous to the Commissioners that billions of dollars of Canadian tax revenue are justifiably spent on defence against possible war and its resultant toll in life and injury, and yet only a comparatively negligible expenditure is made to prevent like casualties on our highways. It is incomprehensible that so little co-ordination is carried out by provincial or federal governments of such traffic safety programs as are in existence.

During the open hearings the Commissioners were told of many of the contributing causes of automobile accidents but little of a definite nature as to how to prevent them. There was even some confliction between witnesses as to the best preventive measures that should be taken.

One witness emphasized that an increased use of traffic engineers before building a highway could assure safer curves, less projecting abutments, better aligned guard rails, and other safety features being embodied in its construction. There is little doubt that there is much merit in the witness's recommendations, but there would seem to be little use in an engineer planning a

highway curve that would handle traffic safely and allow a certain moderate leeway above the maximum speed per hour if a large percentage of the drivers ignore the speed limit, and insist on negotiating such a curve at speeds even higher than those the safety maximum anticipated.

It should be stated that, based on the evidence presented to them, the Commissioners have no reason to believe that either the B.C. Highways Department or the builders of the Metropolitan streets do not follow the best advice of traffic engineers.

Exhibits were submitted to the Commissioners, indicating accident rates (1964) on various types of highways and urban streets, which emphasized that while there were only 2 traffic accidents per million vehicle miles of travel on urban freeways in that year, there were 8.5 on all urban streets, and on rural freeways there were 2 compared with 5.5 on rural local roads.⁴

It is doubtful that anyone would question that freeways, with adequate medians or dividers between opposing flows of traffic, tend to a lesser number of accidents; but the limitation of space in urban centres does not always allow for an increased use of freeways in these areas. In rural areas where there is little or no restriction of available space, British Columbia, of necessity, is forced to limit the increased building of rural freeways by the large amount of roads required in a new country and by the limited population to pay for them.

4. Canadian Government Specifications Board, Guide to Traffic Safety, Queen's Printer, Ottawa, 1967, Table IV, p. 41. (Ex. 314)

The Commissioners are disturbed by the fact that the 1967 Report of the B.C. Superintendent of Motor Vehicles shows that in 1966 there were 428 accidents (2 involving fatalities) blamed on 'Defects in the Roadway', 436 accidents (3 involving fatalities) credited to 'Road Obstructions', and 399 accidents (5 involving fatalities) for which 'Road under Repair' was given as the cause. The Commissioners were even more disturbed when they were advised that there is no direct communication between the Department of Motor Vehicles and the Department of Highways that would make it possible for a representative of the Highways Department to investigate immediately the cause of the accident with a view to remedying the fault. The Commissioners feel that liaison between the two departments should be such that action could be taken by the Department of Highways at once following each such accident.

One quarter of British Columbia's automobile accidents are rear-end collisions.⁵ True, many of these result from the driver not maintaining a safe distance between his car and the one preceding it, but a large percentage of such 'tailgating' accidents are on urban streets during rush hours where it is virtually impossible to maintain the required distance between cars, and where, particularly on wet streets, skidding has emerged as a major factor causing these accidents. The United Kingdom Research Laboratory has pointed to the need for increased study of the use of frictional properties for the corrective treatment of surfaces that are subject to being polished by use.⁶

5. Motor Vehicle Branch Annual Report, op. cit., p. J24.

6. Department of Scientific Research, Road Research Laboratory, Research on Road Safety, Her Majesty's Stationery Office, London, 1963, Chapter 14.

Research is also needed on more clearly identified pedestrian crosswalks. In 1966, 225 accidents, 13 involving fatalities, occurred on crosswalks. Another important problem, so far unsolved, is that of speed. The problem here seems to be not only excessive speed but also accidents caused indirectly by people driving too slowly. The United States Bureau of Public Roads suggests that the incidence of accidents is dependent less on speed and more on the difference between a vehicle's speed and that of the general traffic stream, be it positive or negative.⁷

Each year's Annual Report of the Superintendent of Motor Vehicles indicates that one of the greatest factors in causing accidents is driver temperament. The highest incidence of accidents in British Columbia is between 4 p.m. and 6 p.m. when people are returning from work, presumably in a tired and frustrated state. The same people going to work in the morning hours have less than half as many accidents. Fatigue and frustration could well be the cause also of the increase in accidents towards the end of each week. Whether driver temperament is the real cause for the increased incidence of accidents at these periods, and, if it is, what preventive measures, if any, may be taken, certainly warrants further study.

The one contributory cause of accidents that is receiving perhaps the most attention in B.C. today is alcohol. B.C. Motor Vehicle Branch statistics for 1966 show that of 77,685 drivers involved in accidents, 1,326 were impaired. Of those impaired, 62 were involved in fatal accidents. In the same year there were 5,119

7. U.S. Department of Commerce, Bureau of Public Roads, Accidents on Main Rural Highways Related to Speed, Driver and Vehicle, United States Government Printing Office, Washington, D.C., 1964, pp. 16-17.

convictions under Section 223 of the Criminal Code of Canada -- driving a motor vehicle while ability impaired by alcohol or drugs.

A report prepared by Dr. Duncan Macpherson of the University of British Columbia's Department of Surgery, and issued recently by the B.C. Division of the Canadian Medical Association points out, however, that:

Not all drivers who have been drinking are charged with impaired driving. In fact such a charge is not laid by the police unless they feel reasonably sure they can obtain a conviction.⁸

Dr. Macpherson bases this assumption on an intensive study of 344 consecutive accidents in Vancouver. He discovered that in accidents resulting in serious or moderate injury, where the driver was at fault, 63.8% of such drivers had been drinking, and in those resulting in non-serious injury, 41.7% had been drinking. The crux of his findings, however, is that only 5.2% of the drivers responsible for these 344 accidents were charged with being impaired, yet 41.7% had consumed alcohol just previous to the accident.

The B.C. Government, through its Attorney-General, is to be commended on the steps that have been taken through Section 203 of the Motor-Vehicle Act whereby law enforcement officers may decide arbitrarily that a driver has apparently had such an amount of alcohol to drink that would result in his being a jeopardy to public safety, and so his licence to drive is suspended immediately for 24 hours.

The civil rights of the driver are protected, in that, if he is in disagreement with the police officer's decision, he may request a "breathalyzer" test which,

8. Ex. 312. p.1.

if it records an alcohol content of the blood as eight parts in ten thousand, or more, indicates that he is to be considered as an impaired driver.

It would seem to the Commissioners that the .08% blood-alcohol maximum is not meaningful to most drivers. It is imperative therefore, that more information be made available to drivers as to how much drinking will lead to this blood content.

The Motor Vehicle Branch published a pamphlet recently for this purpose, but the Commissioners are of the opinion that pamphlets generally receive inadequate distribution and, if received, less adequate perusal. Further study might be given to suggestions that spot broadcasts on T.V. be utilized; that a poster be placed in a prominent position in all cocktail lounges and beer parlours; or, that a special label be attached to all bottles sold through the B.C. Liquor Control Board. Irrespective of which form of publicity is used, it should tell in a positive manner the amount of various forms of alcoholic beverage that, consumed by an average person, will result in a .08% reading and thus will lead to impaired driving. As a positive approach it should say in effect: 'You must not drive within one hour of consuming a certain number of ounces of liquor, or of cocktails, or glasses of beer.'

Further study is needed on all the implications with respect to the drinking driver, but, at the same time, the problem of drinking pedestrians who are at fault in causing automobile accidents cannot be ignored. In British Columbia in 1966, 33 pedestrians involved in automobile accidents were reported as being impaired as a result of drinking alcohol. Nine of them died and 24 were injured.

Based on the results of a controlled investigation of adult pedestrians, fatally injured by motor vehicles in Manhattan, by Dr. William Haddon Jr., M.D., M.P.H. and associates, the indications are that the B.C. statistics on impaired pedestrians involved in accidents are as overly conservative as Dr. Macpherson found to be the case with impaired drivers.⁹

In dealing with the effects of alcohol the possibility that drugs are also an increasing factor in the cause of accidents must be taken into account. The use of drugs refers not only to such as L.S.D. or heroin, but also to simple drugs in common use such as antihistamines, tranquilizers, or barbiturates. Concern was expressed recently in the Journal of the American Medical Association over the lack of knowledge of the effect of these drugs on driving ability. This would appear to justify the British Columbia Medical Association being requested to carry out a study on this matter and on the extent to which the doctors in this province could be expected to advise the Superintendent of Motor Vehicles of people who, in their opinion, for medical reasons and in the interest of public safety, should not be permitted to drive.

Another contributor to automobile accidents that in recent months has gained more attention is the automobile itself. The initial design of the vehicle, and the safety features -- or lack of them -- contained therein, has been the subject of U.S. Senate investigation and, to a lesser extent, study by the Canadian Government Specifications Board. There can be little doubt that these investigations have, to a considerable degree, been brought about by Mr. Ralph Nader's

9. Haddon, W. Jr., M.D., Suchman, E.A., and Klein, D. Accident Research -- Methods and Approaches. Harper & Row, New York, 1964.

'best seller', Unsafe at Any Speed.¹⁰

It is questionable if any research by British Columbia on safety factors to be embodied in new automobiles would result in automobile manufacturers catering to this relatively restricted market. This is the responsibility of the Federal Government. It is a recommendation by the Commissioners that the Superintendent of Motor Vehicles, the Deputy Minister of Commercial Transport, and the member of the Highways Department, who are the B.C. representatives on the Canadian Government Specifications Board be instructed to insist that more active demands be made by this body to automobile manufacturers regarding the minimum safety requirements allowable in new cars for sale in Canada.

In dealing with new cars involved in accidents, the severity of accident most often results from a lack of safety features. In the cause of accident it results more often from mechanical weaknesses and deficiencies in older, and more particularly in second-hand cars. According to the Report of the Motor Vehicle Branch there were in 1966 over 4,000 accidents attributable to the condition of the vehicles involved. The initiation of Vehicle Testing Stations in British Columbia is an important step towards correcting this situation and should be extended on a province-wide basis at as early a date as possible. Until then it would seem advisable to give priority to the testing of older vehicles.

Consideration should be given also to duplicating in this province the proposed new legislation in Alberta that will require all dealers in second-hand cars to sell them accompanied with an affidavit guaranteeing that certain basic named

10. R. Nader, Unsafe at Any Speed, Grossman Publishers, New York, 1965.

parts have been tested and are in good roadworthy condition.

There are many other factors that contribute to the growing toll of automobile accidents in British Columbia to which this Commission has not had time to give adequate study -- many of them are enunciated in the 1966 Guide to Traffic Safety issued by the Department of Defence Production, Ottawa. Much of the text is speculative as to means of adequate prevention, as is most of the considerable bibliography on this subject studied by this Commission. Most of the traffic study carried out, and written about, in North America seems to have emanated from the universities and its limitations are apparently the direct result of inadequate funds being made available for complete research.

An illustration of this is the information that Cornell University, whose Automotive Crash Injury Research (A.C.I.R.) is recognized as being as effective as any in North America, was forced by lack of adequate funds to look for most of its financing finally from the large automobile manufacturers. Ralph Nader, in his book Unsafe at Any Speed, states that as a result of this the A.C.I.R. must now, before publishing, submit its findings to these sponsors and rarely publishes the name of the automobiles on which it finds mechanical or safety deficiencies.

It is the opinion of the Commissioners that the Government of British Columbia should set up a Safety Research Laboratory along lines similar to that maintained by the British Government at Harmondsworth, Middlesex. A Government-owned laboratory, divorced from all bodies which could have a pecuniary interest in matters connected with its investigation, and which could be financed by the motorists of this province through a fraction of 1¢ per gallon tax on motive fuels,

would go a long way toward reducing the present wasteful losses on the roads of British Columbia. Driving conditions in this province differ considerably from those in other provinces in many respects.

Such a program should cover research in three phases as has been summarized so well by Dr. William Haddon Jr., of previous mention, and as covered in his recent address to the 21st Annual Meeting of the National Association of Independent Insurers.

The first, or "initiation" phase, is the period before a crash or near crash. At this time, such factors as drunken driving, mechanical and medical factors, and improper road maintenance operate.

In the second, or crash phase, the results of the impact in injury and death are determined substantially by the extent to which prior provision has been made for rendering the forces involved less abrupt. From the program standpoint, this involves the better crash design of vehicles and such well-proven measures as safety belts and crash helmets on motorcyclists. It also involves such items as the proper crash design of roadsides, modern guardrails, shielded bridge pillars and the removal of obstacles likely to decelerate the crashing vehicle too abruptly for a favourable outcome. It also involves the designing and building of vehicles to minimize the cost of the parts likely to be damaged in crashes.

In the third, or "cleanup" phase, the problem is one of maximizing salvage and of reducing the costs of doing so. Here the rapidity and quality of the post-accident response greatly determines the human losses in many, if not most, serious accidents Yet in most parts of the country this additional and vital aspect of any balanced highway safety program scarcely is considered -- with disastrous results in death and disability. Similarly, little scientific information is available and little soundly-based activity is now underway to substantially reduce the cost (once crashes have occurred) of repairing the property damage that results in such huge bills to so many Americans¹¹

It is not the intention of the Commissioners, in listing some of the causes of accidents and the growing need for more research as to the best preventive

11. N.A.I.I. Proceedings, 21st Annual Meeting. National Association of Independent Insurers, Chicago, 1966, p. 100.

measures, to discredit the work already being carried out with respect to traffic safety. Nor is it an intention to deal with the work being carried out in this regard by the Royal Canadian Mounted Police, the Traffic Sections of the Metropolitan Police Forces, and by the local law enforcement officials in rural municipalities, towns and villages, which the Commissioners believe is mostly good and governed only by the limitation of their numbers and the multiplicity of the duties they are expected to perform.

Many public spirited citizens also give considerably of their time and finances to programs of traffic safety. Not the least of these are the B.C. Safety Council with its 23 Chapters throughout the Province, and the B.C. Automobile Association.

The B.C. Automobile Association offers in its Driver Training Courses, through the use of Simulator Cars in conjunction with coloured movie films with sound track, a realistic experience in the techniques of handling all the types of hazardous situations the driver could expect in actual driving. These courses, at a nominal cost of from \$8.00 to \$15.00, provide not only training for beginners that fills the gap between classroom theory and the actual driving in traffic, but also provide a "brush-up" in the skills and techniques for veteran drivers. The only limitation on the advantages of this form of traffic safety training is the limited number that may be catered to by simulator units, each of which costs in the neighbourhood of \$37,000.

The B.C. Safety Council, which is a branch of the National Safety Council, receives half of its financing from the Provincial Government and half from public donation. It sponsors and assists in such programs as the initial traffic safety

rules to be taught to children of elementary school age -- a national program entitled 'Elmer the Elephant'. It then follows up with a bicycle safety program which it sponsors jointly with the B.C. Telephone Company. It is encouraging that, through the Vancouver Traffic and Safety Council, there is now within all Vancouver high schools an eight hours driver-training course for pupils in Grade X. At the same time, this Council, in conjunction with the Canada Highway Safety Council and the All Canada Insurance Federation, has arranged courses for the teachers who will give this training.

Actual driver training is also provided in some high schools outside the Vancouver area. At least one province -- Saskatchewan -- is establishing compulsory driver training on a province-wide basis to be financed by a 1% premium tax on automobile insurance. The North Vancouver Safety Council, on the other hand, disagrees with driver training as part of the school curriculum, and advocates that the schools teach only the theory of responsibility in traffic whether as a pedestrian, passenger, cyclist, or driver. This Safety Council would then require that all B.C. residents under age 21, and such other drivers over 21 whose driving records show repeated accidents or traffic infractions, should be trained by a Driver Training Division of the Provincial Government.

At this point it should be emphasized that the B.C. Motor Vehicle Branch is already encouraging by individual letters to all drivers, irrespective of age, whose records show repeated accidents and traffic violations that they should take the 'driver refresher' courses being offered at the Vocational Training Schools.

With respect to driver training schools, in both theoretical and practical driv-

ing, there is considerable disagreement between the interested parties as to whether it should be part of the school syllabus or offered as an extra-curricular course.

In the opinion of the Commissioners, all of the above varying theories and practices (while being proposed or carried out with the best of intentions) are, through their confliction, wasteful in time, energy and money. Their considered opinion is that, as suggested previously, the British Columbia Government should finance safety research, and should co-ordinate the programs that will make education in traffic safety effective.

The Commissioners recommend that serious consideration be given to the following proposals:

1. That only the theory of driver courtesy and good safety habits as they affect pedestrians, passengers, cyclists and drivers, be taught in school as part of the curriculum. To attempt to teach practical driving to all Grade X students in the province would, first of all, appear to be neither administratively nor financially possible. Even though Canadian automobile manufacturers have offered to supply the vehicles for training free of charge, property owners should not be expected to finance the salaries of the more than 200 driver-teachers that would be required. This figure for the required number of teachers is arrived at as follows:

Current Total, Grade X students in B.C.	27,500
Total minimum time at wheel for each student	6 hrs.
Total instruction hours	165,000
Average hours per day driving	4 hrs.

Approximate number of school days	200
Total hours per year per instructor	800
Instructors required (165,000 ÷ 800)	206

The above total is developed on the assumption that an instructor would teach three students at a time -- two listening to the instructor while one drives but each student requiring a minimum of six hours actual driving under instruction.

An important objection foreseen to driver training in school is that Grade X is one of the most important periods for students learning to equip themselves for either post-secondary studies or adult employment and the existing syllabus would not appear to allow time for six hours of driving, plus twelve hours of observing while accompanying the driver and instructor, plus such time as may be required for instruction in safety theory.

2. That standards should be drawn up by the B.C. Motor Vehicle Branch for all private driver training schools that will ensure their issuing uniform qualifying certification to student drivers. All instructors in such schools must qualify in tests carried out by the Motor Vehicle Branch before the school receives a licence to operate. It is understood that such regulations are in the drafting stage in the Motor Vehicle Branch at the present time.
3. That the present minimum age for issuing drivers licences in British Columbia should be raised from age 16 to age 18 except where an ap-

plicant between age 16 and 18 can produce a certificate of qualification from an authorized private driving school.

4. That the aim should then be for all beginner-drivers to first obtain qualifying certification from private driving schools before receiving their driving licences from the Motor Vehicle Branch. As it may not be possible to put this into effect immediately due to lack of sufficient driving school facilities, then (during the transition period and until demand results in the required increase in the necessary number of such schools) the Motor Vehicle Branch should announce in advance of each year such additional age limits, starting at age 18, as available driving school facilities would allow for compulsory training certification before issuance of driving licences.

There would be no resulting complaint because of the costs of such instruction in private driving schools being required, as these would be compensated for by lower automobile insurance premiums. Under current insurance practices the insurers already recognize the advantage of such training, by offering all young people who qualify from recognized driving schools a 10% reduction in their premiums.

Most beginners today are under age 25, and, because of the loss experience on drivers between ages 16 and 25, everyone within these age limits today is rated up, even though he may never have had an accident. It may be that consideration should be given to the possibility that anyone obtaining driving school certification should receive standard rated premiums for their classification until such times as, either through the present system of accident experience, or

preferably as a result of traffic violations, they warrant a premium increase. By this formula all beginner-drivers who are certified by a recognized driving school would commence being insured at a premium that would more than compensate them for the expense of proper driving instruction.

The Commissioners are aware that current testing by the staff of the Motor Vehicle Branch before the issuance of a driver's licence is, as far as it goes, more stringent and comprehensive than that practised in some other provinces and elsewhere, but basically it may be accomplished (particularly by young people) by the memorizing of a booklet on theory dealing primarily with a knowledge of traffic signs. This is followed by a short drive around a few blocks in which the important feature is knowledge of how to park the vehicle and how to give the required turning and stopping signals. The applicant is not tested under conditions of traffic congestion or of highway driving.

If there is to be an effective cutting down of the number of accidents and the casualties resulting from the errors of young drivers, it is imperative that a few lessons from a member of the family or a friend, and the memorizing of a booklet, should not be considered adequate before turning a new driver loose on the streets with a 200 horsepower 'juggernaut'.

That the young driver warrants special attention is illustrated by the 1966 experience in British Columbia, which shows that out of 931,823 licensed drivers, 180,227, or approximately 19%, were between the ages of 16 and 25. This 19% of drivers, however, was involved in 30% of all the reported automobile accidents. 9.3% of B.C. drivers were under age 21, and were involved in 17% of the acci-

dents.¹²

Proper driving training prior to the issuance of a licence has proven of merit where such research has been carried out. For example, in a New York study, untrained drivers had approximately 25% more accidents and 50% more convictions than trained drivers.¹³

The operation of a motor vehicle is a complex and demanding skill and is aptly described as follows by Leon Green, as quoted in the Keeton and O'Connell book Basic Protection for the Traffic Victim:

. . . The operator must observe the operation of other vehicles, front and rear and to the sides -- those he is meeting, those that pass and those that may cross his path. He must observe road signs, stop signs, cautions, traffic lines, light signals and those of traffic officers. He must observe his speed and that of others. He must watch for signals of other motorists and give proper signals himself. He must know the operating mechanisms of his machine, check their operations as he travels and maintain his rapidly moving and complex machine under control at all times. These and other duties may be required of him every moment of his travel, made specific for the particular situation, and all over-topped by the common law duty to use reasonable care under all the circumstances.¹⁴

In the light of the data and problems, discussed briefly above, that affect traffic safety, this Commission has concluded that the Government of British Columbia cannot fail to recognize the need for its assuming the responsibility in this province for extensive research into the causes of automobile accidents, and the like responsibility to instigate and co-ordinate programs that will help remove these causes. Nor can the motorists in this province fail to accept the fact

12. Annual Report, Motor Vehicle Branch, op. cit., pp. J8, J24.

13. Accident Facts, National Safety Council, Chicago, 1963, p. 89.

14. R.E. Keeton, J. O'Connell, Basic Protection for the Traffic Victim, Little, Brown and Company, Toronto, 1965, pp. 16 and 17.

that they should contribute to the financing of such an agency to make possible greater road safety for themselves and their families. It will effect also a financial saving through lower loss ratios, resulting in lower premiums to be paid for automobile insurance.

The Commissioners wish to express their appreciation for the co-operation they have received from the B.C. Motor Vehicle Branch and especially from its Superintendent, Raymond A. Hadfield, and to give credit to this Branch for the traffic accident statistical data it maintains. They would, however, recommend that now that the Department is equipped with a computer, and an experienced staff to operate it, more thought be given to programming that will result in refining statistics so that these are of ultimate use in tracing the causes of accidents, and so lead to their reduction. Some of the statistics currently published in the Annual Report of the Motor Vehicle Branch do not appear to accomplish this. For example, Table 19 in the current Report lists the number and seriousness of accidents on different types of roads, i.e. Asphalt, Gravel, Concrete, Earth, Brick or Cobble; but it does not give a comparative volume of traffic using these various roads and thus this statistic serves little useful purpose.

Safety Responsibility Laws

Sections 83 to 120 comprise Part II of the B.C. Motor-Vehicle Act, Chap. 27, 1965 and are listed in this Act under the heading 'Safety Responsibility'. This heading is actually a misnomer, for the sections contained therein do little towards preventing accidents. Rather, they provide incentives for the owner of an automobile to become financially responsible before his car is involved in an accident and thereby assure that if the accident is caused through his negligence, or the negligence of some other licensed driver permitted to drive his car, the

victim will have the opportunity to recover damages.

Section 83 of the Act makes provision for the automatic suspension of licenses in the case of unsatisfied judgment. This suspension applies to all judgments rendered against the individual by any court in Canada or the United States arising out of the ownership or operation of a motor vehicle by the individual. Suspensions under this section remain in force until the judgment is satisfied to the statutory limits, or the judgment-debtor makes arrangements for instalment payments, and in every case the person gives proof of financial responsibility.

This Section is applied also to those uninsureds on whose behalf the Traffic Victims Indemnity Fund makes payment. It is not the intention of the Commissioners to deal in detail at this stage of their Report with the Traffic Victims Indemnity Fund as they are reporting on this plan for indemnifying victims of negligent uninsured drivers, hit-and-run drivers, and the drivers of stolen vehicles, in the next chapter. Sufficient be it at this point to draw attention to the fact that approximately 90% of the drivers suspended under Section 83 of the Motor-Vehicle Act have the claims against them paid by this Fund, although judgment is rendered in only about 50% of these cases, and result in relatively few suspensions.¹⁵

The following Table 13:3 shows the suspensions under financial responsibility requirements. Since suspension precedes filing of proof in most cases, it indicates the number of drivers to whom these have been applied. From this Table it will be noted that unsatisfied judgments have accounted for less than $3\frac{1}{2}\%$ of

15. B.C. Motor Vehicle Branch estimate.

suspensions. This is to be expected however, as, in the majority of cases, licence suspension would be imposed at the time of the accident and thus would be covered under Section 84.

TABLE 13:3

Suspensions Under Financial Responsibility Requirements, 1965 and 1966¹⁶

<u>Reason for Suspension</u>	<u>1965</u>	<u>1966</u>
Unsatisfied Judgment (s. 83) _____	260	359
Accident (s. 84) _____	2,876	3,721
Conviction (s. 85) _____	7,121	5,973
Unsatisfactory Record (s. 86) _____	4,207	3,994
Miscellaneous _____	<u>131</u>	<u>124</u>
<u>Total</u> _____	<u>14,595</u>	<u>14,171</u>

Under Section 84 of the Act, the registration of a vehicle involved in an accident is suspended unless:

- (1) at the time of the occurrence the vehicle was a stolen vehicle or was being operated without the consent of the owner,
- (2) the vehicle was properly and legally parked,
- (3) the only damage was to the person or property of the owner and driver of the motor vehicle, or
- (4) the vehicle was covered by a valid motor vehicle liability insurance card or a valid financial responsibility card.

Under Section 84, therefore, uninsured vehicles which are involved in accidents have their registrations suspended until proof of financial responsibility is

16. Annual Reports, Motor Vehicles Branch, 1965, 1966, pp. M32, M33, J32, J33.

filed regardless of who is at fault. It is from this provision that most of the power of Safety Responsibility Laws is derived; an individual may obey traffic laws and avoid fault, but he can do little to prevent accidents in which some other is at fault. To avoid licence suspension, then, he will purchase liability insurance.

Section 85 relates to suspensions for various offences. The offences leading to suspension, and requirement of proof of financial responsibility before reinstatement, are those of criminal negligence, failing to remain at the scene of an accident, dangerous driving, driving while intoxicated, impaired driving, driving while under suspension, and operation of a vehicle equipped with apparatus for making a smoke screen. Table 13:3 indicates that a significant proportion of suspensions is made under this section.

Section 86 of the Act confers powers of suspension upon the Superintendent and allows him to require proof of financial responsibility in the case of an unsatisfactory driving record. This section is playing an increasingly important part in the application of the Safety Responsibility Laws. As proof of financial responsibility may be required without the imposition of a licence suspension, Table 13:3 tends to underestimate the importance of this section. In 1966, for example, 4,516 drivers were required by the Superintendent to file proof of financial responsibility.¹⁷ Once proof of financial responsibility is required, it must be maintained on a continuing basis. Section 90 (2) states:

. . . where proof of financial responsibility is required to be given by any person, such proof must thereafter at all times be maintained by such person. . . .

17. B.C. Superintendent of Motor Vehicles, R.A. Hadfield.

This section, however, is modified by Section 92 which allows release from financial responsibility requirements at the discretion of the Superintendent, provided three years have passed since a suspension was made under Section 83, 85 or 86. In 1966, 12,963 drivers were released from the financial responsibility requirements under Section 92.¹⁸

All of these statutes are administered by the Safety Responsibility Division of the Motor Vehicle Branch. Upon notification of an unsatisfied judgment or a conviction received from the courts, or an accident report from a police department, or a settlement reported by T.V.I.F., the division notifies the driver involved of intent to suspend, or of intent to continue the suspension, unless proof of financial responsibility is filed. Such proof may be in the form of a certificate of insurance, a bond, or cash and securities. Almost all those required to demonstrate financial responsibility do so by a certificate of insurance. About 80% of these find themselves forced to do so through 'Assigned Risk Insurance'.¹⁹

Through the certificates of insurance the division is able to maintain a continuing check that insurance is in force. If an insured cancels or fails to renew, the insurer notifies the division in order to be released from liability. The division then contacts the driver concerned and, if alternate proof of financial responsibility is not forthcoming, suspends the driver's licence and the registration of any vehicle owned by the individual.

18. Annual Report, op. cit., p. J33. The comparable figure for 1965 was 5,661 and for 1967, 4,203. The unusually high number of releases in 1966 was the result of a policy change affecting drivers convicted of careless driving.

19. Motor Vehicle Branch estimate.

The most serious problem facing the division, in the application of this section, is that many of these drivers are then difficult to locate. It is estimated by the Motor Vehicle Branch that 20% of them change address each year and the chronic offenders artfully avoid both letters and police inquiries. Eventually, however, most offenders are located, and (aside from these difficulties) the procedure is highly effective.

It will be recognized from this brief summary of Part II of the B.C. Motor-Vehicle Act that it should have been more correctly headed 'Financial Responsibility' rather than 'Safety Responsibility' and that its primary purpose is to round out the effectiveness of the tort system of compensation as it applies to automobile accidents.

Tort is a civil wrong, other than a breach of contract, for which a court of law will afford legal relief. An example is that of injuring another by an act of negligence in driving an automobile. Such matter, however, may result in reference to, and action in, both tort and criminal law.

Tort liability was established on the premise that if an individual by his negligence causes injury, death, or property loss to an innocent victim, he should be required to pay compensation commensurate with such loss. However, because of the potential seriousness of economic losses arising out of automobile accidents, few individuals are in a position to provide this possible compensation unless they are covered by liability insurance. If all motorists carried liability insurance there would be no need for such financial responsibility legislation.

These sections of Part II of the Motor-Vehicle Act may be said to induce rather

than compel motorists to be financially responsible. They do not result in all automobile owners carrying automobile insurance. As was illustrated earlier in Chapter 11 an estimated 10% of automobile owners in British Columbia are uninsured. This gap in the provision of full tort compensation is at present taken up by the Traffic Victims Indemnity Fund. An exception exists, however, for those British Columbia residents who are unfortunate enough to be the victims of uninsured or hit-and-run drivers while in foreign jurisdictions that do not provide benefits similar to those of T.V.I.F.

On the basis of the automobile insurance system in effect today the conclusion may be only that the Sections of Part II of the Motor-Vehicle Act are good and effective legislation. They are, however, based on the use of third party liability coverage and the use of tort law, both of which will be dealt with in greater depth elsewhere in this report, along with suggested alternatives that could result in a re-writing of the part of the B.C. Motor-Vehicle Act entitled 'Safety Responsibility'.

There is little substance to the argument that present Safety Responsibility laws promote traffic safety. It is the penalties and the threat of licence suspension that deters unsafe and illegal driving -- not the possibility of being required to establish financial responsibility.

The framers of this Act no doubt had this in mind, for Section 85 of Part II of the B.C. Motor-Vehicle Act grants power to the Superintendent of Motor Vehicles to suspend the drivers' licences of persons convicted under the following sections of the Criminal Code of Canada:

Sec. 192 - Causing death by criminal negligence.

Sec. 193 - Causing bodily harm through criminal negligence.

Sec. 221 - Failure to stop at the scene of an accident with the intent to escape liability. (This section also includes dangerous driving).

Sec. 222 - Driving while intoxicated from the use of alcohol or drugs.

Sec. 223 - Impaired driving as a result of alcohol or drugs.

Sec. 225 - Driving while disqualified or prohibited from driving a motor vehicle, or when licence is suspended.

Sec. 226 - Driving a motor vehicle equipped with a smoke screen.

The Motor-Vehicle Act provides that, in order for the Superintendent to carry out suspensions under these sections of the Criminal Code, Magistrates, Justices of the Peace, Registrars, or Clerks of Court shall immediately after conviction forward to the Superintendent, a transcript, certificate, or certified copy of such conviction.

In addition to the above causes for licence suspension, Section 86 of the Motor-Vehicle Act permits the Superintendent of Motor Vehicles to refuse issuance, or to suspend licences, for failure to comply with any requirement of the Motor-Vehicle Act, or for any other cause which in his discretion he deems reasonable, based on inspection of the person's driving record and on any other information he has respecting the person's ability to drive. All of this he may do without obligation to hold any formal, public or other hearing.

The power of the Superintendent in this respect applies not only to suspension under the 'Financial Responsibility Regulations' of the Act, but also to violations under Part II of the Act, headed 'Traffic Regulations'. The sections most commonly referred to are:-

Sec. 128 - Driving without due care and attention.

Sec. 140 - 142: Contravening speed regulations.

At the present time both the Courts directly, and the Superintendent of Motor Vehicles, use these powers extensively as a means of deterring unsafe and illegal driving. In 1966, a total of 19,240 B.C. drivers' licences were suspended for varying periods. Out of this total, Court Orders suspended 5,069, and under Financial Responsibility requirements the Superintendent of Motor Vehicles suspended 14,171. In the same year a total of 19,073 drivers' licences were reinstated.²⁰ The Commissioners are concerned as to whether some of these drivers should have been issued with licences in the first place, and whether a number of these suspensions were of sufficient duration.

With the intention of encouraging more adequate suspension periods and the attainment of greater uniformity of penalty the Superintendent has supplied the Courts with a table of criminal offences and the period of suspension that should apply to each or to a combination of such offences.

This suspension guide does not take into consideration other types of infractions. The current practice when a conviction other than those in the suspension guide is received, is that a review is made in the Motor Vehicle Branch of the driver's previous record. Warning letters are customarily sent to the driver after a single Motor-Vehicle Act conviction under Sec. 138, or two other M.V.A. convictions spaced a year apart. In some cases the driver is interviewed by the Driver's Improvement Section to determine the circumstances surrounding the conviction. This may result in his being placed on probation for a period of one year.

20. Motor Vehicles Branch, Annual Report, op. cit., pp. J32, J33.

As an administrative aid in the practice of warning, probation, and suspension, the B.C. Motor Vehicle Branch has developed a point system. Similar point systems are widely used throughout North America; in fact, variants of the point system used in British Columbia have been implemented in six Canadian provinces and in thirty-two states in the United States. Point systems should perform two main functions. The first is mainly an administrative one, in that it provides established criteria by which the potentially dangerous driver may be identified and encouraged to improve his driving, or alternatively, have his driving privileges suspended. On this function the administrator of the points system in Manitoba has this to say:-

The point system is no better or worse than any other system of reviewing driver records. We have merely found it to be more effective in doing this job. This is particularly true when driver records are stored on tapes

It has a further advantage in that there is a great uniformity of action taken because the system has sufficient flexibility to adjust the number of points upwards or downwards It is also sensitive to the involvement rate of all drivers, in that if experience shows that a certain number of accidents or convictions within a prescribed period of time exceed the norm then the system can be quickly adjusted to reflect those changes.²¹

The second and equally important function of the point system is to deter repeated violations and careless driving. While there are no data available on this psychological effect, the general experience is that a point system can act as a strong deterrent. There is good reason to believe that most drivers are more concerned that they may have a certain number of demerits recorded against them, which could result in the suspension of their licences, than they are in the outlay of fines for traffic violations.

21. P. Dygala, Deputy Registrar, Manitoba Safety Division and Driver Improvement Clinic, in a letter dated May 19, 1967, p. 3.

The Superintendent of Motor Vehicles in British Columbia has stated that people who continuously commit traffic violations are those who generally have repetitive accident experience. He based this opinion on surveys of current drivers' files, because, unfortunately, there have been no past continuous and supporting data maintained.

The point system currently in use by the B.C. Motor Vehicle Branch results in a warning being given to a driver if he attains six demerit points, and an adjudication as to his licence being suspended when his traffic violations result in nine or more points. The motorist with demerits, by improving his driving record may also earn credits so that his record is expunged if in one year he has three or less demerit points. If he had four or more demerit points, these will be deleted from his record after three years of driving without a further traffic offence.

The Commissioners find no reason to criticize either the 'suspension guide' to the Courts or the basis established for the 'point system' used by the British Columbia Motor Vehicle Branch insofar as it goes; but, as was pointed out previously, a prime purpose of these systems is to deter drivers from employing careless and bad driving habits. This cannot be achieved unless B.C. motorists are made fully aware of the fact that their traffic violations may lead to the suspension of their drivers' licences.

There may be some advantage to maintaining a confidential aspect to the 'Suspension Guide', for it is only a recommendation between the Superintendent of Motor Vehicles and the Magistrate. But it fails to attain its potential value if the main purpose is to prevent accidents and traffic violations, rather than only to

attain uniformity of penalty after these have happened.

The Commissioners see no justification for drivers not being made acquainted fully with the Demerit Point System as is the current policy in British Columbia. This is especially true as the threat of driver's licence suspension is more meaningful to most than the payment of fines. The need for open publication in detail of the existing point system would appear to be all the more necessary in view of the new practice adopted in this province of no longer noting traffic violations on the motorist's licence.

Two reasons have been given for this last action. The official one given is that it is an embarrassment to a citizen when he produces his driver's licence as a means of identification, if it lists clearly the frequency with which he has violated traffic safety laws. The second, and unofficial reason that has come to the Commissioners' attention is that shortly after receiving the current issue of their drivers' licences some motorists have wrongfully made representations to the Motor Vehicle Branch that they have lost their original licence and were applying for a replacement. Their practice then was to have any violations listed on the original licence, and to keep the replacement on which there were no entries both for purposes of identification and to produce when stopped by the police for a minor traffic law infringement. In the latter case their hope is that they may "get off" with a warning because it was supposedly a first offence.

It is the opinion of the Commissioners that one of the most effective means of assuring that people will obey traffic laws, will drive defensively and avoid accidents, and thus will benefit from lower automobile insurance cost, is through

first, the threat of resulting embarrassment, and secondly, the possibility of suspension of their driving privilege. With this in mind, the Commissioners believe that consideration should be given to reverting to the issuance of yearly licence cards, allotment of demerit points, and the use of three or four differently coloured driver's licence cards to reflect the status of the driver insofar as accidents and traffic violations are concerned. Without enlarging on this in detail at this point, the thinking is that those with the highest permissible amount of demerit points would have a red licence card, and that any accumulation of demerit points in excess of the maximum for a red card should result automatically in licence suspension.

The extent to which the problems of traffic safety pervade much of the field of automobile insurance has caused the Commissioners to consider carefully two particular aspects of this subject:

1. Whether, in future, traffic violations should be a basis for 'rating up' insurance premiums instead of the present practice of 'rating up' by reason of automobile accidents already experienced, or whether the two factors should be used in conjunction; and,
2. Whether insurance should be on the driver, rather than on the motor vehicle as at present.

In both questions, the use of a demerit point system, and of colour-graded drivers' licences, is taken into consideration.

The results of the Commissioners' studies, their conclusion and recommendations, will be dealt with in detail later in this Report.



CHAPTER 14

THE OPERATION OF ARRANGEMENTS WITH THE TRAFFIC VICTIMS INDEMNITY FUND



CHAPTER 14

Term of Reference (d):

THE OPERATION OF ARRANGEMENTS WITH THE TRAFFIC VICTIMS INDEMNITY FUND

The Traffic Victims Indemnity Fund, as utilized in British Columbia in 1967, is operated by the insurance underwriters of this province. Its purpose is to provide compensation to the automobile accident victims of uninsured, financially irresponsible drivers, hit-and-run drivers and drivers of stolen vehicles.

Plans providing similar compensation are in effect in all provinces of Canada and in some of the states in the United States of America. In five provinces the plan generally known as the Unsatisfied Judgment Fund is operated by the provincial governments of Alberta, Saskatchewan, Manitoba, Ontario and New Brunswick.

The initial action in Canada for a program of restitution to these victims ensued from a report filed in 1944 by a committee appointed by the Honourable James O. McLenaghan, K. C., Attorney-General of the Province of Manitoba. It was followed by embodying legislation enacted in Manitoba in 1945, and later in Ontario in 1947.

In 1947, by Section 105-108 of the Motor-Vehicle Act Amendment Act, the basic framework of the Unsatisfied Judgment Fund was established in British Columbia.

It was intended, through Sec. 105 (1) (now Sec. 107 (1)¹) that the fund would be financed by the imposition of a fee not to exceed \$1.00. This was to be

1. When the section number 105 was changed to 107 (1) the fee was increased to \$5.00.

collected by the government in excess of the annual motor vehicle licence fee. However, Sections 105 to 108 of the B. C. Motor-Vehicle Act Amendment Act, 1947, were not proclaimed and the Unsatisfied Judgment Fund in B. C., as a government operated scheme, did not come into existence. In its place the licensed automobile insurance writers in B. C. obtained the government's agreement for the Unsatisfied Judgment Fund to be operated and financed by the industry. On this basis the fund, modelled on the unproclaimed legislation, came into effect on February 1st, 1948.

The Commissioners have been unable to determine to their satisfaction why the decision was made to change from a government operated plan to one financed and administered by the insurance companies licensed in this Province. The industry argued that there was an advantage to be gained through industry operation because of the ability of its members to draw on their adjustment and settlement experience which would tend towards increased efficiency. There is, however, every reason to believe that implicit in the industry's desire to relieve the government of the operation of this fund was a fear that government operation might create the first step toward entry of the state into the insurance market.

Under cross-examination by Commission Counsel, Mr. K. F. V. Malthouse, Director of T. V. I. F. said:

RAE: . . . Now can you be specific and say why the Insurance Industry did not wish to have that proclaimed?

MALTHOUSE: I don't believe the Insurance Industry would want to see a gathering of funds in Government hands. The Insurance Industry in offering to operate a fund feels that it is pretty close to insurance business and the funds are matters of settling claims, for instance.²

2. 44/5191.

Again, in speaking of insurance coverage, members of the panel of witnesses for All Canada Insurance Federation replied to questioning by Commission Counsel as follows:

RAE: Maybe you will agree with this, "If all provinces in Canada make this coverage mandatory, all Canadians will be covered for these scheduled benefits by either the insurance industry or provincial unsatisfied judgment funds. Certainly there is apprehension as to the dangers created for the industry by this blanket coverage of the public."

I suppose that the danger that the industry apprehended there is the government in the business?

MAKIN: Yes.

PARKIN: Yes.³

The Commissioners have drawn their own conclusions from the foregoing, as indicated above.

Irrespective of what may have been the reason, the Commissioners find little cause to question or criticise the actual "administration" of the current Traffic Victims Indemnity Fund and they have taken note of the improvements and added protection given over the years to automobile drivers and pedestrians who have been the faultless victims of accidents caused by uninsured or unknown drivers.

The following are the more important improvements embodied since the inception of the Fund:

- 1948 Inception of the Unsatisfied Judgment Fund, with the maximum payment in one accident of \$5,000 to one person or \$10,000 to two or more persons.
- 1955 The incorporation of the "Intervention Section" which by proclamation of Section 116 A (now Sec. 106 G) of the B. C. Motor-Vehicle Act permitted the Attorney-General to intervene and to defend actions for damages caused by motor vehicle accident under the terms of the Unsatisfied Judgment Fund.

3. 53/6246-7.

Hitherto the Fund had been faced with numerous claims which had proceeded to judgment in default of appearance or defence, the only hearings being an uncontested trial by way of assessment of damages. Yet in a number of cases it was found, after investigation, there was a defence on the merits of the case, while in others the quantum of damages was questionable.

- 1956 The fund was relieved from liability to pay claims where an insurance company was either liable or subrogated (Sec. 106 A, Motor-Vehicle Act).
- 1958 The limits were increased to \$10,000 for one person, or \$20,000 for two or more persons.
- 1960 The protection under the Fund was extended to cover the victim of hit-and-run drivers and the unknown drivers of stolen vehicles, (or those without financial responsibility), by Secs. 108 A - 108 D and 108 F of the Motor-Vehicle Act (now all of Sec. 108).

Section 108 (2) requires the victim or his beneficiary to satisfy a Judge that the facts were such as would have given rise to a good cause of action against a responsible owner or driver, and that all reasonable efforts have been made to identify the driver without success.

Because of the very nature of these accidents there is a possible danger of fraudulent claims. Therefore, hit-and-run cases are carefully scrutinized in line with the requirement of the Act and the regulations under the Act. Presumably it is because of this danger that property claims are not payable in hit-and-run accidents.

- 1961 The protection under the Unsatisfied Judgment Fund was extended to include property damage (except that caused by hit-and-run drivers) but subject to a deductible sum of \$200.00.

The same year also saw the replacement of the Unsatisfied Judgment Fund by an Act of the Legislature entitled the Traffic Victims Indemnity Fund Act, C. 63, 1961.

- 1962 An all-inclusive limit for one or more persons of \$25,000 was established, with the provision that claims arising out of bodily injury or death would have priority to a maximum of \$20,000 with a property damage maximum of \$5,000.
- 1963 The limits were increased to an inclusive amount of \$35,000 with the maximum for bodily injury or death \$30,000, and property damage \$5,000.
- 1965 The Fund became liable for bodily injury claims amounting to less than \$100, for which it had not been in the past.
- 1966 Limits were increased to \$50,000 with claims arising out of bodily injury for one or more persons having priority up to \$45,000 and a property damage maximum of \$5,000.

The Traffic Victims Indemnity Fund, as it has been named since 1961, permits all innocent victims of uninsured drivers, hit-and-run drivers, and drivers of stolen vehicles to seek compensation; but the claimant must furnish reasonable proof that the negligent party is without assets.

T. V. I. F. provides maximum benefits in line with the statutory minimum coverage for insurance contracts as they apply to third party liability and property damage, namely \$50,000 in respect of a single accident. Bodily injury claims have a priority up to \$45,000 and property damage claims to \$5,000. The only deviation between these statutory minimums for insurance and T. V. I. F. limits is that the Traffic Victims Indemnity Fund has a \$200.00 deductible on property damage.

Because of the danger of fraud or collusion the Fund is not available for compensation for loss through property damage on reported "hit-and-run" or "stolen vehicle" cases. In such circumstances the claimant, provided he carried collision insurance, would claim against his own insurer. Under present practice, in most cases, this would result in his file showing an accident-record, and his future premiums being rated up for a limited number of years.

Section 106 A of the Motor-Vehicle Act of B. C., 1965, Chapter 27, also exempts the Traffic Victims Indemnity Fund from liability to an insurer by reason of the existence of an insurance policy covering the victim. The Fund excludes any claims made on behalf of Federal, Provincial and Municipal Governments; or by Crown Agencies, or by employers in respect of the loss of services of an employee. The Commissioners have been informed that the reason for these exemptions in Sec. 106 A of the Act is that in none of the foregoing circumstances could a

real element of hardship be said to exist.

The Motor-Vehicle Act provides for two basic forms of T.V.I.F. settlement;

(a) by court judgment, and (b) by negotiation.

Court settlements are classified as: contested cases, judgment by default, and hit-and-run claims. In a contested action the claimant files his claim before the court, with evidence of the lack of assets on the part of the driver who is claimed to be responsible for the accident. If after investigation the claim is found valid, payment is made to the victim. The T.V.I.F. then attempts to arrange terms of recovery from the judgment debtor.

In a case where the party alleged to have been negligent chooses to enter no defence, the plaintiff must file an intention to claim with T.V.I.F. The Traffic Victims Indemnity Fund may enter an appearance on behalf of, and in the name of, the defendant and take such steps as a defendant would normally have taken in a court action. Similar procedure applies to court action in which the identity of the defendant is unknown or the vehicle was stolen.

The plaintiff must notify the Attorney-General of his intent to initiate an action within ten months from the date the damages were sustained. The case then proceeds before the Courts with the Attorney-General as nominal defendant. If the identity of the negligent party is determined later, he is deemed to be the judgment debtor.

Section 106 F of the Motor-Vehicle Act also provides for negotiated settlements, as in many circumstances it is possible to establish both liability and quantum

for damages without resorting to the Courts. In such cases, and if the defendant participates in the negotiations, not only must T.V.I.F. consent to the terms of settlement, but must receive also the approval of an appointee of the Attorney-General.

In accidents involving a hit-and-run driver, or the driver of a stolen vehicle, where there is no doubt as to the liability of the third party, and in cases where a known defendant refuses to co-operate, the Fund may negotiate on behalf of the Attorney-General. These settlements are binding and in those cases where there is a known defendant or where the identity of the unknown third party is later discovered, the settlement debtor is deemed to be the judgment debtor.

Payment of the compensation to the victim, as agreed upon by negotiation, or as decided upon by the Courts, under any one of the above procedures, is made from the Traffic Victims Indemnity Fund. An attempt is then made by the T.V.I.F. to establish a basis for collecting from the negligent driver reimbursement to the Fund of the amount paid out on his behalf. The methods used in the establishment of compensation for the victim, and those used in the negotiation of repayment by the responsible party, have both come under a certain amount of critical comment.

In the first instance the criticism is not levied against the Fund but rather against Section 106 B (5) of the Motor-Vehicle Act which states:

The amount included in a payment for costs of an action that have been allowed by an order of the court shall not exceed the amount of the actual disbursements and one half of the fees as taxed on a party-and-party basis.

Party and party costs are included in the portion of a judgment allowed for legal fees. It is well to recognize that the amounts of costs which may be awarded are detailed in tariffs of costs specified in rules of court. Regardless of the amount the judgment creditor actually pays his solicitor, the court awards for legal fees must be based on these tariffs.

The point under criticism is that, in normal court actions, party and party costs are awarded in full to the plaintiff should he succeed in his action, whereas by authority of the above section of the Motor-Vehicle Act the Traffic Victims Indemnity Fund pays only half of the party and party costs leaving the victim to pay the balance out of his compensation.

The reason given for this provision is that it should safeguard T.V.I.F. from unnecessary litigation. It should deter a potential claimant from bringing to the courts a spurious action involving the Fund.

However, it appears to the Commissioners that this is an unrealistic argument. A potential litigant in normal court action knows that if his claim is rejected he must bear all legal costs.

Particularly in instances involving small claims, there is the further concern that, because by regulation he must pay half the party and party costs, the victim is discouraged from utilizing the benefits of the Fund. As a result he remains uncompensated, even though the claim he should have made is valid. Rightly or wrongly he fears the legal costs involved in pressing the claim.

As one legal witness before the Commission stated:

... This Provision does not safeguard the Fund from unnecessary Litigation, but merely involves it in acrimonious disputes of calculation and adjustment.⁴

If the current system of the Traffic Victims Indemnity Fund is to be continued the Commissioners recommend that Section B (5) of the Motor-Vehicle Act be amended so as to provide that the Traffic Victims Indemnity Fund pay legal fees on a full party and party basis.

The procedure used by the Traffic Victims Indemnity Fund when negotiating with the known negligent driver for repayment of the compensation paid out on his behalf has come under some criticism insofar as small claims are concerned.

First of all, it is well we recognize that based on the initial 5 years experience of T.V.I.F. up to March 1966 only \$241,512 had been recovered from the parties responsible for the accidents as against a total of \$3,607,605 paid in claims by the Fund. This does not give the complete picture, however, for at present there is a total of 176 judgment or settlement debtors paying T.V.I.F. monthly repayments ranging from \$5.00 to \$75.00.

While much of the discrepancy between claims and recoveries is caused by drivers who are unknown, part of the balance is attributable to the system of "write off" practised on small claims.

"Write off", or the relieving of the negligent driver from refunding to T.V.I.F., applies principally to small collision or property damage claims and such action

4. Ex. 227, p. 8.

is justified by the Fund on the basis that it is less costly and time consuming than to take the necessary procedure against the negligent party.

An uninsured motorist in present circumstances may continue to drive and thereby possibly involve the T.V.I.F. in further loss, if the "write-off" procedure is used. The reasoning regarding the practicality of "write-off", as suggested in the preceding paragraph, has overlooked this possibility. Care should be taken to see that the uninsured motorist does not gain such an advantage over those who prudently and properly carry insurance. Both the uninsured and the insured should be subject to the suspension of licence until any judgment has been satisfied, and clearance has been obtained from the Superintendent of Motor Vehicles that proof of future financial responsibility has been given.

In all other T.V.I.F. cases vehicle licences are suspended until the negligent driver has filed proof of his future financial responsibility for accidents. Upon notification of an unsatisfied judgment or settlement from T.V.I.F. the Safety Responsibility Division of the Motor Vehicle Branch notifies the driver involved of intent to suspend or of intent to continue suspension unless proof of financial responsibility is filed. Such proof may be in the form of either an automobile insurance policy, a bond, or cash and securities. The Commissioners understand that a considerable percentage of the necessary proof of financial responsibility has heretofore been provided by the wrongdoer obtaining insurance through the Assigned Risk Plan.

The Commissioners have noted the procedure being carried out in following up these cases in order to maintain a continuing check that insurance is kept in force following a release from suspension. If an insured cancels or fails to

renew, the insurance company notifies the Motor Vehicle Branch, and the Safety Responsibility Division then contacts the driver for immediate proof of alternative financial responsibility. If this is not produced, both the driver's licence and the registration of any vehicle he owns is suspended.

There are no accurate records of the number of uninsured vehicles currently being driven in British Columbia. The insurance industry gave an estimate that 3.88% of B. C. motor vehicles were uninsured. This was based on their totalling within a given period the number of vehicles involved in accidents of which, at time of accident, the drivers were reported as unable to show insurability. From this they deducted those who later were able to prove that they had indeed been covered by insurance; they then compared this total with that of the total registered vehicles and derived the figure of 3.88%. This, however, is only the percentage of uninsured vehicles discovered as a result of being involved in an accident. It is no criterion as to the number of uninsured who were not involved in any accidents. It is apparent that 3.88% total uninsured is a low estimate.

On the other hand, the spokesman for a Vancouver taxi insurance pool stated that every fifth or sixth accident in which its cabs were involved was with an uninsured vehicle.⁵ This estimate was substantiated to a considerable extent by the insurer of this taxi pool who stated that out of 252 recoverable claim files 35 involved uninsured motorists. This would indicate an uninsured percentage of 13.88%. Again, this represented only those discovered as the result of being involved in accidents. It might be assumed, as above, that this per-

5. 8/898.

centage is also an underestimate, except for the fact that taxis, because of their continual use on the road, are more subject to accident involvement than other vehicles and their heavy driving use at night may bring them into greater contact with uninsured vehicles. The Commissioners are of the opinion that, as an estimate of total uninsured vehicles, the 13.88% is too high.

Research by the Commission indicates that a figure of 10% of the total vehicles in British Columbia being uninsured is a more realistic figure.⁶ This estimate is derived from comparing the average total number of vehicles in operation at the beginning and at the end of 1965 with the weighted average of vehicles insured under third party liability in the same year.

There can be little doubt that some form of rigidly enforced compulsory insurance would reduce considerably the number of uninsured vehicles on B. C. roads and would remove a large percentage of the claims that today are paid by the Traffic Victims Indemnity Fund.

In the years 1951-1961 the previous Unsatisfied Judgment Fund paid out in claims a total of \$717,469. As a result of increased benefits and an increase in the type of accidents covered, the Traffic Victims Indemnity Fund has since then increased greatly the amount paid in compensation to victims of negligent uninsured drivers, hit-and-run drivers, and drivers of stolen vehicles as demonstrated in the following table.

6. Chapter 11 covering Term of Reference (c).

TABLE 14:1

Payments in Compensation, by Year, From Traffic Victims Indemnity Fund

<u>Year</u>	<u>No. of Claims Paid</u>	<u>Amount Paid</u>
1 June 61 - 31 May 62	147	\$ 482,597.41
1 June 62 - 31 May 63	222	491,400.28
1 June 63 - 31 May 64	243	510,300.99
1 June 64 - 31 May 65	220	614,538.43
1 June 65 - 31 Dec.65*	111	371,365.24
1 Jan. 66 - 31 Dec.66	---	<u>1,018,548.00</u>
		\$3,488,750.35

* Changed to conform with fiscal year of insurers.

The method currently used in financing the T.V.I.F. is that the Fund, in consultation with Mr. C. L. Wilcken, Actuary of Canadian Underwriters' Association, estimates for the coming year the amount that will be required to pay all claims, plus the cost of administration, less the amount of restitution expected to be collected during the year from known drivers on whose behalf past claims have been paid. This total expected cost for the year for T.V.I.F. is expressed as a percentage of all companies' expected sales during the coming year of third party liability insurance. This percentage is added to the indicated Canadian Underwriters' Association premiums, and then adjusted by other companies which deviate from C. U. A. rates.

For example, the percentage being added currently is 2%. If the premium that normally would be charged by a company for third party liability on a specified risk is \$100, the premium actually charged would be \$100 plus 2% or \$102.

It would seem reasonable that these funds collected from insureds for T.V.I.F. operations should be passed on to the T.V.I.F. as collected. Available evidence suggests that there is little correlation between assessments made on insureds

and assessments made on insurers. Although there appears no reason to doubt that the net assessments on insureds will in the long run be equalled by assessments on insurers, the timing of payments to the T.V.I.F. is questionable.

The insurers hold moneys collected from insureds for T.V.I.F. operations for a period of several months, often more than a year, before turning them over to the T.V.I.F. to meet past or expected expenses. In the interim these funds are available to the insurance companies for investment. This provides an additional source of revenue to the insurers.

In April 1964, for example, the insurers were assessed 2.8% of 1963 premiums (\$700,000) which provided sufficient moneys to carry the Fund until May 31, 1965. They were not assessed again until February 1966 when they were assessed 1.4% of 1964 premiums (\$385,297), to cover expenditures made by the fund up to December 31, 1965.⁷ In the interim the insurers had collected net assessments from insureds, on 1964 and 1965 premiums, of approximately \$1,451,000.⁸

The Traffic Victims Indemnity Fund has relied on bank overdrafts to cover its day-by-day financing.⁹ In order to repay the bank it has collected periodically the necessary amount pro rata from each insurance company in the ratio of the company's third party liability sales to the industry's total B. C. sales.

It appears that to a considerable extent this practice continues. This is

7. Ex. 163 and Ex. 141.

8. In a letter from C. L. Wilcken dated June 8, 1968.

9. 42/5115-6.

evidenced by the expenditure in 1966 of \$40,878 for interest and bank charges. As of December 31, 1966 the Fund had Bank Loans outstanding and Notes Payable in the amount of \$782,500.¹⁰

As stated earlier, the Commissioners find no serious cause for criticism of the current administration of the Traffic Victims Indemnity Fund. Criticism has been voiced of the fact that there has been insufficient publicity given to the availability of this Fund as the means of compensation for loss to innocent drivers and pedestrians from accidents caused through the negligence of uninsured drivers, hit-and-run drivers, and drivers of stolen vehicles.

It must be recognized that if existing plans of automobile insurance were made effective in the future on a compulsory basis in B. C. there would yet be a need for such a Fund. Compulsory insurance in British Columbia would not prevent the driver of an uninsured vehicle licensed in an outside province or state, injuring through his negligence a B. C. resident while driving within this Province. The increasing tourist attraction of the scenic beauty of this Province can only tend to an increase in exposure to accidents of such circumstance. Nor will compulsory insurance assure compensation to innocent victims of hit-and-run drivers. The institution of compulsory insurance does not in itself prevent all people from breaking the law. However, at least a smaller percentage of accidents being caused by uninsured drivers might be expected.

The Commissioners are of the opinion that the current method of financing this Fund is inequitable. The responsible drivers who insure their own vehicles

10. Ex. 322.

against third party liability should not be expected to pay for the losses caused by irresponsible, uninsured drivers.

A further inequity is created by the addition to premiums each year of a fixed percentage of the premium to cover the cost of T.V.I.F. The inequity results from the fact that the higher the premium an insured pays, whether this be because he is rated in a higher classification or because he desires to insure to higher limits, the greater is the amount he must contribute to the Fund. There is some justification, perhaps, in the first instance; but in the second the significance lies in the point that the more a citizen feels a responsibility to his fellow-man and therefore increases the amount by which he may indemnify any victim of an accident he causes, the more he pays toward the T.V.I.F. In this he is paying for accidents caused by those drivers who, being uninsured, show no modicum of such responsibility.

Several alternative methods of financing a Traffic Victims Indemnity Fund have been presented to this Commission. One suggested alternative to the present method of financing T.V.I.F. is the Unsatisfied Judgment Fund operated by the Government of Ontario. This is financed by an annual contribution of \$1 paid on the registration of each motor vehicle, with an additional levy of \$20 on drivers who, at the time of registration, are unable to show proof of insurance.

The advantages of this type of financing are fourfold:

- (1) By the \$1 fee payable by all registrants it assures the insured motorist that he is contributing only approximately 50% of the cost of the Fund in its initial stages.
- (2) It places the burden of the Fund (again in its initial stages) on those who should properly bear it -- the uninsured drivers.
- (3) In Ontario it is claimed that the proportion of insured vehicles since

the inception of the plan in 1962 has risen from approximately 91% to a level of about 98% at time of registration, but further studies indicate it drops to approximately 94% later in the year.¹¹

- (4) It places the Ontario Department of Transport, which administers the Unsatisfied Judgment Fund, in a position where it must check on the existence of insurance against every motor vehicle licence issued. This in effect, moves Ontario closer to compulsory automobile insurance.

It will be noted that in sub-paragraphs (1) and (2) above, the words "in the initial stage" have been used. The reason for their use is contained in sub-paragraph (3) which states that now 98% of Ontario motor vehicles is insured. Thus an increasingly smaller portion of the Fund is being paid for by uninsured drivers and almost the total reliance for its future financing must be on the annual charge to the insured driver.

The second recommended alternative to the present B. C. Traffic Victims Indemnity Fund is a strictly enforced plan of compulsory third party liability insurance.

As this is dealt with elsewhere in this Report in more detail, and on a wider scope than merely its effect on T. V. I. F., it is mentioned at this stage only to point out that compulsory insurance does not eliminate completely the problem of the uninsured motorist.

Uninsured drivers from outside the province, a lesser number who wilfully disobey the compulsion law, and hit-and-run drivers, will continue to be responsible for accidents and losses to innocent victims. Thus, there will continue to be a need for a Traffic Victims Indemnity Fund. However, it is estimated that claims against the Fund would be reduced by three-quarters to four-fifths by a rigidly enforced compulsory third party insurance program. In fact, based on a

11. Ex. 135, p. 4.

sampling carried out by the Saskatchewan Government Insurance Office in 1966, out of 90,000 claim files tested in Saskatchewan, only 46 were found to be affected by unregistered (and therefore uninsured) vehicles.¹² This would indicate a very small percentage of uninsured vehicles under Saskatchewan's compulsory system. A similarly reduced amount in B. C. could be attained by any one of the financing recommendations contained in this chapter.

Two briefs presented to this Commission introduced the mechanics for a third method of financing the Traffic Victims Indemnity Fund; a "pay as you drive" plan. Under this scheme the government would collect through a tax on motor fuels amounting to a fraction of a cent per gallon.

If the present Traffic Victims Indemnity Fund is continued in its entirety the amount per gallon necessary to cover an estimated current annual cost of the Fund of \$2,000,000¹³ and based on the estimated consumption in 1966 of 462 million gallons of automotive fuels,¹⁴ would amount to slightly under $\frac{1}{2}$ ¢ per gallon. Should a plan of well policed compulsory insurance be adopted the Commissioners estimate that the reduced responsibilities of the T.V.I.F. could be covered by as low a tax as 1/10¢ per gallon.

While there may be an instinctive opposition to increasing the cost of gasoline, it must be recognized that the requirement for the purposes of T.V.I.F. is only the fractional part of a cent per gallon and that, as may be seen from the

12. 79/8780.

13. Based on 1965 Financial Statement of T.V.I.F., with an adjustment for trend.

14. Memo of June 30, 1967 from B. C. Government Bureau of Economics.

following table, the existing gallon tax in British Columbia is considerably lower than that in effect in all other provinces with the exception of Alberta.

TABLE 14:2

Provincial Gasoline and Diesel Fuel Taxes

	<u>Gasoline</u> (cents)		<u>Diesel Fuel</u> (cents)
Newfoundland	19	_____	19
Prince Edward Island	18	_____	18
Nova Scotia	19	_____	27
New Brunswick	18	_____	23
Quebec	16	_____	22
Ontario	15	_____	20.5
Manitoba	17	_____	20
Saskatchewan	14	_____	17
Alberta	12	_____	14
British Columbia	13	_____	15

Source: Canada Year Book 1966, p. 975.

It will be noted that this plan recommends that a fixed rate per gallon be added to the existing tax, rather than use a proportional tax. This is not only to assure easier administration in its collection along with the existing gasoline tax, but also, because of the inequity a proportional tax would create between drivers using the different grades of gasoline and those paying different prices for the same grades of automotive fuel in various parts of the province.

On the other hand, it is appreciated that a fractional cent per gallon tax for T.V.I.F. does create some inequity between owners of vehicles having a high fuel consumption per mile and those driving small cars that have a relatively low fuel consumption. The principal justification for using this system is that it lends itself better to service station metering and is the procedure

already used for the existing Provincial Gasoline and Diesel Fuel Tax.

Over and above the fact that the administration for collecting such a tax is already established, there is the added advantage that, under this plan, part of this cost will be paid by hit-and-run drivers and by drivers of uninsured vehicles from other provinces and states while they are driving in B. C. Both of these will contribute to a larger percentage of the future payout by the Traffic Victims Indemnity Fund.

This plan, as well as some of the alternative methods of financing T.V.I.F., will require the actual collection of the moneys to be made by government rather than by the insurance industry as at present; but it does not mean necessarily that government has to operate the entire administration of the Fund. The present administration of T.V.I.F. could be maintained as it is, with government passing over to the Fund the amount necessary to pay each year's claims, from the amount they have collected either by tax or by collection with licence fees.

A fourth alternative to T.V.I.F. is the purchase by motorists of Uninsured Motorist Protection Insurance. Uninsured motorist coverage is a form of two-party insurance that allows recovery from the insurer for damages caused by an uninsured motorist. Under this type of insurance, the insured is the injured party while the uninsured, negligent driver is the third party. Recovery is conditional on proving fault of the third party and is settled by negotiation between the injured party and his insurer.

The Commissioners have been informed of two automobile insurance companies licensed in British Columbia who issue such a policy. It is sold under auth-

ority of Part V of the British Columbia Insurance Act, Chap. 24, 1965 -- the Part covering Accident and Sickness Insurance. Because only Part VII of the B. C. Insurance Act covers automobile insurance, it is not possible, at the present time, for this type of Uninsured Motorist Coverage to be sold as an additional rider to, or part of, an automobile insurance policy. It must be sold as a separate contract. There would appear to be no justifiable reason why the Insurance Act could not be amended to make available an Uninsured Motorist rider to an automobile policy.

The policy which is currently being sold by these two companies at an annual premium of \$4 is available only to insureds holding automobile insurance contracts with either of the companies concerned.¹⁵ It provides maximum compensation up to the British Columbia statutory limit of \$50,000 against accidents caused by uninsured motorists or hit-and-run drivers anywhere in Canada and in the Continental United States.

Under this contract not only the named insured is covered but also his family and such other guests who may be riding with him in his automobile when it is involved in an accident caused by an uninsured or hit-and-run driver. The policy also provides another very important form of protection in that it covers not only the insured, but also the insured's spouse and family as well as any relative, (provided each of them at the time of accident is resident in the insured's household) when either as pedestrians or riding bicycles they are hit by an uninsured or hit-and-run motorist.

15. In the case of one of the companies concerned this Uninsured Motorist Protection Policy may be purchased also by holders of that company's Homeowner Protection Policy who are not owners of an automobile but wish protection against hit-and-run drivers.

The Uninsured Motorist Protection Policy covers bodily injury or death but it does not provide compensation for collision damage to the insured's car or for any other form of property damage. In this it differs in part from the Traffic Victims Indemnity Fund which compensates for property damage caused by uninsured motorists only (not hit-and-run drivers or drivers of stolen vehicles) and is limited by a \$200 deductible clause.

On the other hand, this policy has two decided advantages over T. V. I. F. Firstly, it extends its protection to cover accidents caused by uninsured or hit-and-run motorists while driving anywhere in North America, whereas T.V.I.F. is effective only in British Columbia and such other areas with which the B. C. Traffic Victims Indemnity Fund has a reciprocal arrangement. At the present time B. C. has such an arrangement with all other provinces in Canada, and with only a limited number of states in the United States.

Secondly, under such reciprocal arrangements with T.V.I.F. the claimant may collect up to only the statutory limits prevailing in the province or state in which he is the victim of an uninsured or hit-and-run driver. The maximum generally is \$35,000. The Uninsured Motorist Protection policy issued in British Columbia insures up to a maximum of \$50,000.

Concerning the lack of property damage protection under the Uninsured Motorist Protection Policy it should be kept in mind that the insured's own policy would cover the cost of repairs to his car although a claim under it may result in a premium increase in his future insurance for a limited period.

The lack of overall pedestrian coverage in the present Uninsured Motorist

Protection Policy as compared with T.V.I.F. is of more serious consequence and deserving of further detailed study. For other than the insured and his immediate family this policy would not cover pedestrians who are victims of accidents caused by negligent uninsured or hit-and-run drivers.

Over the 5 year period from June 1, 1961 to March, 1966 a total of 127 pedestrians (including bicyclists) were paid compensation by the Traffic Victims Indemnity Fund for injuries in such accidents. This represents 13% of all claims paid by the Fund in this period.

It could be stated, however, that this is a hazard of using the highways and therefore there is as much obligation on pedestrians (other than those currently covered under the Uninsured Motorist Protection plans sold by only two companies) to buy accident insurance to protect themselves against being injured by negligent uninsured or hit-and-run drivers, as there is for the insured motorist to pay for similar protection either through T.V.I.F. or by the purchase of an Uninsured Motorist Protection Policy.

In the opinion of the Commissioners, to replace T.V.I.F. with Uninsured Motorist Protection Policies to be purchased voluntarily by insured drivers, and leaving it up to pedestrians voluntarily to purchase accident insurance for the same purpose, would result in a very considerable number of victims of uninsured and hit-and-run drivers being left without compensation. Under the present system they are protected.

It remains, therefore, to consider what condition would prevail if a policy similar to the present Uninsured Motorist Protection Policy was by statute made

compulsory coverage for all motorists. In these circumstances, and based on 1966 data, not only would all insured motorists be protected against injury caused by the uninsured or hit-and-run drivers but also, as illustrated in the following table, 79% of the pedestrians and cyclists would be protected similarly.

TABLE 14:3

B. C. Residents who would be covered as pedestrians through
Compulsory Uninsured Motorist Protection Insurance

Estimated population of B. C. (June 1, 1965) ¹⁶	_____	1,789,000
B. C. households in 1965 with at least one auto ¹⁷	_____	417,000
Average persons per B. C. household in 1965 ¹⁸	_____	3.4
Number covered by Compulsory Uninsured Motorist Protection Insurance (417,000 x 3.4)	_____	1,417,000
Approximate percentage of pedestrians covered by U. M. P. I.	_____	79%

A compulsory form of Uninsured Motorist Protection Insurance would then result in only 21% of pedestrians not having available to them the compensation they may receive today from the Traffic Victims Indemnity Fund if they should be injured by a negligent uninsured or hit-and-run driver. As may be seen from the following table this, based on current experience, would be a total annual sum so small that it well could be paid for specifically out of licence fees, or Provincial Gasoline Tax, or indirectly out of British Columbia Consolidated Revenue.

16. Canada Almanac and Directory 1966, p. 299.

17. D. B. S. Household Facilities and Equipment, May 1966.

18. Canada Year Book 1966, p. 204.

TABLE 14:4

Annual Cost of Pedestrian Compensation

Through Injury Caused by Uninsured and Hit-and-Run Drivers
(Including Drivers of Stolen Vehicles)

Total Bodily Injury Claims paid by T.V.I.F. in 1966 _____	\$953,052
Based on 5 year 1961-65 average-% of T.V.I.F. claims involving pedestrians _____	13%
Dollar Value of average annual pedestrian claims _____	\$124,000
Therefore, average annual value to 21% of total pedestrian claims as paid by T.V.I.F. who would not be covered by U.M.P.I. \$ _____	<u>\$ 26,000</u>

T. V. I. F. operates on a charge against all third party liability policies of 2% which (based on an average third party liability premium of \$75) means a current annual average cost to each insured motorist of \$1.50.¹⁹ There is every reason to believe that in spite of the increased coverage Uninsured Motorist Protection Policies sold on a compulsory basis should enjoy a considerable reduction in premium from the current amount of \$4 charged by the two companies selling this contract at the present time. Over and above any such reduction there would be the saving to the insureds of an average of \$1.50 per contract which would then not have to be collected in order to maintain a Traffic Victims Indemnity Fund.

Conclusion

Taking into consideration the various alternatives to the existing T. V. I. F., outlined in this chapter, of providing compensation to automobile accident

19. The average premium at board rate levels for third party liability insurance (calculated from the Green Book by dividing premiums earned by cars insured) in 1966 worked out at \$74.75. With a 2% assessment this then provides a cost per policy of approximately \$1.50.

victims of uninsured drivers, hit-and-run drivers, or drivers of stolen vehicles, the Commissioners are of the opinion that the best method would depend upon the institution of a plan of compulsory insurance on drivers. This insurance should then be of the type employed in the previously mentioned Uninsured Motorist Protection Policy whereby all drivers and their passengers would be covered for personal injury as would also the family and relatives resident in each driver's household be covered, when as pedestrians or riding bicycles, they are hit by uninsured or hit-and-run motorists.

The limited number of pedestrians or cyclists who would not be so insured should be recompensed out of the T. V. I. F. provided from the levy upon B. C. gasoline and diesel fuel as suggested above.

Compensation for collision damage should be the responsibility of each owner for his own automobile which should be insured accordingly.

CHAPTER 15

THE CHANGES IN THE NEED FOR INSURANCE RESULTING FROM AVAILABILITY OF
HOSPITAL INSURANCE, PREPAID MEDICAL PLANS, AND COMPENSATION UNDER THE
WORKMEN'S COMPENSATION ACT

CHAPTER 15

Term of Reference (e):

THE CHANGES IN THE NEED FOR INSURANCE RESULTING FROM AVAILABILITY OF HOSPITAL INSURANCE, PREPAID MEDICAL PLANS, AND COMPENSATION UNDER THE WORKMEN'S COMPENSATION ACT

Both the level and the extent of non-tort sources of reparation available to victims of motor vehicle accidents bear on changes required in automobile insurance. It is useful therefore to provide some background detail including a summary of the scope of each of the three administrations mentioned in the term of reference.

I. British Columbia Hospital Insurance Service¹

Generally speaking, in-patient hospital benefits provided to a qualified person in a general hospital include such of the following services as are recommended by the attending physician and are available:

- (a) accommodation and meals at the standard or public ward level, with other than welfare recipients charged \$1 per day,
- (b) nursing services,
- (c) laboratory and X-ray services,
- (d) drugs, biological and related preparations (with few exceptions),
- (e) use of operating, case room and anaesthetic facilities, equipment and supplies, and
- (f) use of radiotherapy and physiotherapy facilities.

Where a qualified person has not been admitted to a general hospital as an in-patient but has received therein emergency treatment within 24 hours of being accidentally injured, there shall be paid to the hospital by such a person the sum of \$2.00. Where the cost of such services exceeds \$2.00, the hospital may, at the discretion of the Deputy Minister, receive payment of the amount in excess thereof from the Hospital Insurance Fund.

1. Much of the detail provided hereunder is taken from the Hospital Insurance Act Regulations (Revised February 21, 1968), the 19th Annual Report of the British Columbia Hospital Insurance Service and the Hospital Insurance Act R. S. B. C. 1960 c. 180.

A person is a beneficiary under the Hospital Insurance Act if hospital care is a medical necessity and if he qualifies under one of the following categories:

- (a) he is the head of a family, or a single person, who has made his home in the Province and has lived continuously therein during the preceding 3 consecutive months; or
- (b) having qualified under (a), he leaves the Province temporarily and returns after an absence of less than 12 months, resuming residence within the Province; or
- (c) he or she is living within the Province and is a dependent of a resident of the Province. (A dependent is either the spouse of the head of a family or a child under 21, mainly supported by the head of a family).

Some of those excluded from benefits, either permanently or temporarily, include the following:

- (a) a person who works in British Columbia but who resides outside the Province; or
- (b) a resident who leaves temporarily and fails to return and re-establish residence within 12 months, or who establishes his home elsewhere; or
- (c) an inmate of a Federal penitentiary; or
- (d) a resident who receives hospital treatment provided under the Workmen's Compensation Act, or a war veteran who receives treatment for a pensionable disability; or
- (e) persons entitled to receive hospital treatment under the Statutes of Canada or those of any other government.

The Federal Government through the Hospital Insurance and Diagnostic Services Act contributes approximately one-half of the annual cost of operations of the B.C.H.I.S.² The total cost of operating the Service for the year ended March 31, 1967, excluding construction grants, was \$91,234,614.³

Under the same Act, the province shall covenant and agree:

to make provision for the recovery of the cost of insured services furnished to a person in respect of an injury or disability where such person is legally entitled to recover the cost of such services

2. R.S.C. 1957, C. 28, s. 4.

3. British Columbia, 19th Annual Report, British Columbia Hospital Insurance Service Victoria: Queen's Printer, 1968, p. 54.

from such other person by way of damages for negligence or other wrongful act, and to make provision for the recovery from such other person by subrogation or otherwise, and to take all proper and reasonable steps to effect such recovery.⁴

For a fuller understanding of this section and similar sections in other statutes, the term "subrogation" must be appreciated. The following definition is particularly appropriate to insurance:

Subrogation as it applies in the field of insurance, is the substituting of the insurer who paid the loss for the claimant so that, if there is any responsibility on the party primarily liable for the loss, the insurer may reimburse itself.⁵ (emphasis supplied)

A bulletin prepared by the research division of the B.C.H.I.S. shows that of the hospitalized accident cases during 1966, 7824 or 17.7% resulted from vehicular accidents.⁶ Such accident victims accounted for 105,000 days of care or 20.7% of the total respecting all types of accidents.⁷ Of the outpatient accident cases, 10.3% were attributed to transportation.⁸ It is fair to suppose that a very considerable number of the victims will have qualified as beneficiaries under the Hospital Insurance Act.

Under Section 29 of the Hospital Insurance Act of British Columbia provision is made to have the Province subrogated to the rights of the beneficiary to

4. s. 5, ss. 2 (d).

5. J. Magee and O. Serbein, Property and Liability Insurance, Homewood: Richard D. Irwin, 1967, p. 91.

6. British Columbia Hospital Insurance Service, Statistics of Hospitalized Accidents, British Columbia, 1966, Victoria: Department of Health Services and Hospital Insurance, 1968, p. 16.

7. Ibid., p. 20.

8. Ibid., p. 11.

recover sums paid for hospital services from the hospital insurance fund.⁹ It is also provided that where a beneficiary under the Act, suffers personal injury through the wrongful act or omission of another and receives hospital services, he has the same right to recover sums paid on his behalf from the negligent party as he would have had, had he himself been required to pay for the services.¹⁰ On recovery of such sums, the beneficiary is expected to reimburse the fund.

To date, Section 29 has not been proclaimed and therefore has not been utilized. To comply with the requirements of the Hospital Insurance and Diagnostic Services Act cited above, an arrangement appears to have been made between the All Canada Insurance Federation and the B.C.H.I.S. Under the agreement, the Federation, acting for all insurers, reimburses the Service for hospital costs for which insured motorists may be held legally liable. According to All Canada:

. . . The result is that where a British Columbian is injured by the negligence of an insured motorist B.C.H.I.S. will pay the hospital bill less \$1.00 for co-insurance and the insurer is obliged to pay B.C.H.I.S. what it has paid and also the insurer must pay the injured person the amount of the co-insurance. Persons who have had their hospital accounts paid in full ultimately by automobile insurers are rarely aware of that fact.¹¹

There is one exception to this practice. Where the Service is satisfied that total policy limits are going to an injured plaintiff all claims are waived.¹²

The Commissioners have been informed by the Service that approximately \$401,000, respecting 2,540 cases, were collected in 1965 and \$479,000, involving 2,848

9. S. 29, ss. 3.

10. S. 29, ss. 1.

11. 48/5638.

12. 60/7088.

cases, during 1966. Although B.C.H.I.S. does not have the figures broken down as between automobile insurance and other accident coverages, it was estimated that 98% of collections are under the former. Contrasted with approximately 7,000 inpatient hospitalization cases attributable to vehicular accidents in 1965 and 8,000 during 1966, it would appear that payments made by All Canada, under the arrangement, relate to about 36% of all such cases. The proportion is considerably below what one would reasonably expect. In this context it should be noted that in cases involving payments under T.V.I.F. the Service does not collect. The basis for such exemption is found in the Motor-Vehicle Act.¹³

II. Prepaid Medical Plans

A very high percentage of British Columbians enjoy the benefits of medical insurance. A survey conducted by the All Canada Insurance Federation, and included in its brief to this Commission, suggested 94.8% coverage as at August 1, 1966.¹⁴ Their findings are summarized in Table 15:1 on the following page.

The survey was conducted under the supervision of Professor Allen Linden. During his direct examination by D. McK. Brown, Q.C., accuracy of the 94.8% was explored:

BROWN: How accurate would you think the figure of 94.8% of coverage of people of this province given at page 9 is?

LINDEN: As Accurate as we can get, but I wouldn't pretend it is perfect. Of course it depends as well on the population estimated ... the population is rising and it may be 1,900,000 now and so 94.8% is just a close estimate but it is by no means perfect. The figure given by the survey of Voluntary Health Insurance is now 89.2% but I think that is a bottom.¹⁵

13. R.S.B.C. 1960, C. 253, s. 106 (a).

14. Ex. 124, Part VIII, p. 9.

15. 40/4678.

TABLE 15:1

APPROXIMATE MEDICAL AND SURGICAL INSURANCE COVERAGE IN
BRITISH COLUMBIA, AUGUST 1, 1966

<u>Insuring Agency</u>	<u>Number of Individuals Covered</u>
British Columbia Medical Plan	293,011
M. S. A.	664,524
Medical Services Inc.	92,589
C. U. and C. Health Services	165,000
Social Assistance Medical Service	77,000
Government Employees Medical Services	58,495
Canadian Pacific Employees	28,360
Woodwards Sick Benefit Society	5,952
Automotive Retailers Association	7,500
Telephone Employees' Medical Services	14,790
Provincial Teachers Medical Services	30,193
Cunningham-Western Drug Sick Benefit Assn.	283
Fraser Valley Medical Services Society	25,000
Private Insurance Plans (Est.)	<u>300,000</u>
<u>Total Individuals Covered</u>	<u>1,762,697</u>
Percentage of population of British Columbia (estimated at 1,858,000 August 1, 1966)	<u>94.8%</u>

The Commissioners' own estimate is 92% and reflects the likelihood that some double counting occurred in the All Canada survey, given some extensive switching to the B. C. Medical Plan during the period under review.

While both the scope and the limits of coverage differ between plans, the British Columbia Medical Plan Contract may be relied on to illustrate the bene-

fits provided. Under that policy, payment shall be made for services rendered by a physician, surgeon, oral surgeon and osteopathic surgeon of the subscriber's choice with but minor exceptions. In addition, where not covered by B. C. H. I. S., payments shall be made for diagnostic and therapeutic X-ray, anaesthetic services, and laboratory services. Limited payments are made for physiotherapy, orthoptic treatments, special nursing and the services of chiropractors, podiatrists and naturopathic physicians.

There is in the B. C. Medical Plan contract a clause dealing with recovery by the Plan, which reads in part as follows:

4. Where payment is made by the Plan for services rendered to a person covered by the Plan who has a right of action against a third person for the amount or any part of the amount so paid, the Plan shall be subrogated to the rights of the person covered by the Plan and of the subscriber under whose contract he is covered, to recover that amount or part thereof. . . .

It is the Commissioners' understanding that there are no statistics available to indicate what amount the above clause has saved the Plan since its inception in 1965.

The Medical Services Association, the largest insurer in the province, does not have subrogation rights. In the M. S. A. contract, however, subsection 4E reads as follows:

M. S. A. shall not be obliged to provide or make payment for medical or surgical care in those cases where and to the extent that the necessary medical and surgical care is provided or paid for by any third party or parties liable at law to make such provision or payment.

The Association has no record of the amount of money saved through this provision. It is obvious, however, that ability to effect savings depends almost entirely on the co-operation of subscribers.

The final major insurer to be commented upon is the C. U. & C. Health Services Society. Under Article X, clause (a)(1), of its By-laws it is provided that:

. . . the Society shall, to the extent of its expenditures and its liability to payment hereunder, be subrogated to the rights of such member and/or his dependents against such third party and shall have a lien upon the amount recoverable or recovered from such third party....

There was evidence at the hearings to indicate that the Society did protect its position.¹⁶

It is quite clear that following the introduction of medical care insurance, there will be universal coverage for all intents and purposes, in British Columbia.¹⁷ Regulation 4.06 of the Medical Services Act provides that the Medical Services Commission shall be subrogated to the rights of insureds to recover.¹⁸

III. Workmen's Compensation

The work of many British Columbians involves the use of automobiles. As a consequence, such individuals are frequently injured in motor vehicle accidents while on the job. With workmen injured in an accident arising out of, and in the course of, employment entitled to compensation under the Workmen's Compensation Act, the benefits provided under the Act are of obvious significance.¹⁹

Financed entirely through employer assessments, and compulsory respecting work-

16. 59/6874 and 60/7087.

17. Medical Care Act, S. C. 1966-7, C. 64, s. 4.

18. Medical Services Act, S. B. C. 1967, C. 24, s. 1.

19. S. B. C. 1968, C. 59.

men in practically all industries and occupations, workmen's compensation provides the following principal benefits:

- (i) The prevention, as far as possible, of accidents and injury.
- (ii) All necessary medical and hospital care and attention in the event of injury in the course and as a result of work.
- (iii) Such treatment as may be required to restore and rehabilitate.
- (iv) Financial compensation by way of 75% of average earnings lost (to a flexible maximum) during the period of temporary disablement.
- (v) Pensions for total or partial permanent disability.
- (vi) Pensions and other payments to dependents in the event of death occurring from injury sustained in the course and as a result of their work.²⁰

Under Section 10 of the Act, the Workmen's Compensation Board, which administers the scheme, is entitled to subrogation rights. Subsection (6) reads as follows:

If any such workman or his dependent makes application to the Board claiming compensation under this Part, neither the making of such application nor the payment of compensation thereunder shall restrict or impair any such right of action against the party or parties liable, but as to every such claim the Board is subrogated to the rights of the workman or his dependent and may maintain an action in his name or in the name of the Board. . . . The Board has exclusive jurisdiction to determine whether it shall maintain an action or compromise the right of action, and the decision of the Board is final and conclusive.

The 50th Annual Report of the B.C. Workmen's Compensation Board indicates that workmen received first payment time-loss compensation for vehicle and transportation injuries in 477 cases during 1966 or 1.7% of all such claims.²¹ Submissions by the All Canada Insurance Federation indicate that a few years earlier the Board recovered \$220,000 by way of subrogation.²²

20. C.W. Tysoe, B.C. Commission of Inquiry, Workmen's Compensation Act, Victoria: Queen's Printer, 1966, p. 19.

21. B.C. Workmen's Compensation Board, 1966 Annual Report, p. 21.

22. 40/4669.

IV. Changes in the Need for Automobile Insurance

It is readily apparent from the above summations that income loss, the major factor in terms of total economic loss in cases of personal injury, is touched upon only in the case of workmen's compensation.²³ Therefore, unlike hospital or medical costs, indemnification depends essentially on an ability to prove another at fault. The extensive deficiencies of this latter approach (as contrasted to two party insurance) are widely recognized, and were analyzed in earlier chapters of this report.²⁴ The need for change stems from such shortcomings, and essentially amounts to the placing of greater emphasis on disability income and death benefits, and providing these on a basis similar to the hospital and medical cover already being provided.

Because of great waste in the present practice of insurers shifting between each other the costs of benefits provided, there is a need to end such practice insofar as automobile insurance is concerned. The expense of such practices, whether through subrogation, or otherwise, stems in most cases from the pyramiding of expense loadings as more than one insurer becomes involved. Thus, if for sake of illustration it is assumed that the hospital service provides one dollar of treatment to a victim and has administrative expenses of 15%,

23. Life insurance purchases by individuals must also be considered where injury is fatal. Statistics published by the Canadian Life Insurance Association in 1967 Canadian Life Insurance Facts show that at the end of 1966, life insurance in force per British Columbia resident totalled \$3,300 or about \$13,550 per household.

24. In the United States, proposals on the Keeton-O'Connell Basic Protection Plan are pending in the legislatures of Massachusetts, Rhode Island, Vermont, New Jersey, New York, Michigan and Illinois. Other accident insurance "plans" vying for attention include one advanced at the May 1967 meeting of the Casualty Actuarial Society by Mr. J.B. Murray, Casualty Superintendent of the Prudential Assurance Co. Ltd., a company which wrote \$760,000 in automobile insurance premiums in B.C. during 1967. Essentials of these and other proposals are found in the Insurance Counsel Journal (April, 1968) pp. 202-205 and 218-224 in particular.

\$1.15 will be claimed from the negligent party's insurer. Under the prevailing 67-33 formula, the insurer will then require gross premiums of about \$1.72.

On strength of all factors discussed, and regardless of the eventual approach to automobile insurance effected in British Columbia, **the Commissioners see no economic justification for a continuation of subrogation or any other like shifting of costs, as between hospital and medical insurance and workmen's compensation on the one hand, and automobile insurance on the other.**

In all plans outlined covering hospital or medical care, subrogation is dependent on the right to claim damages based on third party fault or liability. If a form of automobile insurance is introduced paying compensation regardless of fault, then respecting such insurance, subrogation would no longer be a factor.



CHAPTER 16

THE JUSTIFICATION FOR RECENT VARIATIONS
IN AUTOMOBILE INSURANCE PREMIUM RATES



CHAPTER 16

Term of Reference (f):

THE JUSTIFICATION FOR RECENT VARIATIONS
IN AUTOMOBILE INSURANCE PREMIUM RATES

Recent rate variations are, for purposes of this Report, the changes introduced during the period from January 1, 1964 through January 1, 1967. These quite substantial changes, varying by territory and rating classes, are exemplified in the Vancouver pattern. For the major class of driver (B-3), the Canadian Underwriters' Association private passenger automobile third party liability rate for \$100,000 coverage has undergone frequent alteration. The details are set out in Table 16:1.

TABLE 16:1

Variations in Third Party Liability Rates

\$100,000 coverage, B-3, Territory 1, British Columbia

Date	Percentage Increase	Percentage Decrease	Cumulative
January 1, 1964	6		6.0
January 1, 1965	29		36.7
July 1, 1965	5		43.5
January 1, 1966	11		59.3
January 1, 1967		4	52.9

Source: 25/2908, and 1963, 1964, 1966, 1967 Rate Manuals.

At least five factors, dealt with in earlier sections of this Report, have bearing on the question of whether the rate variations were justified. In order to minimize duplication the factors will be recapitulated only briefly and then deferred in the subsequent analysis.

To be specific, procedures followed in constructing the multiple-step differential complex were outlined and failings noted. In some instances its use

created excessively unfair discrimination with certain classes seriously undercharged and others overcharged. Therefore, while some increases and decreases in rates may have been warranted, the variations may in certain instances have been inadequate and in others excessive. Illustrations of this were provided in Table 10:4.

Secondly, the considerable use of underwriting judgment in adjusting the trend estimate given by the forecasting procedure has been reviewed in earlier chapters. In some instances, such as in setting rates for January, 1965, where the forecasting procedure gave a relatively accurate trend estimate, the use of underwriting judgment occasioned rate inadequacies.¹ Further rate variations were then necessary to compensate for such rate inadequacies.

Thirdly, the Canadian practice in forecasting of combining claim frequency with size of average claim (rather than forecasting the two components separately, or following U. S. procedure and assuming frequency to be unchanged) was also criticized on the basis that it biased projections and subsequent rate variations. As is apparent from Table 16:2, the two components have generally behaved in disparate fashion with claims frequency fluctuating fairly widely about a decreasing trend while the size of average claims has been rising.²

In referring back to the Commissioners' earlier description of the rate-making

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1. 28/3327: Mr. C. L. Wilcken, Actuary, states that the trend estimate of 15% in setting 1965 rates was the right one but that it was adjusted to 9%.
 2. The downward trend in accident rates may be traced back about 30 years. The rate of decrease in claims frequency is, however, lower, presumably because of increases in the fraction of the populace insured, a factor which increases the proportion of accidents leading to claims.

TABLE 16:2

Claim Frequencies and Average Claims, B. C.

(Bodily Injury and Property Damage, Private Passenger Automobile)

Policy Year	Claim Frequency		Average Claim	
	I. F.	E. F.	I. F.	E. F.
1955	9.7	(9.8)	275	(275)
1956	9.7	(9.8)	306	(306)
1957	8.4	8.5	355	355
1958	7.7	7.8	379	379
1959	7.6	7.6	403	401
1960	7.3	7.5	431	420
1961		7.5		400
1962		7.4		474
1963		8.2		478
1964		8.0		526
1965		7.4		600
*1966		7.0		670

I. F. Including Farmers

E. F. Excluding Farmers

() Estimated

Other data from Green Books

* 18 months experience only.

process found in Chapter 6, the influence of the unusual 1963 and 1964 upswing in claims frequency on projections and rate increases should be obvious. Conversely, the return of the claims frequency to the more normal pattern contributed to the 1967 rate reductions. The sporadic swings in rates over the last few years have received wide criticism. Industry witnesses appearing before the Commission agreed that such swings in rates were undesirable. This is evidenced in an exchange between Commission Counsel and Mr. R. E. Bethell, then Manager of the Vancouver Regional office of Allstate Insurance Company.

RAE: Would you agree also, however, that in rate-making you should endeavour to avoid violent fluctuations?

BETHELL: Yes, I do.

Q. Would you regard the, what I think the terms of reference refer to as recent increases in rates in British Columbia, as relatively violent fluctuations?

A. Well, they have certainly been more violent in the last two years than they were in the previous ten.³

Further evidence along these lines is contained in the examination by Commission Counsel of Mr. C. L. Wilcken, Actuary, appearing as a witness for the C. U. A.,

RAE: Is it not true to say, however, that you should avoid such violent fluctuations in rates?

WILCKEN: This is one of the reasons we use a 60-40 weight, striving for stability.

Q. But you still didn't get near it?

A. No, we didn't.⁴

The Commissioners are of the opinion that the swings in rates in the last few years, as distinct from rate changes of a less erratic nature, are regrettable.

Fourthly, the Commission concluded that the 63-37 rating formula provided excessive allowances for expenses in recent periods and therefore was inappropriate. In fact, research findings relating to 1965 expenses strongly suggest that even the current 67-33 rating formula, relied on for the setting of 1966 and 1967 rates, provided excessive allowances for 1966 expenses. While the allowance for claims was in some instances inadequate, for reasons set out in Chapter 9, it is clear that the expense portion of the formula must not be relied on to provide an offset. 1967 rate reductions preclude drawing conclusions without further study. Necessary data did not become available to the Commission early enough to permit such an undertaking.

Finally, the Commissioners concluded earlier (as discussed in Chapter 10) that an underwriting profit margin as high as 2½% of sales was to be queried. Even

3. 23/2796.

4. 28/3364.

after allowing for a risk premium, such an allowance, when achieved, would lead to excessive returns on equity. Given 1967 and 1968 rate reductions, it is not illogical to conclude that the profit allowance was generally exceeded.

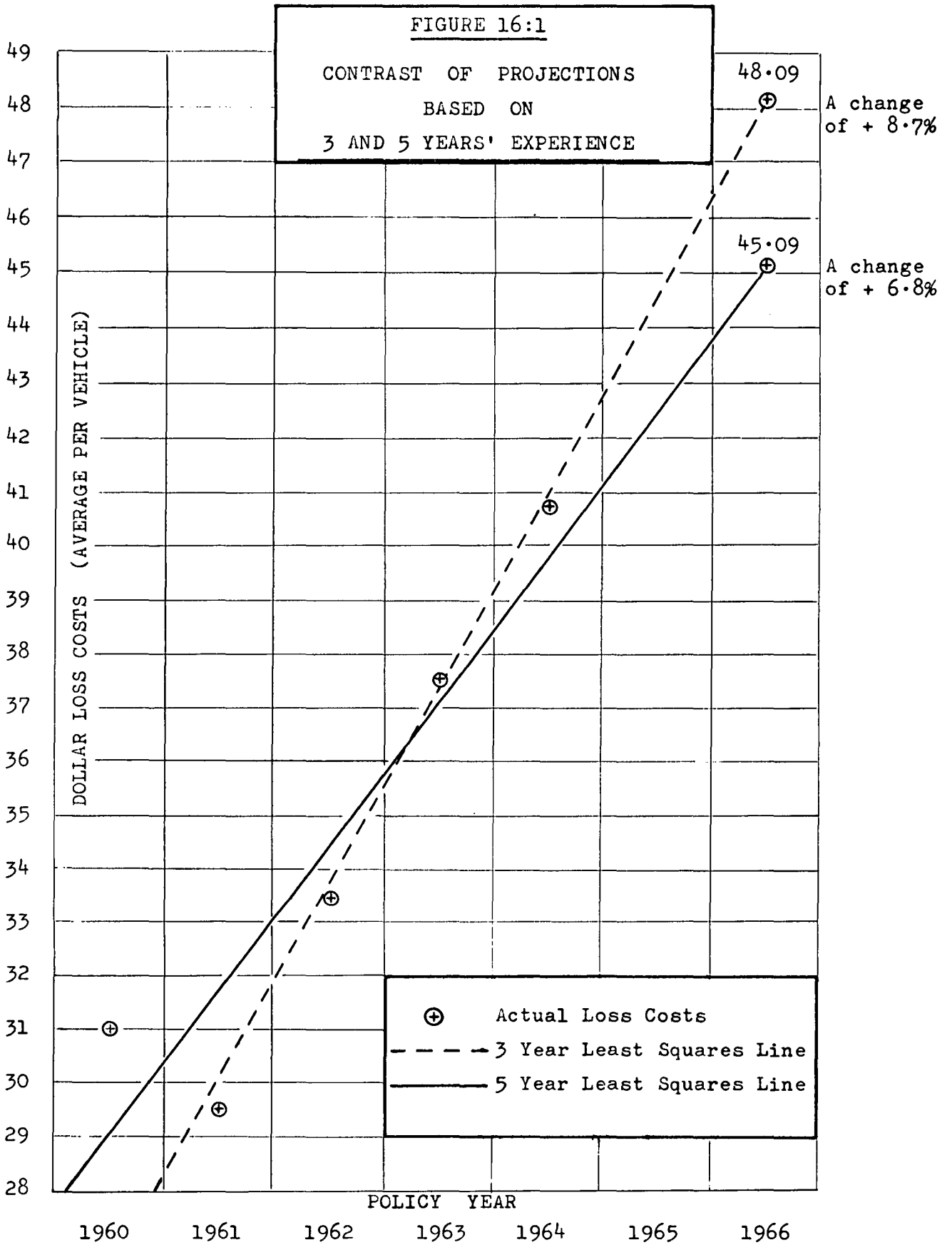
If the considerations outlined above are ignored, it still remains difficult, if not impossible, to conclude that all of the oscillations in rates were justified. Withstanding, for a moment, the Commissioners' concern about the appropriateness of the previous 63-37 and the present 67-33 loss ratios, there is no doubt but that many automobile insurers experienced underwriting losses in 1963 and 1964. Though the need for a general upward trend in rates is not to be disputed, the magnitude of at least one of the variations lacks justification⁵ -- that of 1966-67 which is discussed below.

To a considerable degree, the difficulty can be traced to shifts in the number of years experience used in arriving at the trend factor. According to the evidence of the C. U. A.'s actuary, in deliberations respecting 1966 British Columbia third party liability rates, for the first time less than five years experience was used for trend. A switch was made to using only three observations. For 1967 rates, four years experience was used.⁶

The consequences of such procedures must have been predictable and are reflected in the substantial 1966 rate increases being followed by the 1967 rate reductions. The graphic illustration in Figure 16:1 shows the higher projections

5. The upward trend is understandable given, among other things, the inflationary trend which prevails along with a pattern of rising real incomes. Figure 10:1 which relates premiums to the consumer price index sets this out quite vividly.

6. 27/3217.



achieved when three years experience was used for trend rather than five. Specifically, a figure of \$48.09 was arrived at for 1966 rather than \$45.09, or expressed another way, an increment of 9% (rounded) rather than 7%.

The manner in which such an increment is used in the formula guide to provide indicated adjustments for Vancouver third party liability rates is reviewed to illustrate the considerable impact the reduced observations had on the 1966 rates. Thus, given that the indicated changes in rate levels for 1963 and 1964, taken from column 6 of the "Green Book", were minus 12 and minus 7 respectively, the formula guide was used as follows:

(i)	40% weight applied to minus 12	-4.8%
(ii)	60% weight applied to minus 7	-4.2%
(iii)	Total	-9.0%
(iv)	Added to 100	91%
(v)	Multiplied by the trend factor 1.22 (2.4 times the annual in- crement of 9%, added to 1)	111.0%

The result is, of course, the percentage which should be applied to 1965 premium rates to produce appropriate rates for 1966. In other words, an 11% increase was held to be appropriate. If however, the annual increment of 7% was used (i.e., a trend factor of 1.17) a 7% increase would then have sufficed.

It should also be stressed that had there been three rather than four observations used to arrive at the trend factor for 1967 rates, reductions in the rates would have been somewhat greater.

The reason for dropping down to three years experience in the setting of third party liability rates was explained at the hearings.⁷ As of 1962, British

7. 27/3217-8.

Columbia had come to a new minimum limit for third party liability coverage of \$35,000 inclusive. It was argued therefore that 1962 provided a more homogeneous starting point.

The Commissioners are unable to accept the thinking behind such an explanation. To begin with, since the \$35,000 limits became effective only on policies issued or renewed on or after June 1, 1962, that policy year hardly provides the most useful starting point. Secondly, the minimum limit for third party liability coverage, as well as being changed in 1962, was changed previously to an inclusive \$25,000 limit in 1961, and again to a \$50,000 limit in 1965. These changes have not evoked an alteration in the number of years experience used in establishing trend as one would have expected them to, extending the reasoning of the explanation for a decrease to three years experience. Finally, the impact on insurer payouts occasioned by the raising of limits from \$25,000 to \$35,000 inclusive is considered negligible. Too few payments were in the \$25,000 - \$35,000 range to have been of any real consequence.

While the recent rate variations lack justification due to the factors reviewed in this section, one of the difficulties in applying the present forecasting procedure is the long time lag of 2.4 years between the base data which are being projected and the midpoint of the period to which the forecast applies. This is the result of both the mechanics of the present forecasting procedure, and the delay in collecting and assimilating the claim experience data for the forecast. To alleviate such difficulties, it is desirable that data be kept on a more up-to-date basis. The Commissioners note with interest, the use of calendar-accident year loss statistics, rather than policy year data, in the United States. In addition, the results of tests by the Commission of various

forecasting techniques such as exponential smoothing, indicate that the present forecasting procedure is not superior to several of the techniques tested. In view of the past inadequacies in the present forecasting method, the Commissioners view with concern the industry's inaction in not making a strong effort to improve upon its present forecasting method.

It is the Commissioners' finding that, while the recent need for certain rate increases in British Columbia cannot be denied, rate variations actually imposed lacked justification. Faulty judgment and inadequacies in rate-making techniques, to a considerable degree avoidable, resulted in some erratic pricing of automobile insurance. The Commissioners believe that, in the presence of more vigorous competition such a situation would not have prevailed.

INTRODUCTION
TO
CHAPTERS 17 ~ 25

CHAPTERS 17 - 25

INTRODUCTION TO RECOMMENDATIONS

Term of reference (g) reads as follows:

whether the public of this Province will be better served by the continuation of present procedures for the recovery of damages arising out of motor-vehicle accidents and by the preservation of present forms of insurance coverage or by some variation or variations thereof, or by a plan whereby compensation for damage arising from motor-vehicle accidents may be paid without determination and attribution of responsibility therefor, or by a combination thereof,

It is readily appreciated that this term of reference is comprehensive. Therefore it has been divided into several studies and includes the conclusions of the Commissioners as to a basic policy of automobile insurance. The question of whether the public will be better served by the continuation of the present procedures for the recovery of damages arising out of motor vehicle accidents calls for a careful study of tort law, in its application to such accidents, and non-tort law. These terms are commonly called fault and no-fault. A comparison of the two systems is found in Chapter 17. As the Commissioners have determined that, as part of the recommendation, there should be a compulsory basic insurance, that subject is discussed in Chapter 18. Likewise the proposal that the insurance be upon the driver rather than the owner of the vehicle, merits a full explanation, and that item is dealt with in Chapter 19. The whole plan of the Commissioners' proposed new form of basic no-fault automobile insurance is discussed and summarized in Chapter 20. Likewise the recommendations of the Commissioners for Voluntary Extended Insurance Coverage beyond that of the basic policy is explained fully in Chapter 21. The proposals of the Commissioners upon the application of the plan to drivers of Commercial Vehicles, appear in Chapter 22.

Term of reference (h) reads as follows:

whether such a variation or a plan for compensation or such a combination, if recommended, should be administered privately or by or through a governmental department or a governmental agency or a combination thereof,

This topic is dealt with in two chapters. The question of the duties of the Superintendent of Insurance of British Columbia and of the creation of an Automobile Insurance Board is pursued in Chapter 23. Conclusions of the Commissioners under term of reference (h) are found in Chapter 24.

Thereafter, term of reference (i) which is:

the method and procedures that would be most effective in the introduction of change if recommended,

is explored, and recommendations made thereunder are reported in Chapter 25.



CHAPTER 17

FAULT AND NO-FAULT SYSTEMS



CHAPTER 17

FAULT AND NO-FAULT SYSTEMS

Term of Reference (g):

Whether the public of this Province will be better served by the continuation of present procedures for the recovery of damages arising out of motor-vehicle accidents and by the preservation of present forms of insurance coverage or by some variation or variations thereof, or by a plan whereby compensation for damage arising from motor-vehicle accidents may be paid without determination and attribution of responsibility therefor, or by a combination thereof

INTRODUCTION

In the light of the recommendations of the Commissioners, it is imperative that a full review and analysis be had of the merits and demerits of the fault system and likewise of the no-fault system. For the purpose of this analysis reference will be made to studies by qualified persons and to portions of the transcript of the evidence taken before the Commissioners upon the presentation of briefs, which will be quoted.

MERITS OF THE FAULT SYSTEM

What is the fault system? It is the system of law founded upon the doctrine of negligence. A fairly comprehensive definition of "negligence" is found in Halsbury's Laws of England, Third Edition, Volume 28, p. 3:

Meaning of negligence. Negligence is a specific tort and in any given circumstances is the failure to exercise that care which the circumstances demand. What amounts to negligence depends on the facts of each particular case and the categories of negligence are never closed. It may consist in omitting to do something which ought to be done or in doing something which ought to be done either in a different manner or not at all. Where there is no duty to exercise care, negligence in the popular sense has no legal consequence. Where there is a duty to exercise care, reasonable care must be taken to avoid acts or omissions which can be reasonably foreseen to be likely to cause physical injury to persons or property. The degree of care required in the particular case depends on the accompanying circumstances, and may vary according to the amount of the risk to be encountered and to the magnitude of the prospective injury. The duty of care is owed only to those persons to whom injury can reasonably be foreseen and not necessarily to all

persons in the same situation. The same act or omission may accordingly in some circumstances involve liability as being negligent, although in other circumstances it will not do so. The material considerations are the absence of the care which is on the part of the defendant due to the plaintiff in the circumstances of the case and damage suffered by the plaintiff, together with a demonstrable relation of cause and effect between the two.

The principal merit of the fault system would appear to be that the theory of negligence is well known to the law of the Province of British Columbia, and is understood in a general sense by the public at large. The normal reaction of the layman, as well as the lawyer, after an accident causing damage is to ask "Who is at fault?" Additional considerations advanced by proponents of the fault system are summarized below, and include:

1. If there should be a change to a no-fault system with two party insurance there would be payment of damages by insurers in respect of many cases in which no payment is at present made.
2. Benefits paid in the event of such a change would be increased because, without the possibility of defence, much larger sums would be demanded by way of settlement.
3. In such event also, the resistance of insurers to exaggerated demands would lead to an increase in litigation.
4. Reference is made to an article "Liability Without Fault" to be found in Chitty's Law Journal of May 1965, (written by John Green, Q.C., Barrister, later and presently Counsel to the Saskatchewan Government Insurance Office) where the following words are found:

The experience of insurers is that accidents are due to the actions of all users of the roadways, and this may surely become worse if an individual is to be in any way relieved of the responsibility of his carelessness.

5. That any such change to a no-fault concept would be against the public interest. Thus, in the submission of August 14, 1961 to the Select Committee of

the Ontario Legislature by All Canada Insurance Federation, the following appears:

It would deprive pedestrians and motorists alike of the advantages of the fear of the consequences of negligent driving which operates to instill a sense of responsibility in drivers. If it makes no difference whose fault it is, then what difference does it make if careful driving is exercised? The Report discusses briefly some philosophical points of view suggesting that responsibility for automobile accidents rests on society as a whole. To a very great extent this is true. Society, in the organized form, i.e. through Government, has a duty to take every possible measure to prevent accidents. The traditional concept of fault liability is of great assistance in the achievement of this goal in that it helps discourage negligent driving. A pure compensation law offers no such inducement. All of us run a certain risk in simple everyday living. We can just as readily be killed through slipping on a banana peel as in an automobile accident. There is no reason whatsoever why victims of automobile accidents, their own fault or not, should be segregated for special treatment under the law. Fault-liability exerts a highly useful influence in all of society's activities and the operation of the automobile is no exception.¹

All Canada Insurance Federation submitted before this Commission, in part, the following:

No doubt the members of the Commission will read much of the material that has found its way into print and will be able to distinguish between the theoreticians and the views of those who have observed at first hand the practical workings of the tort system. I would, however, urge very strongly that you will at all times bear in mind that British Columbia is not New York or New Jersey or Los Angeles and those propositions that may have some application elsewhere need not be true in British Columbia. Certainly in considering criticisms of the tort system it is very necessary to have in mind that in many American jurisdictions any fault on the part of the claimant will result in a dismissal of his action, whereas under the Contributory Negligence Act in British Columbia fault is apportioned on a rational basis. One gets the impression reading many of these authors that they have been influenced by a combination of circumstances which may include court delays, unqualified judges and obsolete legal rules and have therefore determined to get rid of the system rather than to improve it.

In considering whether one ought to abandon the system of allocation of fault, the Commission may bear in mind a recent expression of opinion by the Honourable Mr. Justice Tysoe in his report on Workmen's Compensa-

1. Ex. 136B, p.12.

tion. As you know, the British Columbia Compensation Act still permits a workman, who has been injured due to the negligence of another workman, to bring suit. This right of action is barred in a number of provinces and it was contended that it should be barred in British Columbia. In discussing this question, Mr. Justice Tysoe stated at page 423 of his Report: ". . . And I do not think the time has yet come when a workman should be able to wilfully or negligently injure others and not have to pay for it. The rule of individual responsibility must be safe-guarded." (Emphasis added)

Ignoring for the moment the impact of social programmes discussed elsewhere in this brief, there is no doubt that under the tort system seriously injured persons may make no recovery. This misfortune has to be faced. That misfortune is no different than the one that is faced by a much larger group in the community who are injured in home accidents and have, for the most part, no one to blame but themselves. The number of persons killed and injured in home accidents is said to exceed the numbers that occur on the highways. In most of these cases no third party liability exists and even if it does there is very often no insurance monies available. The injured party pays for his own losses and a broken leg so acquired is no different from a broken leg acquired in an automobile accident. The Plaintiff in the automobile accident gets no recovery because he caused his own damage, but the exponents of some different system maintain that his losses should be compensated for notwithstanding this fact. All Canada Insurance Federation has stressed that the Insurance Industry reacts to the existing state of the law and traditionally has provided coverages wherever there is a need for them. There has existed in the insurance industry for many years coverages of the accident insurance type under which payments are made upon the happening of an event regardless of fault. These coverages are presently available to those who wish to have them. However, All Canada Insurance Federation has gone further and has put forward to the Association of Superintendents of Insurance a proposal for amending part of the Insurance Acts relating to automobile insurance so as to permit a limited accident benefit policy to form a part of the automobile liability policy. All Canada Insurance Federation elsewhere in this brief has recommended such a system for British Columbia if the motoring public are prepared to pay for such protection. In considering adequacy of compensation, the Commission should have in mind that apart from questions of the claimant's own fault, the present procedures provided a more adequate compensation by and large than other systems.²

Again, Mr. W.W. Foote, F.R.I.C. in "Automobile Insurance in One Easy Lesson" says:

Public criticism is erroneously focused on insurance instead of accidents. The Ontario Government is working on a new plan of Automomo-

2. Ex. 124, Sec. VI, pp. 16-18.

bile Accident insurance which will provide benefits to victims of automobile accidents regardless of fault. This will be something similar to the Saskatchewan plan and while it has merit, it is in fact accident insurance for everybody paid for by the car owners. The massive flaw in this compensation plan is that it does nothing to reduce accidents. It will encourage carelessness. When the plan is in operation for a few years, I predict the cost of automobile liability insurance will be doubled.³

Messrs. Blum and Kalven, in their more recent work provide some additional insight and a quite different viewpoint in arguing the merits of the fault system from that taken by the insurance industry.⁴ Thus, at p. 13 they say:

Does it matter for tort law that the punishment does not fit the crime? A sufficient answer is that the purpose of tort law is to compensate and not to punish

Again at pages 62-63 they say:

Generally speaking the law has not taken very seriously the possibility of deterring with tort sanctions. While imposing liability on drivers might cause some people to decide not to drive at all, the law has not been sanguine about the impact of liability on the specific driving behavior of those who do drive. Even apart from the complications introduced by liability insurance, legal commentary has long emphasized that the driver's own personal safety is almost certain to be involved in any accident and that financial liability on the driver is not likely to add materially to this natural sanction. It is quite possible that legal commentary has come to this conclusion too quickly and that there are many situations in the auto world in which imposition of liability adds a significant stimulus to prudence on the part of motorists.

Again at page 63:

A major difficulty here is that the thesis requires predictions about behavior of two populations and not just one. It is not enough to predict that if liability is placed on drivers they will act somewhat differently and that there will be a net reduction in costs. This prediction must be weighed against a companion prediction about the reduction in costs if losses are not shifted to drivers but are left on victims. Conceivably investigation might some day establish that there would be a significant difference in the cost reducing potential of those two alternatives for handling accident losses. But surely today no one claims to know this much about the behavior sequences which would be involved . . . Offhand, the common law, with its negligence and contributory

3. Ex. 171, p. 4.

4. Blum and Kalven, "Public Law Perspectives on a Private Law Problem", supra.

negligence rules, seems to be maximizing the waste reducing potential of liability rules. It presents inducements to both drivers and potential victims to be careful.

Again at page 69:

In the matter of auto accidents, pursuit of this objective would dictate placing the cost of accident losses on that class of persons who would take steps to reduce accidents by the least costly means. We recognized that was simply a different way of approaching the not unfamiliar problem of deterrence. We concluded that tort sanctions probably had little impact on the quality of driving conduct; but we observed that if deterrence of accidents were taken as a serious goal for liability policy it appeared that the common law combination of negligence and contributory negligence was most likely to maximize whatever deterrent potential there might be. We have now reached a convenient place to consider what bearing use of liability insurance has on these possibilities for reducing waste. The obvious point is that insurance may dampen whatever stimulus to deterrence there may be in liability rules. To the extent that the pooling of risks for insurance purposes homogenizes insured, as it does by and large under current practices, it can only blunt the impact of liability on driving conduct. But at most, all that such considerations do is weaken a very faint argument on behalf of the fault liability principle. They in no way strengthen the affirmative case for a compensation plan.

And at page 85:

If economic considerations have a bearing on accident causing behaviour, this approach would seem to run the greatest risk of lessening deterrence. Neither drivers nor pedestrians would perceive any relationship between their taxes and their conduct in respect to automobiles.

With a growing list of major insurers as exceptions, the fault system still finds its strongest support in the insurance industry. The foregoing extracts have summarized very well the reasoning behind such support. It is, of course, the system which has grown up in the law over a period of many years and unless there is a greater merit in a no-fault approach, change should not be recommended.

MERITS OF NO-FAULT SYSTEM

As in the matter of a fault system, much has been written favouring a no-fault approach. Calvin H. Brainard says:

Automobile Compensation

As indicated in earlier chapters, there is considerable dissatisfaction with the law of negligence as a foundation on which to erect systems of financial responsibility for victims of automobile accidents. Financial responsibility, whether achieved by compulsory or by financial responsibility laws, is not an end in itself. The true objective is to bring prompt and equitable financial aid to those with legitimate need, and this requires not only financial responsibility but also an efficient system for allocating accident costs. Insurance men, judges, and other persons well informed on the subject have had frequent occasion to point to the defects in our present legal system -- the cumbersome and uncertain processes of law courts; the capriciousness and unpredictability of juries; the technicalities and legal fictions of negligence law; the inequity of holding one or the other of two drivers wholly at fault; the delay, costs, and wastes of litigation; the unfamiliarity of litigants with their rights; the hindrance to the rehabilitation of the injured pending the adjudication of their claims. As an improvement, they recommend an automobile compensation plan patterned somewhat after that used in the field of workmen's compensation.⁵

C.A. Kulp in the Third Edition of his work "Casualty Insurance" has this to say:

Automobile Liability Underwriting Problems. The Problems of the automobile liability underwriter during the last decade have been numerous and sometimes critical. All stem more or less directly from the consequences of the universal acceptance in this country of the automobile as an irreplaceable means of transportation and that, whatever the cost in lives and treasure, we must have the automobile. This cost is great, so it is not surprising that men individually and as a group are constantly searching for ways, real or imaginary, to reduce it.

Automobile underwriting problems, particularly in recent years, have their source in the natural though often uninformed criticism of casualty insurers because rates have risen, sometimes sharply. These problems indeed involve issues much more serious and complex than that of rising costs. In the five years ending 1953, average claim frequency and average amount of claim on insured automobiles both increased, but the more important reason by far for rising premiums was higher awards and out-of-court settlements and not poorer accident experience. The higher average amount of claim is explained partly in terms of what is often referred to as the jury problem, partly in terms of inflation; the two are of course closely related. Sometimes the expression jury problem means a rapidly increasing appreciation by the layman of the value of human life. Sometimes it is meant to refer to the increasingly glaring defects of the negligence system as a legal basis for determining the fact and amount of injury resulting from an automobile accident. It is now more than 20 years since a committee of eminent jurists, law

5. Calvin H. Brainard, Ph.D., Professor of Insurance, University of Rhode Island, Automobile Insurance, Richard D. Irwin Inc., Homewood, Illinois, 1961, p.440.

school deans, and lawyers gave as their opinion, after careful study of the facts, that "insurance companies pay in so large a proportion of (automobile) cases in which liability insurance is carried that the principle of liability without fault seems almost to be recognized"; in the meantime this situation has grown markedly worse. Related to this is an antipathy, apparently growing, toward the third-party insurer.⁶

The same idea is expressed in another way by the same author at page 201. He says there:

. . . It does the injured party very little good to know that he has an airtight case against the automobile owner unless he is sure the owner is able and willing to pay when an award is made; indeed, unless he has such assurance he will not even bother to push the case in the first place: as Shippen Lewis says, "The injured person has no real remedy unless he can translate . . . liability into dollars and cents".⁷

Kulp refers to the matters of the wastes of money and time involved with the liability system. A particularly telling passage is quoted:

Automobile Compensation Insurance. The idea that departs most radically from current ways is that of compulsory automobile compensation insurance. There is on the American continent today a single example of this method -- that of Saskatchewan. With few and minor exceptions the arguments in favour of automobile compensation are based on a double premise. First the negligence principle has broken down as completely in the payment of automobile personal injuries as it had earlier with industrial injuries. Both financial-safety responsibility and compulsory liability laws are based on negligence; neither is a realistic way of handling the modern automobile hazard. As long as we cling to this totally unsuitable device for determining both the person responsible and the amount of damages he owes the injured person we shall find ourselves repeating our earlier experience in delay and waste in money and other costs. Second, a reform that has proved eminently suitable, and almost universally acceptable, in the one area would be equally suitable and successful in the other.

The central defect of negligence as a basis for allocating the costs of

6. C.A. Kulp, Casualty Insurance, Third Edition, The Ronald Press Company, New York, 1956, pp. 182-3.

7. Ibid., p. 201.

automobile personal injuries is its basic assumption: that it is practicable to apply to a modern complex situation a series of rules for determining individual fault developed in an older, leisurely, and less complex time. In a brilliant summary of the validity of this basic assumption the Columbia Committee, nearly every member of which was an eminent lawyer or judge, concluded that

"The value of this procedure depends on several assumptions -- that the witnesses can be obtained, that they really tell what has happened, that the judge and the jury understand what has happened, that the damages can be measured with reasonable accuracy In a great many cases, one or more of these is only an assumption; it is not a fact It is fair to conclude that in a great many motor vehicle accident cases it is impossible to fix the blame according to the facts, and that in personal injury cases it is almost impossible to fix the damages accurately. The result of a jury trial in the ordinary automobile accident case is largely a matter of chance. To a great extent, the verdict and the amount of damages depend on who secured the best or the most witnesses, or who has the best lawyer, on the personal prejudices of the jurors, on the so-called "breaks of the trial", and on the intangible human element; they do not depend on a scientific ascertainment of the facts."

It is quite true that all but a very small proportion of accident claims never reach the trial court, but "the terms of settlement are of course controlled by what would happen or what might happen in case of trial and recovery."⁸

The learned writer goes on to indicate further details of the inadequacy of the fault system, of which the chief proponents have been the insurers. While he is discussing the possibilities of a compensation system in the nature of workmen's compensation the principles of his criticisms are just as valuable when taken merely as comments upon the fault system.

Columbia Committee Report

C.A. Kulp quotes from the Report of the Columbia Committee:

It is not too much to say that insurance of the hazard seems practically to have abolished the law of negligence in the field of automobile injuries. "The companies", said the Columbia Committee, "pay in so large

8. Ibid., pp. 220-221.

a proportion of the cases in which liability insurance is carried that the principles of liability without fault seems almost to be recognized."⁹

Messrs. Keeton and O'Connell advocate a scheme of their own devising, not wholly acceptable to this Commission.¹⁰ But they incorporate in their work items of interest.

In their opening page and chapter entitled "A System Ripe for Reform" they have written:

A. Shortcomings of the Present System

Serious shortcomings beset the automobile claims system operating in each of our states. In each there is need for re-examination and reform of the whole set of laws, institutions, insurance arrangements, and customary practices currently used in determining who among the hundreds of thousands of annual traffic victims will receive compensation and how much each will receive. The most striking of the shortcomings can be stated in five points.

First, measured as a way of compensating for personal injuries suffered on the roadways, the system we have falls grievously short. Some injured persons receive no compensation. Others receive far less than their economic losses. Partly this gap is due to the role of fault in the system -- to the need for the injured person to assert both that another was at fault in causing the accident and that he himself was legally blameless. In advancing these contentions a traffic victim faces severe problems of proof. Nearly always he finds it difficult to show what actually happened, and occasionally he cannot even identify the person responsible, because the accident was hit and run. Another major factor contributing to the gap between amounts of loss and amounts of compensation is that a person legally responsible for an injury may be financially irresponsible -- uninsured and with inadequate assets of his own available to satisfy a claim. The size of the accumulated gap from these two and other causes varies significantly from state to state. Probably it is somewhat smaller in the states with compulsory motor vehicle liability insurance (Massachusetts, New York, and North Carolina) than in others. But even in these states it is still substantial.

9. Ibid., p.222.

10. Principally because they make a compromise between the fault and no-fault systems.

Second, the present system is cumbersome and slow. Prompt payments of compensation for personal injuries are extraordinary indeed. And delays of several years before final payment -- or determination that no payment is due -- are common, especially in metropolitan areas. The backlog of automobile personal injury cases presents a serious community problem of delay in the courts, affecting other kinds of cases as well. And often justice delayed is justice denied. An injured person needing money to pay his bills cannot wait, as can an insurance company, through the long period necessary to press and recover his claim, and he may be forced to settle for an inadequate amount in order to obtain immediate recovery.

Third, the present system is loaded with unfairness. Some get too much -- even many times their losses -- especially for minor injuries. To avoid the expenses and risks of litigation insurance companies tend to make generous settlements of small claims. This largesse comes out of the pockets of all who are paying premiums as insured motorists. Others among the injured, as we have just suggested, get nothing or too little, and most often it is the neediest (those most seriously injured) who get the lowest percentage of compensation for their losses. Their larger claims are more vigorously resisted, and their more pressing needs induce them to give up more in return for prompt settlement. This disparity between losses and compensation is not explained by differences in fault in different cases. It is true that under the theory of the present system, in general, only an injured person innocent of fault is entitled to recover, and then only against a motorist who was at fault. But the practical results are more often inconsistent with this theory than consistent. In short, the results are branded unfair by the theory of the system itself, and one searches in vain for any substitute standard of fairness that gives these results a clean bill of health.

Fourth, operation of the present system is excessively expensive. It is burden enough to meet the toll of losses that are inescapable when injuries occur. It is intolerable to have to meet the additional burden of administrative waste built into our methods of shouldering inescapable costs. To some extent, it is true, costs of administration are part of the inescapable burden. But because of the role of fault in the present system, contests over the intricate details of accidents are routine. Often these contests are also exercises in futility, since all drivers must continually make split-second judgments and many accidents are caused by slight but understandable lapses occurring at unfortunate moments. Such contests, and all the elaborate preparations that must precede them, wastefully increase the costs of administration. In cases of relatively modest injury, the expense of the contest often exceeds the amount claimed as compensation. All this expense, of course, is added to automobile insurance costs and, together with a mark-up for the insurers through whose treasuries the premium dollars must pass, is reflected in the premium of every insured.

Fifth, the present system is marred by temptations to dishonesty that lure into their snares a stunning percentage of drivers and victims. To the toll of physical injury is added a toll of psychological and moral injury resulting from pressures for exaggeration to improve one's

case or defense and indeed for out-right invention to fill its gaps or cure its weaknesses. These inducements to exaggeration and invention strike at the integrity of driver and injured alike, all too often corrupting both and leaving the latter twice a victim -- injured and debased. If one is inclined to doubt the influence of these debasing factors, let him compare his own rough-and-ready estimates of the percentage of drivers who are at fault in accidents and the percentage who admit it when the question is put under oath. Of course the disparity is partly accounted for by self-deception, but only partly. And even this self-deception is an insidious undermining of integrity, not to be encouraged.

This, in capsule, is the way the present automobile claims system looks when we stand back and view its performance in gross. It provides too little, too late, unfairly allocated, at wasteful cost, and through means that promote dishonesty and disrespect for law.¹¹

Ehrenzweig, in dealing with the negligence concept, has written:

THE CRISIS

"Plaintiffs' attorneys" clamor for higher awards to injured clients, the motoring public bewail increasing premiums, and insurance counsel shun reform. Meanwhile the automobile, in the brief period of its existence, has created a serious crisis in our administration of justice which endangers the very fabric of our democracy -- the people's confidence in the law.

When a person is injured in an accident and seeks compensation, he must allege the motorist's "negligence" -- though, usually, if there is any fault, it is one chargeable to a society which "negligently" tolerates dangerous locomotion. This incongruity between law and life must result in much litigation -- and litigation in these cases means a pernicious gamble which (with its inevitable by-products of delay and perjury) often proves calamitous to the injured. If he wins he may yet fail to recover even his stake, unless the loser has shifted his loss to a solvent "accomplice" of his "wrong" -- an insurer of his liability.

"Negligence"

Although the victim must prove the injurer's "negligence," in at least one-fourth of all reported automobile accidents -- and many more are never reported -- no such proof can even be attempted. And in those cases where proof is attempted, negligence, proved or asserted, may consist of nothing but a technically faulty reaction, often committed in the split-second of the "agony of collision".

11. Robert E. Keeton and Jeffrey O'Connell, Basic Protection for the Traffic Victim, Little, Brown and Company, Toronto, 1965, pp. 1-3.

Courts and juries have long met the challenge and, in their findings of fault and fact, in their instructions and verdicts, have come to recognize "negligence without fault" as a sufficient basis for awarding compensation to the injured. At least three-fourths of all negligence cases are decided for the injured; a pedestrian will almost always prevail. Such law making is characteristic of the soundness and vigor of the common law. But by thus expanding the concept of legal fault, the present law has distorted the concept of true "moral" fault, while it has continued to deny relief to what is probably a majority of those injured by automobiles.¹²

SASKATCHEWAN GOVERNMENT INSURANCE OFFICE

In the submission of the Saskatchewan Government Insurance Office reference is made to the no-fault principle. The brief of that office read by Mr. James Oliver Dutton, General Manager, traces the development of the law in the Province of Saskatchewan and contended that it has been recognized there that justice requires that the no-fault concept should be imported into the law of automobile insurance.

The foregoing indicates in part, the philosophy behind the scheme for Government Insurance in the Province of Saskatchewan which has proved acceptable to the people of that Province. Criticism was suggested against the Saskatchewan Scheme before the Commissioners but that criticism would not appear to be general.

Professor A.M. Linden was called as a witness before the Commissioners by All Canada Insurance Federation and gave extensive evidence. He read a portion of the Brief of the Federation and was cross-examined by Commission Counsel. The following extracts indicate interesting answers:

12. Albert A. Ehrenzweig, Professor of Law, "Full Aid" Insurance for the Traffic Victim, University of California Press, Berkeley and Los Angeles, 1954, pp. 3-4.

RAE: Are you familiar with the fact that in, I think, certain States of the Union there are compensation fixed payment schedules such as are in part IX of this brief?

LINDEN: I will accept that.

Q. You say that that is so?

A. If you say it is so.

Q. You don't know? You have referred to Section VIII -- I think it is Section VIII, Professor Linden -- which is the income from non-tort sources, or the return from non-tort sources, and I am sure you would agree that to the extent that you have that recovery from non-tort sources to which you have referred -- and you indicate you consider it to be quite considerable -- we have now, in effect, compensation without regard to fault?

A. You could call it that, yes.¹³

Professor Linden was cross-examined with regard to the difficulties of ascertaining the truth in relation to the issue of negligence in cases at law. His answers are illuminating indicating the considerable difficulty of actually ascertaining what in fact occurred when an accident took place.

RAE: What about the suggestions in Keeton and O'Connell -- and I think I can give specific reference if necessary -- as to the fallibility of witnesses themselves and their inability accurately to relate what occurred in an accident, which in most cases they were not anticipating and which happened quite quickly.

LINDEN: There are some witnesses that are no good at all and certainly many complicated accidents create problems, but still I think in most of the cases people have experience with this and they give the evidence as best they can and I think it is adequate.

Q. I am sure they give it as best they can, we can assume that. Are you familiar with any studies that have been done as to the inability of people to recall and relate accurately events happening of a sudden?

A. I don't know of any particular studies of that.

Q. Experiments?

A. No, I don't know of them.

Q. You know, of course, that there are a number of references in Keeton and O'Connell and works like it which question very seriously the ability of people to relate the events of an accident?

A. Yes, they mention that and I mention that too; that sometimes this is a problem, but I think they overstate the problem.

Q. You think they overstate it?

A. Yes.

Q. Who overstates it, Keeton or O'Connell?

A. Well, the book that they wrote, I think, overstates the problem of observation.¹⁴

13. 41/4768.

14. 41/4817-18.

RAE: At the top of page 18:

"The plaintiff in the automobile accident gets no recovery because he caused his own damage."

-- in the particular case referred to here --

"but the exponents of some different system maintain that his losses should be compensated for notwithstanding this fact."

Now you yourself do, to some extent, expound that.

LINDEN: Yes, to a limited extent.

Q. And you take no exception, nor does, presumably, the person putting forth this brief, to the measure of non-tort compensation to which you have extensively referred?

A. I am sorry, I don't understand.

Q. All right, maybe I will put it to you this way: the plaintiff in a motor accident gets no recovery because he has caused his own damage but the exponents of some different system -- Can you tell us who they are?

A. The people that you have already -- Well, it is difficult. There are a number of people over the years that have expounded these theories. They have been primarily political people, largely socialists and --

Q. What are we talking about there -- "the exponents of some different system"? Who are the exponents and what are they expounding? If I read the statement correctly, whoever they are they are suggesting that a man's losses should be compensated for notwithstanding fault. Is that correct?

A. Yes.

Q. Well, is not that what you are expounding to some extent?

A. Yes, to some extent.

Q. And is not that what the portion IX of the brief is putting forward, to some extent?

A. That is right.

Q. So that it is not a question of principle, it is only a question of degree?

A. It is both a question of principle and a question of degree.¹⁵

Professor Linden wrote in his report (commonly called the Osgoode Hall Study) as part of his Summary of Findings, paragraph 28:

In conclusion, this study has disclosed several of the ills from which the present system suffers. The tort machinery leaves a significant compensation vacuum which persists even after the supplementary non-tort sources have come into play. There is substantial delay in the processing of a fair number of the tort claims. The recovery pattern is uneven; more ample reparation is supplied in the minor cases than in the serious ones. Brought into bold relief is the sorry plight of the gratuitous passenger. The victims evinced considerable antagonism toward the fault principle and lawyers were consulted in surprisingly few instances.

15. 41/4821-22.

Mr. Rae put further questions to Professor Linden whose answers are relevant to the no-fault idea.

In general, the Commissioners have concluded that Professor Linden was wedded to the concept of fault or tort law, but would admit, as he has done, that in part no-fault recoveries could help modify the rigour of strict fault law.¹⁶ Further expressions of Professor Linden are mentioned elsewhere in this report, and particularly later in this chapter, where a considerable quotation from his writings is made.

ABOLITION OF "PUNISHMENT"

Mr. D.B. Martin, when cross-examined by Mr. Rae, agreed that, with everyone insured, the car driver causing damage by reason of wrong-doing is not in fact being punished -- viz. fearing the consequences of his own wrong:

RAE: Now coming back to the other matter, Mr. Martin, with respect to the recovery in damages being in the nature of punishment for the wrong a man does, under our present insurance system with almost everyone insured, he is not bearing it anyway, is he?

MARTIN: Well, first of all, Mr. Rae, I don't think I used the word "punishment".

Q. No, it is my word, but I thought that was what you intended, that the man should be prepared to bear the consequences of his own wrong.

A. Yes, but that is not quite the same thing as punishment I don't think.

Q. All right then, I suggest to you that he is not bearing the consequences of his own wrong to the extent you suggest, because of the almost total insurance cover?

A. We were talking about the general principle of tort I think, Mr. Rae, which of course extends far beyond automobile insurance. Your point is a valid one as far as automobile accidents are concerned.¹⁷

At present collision coverage is regardless of fault.

16. 41/4833-51.

17. 26/3091.

Q. I think I touched on this with you, Mr. Martin, yesterday, but I am at the top of page 10. There are simply two points arising out of this deductables that is actually referred to up there and the first is, collision, of course, is paid without regard to fault. We all know that, you will agree?

A. Correct.

Q. And you regard it as a quite proper type of insurance coverage, undoubtedly; you sell it?

A. Yes, Mr. Rae.

Q. Would you say that -- can you give me any rough idea, without referring to statistics, whether or not your collision business tends to be more profitable than P.I. and P.D.?

A. That varies, Mr. Rae. I have known periods when the collision business was most unprofitable. I think at the present time and for the current year it seems to be a little more profitable than the third party coverage.¹⁸

FAULT PRINCIPLE NO DETERRENT

It is a matter of interest to consider if civil liability on the fault or negligence concept is in fact a deterrent. Mr. G.W. McGill thought not:

RAE: Very good. It has been suggested in some quarters, Mr. McGill, that the possibility of civil liability is a deterrent, and makes a man a safer driver. Do you see what I am attempting to get at?

McGILL: Yes, I do; and I wouldn't agree with that.

Q. You do not think it does?

A. No, I don't think there is any evidence, in my experience, anyway, that this is the case.¹⁹

Medical coverage under existing insurance is upon a no-fault basis, Mr. McGill said:

Q. . . . "Part of the explanation for the fact that the lowest recovery rate was in the medical payments coverage claims, is that it provides only coverage excess to all other medical and hospital plans." Now, this may be, and certainly is, in part, at least, Mr. McGill, a legal question, but I am sure you can answer it for the Commission. How does it come about, if you know, that there is subrogation in B.C.H.I.S. in the bodily injury situation, but not where there is medical cover of the type we are speaking of? Is it because one cover is compulsory, and the other is voluntary?

18. 28/3302-03.

19. 37/4369. Mr. McGill was Claims Manager for Canada Northwestern Mutual Insurance Company.

A. No. It's because of the liability situation that arises between the parties. The B.C.H.I.S. have adopted the view that they should stand in the same shoes as the claimant, and if there is liability on the part of an insured, then, to the extent of that liability, they should receive a proportionate reimbursement for the expenses which they incurred on his behalf.

Q. Whereas the medical payments is a "no-fault" concept.

A. That's right. It's purely a contractual payment obligation.²⁰

PRACTICE OF INSURERS IN PAYMENT OF CLAIMS

The practice of insurers in paying claims reflects the fact that they do not slavishly adhere to the fault principle when paying claims. The following passage is illustrative of this.

The question of the assessment of liability was under review with Mr. McGill and a summary can be taken from the following passage:

Q. Supposing I go through and I find that all your pedestrian knock-downs are 100%. The adjuster, whoever it is, has filled them in as 100%. Suppose I found that. This is subject to these limitations, isn't it, that if you are arriving at a dollar amount that is satisfactory you are not too concerned about divisions of liability?

A. Well, that is correct.²¹

ECONOMIC LOSS

The great problem, sometimes lost sight of in the attitude of the law relating to liability (the fault law), is that of economic loss. The economic loss when investigated is found, in the gross, to be enormous. It is contributed to very much by accidents and of course by automobile accidents. So many persons who have accidents suffer economic loss of a substantial nature but recover nothing. This topic has given concern in Ontario, as well as British Columbia, and of

20. 37/4370.

21. Reference to the 100% means 100% liability on the part of the insured.
39/4561.

course everywhere where automobile accidents occasion damage and loss without recovery.

Professor Linden, examined by Mr. Vickers, said on this:

Q. This morning when you were talking about the tort system you listed some benefits that you saw in the tort system, and in particular you said that one advantage that you saw was the fact that a motorist himself, with the knowledge that he would not collect if he were negligent would want to be more careful. In other words, the fact that I as a motorist would like to collect damages if I were injured, I wouldn't want to therefore be negligent. You recall that?

A. Yes.

Q. You see, Professor Linden, the removal of this aspect in any system of mandatory accident benefits?

A. No. I don't think so. Again, mandatory accident benefits would not purport to give full compensation. There is no award in there for pain and suffering, for general damages, and that kind of thing. It is just a small payment on account of expenses incurred while a person is awaiting trial, and in many of these cases there would still have to be a trial to determine whether this person would be entitled to get a larger award in the future, and the limited accident benefits doesn't eliminate that part of the deterrent that he might get some payments for limited accident benefits, but he would still be deprived of the verdict to which he would be entitled if he were not negligent. The other aspect of the limited accident benefits is that even that might be kept from certain people, and in the Ontario proposal they recommended that the person who was intoxicated or the person who was in violation of the criminal code could not receive even the limited accident benefit if he were injured. So that there is this element of deterrence as well, that even that he couldn't get. But the normal negligent person, or the person who was injured as a result of nobody's negligence, would at least be looked after under the limited accident benefits proposal.

Q. It is largely a question of degree then, is it not? I, as a negligent driver under our system would recover nothing. If there were mandatory accident benefit provisions I would recover something, although limited?

A. That's right.²²

The particular matter of economic loss, and the Commission's research on the ability of victims to shift that loss, is largely dealt with in detail in Chapter 2, covering term of reference (b). The examination of Professor Linden

22. 40/4724-25.

continued as follows:

VICKERS: And, therefore, to that extent it would have some limitation upon that factor which you discussed?

A. Yes, I think that's right. It really would minimize the defects of the tort system in those few cases where the fellow, first of all, has a meritorious claim and where he has to inevitably wait until the size of his injury is determined, and inevitably wait his turn to get before the court. At least, he is being looked after in the interim. And it also relieves the harshness of the rule that says if you happen to get hit by somebody who had a heart attack you get nothing. I would give these people at least minimum compensation, basic compensation and mollify what defects there remain in court law.

Q. This is this small area that we just spoke of?

A. Yes.

Q. Professor Linden, it was the Ontario Select Committee that made recommendations upon the recommendations of All Canada. Is that correct?

A. Well, All Canada certainly gave them a brief and in that brief this proposal was outlined, and there was also the Law Society of Upper Canada gave a brief which also recommended limited accident benefits.

Q. Were both those recommendations that they be mandatory?

A. I believe so. Actually the All Canada Insurance Company didn't really recommend that in Ontario. They said if the Select Committee saw fit to establish this kind of system All Canada and their membership would be prepared to write this kind of insurance, but I don't think they actually recommended it to the select committee. But the Law Society of Upper Canada did recommend it and their views, or at least the Law Society view was adopted by almost the majority. Well, there was a majority, but there was just one dissenting person, I think.

Q. Is it so that the Ontario Select Committee, its recommendation to the Legislature was that it be mandatory?

A. That's right.

Q. Do you know what considerations were weighed, or what factors were considered in deciding not to make it mandatory?

A. Well, I think it is largely a political thing for the government to assess and I would rather not say about that, I am not a politician.

Q. In any event the legislature elected not to make it mandatory?

A. That's right. They were prepared to permit it to be written on a voluntary basis. At least, at the present time. The Minister said that he is keeping it under advisement and he will continue to watch developments. He hasn't rejected it for ever and for all time, but he said for the present, "we will permit experimentation". I think in a sense there may be a little bit of worry about how it will work out in practice. Of course, to make it mandatory would cost money to every motorist and, again, the government has to consider this, whether the people will be prepared to pay that kind of money and whether they will blame them for increasing their insurance rates.

Q. Cost is indeed an important element?

A. I think this is true, you can supply anything if you have got the money to supply it. This limited accident benefit will cost money because it is providing a type of insurance that does not now exist.

Q. Thank you.

RAE: Professor Linden, in your view the proposal for limited accident

benefits, in Ontario, if it were to go in at all, should have been mandatory?

- A. I would have personally preferred it to be mandatory, yes.
- Q. It doesn't operate properly within the concept you have developed in your report unless it is mandatory?
- A. Well, I mean, it would help somewhat. It is better to have 50% of the people covered than none of them, but it wouldn't operate fully, completely, unless all vehicles which are now insured would carry this kind of insurance, and then everyone would be looked after.²³

Professor Linden, it is to be noted, was the author of the Report called "The Report of the Osgoode Hall Study on Compensation for Victims of Automobile Accidents", a volume of considerable interest to the Commissioners as it parallels, to some extent, the study they have been engaged upon. That study has to be taken in the light of circumstances different to those in British Columbia, but it is valuable as sincerely made. A description of how information was obtained was given by Professor Linden when questioned by Mr. Rae:

- Q. Did you have any assistance from All Canada in connection with what I shall call the Linden Report?
- A. To a very small degree I did have some assistance there. I had -- this was not a Royal Commission or anything, that we did, we did it as an Osgoode Hall project. I wanted as much advice as I could get at various stages of this report, and I had a very large committee of lawyers, insurance people, judges and other law professors, to whom I sent various documents that I was going to use. For example the questionnaire I circulated to maybe 40 or 50 people; people in the United States that had done similar studies, asking them for criticisms and advice and recommendations. And, for example, the letter that we sent out to the various victims. I studied the American ones and I sent this around for people to comment and I also sent around our programme to people that we were planning to interview, the type of sampling that we were going to do and the size of the sampling --
- Q. But the size of the question, Professor Linden?
- A. Well, I am leading up to it.
- Q. I am sorry.
- A. So there was a large group of people I did consult, and among those groups I sent a copy of each of these things along to the All Canada, and I must say I had some responses from Mr. Piper, who is the General Manager, making some recommendations, some of them quite critical I may say -- but I was very grateful to him and I think they helped in that small sense, but other than that there was no help.

- Q. Did you have occasion to work with or discuss the matter with any actuaries or statisticians connected with All Canada or connected with the private insurance Industry?
- A. No. The statistician -- I used the statistician from the University of Toronto and the actuaries that we used was a small private firm in Toronto.²⁴

EARLY PAYMENT OF CLAIMS

The no-fault system lends itself readily to payments being made almost forthwith after an accident. This is desirable because it helps to relieve anxiety on the part of the persons injured. In a discussion regarding interim payments, there was the following (Professor Linden being cross-examined by Mr. Rae):

- Q. Let us not get off on the wrong footing. I am not thinking in terms of instalment payment of a judgment as against a cash sum but rather interim payments pending a final determination of the loss?
- A. Yes.
- Q. You say you have given us material on that before?
- A. I am not sure but I have some views on it.
- Q. Could we have them? As to whether or not it is desirable, first.
- A. I think it is in many cases very desirable, yes.
- Q. Why?
- A. There are people who have meritorious claims and have expenses, incur expenses, as they go along; although we know that hospital bills and doctor's bills are usually paid for, they are eating up their savings because they are out of work, and this can be a substantial economic burden on these people.
- Q. It would also, would you agree -- and I don't like to interrupt -- deter rehabilitation?
- A. Some people say that. Pardon?
- Q. It would deter rehabilitation?
- A. Deter? Interim payments would deter?
- Q. No, the lack of them?
- A. The lack of them, yes. I think psychiatrists have written that. There is something called "compensation neurosis", which is a real condition, apparently, according to psychiatrists, that sometimes persists until the matter is concluded. So, by paying people in advance, expenses -- First of all, it eases their hardship if they suffer some (and sometimes they do) and it may make them less worried about the outcome of their litigation once it gets to trial. So I think interim payments are very useful and helpful things in many cases.
- Q. What, in your view, is standing in the way of this being done.

24. 40/4730-31.

- A. Well, it is being done by some insurance companies I know, and the proposal in this brief recommends something like that. The proposal in Ontario recommended something there and there the Government stood in the way of it, and the law stands in the way of it. In British Columbia the problem is that the insurance company might not be obligated to pay anything and it is the determination of fault and non-fault that makes this a difficult question. When it is a clear liability case the insurance company could pay some payments in the meantime, and some do.
- Q. You tell us of some that do, where it is a clear liability case, without the ultimate being determined?
- A. I know the North-Western Mutual Insurance Company does.
- Q. They told us they were planning on this, I think, that this was a new concept.
- A. I think they do. I know the Allstate Insurance Company does it and I have heard of other companies doing that. You see, there are also problems of admission of liability and the securing of releases, and you can get into some problems with that. It is kind of a dangerous thing for an insurance company to do because they may make some payments and then find out the law does not require them to pay at all. Then they may have some difficulty in getting their money back.
- Q. So that fundamentally it is this matter of fault and liability in its various aspects that is, if one can call it that, the difficulty?
- A. It is fault and also it is the problem of releases and admission of liability, that sort of thing.²⁵

As to the suggestion put to Professor Linden that although the industry had proposed limited accident coverage in its presentation before the Select Committee of the Legislature of Ontario, such coverage was practically the same as the Saskatchewan Scheme, he agreed that this was so, his answer being:

The limited accident benefit parts are very close; the major difference is that in Saskatchewan it is run by the Government and the proposal here would be run by private insurers.²⁶

It was of interest to the Commissioners to know that Professor Linden had himself assisted in the preparation of the scheme of the industry for limited accident benefits. He said so in his examination by Mr. Rae:

25. 41/4787-4790.

26. 41/4799.

- Q. Does this not give you any lead as to why the industry brought it forth? Does this not suggest any reason?
- A. I guess the industry thought the limited accident benefit system there was a relatively decent one which might be adopted and improved and run by private companies.
- Q. But it did not initiate it?
- A. I think it initiated it as far as Ontario is concerned. I don't know whether it created the Saskatchewan scheme, I was not around then.
- Q. Is not that the position of the industry, indeed, at this inquiry, Professor Linden? It is in Section VI of its report, shall we say, supporting the status quo, if you like, and indicating in Section VI of its report, as I read it, at least -- would you agree? -- that in essence its position is this, and it has been put to me in these words by someone with a sharper wit than mine: Not necessarily compensation, but compensation if necessary?
- A. It has a familiar ring to it -- that phrase.
- Q. Yes, and is not that about the approach of this brief?
- A. I don't think so. I think this brief is a little stronger. I think the approach in Ontario was very much that but I think the approach in this brief is a little more positive, and I would like to think that I had a little to do with it.
- Q. You had?
- A. I would like to think that my involvement in this may have helped a little bit, or maybe just the passage of time has changed the attitude of the industry to some extent. I think it is a little stronger than "compensation if necessary", and I think I favour it in that form.²⁷

The proliferation of cars upon the highway has obviously increased the number of accidents. Professor Linden in answering upon this topic said:

RAE: Do you consider that the fact that we have now permitted insurance to indemnify the wrong-doer against the consequence of his wrong, that this has resulted in an increase of negligence.

LINDEN: I cannot answer that, I don't think.

Q. You don't know?

A. No I have to study it. It is very hard to know whether negligence has increased or decreased. Accidents have certainly increased but that does not necessarily mean that there are more negligent accidents: just that there are more people, more cars and more travelling done by automobile.²⁸

The problem of the motorist is depicted by Dr. Leon Green, Professor of Tort Law

27. 41/4799-4800.

28. 41/4805.

at the University of Texas and former Dean of Law at Northwestern. A quotation appears in the Brief of All Canada Insurance Federation, which is termed in the brief absurd or nonsense. It is apt in a discussion of no-fault law and is quoted here:

The operator must observe the operation of the other vehicles front and rear and to the sides - those he is meeting, those that pass, and those that may cross his path. He must observe road signs, stop signs, cautions, traffic lines, light signals and those of traffic officers. He must observe his speed and that of others. He must watch for signals of other motorists and give proper signals himself. He must know the operating mechanisms of his machine, check their operations as he travels, and maintain his rapidly moving and complex machine under control at all times . . .

Multiply the same duties and hazards by any number of other operators in the immediate vicinity; add the duties and hazards of highway maintenance, passengers, pedestrians, and adjacent landowners, the conduct of any one or more of whom may impose upon all operators in close proximity duties and hazards requiring instant and perhaps unerring judgment and action. Add further the hazards of climatic conditions; the imperfections of the human being in sight, judgment, muscular reaction, health, strength, and experience.²⁹

Of this Professor Linden did not say "nonsense". He said:

It is only inaccurate in that it paints a picture of all of these things being done at exactly the same time. I mean, by listing a group of things that one might have to do within the period of an hour one after another in a paragraph, it looks as though the person has to do it all at the same time, whereas so frequently when one drives on the highway one drives all alone and is just travelling along merrily.³⁰

However, it must be recognized that what Professor Green was indicating is a reality and that when many motorists are driving their cars, because of the great care which must be taken by each, there is a very ready reason why accidents occur. Any lapses from concentrated care may result in serious accident.

29. All Canada Insurance Federation Brief, Sec. VI, p. 13. Ex. 124.

30. 41/4807.

So that in the opinion of the Commissioners the outline by Professor Green is not nonsense if properly understood and applied. That was the view of Professor Linden also, as may be seen from the foregoing quotation.

The discussion with Professor Linden led to these questions and answers:

RAE: Professor Linden, do you consider that there is room for an accident in our present state of development of the motor vehicle -- crowding of the highways, and so on? You refer to the increase in motor vehicles in your Osgoode study and I am coming to that. Do you consider that there is, perhaps, more room for the true accident concept today -- that is in terms of it being a fortuitous event for which no one is responsible?

LINDEN: Yes.

Q. You do?

A. Yes. I mentioned that. People have heart attacks, and that sort of thing is certainly fortuitous, and things like that such as crowded conditions of the highway, bad weather, because there are more cars on the highway. I mean, the statistics show that there are more accidents in cities than there are on the highways, because there are more cars here.³¹

Professor Linden had written upon this subject in the Canadian Bar Journal and his views in relation to his article in Vol. 9, No. 1 of February 9th, 1966 were reviewed before the Commission. As to the burden arising from automobile accidents:

RAE: I think you have stated that. Now at page 13 you make this statement:

"There is another reason why motorists should bear these costs. Imposition on motorists of a major part of accident costs enables us to educate them about the risks involved in the operation of a motor vehicle. Perhaps, by focussing on involvement rather than on fault, we shall be able to impart the knowledge that many accidents are inevitable and that anyone can be a victim at any time. Indeed, every second car manufactured is involved in one injury-producing accident during the course of its lifetime."

Two questions there: First, are you still of the view as stated in the earlier part, that focussing on involvement rather than fault will bring about what is suggested there, or should?

31. 41/4813.

LINDEN: Well yes, I think you must focus on involvement, but also you have to look at fault as well. I am not talking about involvement to the exclusion of fault here; I am saying we have to focus on that because there are some accidents that occur without the fault of anybody, at least without legal fault.³²

MONEY GOING IN SMALL CLAIMS

It appears that the large number of small claims is what makes a very great drain upon the resources of the insurers. There appears to be far less concern with fault respecting such claims: Mr. Makin in reply to a question from Mr. Brown, Q.C., Counsel for All Canada Insurance Federation, said:

BROWN: Do you have anything to add to that, Mr. Makin?

MAKIN: I agree with what has been said. I think Mr. Parkin made the distinction between what is a small claim and what is a large claim. Not too long ago in my own company we kept track, as we still do of all our claims, and we would list those as large being over \$1,000. Now we list as being large over \$2,000. I think that the rating structure of most of the companies in Canada today -- the companies, individual companies can absorb the odd substantial loss of say a \$50,000 claim. I don't think this is what is hurting us. I think what is hurting the industry loss-ratio-wise, is that we are literally being nickled and dimed to death.

Q. Does this mean you are affirming the suggestion that there is overpayment in the small claims?

A. No, not at all. We are paying where we have to pay, but perhaps we are not bringing as much control to bear on these claims. I am thinking in terms of the entire industry, not of an individual company. In my own company we attempt to control it wherever possible.

Q. Do you consider that there is a greater claims consciousness growing in Canada than there used to be that results in legitimate claims being made that are small that perhaps would not have been made before even though legitimate?

A. I think this is very true, but I do not subscribe at all to the fact that the smaller claims are being overpaid. I think any company -- and I can only speak from my own experience in my own company -- is attempting in every way, shape and form to control claims. It is true in the larger claims you are going to get a greater degree of exaggeration, but most insurers I believe tend to resist inflated claims whether they are large or small.³³

32. 42/4893.

33. 48/5608-9.

INCIDENCE OF COST OF REPAIRS

It is evidently fact that a very large part of insurer "payout" is upon repairing the automobile, which often is made on a no-fault basis:

BROWN: So that a very large portion of the payout is in respect of the repairing of the automobile?

DAMOV: Well, this is the significant aspect of this particular set of figures, that really the largest amount of money that all of us as insurance buyers pay is spent in repairing our automobiles, or each other's automobiles. The amount of money that is required and is actually spent in claim payments in respect of bodily injury is a relatively small proportion of the total.³⁴

No-fault concepts have been imported from time to time into policies of insurance which would appear to have been done as measures to invite custom. It is of interest to note information given by Mr. Damov:

LOCKE: Mr. Damov, could I ask you, I suggest no one could formulate such an important principle without knowing what need they had in mind. Would you care to give any other reason from your knowledge that you are able to?

DAMOV: Well, this is a coverage which, as Mr. Parkin has indicated, has been available for many years in many jurisdictions in the United States. I may be forgiven if I indulge in self-advertising. My company introduced the so-called motorist's personal protection privilege, it may well be twenty years ago now, which provides for a capital -- provides for capital sum payments, death and dismemberment benefits, weekly indemnity and so forth, to be attached as an endorsement, and in this case it is indeed an endorsement, to the automobile policy. Now, this was also accompanied at the time by the introduction of the uninsured motorist's protection. I don't want to be misunderstood, I don't say that the timing was identical, but in the general brief -- same brief period of time, this was introduced as well.

Q. In the United States?

A. Yes. The uninsured motorist's protection was intended to fill an obvious gap in the available general protection. The personal motorist's protection, or what we now know as the proposal for accident benefits in Ontario or in other parts of Canada, was intended to provide people who wished to buy it, additional means of protecting themselves and members of their families and passengers in their automobiles against injuries, against loss of income, essentially. Now this type of cover has always been available to the public from accident companies. This has been sold for many years as an automobile accident policy as such,

but with a very limited application and correspondingly inordinately high cost, so if it is to protect the motorist primarily it would seem quite obvious to make it available as part of the automobile policy and to have it extended to a larger number of people who can have the protection of the contract whether they are passengers or members of the family of the insured, rather than to sell an individual accident policy. Now, in Canada, I think that it was during the Regina meeting of the Superintendents of Insurance of the various provinces that a discussion took place about the changes to be proposed in the Automobile Insurance Act in order to make it possible to have this coverage sold as part of the automobile policy rather than as an accident policy.

Q. And what year would that be to the best of your recollection?

A. 1961.

Q. All right, thank you. Now, as a matter of interest, in any of the jurisdictions of the United States in which your company has apparently marketed this, is it mandatory to buy it as part of the policy?

A. No, it is not.

Q. In 1961 was it suggested that the coverage be mandatory?

A. The suggestion had been made, whether it was made at that time or not, I will have to verify, but the industry in Canada has generally been of the view that if the coverage is to be introduced it would be preferable to make it mandatory because it would reduce the over-all cost. I should perhaps add once again that in this respect the position of the industry is a rather neutral one in the sense that if the coverage to be introduced, especially if it is to be mandatory, we have made very clear our position that introduction by government authorities, such mandatory cover must be balanced against the possible additional costs being imposed on the public.

Q. Why then do you wish to make the endorsement mandatory? Is there more than one reason, or what is the reason?

A. Well, this would reduce the overall cost if it was to be purchased by a large number of people.

Q. Is that the sole reason, the endorsement, the so-called proposal is to be mandatory?

A. This is the fundamental reason, yes.³⁵

A draft form of addendum to a policy of automobile insurance was examined by the Commissioners. It was one proposed but not yet adopted, and it was not a final draft. But the intention was for wide coverage on a no-fault basis. This was not a proposal generally, but of The Travelers (represented before the Commission in the person of Mr. Damov). Quite evidently it was intended to provide

some form of cover, very extensive in its application, upon a no-fault basis. The coverage was to be upon the named insured, and to protect the members of his family and passengers in his car, and on the main insured if struck as a pedestrian.

Hence progressively the industry is proposing, from time to time, changes which expand the doctrine of no-fault. In the view of the Commissioners this signifies growing acceptance of the fact that it is becoming recognized that there is more accident than defineable cause in the conflict between cars upon the highway.

Mr. Damov was positive that if a scheme of accident insurance (no-fault) were imposed upon a mandatory basis the insurance premium would not be increased a great deal. The increase was indicated to be a range from \$9.00 to \$57.00, but with correspondingly more and readier cover on a no-fault basis.

Mr. Damov gave particulars of the no-fault cover issued by The Travelers:

DAMOV: Yes, Mr. Locke. In connection with the travellers accident benefits we provide coverage -- if I may read this so that it will be in the record to clarify it -- for automobile death indemnity and total disability benefits. The automobile death indemnity and total disability benefits privilege may be afforded to an individual, named insured, or to relatives of the name insured resident in the same household under the policy covering an automobile of a type to which this manual is applicable. This is from the Automobile Private Passenger Manual. The annual rates per person insured will be as follows -

LOCKE: I am sorry, by "per person insured" means the one owner of the policy, is that right?

A. No, that would also include the number of people who may be known to be members of his family.

Q. I see, all right.

A. The principal sum may be either \$5,000 or \$10,000 and the annual premium would be \$2 or \$4 respectively. The weekly indemnity may be \$25 or \$50 per week and may be provided alternatively for payments extending through the entire duration of disability, the effective lifetime disability payments, or limited to a maximum of 200 weeks. The

applicable rates for payments without a time limit would be \$4 or \$25 per week and \$7 or \$50 per week. With the limitation of a maximum of 200 weeks period of indemnity the corresponding annual premiums will be \$3 and \$6. And I am sure that this data, while factual, will be taken as requiring some proper interpretation in correct relationship to the actual provisions of the contract and the circumstances under which it will be issued, so that it is given here for illustrative purposes and for the limited value that this type of illustration would have.

Q. I am sorry, I haven't got the proposal -- or the precise figures. Perhaps you could remind me of the figures for which your limited benefit was proposed. Was there a figure set in your brief in the event of death, for instance, are we talking about what cover --

A. I am now speaking of the All Canada brief.

Q. Yes, the All Canada suggestion.

A. And you are thinking of the amount of benefit?

Q. Yes.

A. Yes, it was to be a death benefit of \$5,000 if my memory serves me right.

Q. To save you time is it set out in the All Canada submission somewhere? Have I missed it?

BROWN: I think it will be found in the report of Ontario Select Committee which is an exhibit.³⁶

Mr. Locke goes on quoting from Exhibit 136 C:

. . . And now comes the important part:

"It is emphasized that anyone who seeks financial protection against injury or death by reason of an automobile accident can obtain such protection through the purchase of an accident insurance policy. It is also emphasized that many persons in Ontario, in fact, probably most persons are already covered in this respect under some form of accident insurance. Practically every corporation, and in fact most small companies, include among their employee benefits accident and sickness insurance which provides specified benefits. Many automobile clubs incorporate in their membership privileges accident insurance providing similar benefits. From 1956 to 1960 the most recent report of the Superintendent of Insurance, accident insurance in Ontario grew 25%. It is still growing."

Now this was written apparently in 1962. So far would you agree with that, Mr. McIntosh?

McINTOSH: Yes.

Q. Gentlemen, would you agree?

DAMOV: Yes.

MAKIN: Yes.

PARKIN: Yes.

Q. I continue:

"Having thus described what the insurance industry has already done, and what it is trying to do in this regard, All Canada again wishes

to go on record as being unalterably opposed to any departure from the principle of no liability without fault or the established methods of determining quantum.

In our representations to the Superintendent of Insurance for Canada and to the Association of Superintendents of Insurance for the provinces of Canada, our objective has been to make it legally possible to include what is technically accident insurance in an automobile insurance policy.

There has never been any intention of denying to the victim so recovering any legal rights they might have against any party."

I take it that is still correct?

DAMOV: Right.³⁷

LOCKE: My friend, Mr. Vickers, has advised me that he procured this statement from the office of the Minister very shortly after, and I am going to offer it as an accurate statement of what the Minister said in the legislature, and I would like to read this and ask if you agree with it:

"When I first looked into the recommendations of the Select Committee on Automobile Insurance, that had not been implemented, I questioned the need for compensation with regard to fault and the costs thereof."

And then he goes on to say that two studies were made, that there was further attention and analysis; he says that he received a report from Professor Linden, and then there was an analysis of the potential effects of costs conducted by the Automobile Insurance Technical Committee under the chairmanship of Mr. Earl. This is familiar to you gentlemen. Then at the middle of page 2 of this statement -- and I am sorry, I have only the one copy and it is marked up -- I am quite willing to file it or try to find a clean one --

"Professor Linden's report found that most compensation was received from non-tort sources and there were court actions in a very small percentage of cases. He suggested there were a number of deficiencies in the present system and he emphasized, 'The sorry plight of the gratuitous passenger.' At the same time he found "a number of healthy signs manifested by the present system", and he said, 'the majority of those who suffer loss secure complete economic reimbursement through the tort system as buttressed by the new welfare schemes.'

The report of the Automobile Insurance Technical Committee investigated the effect on liability automobile insurance premiums of a mandatory additional coverage for all injured parties, regardless of fault, in the manner recommended by the Select Committee. The committee estimated that this clause would add about 20% to the 1967 premiums for the \$35,000 minimum coverage provided under the third party liability insurance.

This would mean an increase of from \$8 to \$57 for individual premiums

on private passenger cars. The total annual cost of these additional premiums has been calculated as \$22 million."

Now, does that accord with your recollection, gentlemen, of the figures given at that time under the circumstances then proposed?

DAMOV: Yes.

Q. I continue:

"Several changes in conditions have taken place since the Select Committee's report on this matter. The Motor Vehicle Accident Claims' Fund established as a result of the recommendations of the Select Committee, has come into full operation. This fund, with related legislation, has made possible a substantial increase in the number of our out-of-court settlements for accidents caused by vehicles without insurance; it has increased the maximum for payments in these cases; and has brought about an increase in the percentage of vehicles that are insured."

Do you agree with that, Mr. Parkin?

PARKIN: Yes, I do.³⁸

From the foregoing it appears quite clear that the industry is able to add to the coverage available to policyholders, if such action proves attractive. The fault principle may quite easily be replaced, therefore, if it should prove advantageous to the industry to do so. Hence, should it prove advantageous to the public to have two party automobile insurance, there can be no difficulty about instituting such coverage upon a no-fault basis. It is of little merit to contend that there should not be an area of accident having preferential basis, to wit, automobile insurance upon a no-fault basis, if in fact, rating may be had which is attractive to a willingly consuming public and beneficial to society as a whole.

That a change may be made is evidenced by the following passage in the evidence:

RAE: I see. Then is it correct to say that the industry does now, whatever may have been its previous position, support a plan based on a theory of compensation without proof of liability, and I must be fair to you and say that those words are the words of Mr. Piper in the Federation of Insurance Council Quarterly of 1953 in which he said that

38. 49/5742-44.

the insurance industry could not support a plan based on the theory of compensation without proof of liability. Has the industry now changed its view?

MAKIN: I think it is only fair to say, Mr. Piper, that again we have taken the attitude that we are willing to co-operate with the legislatures in the development of new coverages which they feel are required. In that sense I think the industry has changed its view, yes, and we have shown our attitude has changed.

DAMOV: Now, may I comment, Mr. Rae. I think that -- incidentally I am responsible for creating perhaps some confusion as to the industry's position as a result of the answers I gave to Mr. Locke the other day during his cross-examination. The position of the industry as a matter of policy is still as outlined in the All Canada brief which is before us, and on this particular subject as particularly outlined in Section 9 -- we do propose these accident benefits and we would accept the responsibility of providing them to the public if this was the required benefit. This is the outside -- the word was used the other day -- perimeter of our position. We do not favour compensation without fault. We are conscious of the fact that in one of its aspects this proposal does seem to lead us into compensation without fault insofar as the pedestrian beneficiary is concerned. This is part of the reason why in the drafting of the policy itself, modifications are taking place but nothing final has yet been done, and we have not received approval from the Superintendent of Insurance for any final draft of policy. But the industry would prefer to see, I believe I am correct in saying this, a policy that -- accident benefits which would not extend to third-party pedestrians; although it would be willing to provide these benefits if this appeared to be the requirement of governments.

Q. But, Mr. Damov, I don't want to belabour this ad nauseam, but page 1 of this section 9, on that page does the industry not bring this forward as its proposal for this Commission for British Columbia?

A. Yes, that is correct.³⁹

In comparison, the limited no-fault benefits offered by the industry appear to be similar to those which have already been covered, and secured under the Saskatchewan Government Scheme. There are minor, but not major, differences.

The proposals offered by the industry for British Columbia in the area of no-fault cover are in essence the Saskatchewan cover. This cover appeared outlined in the Brief of All Canada Insurance Federation.⁴⁰

39. 52/6149-51.

40. Ex. 124, Sec. IX, p.1.

It is natural to conclude that if benefits are extended, whether on a fault or a no-fault basis, premiums will have to be increased.

It is of great interest to note that, when the industry proposed no-fault coverage to the Select Committee of the Ontario Legislature, it urged the coverage be held to be mandatory. This the Select Committee recommended, but the Legislature of Ontario ruled that the coverage be optional.

The Commissioners are of the view that if no-fault coverage be instituted it should be made mandatory; as voluntary acceptance by policyholders could, depending on the coverage, add to the cost substantially. As to this Mr. Makin has given an explanation which is convincing:

RAE: Now, why would its being optional increase the cost?

MAKIN: You would be spreading the cost of the cover, Mr. Rae, over vastly fewer people. This in itself would in a sense make it more difficult to administer. We have no actual figures on what the difference in cost would be; but on a very informal discussion basis, and working with figures we estimated it would cost twice as much.

Q. I see. Depending on how many opted out and in?

A. Right. It would also in a sense penalize the individual who bought the coverage if it was, say, optional, because I might buy the coverage and might be riding in your car; and you don't have the coverage so my policy would have to pay your claim; so that I would be penalized in effect for buying additional coverage.

Q. And it would be for some such reason or the same reason as this presumably that Saskatchewan would find it necessary to make theirs compulsory in the first instance. Would you agree?

DAMOV: If that was the only way of having it applied universally. Now in Ontario at the time this was being done and today still by the statement by the Ontario Minister of Transport, 98% of the people were assumed or estimated to be insured.

Q. And at the time the insurance came in in Saskatchewan I have seen figures indicating that somewhere about 10% were insured. Is that correct?

MAKIN: That is correct.

Q. And this is your point; so that in Saskatchewan it would necessarily be compulsory, if you were going to get any sort of broad coverage at all, is that right?

A. Yes.⁴¹

41. 52/6165-6.

It is of course necessary to examine all details where a proposal is made which departs from the accustomed one. Consequently, before any scheme is proposed by the Commissioners they have had careful calculations made of the likely rating required. As to rating, no very satisfactory figures were available from the industry. There was a clash of opinion evident between computations by Mr. Wittick and Mr. Frederickson (both casualty actuaries); and the figures suggested before the Commissioners contemplated adjustments as the result of an off-setting principle, whereby payouts from the no-fault cover would be applied on account of, or off-set, against damages recoverable under any fault third party liability coverage.

ATTITUDE OF INDUSTRY REGARDING LIMITED NO-FAULT COVERAGE

A further discussion produced answers indicating the attitude of the industry towards the limited no-fault cover. Discussion in hearings produced answers indicating that attitude more clearly:

RAE: Well, now, I will read that sentence again as part of the remainder, and I would like to put the question to you in this way, gentlemen, do you agree that this is the majority of opinion of the industry in Canada as represented through the All Canada Insurance Federation that, "The companies in Canada welcome this new approach to automobile bodily injury insurance, because the feeling is it will serve to improve their relationship with the public. With basic benefits paid promptly to everyone injured in an automobile accident by his own insurance company, it is expected that automobile insurance will be viewed in a new and better light. Also it is thought that there will be less litigation with a consequent saving in legal expenses."

PARKIN: I believe this is the attitude of a majority of insurers in Canada today.

MAKIN: So do I.

McINTOSH: I agree with that entirely.

DAMOV: I agree with that. I would like to express once again my reservation about the third parties.⁴²

The public therefore, is to some extent deprived of improvements until it becomes policy on the part of the industry to please the public. This accounts in part for failure to improve the coverage available.

It is quite obvious from the evidence of the panel of All Canada Insurance Federation that the proposed partial no-fault coverage is one which is intended to be attractive and satisfactory to the public, and self-pleasing to the industry as well. For the latter, in particular, it will improve its somewhat tarnished public image.

The institution of partial no-fault coverage would undoubtedly lead to a more regular basis of settlement of all claims, and would help to eliminate the overpayment of small claims.

Mr. Wilcken, in his article commenting upon the article by Herbert E. Wittick, said,

A high percentage of small bodily injury claims will be settled at cost or scheduled benefit levels rather than at today's inflated out-of-court immediate release levels.⁴³

As to that quotation, the following is from the transcript. The witnesses Parkin and McIntosh gave the following answers:

PARKIN: I believe basically that would be correct.

McINTOSH: Yes. I would agree with that.⁴⁴

The All Canada Insurance Federation panel were not unanimous, however, in agree-

43. Carl L. Wilcken, Proceedings Canadian Actuarial Society 1964, Vol. 51, p.122.

44. 53/6247.

ing that "small bodily injury claims are being compensated at inflated levels at the present time". But they appeared to agree on a more important phase:

RAE: "3. The majority of bodily injury actions taken should be settled in much less time and for a lower cost per claim as each claimant receives immediate primary benefit, and the courts are far less congested."

DAMOV: Yes.

Q. Do you agree or disagree?

PARKIN: I would agree with that.

MAKIN: Essentially I agree, Mr. Rae; although, as I think I said before, I think the handling of claims under this type of coverage is going to be more expensive for the companies from a cost point of view than a similar tort type of claim.

Q. Adjustment in legal costs or what?

A. No, particularly under the - I am sorry, yes, I do agree with it.

McINTOSH: I agree.⁴⁵

It is interesting, also, to consider what was said by Mr. Wilcken of the possibility of savings under the proposed scheme (again reading from his article p.124):

RAE: "Similar changes in attitude of our injured occupants may result but not to the extent of the full knock-for knock system."

What he is saying is this, what you are going to save money with these passenger claims under this situation because you are dealing directly as the insurer of the driver whose guests -- who was the host, and there is going to be a more receptive attitude to reaching a settlement.

Q. Do you agree?

THE PANEL: Yes.

RAE: "Many in the insurance industry in Canada hope the risk is well taken. In addition some feel Canadians will have the finest automobile insurance coverage in the world when this coverage is marketed."

Q. Do you gentlemen on behalf of All Canada agree with the last statement?

MAKIN: I can to the best of my knowledge as I know other insurance situations rather well, Mr. Rae.

RAE: Mr. Parkin?

PARKIN: I am not sufficiently familiar with the world-wide automobile insurance conditions to make that statement.

Q. Let us limit it to North America.

A. I would believe so on this continent.

RAE: Mr. McIntosh?

McINTOSH: Yes.⁴⁶

45. 53/6249-50.

46. 53/6253-4.

Mr. Wittick's plan or proposal submitted to the Select Committee supra, Mr.

Parkin thought would result in reduced adjustment costs, but he went on to say:

It will only do this to the extent that benefits under it are large enough to satisfy the majority of claimants and deter them from seeking more under the tort system.⁴⁷

Although the proposal for no-fault coverage may be modest in the payments, it is obvious that if it is general in coverage, and the payments are made promptly, it will be a great improvement over the present condition of things -- with the conflict over liability and extent of injury, and with a minimum of recovery of economic loss. It may be true that:

RAE: How would you suggest an industrial worker who is earning say \$100 a week is going to be content to settle for \$35 a week?

DAMOV: I don't suppose he would be, Mr. Rae.

Q. I beg your pardon?

A. I don't suppose he would be.

McINTOSH: Not if the advantage of the tort system were -- if we were left with it. He certainly would not be willing to settle.

Q. Well, is this not going to be your principal benefit, this weekly benefit?

McINTOSH: Yes.

DAMOV: Yes.

Q. Isn't it?

MAKIN: He will get something, Mr. Rae, immediately, right off the bat. It may not be as much as he would want to get or should get, but it does mean that he will have some income coming in, in this case you cite, and he will be free to sue after that, if he so wishes.

Q. If he is not going to be satisfied with \$35 a week, how do you suggest this is going to result in lower claim settlement costs? If he is going to proceed anyway, he is going to have a sum of money in his pocket from you with which to pay for the proceedings.

McINTOSH: I don't think the attempt was to prove that in every case it would result, Mr. Rae. We are talking about -- I think the word small is used in the article repeatedly.

Q. Yes?

A. But to the extent a small claim would find its release in the accident benefits, it would relieve the strain of the tort system. But undoubtedly there would still be a great number of claims which would find their total recovery under the tort system; even though initially they may take some benefits out of this scheme.

47. 53/6256.

PARKIN: There is another way of looking at this, too, to save money on it, Mr. Rae: If a man is getting something, even if it is only \$35 a week, he knows that he has some contributory negligence which he will never admit to himself; and if he is getting \$100 a week at work, and he is voluntarily offered \$35, and he admits that he was perhaps 50% wrong, it would be very simple if the company admitted the same 50% to pay him another \$15 a week, and I think that the actual payment of this amount, without having to go any further, would leave the claimant of the very best to negotiate a further settlement on a fair and equitable basis under a question of tort.

- Q. If he is getting only half of what he thinks he is entitled to, you have got a narrower area in which you have to negotiate. The fact that the basic sum is, if what you are saying, is payable in all events, enables you to supplement it a bit from your P.L. coverage to get rid of the claim.
- A. If there is some question of tort, and there has to be in every case, I would believe.⁴⁸

The greater the spread of loss, makes the burden of those who bear the loss lighter. Consequently, a general insurance cover will have a good result so far as the public is concerned.

RAE: Now further down the page, "If there were no motor vehicle liability policies in existence the cost would have to be borne as the cost has to be borne with the existence of motor liability insurance." What you are saying there is this: When there are accidents there is a loss which is borne by someone; and to the extent that you have insurance you spread the loss?

MAKIN: Right.

Q. And the greater you spread your insurance the greater you spread the loss, I am sure you would agree?

A. That is correct.

Q. If you went into a system, if you did, the like of which is set out in Part 9 of your main brief, your Limited Accident Benefits, there would be a greater spread still of the economic loss, would there not?

A. Logically I would think so, yes.

Q. Broadly speaking you would agree that the object of insurance is to spread losses?

A. Yes.

Q. And the greater you spread it the more help you give to the individual concerned, obviously?

DONALD: Yes.

MAKIN: Unless the --

Q. These are not trick questions.

A. Less cost to the individual, yes.⁴⁹

PUBLIC WELFARE

It is of interest to assess what may be deemed to be "social welfare". The industry conceives that, if a scheme of compensation without fault be instituted by Government, that would be social welfare; but if the same scheme is instituted by the industry, it is not. That is something rather difficult to comprehend. It is apparent that both would be schemes for the public welfare. So far as the public is concerned, then, any measure benefitting it would appear to be desirable, no matter what the source. As to the idea of social welfare or no, the members of the panel of All Canada Insurance Federation were not unanimous in their view. Mr. Parkin was of the view that the industry-run schemes would also be a social welfare measure.

Commission Counsel read to the panel an extract from an insurance journal:

Journal of the American Society of Chartered Life Underwriters, written by Kulp referred to above:

RAE: Gentlemen, dealing with this matter of social welfare and social insurance, I want to read something to you to see whether or not you would agree. I am reading from one of the Irwin series on insurance which I have referred to before. It is a collection of papers on various aspects of insurance and the editor is Schneider and it is called, "Readings in Property and Casualty Insurance". The particular one I am referring to is Chapter 4 and is entitled "Social and Private Insurance, Contrasts and Similarities." It is from the Journal of the American Society of Chartered Life Underwriters of June, '52, and the author is the same Mr. Kulp.

Now on page 28 he says this:

"Insurance may be regarded as a contractual relationship, an economic enterprise, a technique for averaging loss or as a device for social planning." And then he deals with each of those and I will read his first sentence or part of it under each of those headings.

Under the heading of "Insurance as a Contract", he simply says that it may be regarded as a contract and an agreement by one party of the insured to take over from the other for consideration a loss. "Insurance as Enterprise." He says, "Insurance is also, if not a business, an economic operation." I am sure you will agree with those two aspects.

THE PANEL: Yes.

Q. Now as a technique he says, "Insurance is a technique for the group budgeting of risks." I think you would agree with that?

A. Yes.

Q. "Insurance finally may be used for a direct social objective. Insurance of course is always social in the sense that it is the central feature in group budgeting. The immediate objective and no less desirable for all that is the benefit to the individual. When the averaging technique is used to achieve immediate social objectives, what Winston Churchill once referred to as 'harnessing the magic of the averages to the chances of the millions,' the result is social insurance." Do you agree with that?

DONALD: When it is used to harness --

Q. When the average technique -- I will leave out the Churchill portion. When the averaging technique is used to achieve immediate social objectives the result is social insurance?

A. I take it they are not referring to any type of insurance, just insurance whether it is run by the government or an individual?

Q. That is right.

A. As a precept it does not seem to have anything wrong with it. It is taking an average and spreading it out.

Q. Would you not label your Part 10 of your main brief as social insurance?

A. I myself make some distinction between social measures and social welfare, and I think perhaps we are at cross purposes on that point. But yes, there are some social aspects generally, I would agree to that.

Q. Now over on the next page you make this statement. You are speaking of the Criminal Code, safe driving and the rating system, medical care -- all in the one sentence. Then we get down to Workmen's Compensation legislation and other Social Assistance agencies. Do you regard Workmen's Compensation legislation as a Social Assistance agency?

MAKIN: In a broad sense, yes.

Q. Do you know what it is? I am speaking of British Columbia. It is an insurance fund paid for by industry, that is the assessments are paid by industry although labour insists it is part of the wage packet. The assessments are paid for by industry; it is a fund administered by a board set up by the government, and the benefits are paid to the worker. Now do you regard that as a Social Assistance agency?

DONALD: I would not call it Social Assistance agency but I don't think we are putting it in that context here.

Q. I see.

A. We are saying all of these things exist in fact and they all play a part in the determination of how a claimant can be reimbursed.

Q. The only distinction between it and your Part 9 is the auspices of the fund. Your Part 9 would be a similar type of fund for the benefit of victims in a motor accident -- the assessments would be collected by industry and redistributed?

A. There are fundamental differences of course.

Q. What?

A. One is the bought voluntarily?

Q. Which?

A. The private insurance policy.

Q. Under Part 9?

A. The policy would be bought voluntarily and it would be a mandatory part of the cover, but it would be bought on a voluntary basis.

Q. What other distinction would you make?

A. I think that is the fundamental distinction.⁵⁰

The official view of the industry is that it is favourable to the tort system, but if the legislature should remove that rule of law, then the industry could, and would, continue to insure against the consequence of motor vehicle accidents and on the no-fault principle.

The fact that under a fault law there may be found some reasonably clear decisions upon who is liable for the injuries, does not appear to the Commissioners to be sufficient to warrant the continuance of the fault rule in the face of a scheme whereby many more persons may recover substantial amounts by reason of a comprehensive scheme of insurance coverage upon a no-fault basis.

The author Kulp has written effectively in the area of insurance, and the discussion of his writings was pursued by Commission Counsel at length, prompting the reaction of the industry witnesses -- all of which is illustrative in the area of the discussion of no-fault:

RAE: Gentlemen, yesterday I made reference to Kulp, and I should just like to read you a few extracts from Kulp. Kulp is the text that I have referred to frequently, and I am reading extracts between pages 220 and 224. This has to do with compensation insurance and was brought to my mind by the last portion of your brief, and I am reading only extracts, and I will be glad to elaborate, but they are long enough to put the propositions to you fairly.

Q. Have you a copy of Kulp?

50. 55/6491-4.

THE PANEL: No.

RAE: This is at page 220 under the heading of "Automobile Compensation Insurance."

"With few and minor exceptions, the arguments in favour of automobile compensation are based on a double premise. First the negligence principle has broken down as completely in the payment of automobile personal injuries as it had earlier in industrial injuries", and I am leaving some out, "Second, a reform that has proved eminently suitable, and almost universally acceptable, in the one area would be equally suitable and successful in the other."

Q. Now, those two premises, I think you will agree, are a short statement of the basis on which such briefs as the Official Opposition brief was put forward. Will you agree with that?

DONALD: They are the basis of their proposals --

RAE: Yes. I simply read that to form a base, and I have nothing more to add on to it. Now, the author then deals with some of the arguments in favour, and at page 221 he is quoting from Judge Marx. Incidentally he is in good company, the article is in the "Federation of Insurance Counsel" quarterly in which Mr. Piper's article also appears. Judge Marx, as you may know, has been a proponent for many years of this type of insurance, and he is a member of the Columbia Committee in the United States in the 1930's. Quoting Marx (reading):

"But 'the facts of our swiftly moving life today precludes such a possibility (that is determination of negligence with a degree of certainty). Accidents happen in a split second. They are sudden, unforeseen, over in a flash, and in 95% of the cases it is impossible to say who was at fault. Fault, which is at the theoretical bottom of liability, is largely fiction.'"

Q. Now, I would assume that the industry's position is, is it, that it does not agree with that?

A. That is right.

DONALD: We do not agree with it.

PARKIN: I don't agree with it.

RAE: Now, the next item I have to read further down the page, this is from the Province of Saskatchewan report,

"'. . . every motorist is, because he is human, negligent at some time or other while on the highway and it is largely a matter of fortune whether or not someone is in a position to suffer injury through his neglect at the time.' In the picturesque phrase of Judge Marx, member of the Columbia Committee and a life-long proponent of automobile compensation, 'the victim of an automobile accident is, sooner or later, everyone who travels on the highway. A successful automobile trip is a series of avoided accidents.'"

Now I am not asking you as to the second portion of that but rather the first.

Q. Would you concede that it is true that people are often negligent on the highway, and the question of whether or not there happens to be someone in or out of another motor car there to receive the results of that negligence is a matter of chance?

DONALD: As an isolated statement of fact, I would certainly have to agree.

MAKIN: I would too, Mr. Rae, yes.

RAE: So the question of whether I have an accident on the way home depends on two things in the context of this statement: I am negligent and I am

negligent under circumstances that it results in some kind of collision which it may not do, right?

MAKIN: Correct substantially.

RAE: And that, second, is pure chance.

BROWN: The second -- elaborate that.

RAE: The question of whether or not another motorist happens to be there at another time, in the words of the phrase, ". . . is largely a matter of fortune."

BROWN: Well, now, Mr. Chairman, my friend is with deference not stating correctly the theory of law behind the doctrine of negligence. There is no such thing as negligence in vacuo, and you cannot be negligent if there is no one else on the highway, when if there was someone there you might be; because we only owe our duties in relation to others and the duty does not commence until he is there. So to premise this argument by saying that these are identical situations, if someone was approaching Government Street, say, and there was no one there, that that is identical with approaching it when there is someone there, because the duty is impossible in one case and possible in another.

RAE: Now that my learned friend Mr. Brown has provided you with the answer, I would like to put the statement to you again.

BROWN: Let us say the correct law.

RAE: I don't agree, with respect, and I am not putting law, I am putting a theory to them, ". . . every motorist is, because he is human, negligent at some time or other while on the highway and it is largely a matter of fortune whether or not someone is in a position to suffer injury through his neglect at the time."

Q. Do you agree with that?

DONALD: As I said before I can agree with an isolated question that does not have any particular portent to it.

RAE: Then at page 223, the second premise being a reform that is suitable in the industrial injury area is suitable in the motor accident area. Now the author is referring to that premise here at page 223, the second paragraph:

"But even if there is complete agreement on the defects of negligence as a basis for determining the fact and amount of automobile accident liability, a number of formidable objections to the second premise above remain. As might be expected the principal objectors have been the insurers."

Q. Would you agree that the insurers do object to that second premise?

DONALD: The second premise being, I am sorry?

Q. That what was suitable to an industrial situation is suitable to a motor accident situation?

A. And you are asking me if the insurers have taken objection to that?

Q. Yes, if the industry disagrees with that premise.

A. I think that would be true. I would disagree with it myself.

RAE: (Continuing reading): "As might be expected the principal objectors have been the insurers. Their objections are partly based on matters of principle; the greater number are matters of expediency or detail. Illustrative of the first group are these: (And these are the matters of principle upon which the insurance industry rests its objection.)

"1. The principle of compensation, while eminently suitable for in-

dustrial injuries, does not at all suit the motor vehicle hazard. Compensation is suitable for industrial insurers because the hazard is covered by the wage contract, the employer has substantial control over the worker and the place of work, the facts surrounding an alleged injury can be readily and accurately checked, benefits can be related definitely to the amount of loss, the hazard is limited in number exposed and is broadly social and not personal in origin, prevention has a direct and logical relation to benefit, and 'the cost . . . is a legitimate cost of doing business which can be passed on to the consumer.'"

Q. Now, would you agree that that is a fair statement of the insurance industry's position?

MAKIN: I would, Mr. Rae, not only essentially in principle, but in practice, too.

Q. And when I say the insurance industry, I mean the industry you gentlemen represent.

A. Yes.

DONALD: And I think added to those long list of --

Q. Well - yes -

A. -- reasons, I was just going to say that industry when it wants to and when it has wanted to has provided indemnities over and above the compensation to its employees.

RAE: Yes. Now, the author says this (continuing reading):

"this comparison of the industrial and automobile hazards (incidentally, this tribute to the compensation idea would have sounded strange forty years ago) contains a great deal that appears superficially true but has little to do with the central idea of compensation. Prevention, for example, is a consummation devoutly to be wished and is sometimes a welcome by-product of compensation and insurance, but prevention can and does exist without compensation."

Q. Would you agree with that statement?

DONALD: It can certainly exist, yes.

Q. Yes. The author going on, "The argument is weakest in the inference that the automobile injury is totally or principally a private matter."

Q. Do you consider that the automobile injury is a private matter?

A. I think there are two elements to it, I think we have covered it a number of times in this hearing. The question of the insured's interest in protecting his own rights and the public interest in the problem of the victim.

Q. Yes, and in that second area the industry takes credit for putting forward legislation like Unsatisfied Judgment Funds to take care of victims?

A. We like to feel we have collaborated in it, yes.

Q. Yes. So to that extent the industry recognizes it as being more than an individual problem?

A. I think we have demonstrated that, yes.

MAKIN: Yes.

RAE: Then he goes on, the author, "There are many employers who wish they could pass on compensation costs as easily as the statement implies, and it is just as logical and equitable to put the costs of automobile injuries on automobilists as a class, who are the ultimate beneficiaries of the automobile and the highways, as it is to put the costs of industrial injuries on the ultimate beneficiaries of industry."

Q. Would you as an industry disagree with that statement?

DONALD: I don't think we can disagree that the cost has to be spread. It must be spread.

Q. Would you disagree with this statement of the author, "Compensation is essentially an economic device for distributing costs, not, as this argument implies, an administrative convenience and legal by-product of the employment contract?"

A. I am sorry, I will have to have that again. The compensation is a method of --

Q. "Compensation is essentially an economic device for distributing costs," if you substitute the word insurance, compensation insurance, I think you will get the sense of its, ". . . is essentially an economic device for distributing costs . . ." This is in the industrial injury field, ". . . not, as this argument implies, an administrative convenience and legal by-product of the employment contract." I think you would probably agree with that?

MAKIN: I would.

DONALD: It certainly involves both things.

RAE: And the author goes on at the top of page 224, and I am fairly close to completion here, gentlemen, (continuing reading):

"The characteristics of the automobile injury add measurably to the difficulties of administering any automobile injury benefit plan; without exception, however, they make a compensation plan easier to administer than one of negligence. Once one has given up the hopeless attempt to apply an individual standard of care to every automobile accident and substituted a rough-and-ready (and higher) standard, these characteristics are not reasons against but for compensation."

Q. Do you agree with the essence of that statement, namely, and I can summarize it, granted that an automobile injury system, insurance system, is somewhat difficult to administer and complicate it, but of the two, the fault and the no-fault, the no-fault would be easier of administration?

MAKIN: I think it is difficult to answer that, Mr. Rae.

DONALD: I am sorry --

MAKIN: It might be theoretically easier to administer, but I don't think it would be as easy to administer efficiently with as much justice for the innocent victim.

Q. The author is not here, as I understand it, talking about justice, Mr. Makin. He is talking about administration convenience. You accept that there --

A. Not entirely, Mr. Rae, no. In my own personal opinion I think it is more costly and more difficult to administer the type of claim perhaps that would occur under what we have recommended in the form of limited accident benefits than those under an ordinary fault claim.

Q. Well, now then, the author says this as being the fundamental reason for the industry's position at page 224:

"2. The most fundamental, and quite understandable, reason for insurer opposition to automobile compensation as to compulsory automobile liability, is the fear of increasing state (and possibly political) regulation and ultimately state operation of the automobile insurance business."

Q. Is that correct as far as All Canada is concerned?

DONALD: We think that it is unnecessary to have a degree of political interest or control when you can accomplish matters in a simpler fashion at no more cost.

Q. But is this statement true, that "the most fundamental and quite understandable reason for insurer opposition to automobile compensation . . . is the fear of increasing state (and possibly political) regulation and ultimately state operation"

A. I think, as I said yesterday, if you try to make it a primary reason I would disagree with it. It is certainly part of the total picture.

Q. What do you say, gentlemen?

PARKIN: I would say no, basically, Mr. Rae. As I have said before, the industry would not look favourably on political interference or political or governmental control that we considered unnecessary.

Q. Yes?

A. We are always conscious of this possibility, but this would not be in my opinion a basic reason for opposing compulsory insurance.

Q. I see. Thanks. Mr. Makin, you did not offer anything.

MAKIN: I agree substantially with the other gentlemen, Mr. Rae.⁵¹

Again, later:

RAE: Now at the bottom of the page: "Those who repose great faith in the efficacy of these proposals --" I think he is referring there to the 'of compensation without fault', that sort of thing (continues reading): ". . . would naturally construe industry opposition to them as a performance deficiency. It is well known, of course, that the industry has consistently opposed compulsory automobile insurance and unsatisfied judgment funds, both of which would be integral parts of the proposed compensation-type legislation."

Do you agree with that statement -- that it is well known?

A. In the United States, yes.

Q. Not in Canada?

A. No, not in the same way. As you know we have been in the unsatisfied judgment field since 1948.⁵²

Mr. Holden of Wawanesa Mutual Insurance Company was quite eager to indicate that he favoured the limited no-fault coverage. He indicated that, particularly in Saskatchewan, there was a demand for such cover. He said in reply to Mr. Locke:

HOLDEN: But nevertheless it is the function of an insurance company to provide insurance against hazards, when there is a demand for such

51. 56/6523-33.

52. 56/6637.

insurance. We know from Saskatchewan that the most popular feature of the Act out there are the accident benefits, which frequently I have referred to as compensation. Accident benefits that are available to the Saskatchewan population under the Act. So I have been in Saskatchewan often enough to know that this is something that people up there like and I have no doubt people elsewhere have the same feeling.

RAE: Well, in your view?

A. I would add that they would have the same --

Q. Would they have the same feeling if the true costs were known and imposed upon them?

A. Well, the costs of course would have to be relative to Saskatchewan, and costs would undoubtedly of that feature be higher here than in Saskatchewan.

Q. Do you have any calculations?

A. No, but I have seen the figures from time to time.

Q. But supposing that the figures got to a certain stage. Don't you agree that you may change your opinion as to whether it might be desirable or otherwise?

A. Well, I suppose we would have to take a look at it in that case. I don't have any figures to indicate what the cost might be in British Columbia. Perhaps All Canada has produced something.

Q. The figures have been changed and I will have to -- Mr. Piper may be kind enough to refresh my memory, but I will put the first figures of All Canada which were produced in a rather long session dealing with this. It has been said that the cost -- and this has been changed -- would vary from \$8.00 for the great majority of drivers who come within the more preferred class, to a high of \$57.00 for the young owner with no accident-free experience. Now if that cost were to be -- if you feel capable of answering this question -- to approximate, let us say, \$50.00, would you be in favour of putting this on as a mandatory endorsement for the people of British Columbia in particular?

A. This \$50.00 which you mentioned would apply presumably to a relative few in a high rated category, would it not?

Q. Yes.

A. The bulk of the motoring public would pay substantially less.

RAE: The average figures as I recall it, Mr. Chairman, these were a non flat rated premium from which as I recall it the industry retreated and brought forward a flat premium of fourteen to eighteen.

LOCKE: Those are the figures I could not remember.

Q. These first figures were based on your present classification differentials.

A. The present figure proposed by All Canada -- and I don't know whether they are right or wrong -- they at least appear to be fourteen to eighteen dollars. Would you subscribe to adding to the cost of the automobile insurance on a mandatory basis -- of adding this on?

A. Yes, I think if the public knew the benefits of this that they would subscribe to it. I could be wrong. You are asking a hypothetical question and I don't know the public mind too well. I do know this, at least I feel this, as I said in the brief -- I feel society may be reaching the point in its developing social conscience -- and I think we have a developing social conscience -- where that society feels victims of automobile accidents should be entitled to some compensation regardless of fault.

- Q. From your examination of the Saskatchewan situation which you presented you had considerable experience in analyzing the results of political forces on publicly run schemes?
- A. Yes.
- Q. Is it not your thought, or would you not concede that if any such mandatory schemes were put in force that you would soon find a public finger in this pie by way of regulation, state interference or otherwise?
- A. You are referring to an additional cost?
- Q. Not an additional cost, but on the assumption that the scheme as proposed comes in. You say that the public in your view may be prepared to bear the additional cost.
- A. By whom operated? By private insurers?
- Q. I suggest to you from your knowledge of the political trends of the time that political pressure would prove to be irresistible and that the government in one way or another would encroach upon this field.
- A. It might be by way of regulation, rate regulation of some sort. We know of course -- I cannot dispute this, it is common knowledge that every time rates go up the public is unhappy over it and there is a certain amount of distress, let us say, displayed about this. This of course goes back to the ears of the politician, I must say that.
- Q. Such a scheme after all is a social scheme. The mandatory accident endorsement is really a type of social compensation or scheme.
- A. I suppose it is in that sense.
- Q. I think you mentioned it yourself by way of the growth of social conscience.
- A. Yes, I was thinking of it in a different sense, but I will accept that.
- Q. Has not the history of social schemes in Canada been of public and political pressure for uprating benefits?
- A. Yes, we have had increased liability coverages, for example.
- Q. You mentioned yourself a minute ago the possibility of rate control over such an endorsement.
- A. That is always possible. I don't say it is inevitable.
- Q. Your brief or submission has been almost entirely in the defending position of free enterprise. I suggest you are subverting that which you press for by adopting that.
- A. We are adding another coverage to the policy.
- Q. Another danger I suggest of government interference.
- A. I don't think so. I don't think there is any more danger in that than in adding any other coverage to the policy, or a relatively small danger, if there is any.
- Q. I suggest to you that your answer is not consistent with those you gave a couple of minutes ago on the likelihood of government interference in rate control.
- A. Well, this is of course added to what -- to the present situation, but the addition of these benefits would, I should think, be popular enough to some extent at least to obviate this.
- Q. I suggest to you that the more popular a social scheme is the more likely it is to enact political pressure of which I speak.
- A. When you are speaking of political pressure, are you thinking of rates?
- Q. In all its aspects, direct and indirect, by way of rates, regulation and by way of informal direction by a government -- that something ought to be done about something, that is all. I am not able to predict

but this is the only thesis I can put to you -- that by adopting on a mandatory basis this scheme you are rendering the dangers of political interference very much greater than they are now.

- A. I haven't thought of this possibility. This might add to what is already there, it is possible that you may be right in that area.
- Q. You have not sat down and perhaps maturely weighed this matter, particularly in regard to rate costs?
- A. No, I haven't, I agree that I have not. What I said in the brief that there was a developing social conscience -- if it is the wish of the government and of this Commission to recommend such then we are prepared to provide it.⁵³

MODERN TRENDS

As to modern trends it is probable that the whole of society, whether in the Province of Saskatchewan, or elsewhere in the world for that matter, is by reason of a developing social conscience willing that victims of automobile accidents should be entitled to some compensation without fault being the factor of liability or entitlement.

RAE: Now turning to page 15 at the top of the page, you say that the Wawanesa feels that society may be reaching the point in its developing social conscience where that society feels that victims of automobile accidents should be entitled to some compensation regardless of fault. Mr. Mathieson of the Co-Op Fire, as I recall his evidence, indicated that the people of Saskatchewan, he thought, had accepted this type of insurance. These are not his words -- but they liked it and wanted it to continue, they found it acceptable.

HOLDEN: I have not the slightest doubt of that.

Q. You would confirm what he says?

A. Yes.

Q. Why do you think this is so, Mr. Holden? Why do you say you have not the slightest doubt?

A. Because we know enough about Saskatchewan and have been there frequently enough to know that this feature of the Act at least is highly regarded by Saskatchewan people. Now you asked the reason for it. I feel they like it because there is a certainty of compensation for some people who could not collect otherwise. Persons for instance pedestrians or passengers in cars, somebody killed or injured, some compensation, not too much, but they have a large number of claims and people know about this and it certainly has received public support. I hope I have answered the question.

- Q. As a consequence of this type of thinking the All Canada brought forward in Part 9 of this brief a similar type of compensation scheme -- called Accident Benefits?
- A. Yes. It is called Compensation sometimes but even the Act itself does not refer to it as Compensation, it is called Accident Benefits.
- Q. I don't make anything of that.
- A. I don't really.
- Q. With fault excluded as an element to consider in these claims, it would be simpler for the underwriter, the insurer, whether the government or whether an individual insurer to settle claims to determine what is payable?
- A. Oh, yes, because there is a schedule of benefits.
- Q. And you are not concerned with determining degrees of liability?
- A. That's correct.
- Q. Now does it not follow from this therefore that whoever was handling this area whether a private insurer or a government board there would be considerably fewer of these claims that ever had need to go near a court?
- A. It would certainly reduce the number, yes.
- Q. Because for two reasons -- one, there cannot be any argument about fault?
- A. No.
- Q. And secondly, your benefits are to some extent at least so scheduled that there cannot be much argument about quantum?
- A. That is my understanding.
- Q. And in settling a claim under a no-fault policy like that, an insurer has to make very few decisions except to determine that it arose out of a motor-vehicle accident and that there is a policy of that type in existence?
- A. Yes, but even in settlement of claims there would be some possible area -- for instance in the length of the weekly benefits disputes could arise as to the length of time.
- Q. That is quantum?
- A. That's right. There is some area there.⁵⁴

There is no doubt in the opinion of the Commissioners that, with a no-fault system, the payment of claims will be expedited, and there will be under a compulsory driver coverage both a greater and fairer recovery than under the fault system.

RATING OF NO-FAULT COVERAGE

As to the no-fault system and the rating for it; the Commissioners have consid-

ered whether there should be a flat rating or a merit rating. It is illuminating to consider a summary of the experience of All Canada Insurance Federation as outlined by Mr. Rae in a brief and comprehensive statement in the course of his examination of the witness Holden.

RAE: Mr. Holden, I would like to state for you shortly my understanding of the evidence with respect to the rating on the part nine proposal under the All Canada Brief, and I invite my friends to amplify it or contradict, if at any place I go wrong.

When the All Canada first attempted to develop a rating for what I shall call, to avoid any emotional involvement here, "Accident Benefits". . . .

They first of all developed a series of rates which involved a percentage increase on the various classifications A to H, a standard percentage increase. Now it was later considered, and I know specifically by Mr. Wittick, that it was not valid. I won't go into the reasons now because I can't recall them at the moment. They then determined tentatively on a flat rating in this sense: that they would not make distinctions on the basis of the respective hazards of the auto owners, and they would develop a premium which they thought was correct, somewhere between twelve and sixteen dollars, I am informed -- I think I said the other day fourteen to eighteen, but it does not matter very much. They would develop a premium, flat-rating it so far as owners were concerned, except that they would divide Ontario into four territories, paying some regard to the relative density of traffic, and that they would develop a premium differential between those four territories within the twelve to sixteen or eighteen dollars. Now I would take that, Mr. Holden, to be flat-rating in the sense you are thinking, because you consider there should be a distinction as between drivers.

HOLDEN: My thinking is that there should be -- that the rate should measure the loss potential of the hazard.

Q. Whether that hazard is the driver or the driving conditions, or both?

A. Yes.⁵⁵

In relation to the rating of no-fault insurance there would appear to be a probability that a flat rate will be possible for those who are reasonably free of accidents. Those who are guilty of breaches of the law, or have a history of accident involvement, however, will be adding to the risks of the insurer. Consequently it will not be unnatural that they should have their premiums adjusted

upwards.

According to their experience, the rating mechanics should prove simpler and, therefore, less expensive than rating under a fault system. The industry was of the opinion that there could be a flat rating of its proposed no-fault coverage.

The experience of the Wawanesa in Saskatchewan with regard to rating is given in the following testimony:

RAE: In the whole of Saskatchewan likely to be more homogeneous than they are in Alberta and Manitoba, having regard to density?

HOLDEN: I should think it would be

Q. I see that Mr. Hargrave is nodding his head.

HARGRAVE: I would agree.

HOLDEN: There is less density in Saskatchewan.

Q. All right. When you develop a policy premium differential in Saskatchewan, having previously been flat rated --

A. Yes.

Q. Your flat was \$16.60 in 1950, if I read this correctly.

A. That's right.

Q. Then you developed a differential of \$28.50 and fifteen?

A. Yes.

Q. And the differential you developed was purely traffic density?

A. Well, claims frequency was in it too. Claims frequency and average cost of claim.

Q. Quite, but there was no distinction between drivers, or was there?

A. Between drivers?

Q. Yes.

A. We were insuring the motor-vehicle.

Q. As I understand this paragraph at the top of the substitute page -- maybe some of you other gentlemen would like to answer -- your differential was simply on the basis of urban as against rural?

A. Oh, yes, that's correct.

Q. When you developed that differential of urban as against rural, which is substantially the differential, as I understand it, that the All Canada is talking about -- the four territories -- what were the relative numbers of policies, urban and rural? Roughly the same?

A. Oh, no, we had 75% of our business which was rural, 25% in the city.

Q. Would this be a fair sampling of the population, or are you unduly rural in your writing?

A. Are you referring to the present day?

Q. The time we are talking about.

A. We were essentially rural, that's correct.

Q. So that you were biased in your sampling -- rural as against urban?

A. Oh, no, sir.

Q. The question is really very simple. If you wrote three policies in

rural to one in urban areas, are these the relative population differentials?

A. It could be.

Q. Do you know?

HARGRAVE: I could find out probably.

Q. It is all right, I was seeking, Mr. Holden, to ascertain whether in going from a 16.60 flat premium to some premiums of 28.50 and others at one five, whether your average premium -- schoolboy average -- would still be approximately 16.60? You would have to know the relative urban and rural?

HOLDEN: No, I don't think so, I think a bit more than that. Provided we obtain the business, but we lost it in the cities.

Q. In the next paragraph on that page you say -- you quote Mr. Fines who was the Provincial Treasurer in Alberta.

A. Saskatchewan.

Q. I am sorry. "Automobile insurance is a social problem and as such premiums should be equalized so far as possible across the province."

Now I would assume you disagree with that?

A. I do.

Q. Well, now, if you are making a distinction between the rural traffic and the urban traffic, one being more dense than the other --

A. Yes.

Q. Whose fault is the density of traffic, the urban drivers or the rural drivers, or society's?

A. Really I can't say. I don't see the connection here.

Q. All right. Mr. Holden, you are seeking to measure hazard?

A. Correct.

Q. You say that the hazard of the urban driving is greater because the traffic is denser?

A. That's correct.

Q. I will put it to you another way. I may be an urban driver who is a far better driver than the rural man.

A. That could be.

Q. And I am driving in much more difficult conditions which I did not cause, I am not personally responsible for that density, but that is where I happen to live. Is there not an argument for saying -- even assuming we are the same driver personally -- that the premiums should be equalized, unless you fault the urban driver for the density of traffic?

A. I don't care what we fault him for, he lives in an area and the people in that particular area should pay a premium commensurate with the risk. If you flat rate it then somebody is subsidizing somebody else. What we say here is that the rural people were subsidizing the people of the city.

Q. Do you regard the increase in the number of accidents as a result of urban congestion as a social problem?

A. Oh, yes, everybody is concerned over this. Society must be concerned over accidents anywhere.⁵⁶

The experience of Wawanesa is of great value as it managed by skill and determination to survive and make money in the face of the immediate competition of the Saskatchewan Government Insurance Office.

The experience of the industry, in making proposals for no-fault coverage, is indicative of the fact that there are no fundamental pitfalls in changing the right to coverage from a fault to a no-fault basis. With the proposal in view of partial no-fault, the industry speedily complied by introducing such cover and that was done with little or no experience save that of Saskatchewan for comparison.

The Commissioners were favoured with a brief of B.C. Fruit Growers Association and part of the evidence given on behalf of that brief was as follows:

RAE: There are a great many matters within the Commission's terms of reference which I am sure you observed, if you read them. Did your company give any consideration to what some call accident benefit insurance, or insurance without regard to fault?

WOOLNER: We are giving it serious consideration now and we are looking into it in view of the industry's entire approach to it.

Q. It is new relatively, I take it?

A. Yes.

Q. You have no firm views to express?

A. Not at the present time, no, we are reviewing it right now.⁵⁷

The theory of the scheme of insurance coverage instituted in the Province of Saskatchewan is neatly expressed in the brief submitted by the S.G.I.O. and read by Mr. James Dutton (who is quoted from that brief) and is useful here:

DUTTON: Thank you (Continuing reading):

In proposing a departure from the then existing schemes, the Inter-departmental Committee that had been established by the Minister in charge of The Saskatchewan Government Insurance Office to consider the

problem of compensating traffic victims, in its preliminary report of November 2nd, 1945, reported as follows:

"In constructing the framework for the proposed Act, the Committee has been guided by the following principles:

That the widest possible protection should be afforded to the public having regard to the income from premiums collected.

That Public Liability Insurance does not afford this protection, for it permits a third party to recover from the insurer only if he can prove negligence on the part of the insured; it does not in itself provide compensation to the negligent insured driver; it does not protect members of the family of the driver. Public Liability Insurance does not afford protection against hit and run drivers.

That the rates for each general class of vehicle should vary directly as the risk experience of that group varies and that they should be fixed to give the greatest possible protection to those injured but at the same time, be within the capacity of each owner or operator of the vehicle to pay.

That the competence of the provincial legislature to require every motorist to take out a policy of insurance with The Saskatchewan Government Insurance Office is constitutionally permitted, provided that it does not prohibit insurance companies carrying on business under Dominion incorporation, from doing business in this province."⁵⁸

It was to be expected that counsel for the industry should pursue their right of cross-examination of the panel from Saskatchewan in a fairly acute manner, and they did so.

However, they had able people before them, and the Commissioners have drawn the conclusion that, whatever may be its shortages or defects, the Saskatchewan scheme has succeeded in assuring the people of that Province a modest scheme of no-fault insurance.

It is seen also that the fault system remains in Saskatchewan and that recoveries made under the government scheme are accountable in any fault recovery.

58. 79/8718-9.

The result of the scheme, by reason of the compulsory requirement, caused a great change in the number of cars covered by insurance. The figures are startling.

The result of the operation of the scheme, which has survived a change of government, is of great interest. The witness Green said, in part:

GREEN: I am sorry. When this Act first came into force there were very few people in Saskatchewan who were insured and certainly the concern of the committee at that time was the economic loss consequent upon bodily injury, as their reports have indicated. However, as the years have gone by for some reason -- and what it is I do not know -- people who are involved in accidents, people who are potentially going to be involved in accidents seem to be more concerned about damage to their property than they are about damage to themselves. Perhaps it is because they think injuries to the person are more remote, I don't know.⁵⁹

There can be no doubt that under the Saskatchewan scheme there is a considerable economic recovery.

It is significant that the Minister of Health and Welfare of Saskatchewan, the Honourable Mr. Boldt, had indicated that "The number of accidents costing the fund more than \$50.00 would perhaps be 15,000 to 17,000 in 1966". There has been a steady increase annually. This would lead to the belief that there is a considerable recovery of the smaller claims.

It was put to the Saskatchewan panel by Mr. Harper that although "the A.A.I.A. had been studied by governments, private residents and individuals across Canada and from many parts of the world", there had been no adoption of it elsewhere. The answer given was made by Mr. J.O. Dutton:

59. 80/8834-5.

DUTTON: Research foundations and university committees throughout North America have collected thorough and impartial studies of compulsory automobile insurance plans such as the Saskatchewan Plan, A.A.I.A., and virtually all have shown themselves to be in favour of this type of automobile accident insurance. There have been investigations also by independent groups and individuals.⁶⁰

Study by the Commissioners has led them to conclude that that answer was correct. The panel was quite ready to concede that the Saskatchewan scheme might be good for that Province, but not for other areas, or even the Province of British Columbia. The courteousness and willingness of the panel in its answering was refreshing to the Commissioners.

The benefits under Part II of the A.A.I.A. are the same for everyone who comes within the scheme. A suggestion was made that there had been no changes in benefits over the years in the scheme, but this is not correct, and in particular, for instance, the death benefits have doubled since 1946-1947, primary and secondary included. And there has been an up-grading of benefits generally. There is no need for a detailed analysis; sufficient to say that, although the scheme in Saskatchewan has been limited, it has not become moribund.

The study of the Saskatchewan scheme has proved a very interesting and rewarding one to the Commissioners. It is, however, unnecessary to analyze the details of the scheme of that insurance under this topic of no-fault insurance cover.⁶¹ It is sufficient to say that there can be such coverage, and that at reasonable cost so far as the motorist is concerned.

60. 82/9074.

61. See Appendix to the Introduction to this Report.

Mr. Green of the Saskatchewan panel was quite ready to admit that there was room for improvement in the Saskatchewan scheme. His opinion was of course not that of the Saskatchewan Government, but his own. Mr. Green had been with the Saskatchewan Government Insurance Office from its inception so that his opinion has considerable experience to give it validity.

The following extract is apt:

RAE: . . . I think we agreed yesterday, Mr. Green, and if not it would be self-evident anyway, that the cost of settling a claim under Part II is significantly less than the one under Part IV where you must determine fault?

GREEN: That's correct.

Q. And the time involved would be less too on the average?

A. Oh, yes.

Q. Do you have any statistical data which demonstrates comparisons or time or costs of settling claims as between a fault and a no-fault?

A. No, I think all one can do is think of the procedures involved. With the Part II claim it is a matter of the adjuster sending out forms and getting the forms completed by the claimant and his position, then the forms being assessed. From time to time of course there are follow-ups required and there has to be personal discussions but all the time involved is at that level. I think Mr. Devine would be better to discuss it.

DEVINE: I feel as Mr. Green has indicated and I can only speak from experience in handling this type of claim. We do not have statistics that we could compare with the time spent on a liability claim as opposed to a Part II claim.

Q. But there is a difference, as indicated?

A. I am sure there would be.

Q. As a consequence, if not for other reasons, in costs?

A. Yes.⁶²

The experience in Saskatchewan indicates that the car owner prefers to recover for property damage rather than bodily injury and the results of claims appear to be the mere exchange of dollars for losses incurred, viz., the payment of premium and its subsequent recovery by payment of a small claim, which under

other schemes of insurance would normally be in a deductible amount. But the public of Saskatchewan appears to approve of the scheme, as experienced in that Province.

The brief of the Saskatchewan Government Insurance Office puts the matter succinctly:

(d) The existence of Part III permits a greater proportion of the insurance dollar to be utilized in the repair or replacement of damaged vehicles than might be expected to be the case if the interests of the motorist were adjusted according to the rules of fault.

The Commissioners have drawn the conclusion that the insurance rates and coverages required and offered by the Saskatchewan Government Insurance Office compare favourably with similar insurance cover promised by the industry.

An assessment of the Keeton and O'Connell Plan by James S. Kemper Jr., President, Lumbermens Mutual Casualty Company before the Auto Claims National Conference, University of Illinois, Champaign, Illinois, October 2nd, 1967 is devastating. But in the opinion of the Commissioners it is merely a refusal of the industrial mind to accept a new idea. Nevertheless, as indicated elsewhere in this Report and earlier in this chapter, several very major insurers have publicly come out in favour of the approach. The Plan of Keeton and O'Connell is a new idea. The Plan of this Commission is a new idea. The latter plan can be carried out by a receptive industry. The general public can only find the carrying out of the plan beneficial in view of their present predicament.

Mr. Herbert E. Wittick, a casualty actuary, who is a fellow of the Casualty Actuarial Society, and a member of the Superintendent's Statistical Committee, and

also Vice-President of Pilot Insurance Company of Canada, presented a paper which appears extended in the proceedings of the Society, and which was of interest to the Commissioners.

The title of the paper is "Estimating the Costs of Accident Insurance as part of Automobile Liability Insurance". Mr. Wittick, the Commissioners find, is an accomplished person in his own profession and one who speaks with more than usual knowledge and authority.

The following are some passages to be noted:

RAE: He is quoting, "The committee is interested in the principle of compensation regardless of fault. Its departure from the traditional concept of fault liability reflects a view held in some quarters the responsibility for automobile accidents rests on society as a whole rather than on individuals and that the task of establishing responsibility in this age of many complexities imposes too great a burden to settle or adjudicate claims!"⁶³

It is of interest to note that the response to that paragraph by members of the All Canada Insurance Federation panel, before the Commissioners, was unfavourable, and they rejected the suggestion that:

. . . "It is rather surprising to the committee that over the years the insurance industry has not reacted more positively in this particular area of concern."⁶⁴

However, it is noted that the attitude of the industry changed:

RAE: But you did not react in this area of concern, to use the committee's own words, until you became certain that the committee was going to go

63. Excerpt from Report of Select Committee of Ontario Legislature quoted by Wittick in his article supra.

64. Ibid. See also: 53/6216.

for this type of cover, if I might put it that way?
DAMOV: Well, the committee's concern as expressed here, was with the availability of accident benefits to all victims of motor vehicle accidents, regardless of fault. The industry's position was then as it is today that we are not in favour of providing such benefits. Now the fact that we do not -- or the view that we have not expressed any concern in this respect is something that we did not accept and we pointed out that actually the industry had wanted to introduce accident benefits as part of the automobile policy and sought permission prior to the committee's formation, but not to go as far as this.⁶⁵

It is quite evident that if legislative pressure is placed upon the industry by indicating approval of the theory of no-fault that there will be no opposition from the industry.

It is remarkable that the industry were, and were not, in favour of the ideas of Mr. Wittick. This "on" and "off" attitude is difficult to appreciate.

There can be no doubt that Mr. Wittick had formed a favourable conclusion about the "no-fault" proposals to be submitted to the Select Committee of Ontario, and that the additional premium to be paid for such coverage would be of the order of \$5.65 per policy of insurance carried.⁶⁶

It is difficult to speculate upon the probable costs as no practical experience has ever been had of the proposal outlined by Mr. Wittick and only partial agreement with his ideas was found amongst the All Canada Federation panel.

While a modest, and yet reliable, scheme for payments under the no-fault con-

65. 53/6217-18.

66. 53/6255.

cept may not produce monthly payments in apparent relationship with the actual earnings of the victim of an accident; such victim will be in receipt of money -- and that very speedily after the accident, as compared with the present system of fault and its attendant delays.

As to giving satisfaction, Mr. Wittick said in his article:

In general, the companies in Canada welcome this new approach to automobile bodily injury insurance because the feeling is that it will serve to improve their relationship with the public. With basic benefits paid promptly to everyone injured in an automobile accident by his own insurance company, it is expected that automobile insurance will be viewed in a new and better light. Also it is thought that there will be less litigation with a consequent saving in legal expenses.⁶⁷

SUMMARY

Mature consideration of the foregoing leads inevitably to the conclusion that, while almost the whole insurance industry favours the fault principle, it indicates by its actions and utterances that there is such merit in the no-fault principle as to prompt the industry into providing limited no-fault benefits. This is to improve the image of the industry, or in other words, to make the industry popular with the public.

FURTHER CURRENT OPINION

In exploration of the theory of fault or tort law the Commissioners have read many publications. Professor A.M. Linden has been a prolific writer. As indicated in dealing with the merits of the fault system the Commissioners have concluded from his utterances that the professor is wedded to the theory of tort law, in which field he may be termed to be an expert. However, they have some

67. H.E. Wittick, Proceedings -- Casualty Actuarial Society, Vol.51, 1964, p.111.

difficulty in recognizing from some of his writings the extent to which he is wedded to such concept. For example, reference is now made to a treatise entitled, "A Century of Tort Law in Canada: Whither Unusual Dangers, Products Liability and Automobile Accident Compensation?". The publication quoted here is found in The Canadian Bar Review, Vol. XLV, December 1967, p.831. At page 864 the following appears:

III. AUTOMOBILE ACCIDENT COMPENSATION

The resolution of disputes arising out of automobile accidents is the most important task of tort law to-day, whereas a century ago such actions were completely unknown. In the early days of the motor car, the courts treated them like wild beasts for a time, imposing strict liability in favour of those injured in collisions. In one Ontario case, the owner of a shining red roadster with brass fittings was held civilly liable for an accident that occurred when a horse took fright at the mere sight of his vehicle parked at the roadside. Chief Justice Meredith dissented. He felt that motor cars were "modern means of conveyance" that were used, not only "for pleasure", but for "business purposes" all over the country and that they should be entitled to the "same freedom as a wagon, carriage, cart or less modern vehicle". Another Canadian judge felt it necessary to proclaim that "the motor is not an outlaw." Gradually as automobile ownership spread these views won the day and motor vehicle liability became a branch of the expanding field of negligence law. Consequently, a person injured on the highway was required to establish that the defendant negligently caused his loss in order to recover from him in tort.

1. The Present System.

Veering over to fault liability may have been a mistake. As the toll of those killed and injured on the highways climbed, criticism of the tort system grew, because many victims, unable to secure a tort recovery, had to shoulder their own losses. This was so because some were hurt without fault on the part of anyone, others as a result of their own fault, still others as a consequence of their contributory negligence and the balance were unable to prove how the accident happened. In many cases, although an injured person could prove that another was to blame for his injury, that other was uninsured and impecunious. Thus, tort rights often became paper rights only, worth little or nothing in practice. Moreover, as the volume of accidents rose, more cases had to be litigated and delay in court ensued. Eventually, concern for the uncompensated victims of automobile accidents led many to question the propriety of fault as a basis of loss-shifting and to eye the new workmen's compensation systems longingly. Others wondered whether a tort trial could accurately determine what had occurred several years earlier in a split-second crash.

The response of tort law itself was disappointing; there was some stiffening of the standard of care required of motorists, some relaxation in the requirement of proof of fault, some increased willingness to use legislative proscriptions as determinative of fault and some expansion of vicarious liability. By and large, however, tort law withstood the pressure of social need. The reaction of our legislatures, on the other hand, was somewhat more satisfactory; they began to alter some of the background in which tort law operated, by enacting legislation making owners liable for all damages occasioned by their vehicles, permitting courts to apportion liability between a contributory negligent plaintiff and defendant, requiring insurance policies to contain various statutory conditions, allowing direct actions against insurers by third persons and prohibiting iniquitous defences such as drunkenness, racing and the like qua these third persons at least up to basic limits. Assisted by financial responsibility laws, compulsory insurance and such other devices as the "uninsured motor vehicle fee", the incidence of private liability insurance soared so that the Province of Ontario could boast that almost ninety eight per cent of its vehicles were insured to basic limits. Moreover, in order to assure that even the so-called "black risks" could secure coverage, assigned risk plans were established by the insurance industry.

Because there were still some uninsured drivers involved in accidents, the Province of Manitoba established the first Canadian "unsatisfied judgment fund". This government-operated fund guaranteed the payment of any automobile accident judgment or part thereof that remained unsatisfied above a minimum and below a maximum amount. Before long all of the other provinces followed suit. In addition to Manitoba, New Brunswick, Ontario, Saskatchewan and Alberta have government-operated schemes, while Newfoundland, Prince Edward Island, Nova Scotia, Quebec and British Columbia have systems operated collectively by the private insurance industry. Through various amendments the hit-and-run driver was covered, the maximum limits were gradually raised to \$35,000.00 inclusive and the procedures were streamlined. To-day the problem of lack of compensation due to an uninsured driver has been virtually obliterated in Canada, except in the rare case where the loss exceeds the limits of the fund.

Although not directed exclusively at him, a person hurt in an automobile accident may be assisted by the rather sophisticated social welfare system that has been erected in Canada. Even if he fails to secure any tort recovery, an injured person may still be reimbursed partially by some non-tort source, either government or private. With federal aid, provincially run hospital service plans supply hospital care to virtually every Canadian. Over eighty per cent of the Canadian population is now covered by some form of medicare, operated either publicly or privately. In addition to these two types of coverage, all Canadian provinces have legislation under which they may pay a small pension to a disabled, blind or any other person who is able to qualify by a means test. Workmen's compensation legislation, moreover, supplies complete hospital, medical and rehabilitative care as well as seventy-five per cent of wages during the period of convalescence for

any workman injured on the job. On the horizon are the disability and survivorship benefits that will be available under the Canadian Pension Plan. In addition to this, Canadians are a very heavily insured people; vast numbers are covered by life, accident, disability and other private insurance that can be called into play in case of injury in a car accident as in any other situation of adversity. One study has shown that forty per cent of the moneys received in 1961 by Ontario accident victims came from non-tort sources, which percentage has undoubtedly climbed since that date, and that eighty-six per cent of the victims got something from a non-tort source.

Despite this development, the voices calling for reform have not been stilled. Insurance premiums continue to increase, the problem of delay has not been solved and many victims are still not fully compensated. But the problem of soaring insurance rates is not as much a product of the present system of automobile accident compensation as it is of today's automotive society. More cars, more highways and more travel generate more accidents. Higher repair prices, higher medical costs, and higher incomes produce higher losses and, therefore, higher damage awards. Because of the increased accident frequency and cost per claim, the cost of indemnifying these losses rises and, hence, premiums are pushed up. To attack this problem by abolishing tort law is to miss the point; what must be done is to reduce the number of accidents and the severity of injuries resulting therefrom. By stricter enforcement of rules of the road, by clamping down on drunk driving, by offering driver education courses, by building safer roads and crash-proof cars, we may be able to shrink the accident toll. If this were done, not only would the economic problems be mollified, but the human suffering would also be diminished. Whatever steps are taken, however, to avoid accidents, they will never ceased to occur altogether, and, therefore, there will still be a place for the law of torts.

The Commissioners have given most careful consideration to that writing and have inserted it here as they are of the opinion that although Professor Linden may say "they are missing the point", they are of the following views:

1. That originally, with few motor vehicles, the business of claims for damages were reasonably encompassed by the tort law. It was a choice of fault or no-fault then, and the former prevailed only to embarrass the situation when traffic conditions, caused by the proliferation of the motor vehicle, outdistanced the effectiveness of tort law with the duty imposed by it of determining in all cases the question of fault.
2. Today tort law cannot be effectively employed in the business of motor ve-

hicle accidents for the very reasons suggested by Professor Linden in his article, and other compelling reasons. His comment "Veering over to fault liability may have been a mistake", only causes the Commissioners to conclude that he himself had grave doubts. The Commissioners have no doubt, and they conclude that, in present day conditions, tort law does not effectively serve the public injured by motor vehicles. Likewise they have concluded that, now, the best method is for the driver to be compelled to insure before he drives -- such insurance to cover himself, and those dependent upon him, as set forth elsewhere in this report in the recommendations of the Commissioners.

3. Responsibility to Insure. In considering the matter of no-fault, the Commissioners have comprehended that the milieu of motor vehicle traffic is now similar, by reason of the proliferation of vehicular traffic upon the highway, to that of a great game played by many players when rules may be constantly broken, without any wicked intent, and that consequently it must rest with the player to protect himself and those with him. The motorist is the player, and now he must make himself responsible to pay the damages following an accident in which he is a party and that whether it may be established that he was in any way negligent or not. He must now, as he does so frequently, enter upon the highway at his own immediate risk, which he must assume, and for which it is not unjust that he should be made responsible for his own injuries and losses. He is made responsible by taking (albeit compulsorily) the Basic Policy of insurance, and, at his option, such additional coverage as he may wish to obtain.

CONCLUSION:

The conclusion of the Commissioners, in the light of all the evidence, and after the submissions made, is that the fault system cannot adequately protect the general public insofar as the automobile accident is concerned. They are firmly

convinced that by a system of no-fault cover aided by other factors the motorist and the general public will be better served.

Accident has become the order of the day upon the highways of the world. On that account each driver must have immediate and serious responsibility. Each driver, therefore, should be insured and that insurance should provide for the compensation of those injured upon a no-fault basis as explained elsewhere in this Report.

There is no doubt that the industry will be able to provide the insurance coverage proposed. The foregoing testimony indicates that very clearly.



CHAPTER 18

A COMPULSORY AUTOMOBILE INSURANCE POLICY



CHAPTER 18

A COMPULSORY AUTOMOBILE INSURANCE POLICY

Costs arising from the absence of compulsory insurance in British Columbia were reported on earlier. In that same section, the Commissioners expressed their dissatisfaction with the prevailing patchwork of so-called "voluntary" measures. Before bringing down recommendations favouring universal compulsion respecting certain automobile insurance coverages, full consideration was given to arguments by opponents of compulsory insurance. The pages which follow summarize the major criticisms advanced, along with the Commissioners' evaluations of the arguments. Most of the industry's criticisms of compulsory insurance expressed at the Public Hearings appear to be identical to those advanced in the Robinette Report.¹ The Commissioners also surveyed published materials opposing compulsory automobile insurance prepared by the insurance industry for distribution in Canada and the United States. One example of the extent to which the industry has gone to saturate the news media with criticisms of compulsory insurance is to be found at Appendix 18:A to this Chapter. The information included in that document is part of a kit of material distributed by the National Association of Independent Insurers, entitled The Case Against Compulsory Automobile Liability Insurance 1967 Edition.

Though the basic accident insurance being proposed for British Columbia requires universal compulsion to be viable, the argument against compulsion will be considered initially in the present setting in the interest of optimal

1. John J. Robinette, Report on the Problem of Providing Compensation for Victims of Motor Accidents with Particular Reference to Compulsory Insurance and the Financial Responsibility of Motorists, Carswell Co., Toronto, 1943.

clarification.

Arguments against universal compulsion may be classified as being:

- (i) ideological in nature,
- (ii) economic, or
- (iii) based on technical and administrative difficulties.

Ideological Objections

1. Political Entanglements and Rate-Fixing

Ideological objections take varying forms. Thus, compulsory liability insurance has been criticized because allegedly it leads to political entanglements and rate-fixing. Those propounding this viewpoint inevitably seek to substantiate their case by pointing to difficulties experienced in Massachusetts where one form of compulsion has been in effect since 1927.² The Commission noted, however, that private insurers have not had any untoward experiences in the United Kingdom, in Australia, in South Africa, in the many European countries, or in New York State, where compulsory liability insurance is enforced. It was noted also that, under cross-examination, members of an All Canada Insurance Federation panel were at a loss to explain why, if compulsory insurance was a failure in Massachusetts, it was adopted in New York and North Carolina some thirty years later.³ The answer must surely lie, in part at least, in the very promising experiences of a score of other jurisdictions around the world. Clarification is also to be found in the New York

2. 46/5439. Also Nova Scotia Royal Commission on Automobile Insurance, pp. 149-151.

3. 54/6331.

Jurisdiction Report of the California Financial Responsibility Study Committee

which stated:

. . . the committee was forced to agree that those most directly affected by the laws seemed to have the least concern, which was completely contrary to what our original study developed in the voluminous literature and newspaper clippings furnished to us which bitterly attacked the compulsory insurance approach. For example, the committee could not obtain agreement from anyone, including insurance executives, rate-making organizations, etc., that the law made a "political football out of the State Insurance Commissioner" or that it had any material affect in increasing insurance rates.⁴

To conclude on this point, it is well to note that, even under the so-called "voluntary" approach, automobile insurance rates can neither escape attention nor avoid becoming an issue of public policy. The existence of this and other Commissions and of legislative committees in Canada, and sweeping investigations of the automobile insurance industry at both the state and federal levels in the United States confirm this fact.

2. Restriction of Freedom of Choice

Compulsory liability insurance has been attacked also as a restriction of the individual's freedom of choice. For example, Mr. D. B. Martin, then president of the C.U.A., in response to a question put by Commission counsel stated:

. . . I don't like compulsion in a free society. I believe that it was not necessary in Britain to introduce compulsion⁵

What was overlooked here was the fact that some compulsions and restrictions on individual freedoms are necessary to protect, preserve, and permit a free

4. California Financial Responsibility Study Committee, New York Jurisdiction Report, January, 1967, p. 72.

5. 27/3166.

society to prosper. In the field of insurance, in its broadest meaning, we find compulsion in workmen's compensation, unemployment insurance, hospital insurance, and automobile coverage for minors.

3. Inevitable Exclusive Government Insurance

Fear of monopolistic state insurance as the logical next step to compulsion is certainly one reason for industry objections to compulsory insurance. Professor Harry Kalven of the Chicago Law School, a severe critic of the several plans advanced for reforms in automobile insurance, speaking at the 1967 annual meeting of the National Association of Independent Insurers, stated:

The historic position of the insurance industry against compulsory liability insurance is, I think, a profound mistake. It seems to me that it is just no longer true and never was that the compulsory liability insurance is a halfway house towards socialism or something else.⁶

This Commission's preference for effective competition in the automobile insurance market over either rate regulation or an exclusive state fund, and the survival of private insurers in jurisdictions where automobile liability insurance is mandatory, confirms that the displacement of private automobile insurers by a government fund is not a function of universal compulsion.

Economic Objections

1. Enforcement Problems

Compulsory insurance has been criticized on the grounds that enforcement costs

6. H. Kalven, "Does the Old Common Law Have a Future?" N.A.I.I. Proceedings, Chicago: National Association of Independent Insurers, November, 1967, p. lll.

represent a great burden and drain resources from other areas. To quote from the submission of the All Canada Insurance Federation:

The mere fact that a law says 'every owner of a motor vehicle must be insured' does not automatically mean every owner is insured -- as Massachusetts, New York and North Carolina have found out. This is where the cost of 'policing' comes in.

In New York, for instance, the Department of Motor Vehicles has a special insurance control section which cost \$3,563,000 to operate in 1963. This is quite aside from the costs to police departments charged with the task of finding cars believed to be uninsured and of removing their licence plates. There is no way of accurately estimating their particular cost because various policemen have various amounts of their time devoted to it, but heads of police departments are unanimous in saying that the job, or even an inadequate part of it can be done only at the expense of other areas of law enforcement such as highway patrolling.

Estimates of the number of people involved in policing compulsory insurance in New York ran all the way from 400 to 1400 -- once again, because of the great number of people involved part time
. . . .

The same difficulties and costs are apparent in North Carolina and in Massachusetts.⁷

The above evidence, based on a release from the National Association of Independent Insurers in the United States, was placed in clearer perspective by the following exchange between one of the Commissioners and Mr. Damov of the All Canada panel:

Commissioner WALLS: Using your basis ... I have worked out that there were $5\frac{1}{2}$ million cars approximately. While it sounds quite large to say the special insurance control section costs $3\frac{1}{2}$ million dollars, that really only works out to 65 cents per vehicle per year.

DAMOV: Yes.

- Q. You have to take things in relationship. In talking of millions it does sound a lot, but relatively that cost is quite small.
- A. Of course this is so, Mr. Walls. It is just that the administrative expenses however, this does not include any payments to the public.
- Q. I appreciate that. But you make an issue of that in your brief and I was bringing it up. In talking of millions it sounds a lot but in

7. 46/5432-5433.

vehicles it is not much.

A. Right.⁸

Studies by the Commission suggest that enforcement is made more difficult when the insurance is cancellable by the insurer, and when insurance is not co-terminous with drivers' licences. The evidence of Mr. J. O. Dutton, General Manager of the Saskatchewan Government Insurance Office, and that of other members of the S. G. I. O. panel, was very revealing. The following exchanges with Commission Counsel are relevant:

RAE: What if any enforcement problem is presented with respect to compulsory insurance in insuring that it is being observed?

DUTTON: Well, I know of no problems as such. Have you encountered any Mr. Green?

GREEN: No. I was just going to suggest, Mr. Rae, that in the denials of liability last year I asked the claims department to make a check to find out how many claims were denied because of lack of registration, and out of the 90,000 files which we mentioned before there were 46 unregistered vehicles. These were Saskatchewan residents. There were six which were unregistered by virtue of the fact that the owner had died....

Q. Would you take that as a pretty fair sampling of the percentage of uninsured, Mr. Green, from your experience?

A. Yes, I would say so.⁹

The following question was subsequently put and was answered by Mr. Dutton:

Q. You haven't done any other study to determine the percentage of uninsured vehicles at any given period?

8. 54/6330. The New York Jurisdiction Report of the California Financial Responsibility Study Committee placed the 1965 cost at 58 cents per vehicle. (p. 63).

A different total of roughly 30 cents per vehicle of police enforcement costs was suggested elsewhere in the Report as a broad estimate.

Their North Carolina Jurisdiction Report placed total enforcement and administrative costs for 1965 at at least \$600,000 or at at least 30 cents per registered vehicle (p. 31).

9. 85/9419-9420.

A. No. I think perhaps I should answer that. The problem is so small that it is hardly worth a study. You are always going to get some people who, regardless of any law, are going to break it anyway, and we couldn't see any point in making a study. In our way of thinking, there really is not an uninsured motorist problem in Saskatchewan.¹⁰

Mr. Dutton noted also that enforcement problems arise largely from the ability of insurers to cancel policies and from the absence of a coterminous feature of the insurance and the driver's certificate.¹¹

To conclude on this particular basis for objecting to compulsory liability insurance, it is significant that industry witnesses were unable to point to any difficulties in policing and enforcing compulsory insurance in overseas jurisdictions, where in many instances it has been operative for decades.¹² Through correspondence with the New Zealand Transport Department, the U. K. Ministry of Transport, and the Department of Transport for South Africa, the Commissioners learned of no difficulties whatsoever, and are satisfied that compulsion and its enforcement are workable at quite modest cost.¹³

2. Increases Costs

Critics of compulsory insurance have charged that higher claims frequencies, traceable to claims consciousness, and an increase in illegitimate claims, are inevitable and that higher rates would result. This point was made on more than one occasion by the All Canada Insurance Federation in its presentations to

10. 85/9419-9420.

11. 86/9502.

12. 54/6326-6327.

13. The Nova Scotia Royal Commission came to much the same conclusion in 1957 and singled out South Africa as having one of the better approaches. See pages 154, 170-175 of its Report.

this Commission.¹⁴

The 1967 Report to the Legislature of the Financial Responsibility Study Committee of the California Department of Motor Vehicles provides data which are quite relevant.¹⁵ The information is summarized in Table 18:1. Recognizing that compulsion was introduced in the State of New York in 1957, the viewpoint held by All Canada lacks foundation unless costs per claim have risen far more rapidly in California than in New York. Between 1959 and 1964, the reverse was in fact the case. Furthermore, over the same period, average paid claim frequencies improved more in New York than in California where the "voluntary" approach prevails.¹⁶

The following excerpt from the cross-examination of an All Canada Insurance Federation panel by Commission Counsel provides a useful summation:

RAE: ... and I think we agreed, did we not, that increasing claims consciousness, if it means compensating property where you didn't compensate before, there is no evil in that?

MAKIN: No.

Q. And would you agree where you get an invalid claim, now, even when you have insurance cover, you could deal with it just as well under a compulsory system as under a non-compulsory system so far as sorting it out, the valid from the invalid?

MAKIN: Yes.

PARKIN: Yes.¹⁷

14. 46/5435 and 5439.

15. Financial Responsibility Study Committee, Report to the Legislature, Sacramento: Department of Motor Vehicles, 1967, pp. 67-68.

No attempt was made to use North Carolina data because of the bias arising from the low percentage of insureds prior to the introduction of mandatory coverage. New York, not being subject to this considerable bias was considered more appropriate. California was selected as it was used by All Canada for contrast with New York at 46/5437.

16. Ibid., pp. 62-63.

17. 54/6346-6347.

TABLE 18:1

Index Showing History of Manual Rate Changes for Limits of
\$10,000/20,000 B.I. and \$5,000 P.D., Private Passenger Cars
Family Automobile Policy

California and New York States							
California				New York			
Date	B.I. Index	P.D. Index	Combined	Date	B.I. Index	P.D. Index	Combined
1/1/55	1.000	1.000	1.000	1/1/55	1.000	1.000	1.000
6/1/55	.907	.872	.895	8/24/55	1.018	.869	.980
1/16/57	1.124	.896	1.040	6/27/56	1.033	.846	.985
1/7/59	1.458	1.264	1.380	3/31/59	1.231	.981	1.167
7/1/61	1.373	1.038	1.257	3/1/61	1.375	.976	1.277
2/12/64	1.668	1.371	1.564	3/11/64	1.213	.995	1.163
2/10/65	1.613	1.492	1.570	7/14/65	1.224	1.124	1.206

Critics of compulsory liability insurance have contended also that it would increase the cost of insurance because of the excessive paper work it engenders for insurers.¹⁸ In the absence of any evidence to substantiate such a claim the Commission limits itself to noting that costs must be a function of the complexities of any new approach encompassing compulsion, and that which is being proposed for British Columbia is fairly straightforward. Moreover, in terms of the total cost of insurance to insureds, the inequity of the present system, in which the responsible motorists and the insured are bearing costs which should be borne by the uninsured, would be eliminated, providing a more than generous offset to any possible increased costs.

18. 54/6332.

3. Decreased Protection

It has been alleged that compulsory insurance gives less protection -- a criticism based entirely on the Massachusetts experience where political pressure on rates has, in one instance at least, resulted in decreased coverage. It is further argued that when people are compelled to buy insurance, it may be that they do not purchase what their judgment tells them is reasonable but only what the law requires.¹⁹

The allegation that the recommended compulsory insurance system would give less protection is unacceptable. The matter of political pressures on rates has already been dealt with. The extent to which insureds purchase coverage beyond that required is largely dependent on their grasp of what different coverages will do for them. Surely this can be handled by agents, whether they be exclusive agents or independents. In Saskatchewan, roughly 50% of motorists carry supplementary cover. In New York over half of the motorists carry more than the minimum required limits.²⁰ In the United Kingdom it appears that a very large number of motorists voluntarily carry comprehensive insurance which adds coverage for damage to property, including automobiles and liability to passengers.²¹ Certainly, the 1957 Nova Scotia Royal Commission viewpoint on the subject is well worth repeating. It stated:

Since almost everyone would be carrying insurance, there would be bound to be a smaller percentage than there is now who would take extended coverage, but the absolute number would remain the same and would increase if the sales effort were stepped up. The insurers and agents ... have not convinced the Commission that they

19. This charge was not made before this Commission, but is found in pamphlets circulated by opponents of mandatory liability insurance. It was, however, a subject dealt with at some length in the Nova Scotia Report (at pp. 163-165).

20. New York Jurisdiction Report, p. 35.

21. A. F. Conard, et al., Automobile Accident Costs and Payments, p. 422.

would fail to continue to live up to their present acquisition standards under the compulsory type of legislation. It is generally admitted that the matter of extended limits and wider coverage is a "selling" job for the agents and insurers, and their job would be unchanged under a compulsory ... law ... it takes very little effort for an agent to sell ... up to the statutory limits today and ... he earns his commission principally by the services that he renders ... Perhaps sales of extended and higher coverages would be encouraged if the rate of commission on policies at the statutory limits were reduced and that on additional coverages relatively increased.²²

Objections of a Technical or Administrative Nature

1. Failure to Achieve Objectives

The contention is made by the insurance industry that compulsory insurance fails to achieve its objectives. Criticism by the industry of the acceptance of compulsory insurance in B. C. was in large measure premised on the assumption that less than 4% of B. C. motorists are presently uninsured and it was, in fact, argued by one witness for the Assigned Risk Plan that compulsory insurance in B. C. would increase the uninsured gap.²³

The Commissioners have concluded elsewhere in the Report that the uninsured gap in British Columbia is larger than that proposed by the industry.²⁴ The industry does not quarrel with the proposition that the maximum number of insureds is desirable. The question, excluding the cost considerations already covered, is whether or not compulsory insurance in B. C. can ensure a greater insured population. Some industry witnesses, even in the belief that all but 4% were

22. Report, pp. 163-164.

23. Based on the supposed experience in New York State: 17/2119.

24. Mention might also be made of the experience cited by Mr. C. R. Sutherland, representing the Vantax Insurance Pool, 8/908-909, where of 252 files that were possible recoverables, 35 involved uninsured situations.

already insured, did concede that slight improvements might be possible.²⁵ Such thinking is substantiated by recent studies in California. The California Motor Vehicle Department's 1967 Report to the Legislature provides some insight into relative experience of "compulsory" and "non-compulsory" states based on the percentage of vehicles insured at the time of accident. The data are set out in Table 18:2 and cover the period 1964-1965.²⁶ Figures for Saskatchewan and Ontario were 100% and 92.7% respectively and, as noted earlier, this Commission's estimate for British Columbia was 90%.

TABLE 18:2

PERCENTAGE OF VEHICLES INSURED AT TIME OF ACCIDENT, 1964-1965

<u>Compulsory States</u>	<u>Percentages</u>	<u>Non-Compulsory States</u>	<u>Percentages</u>
Massachusetts	99.75	Maryland	92.0
New York	98.0	North Dakota	87.0
North Carolina	92.5	New Jersey	86.8
		Virginia	75.77

Finally, in this context, according to information received by this Commission from the Department of Transport, South Africa maintains an insured population of over 99%. This figure is estimated as attainable under the approach recommended for British Columbia by this Commission.

2. Not a Safety Measure

The contention was made by the All Canada Insurance Federation that compulsory

25. 15/1827 and 54/6310.

26. State of California, Financial Responsibility Study Committee, Report to the Legislature, pp. 72-85. In their New York Jurisdiction Report the Financial Responsibility Study Committee noted that prior to the introduction of the Financial Security Act (compulsory insurance) the percentage of vehicles insured at the time of accident was lower -- 96.5% in 1956. (p. 37).

insurance is definitely not a safety measure.²⁷ This is a very frequently voiced viewpoint but obviously quite irrelative. Under cross-examination, an All Canada panel agreed that voluntary insurance is not a safety measure either.²⁸ It went on to agree that no insurance purports to promote safer driving or accident prevention,²⁹ and that accident prevention and compulsory insurance are two different things.³⁰

In short then, this criticism of compulsory insurance is refutable on the grounds that neither accident prevention nor safer driving is the purpose of compulsory insurance. Compulsory insurance is concerned with effective compensation of those who sustain injury as a result of a motor vehicle accident. It does not pretend to prevent the accident from occurring.

3. Removal of Underwriting Judgment

The criticism has been made that compulsory insurance removes the judgment of insurers in the underwriting of risks, and consequently puts drivers on the road who really should be off it.³¹ The Commissioners are convinced that elimination of bad drivers from the road should not be the function of insurance companies. The insurer-operated assigned risk plans and "pools" in Canada which enable underwriters to cope with risks they individually consider undesirable, suggest, in fact, that insurers do not view such debarring as their function either.

27. 46/5438.

28. 54/6341.

29. 54/6345.

30. 54/6350.

31. 46/5439.

4. Cases Not Covered

Compulsory insurance is criticized because supposedly it offers no protection to victims of hit-and-run drivers, uninsured non-resident motorists and the like. These are, of course, problems to be faced under a "voluntary" approach as well -- met in British Columbia through the Traffic Victims Indemnity Fund. This Commission, in its recommendations, gives recognition to the need for such adjuncts under its mandatory approach, while at the same time devising a way by which the cost will be spread more equitably.

Two Party Accident Insurance and Compulsion

It is this Commission's view that two party automobile accident insurance provides the optimal approach. As will be demonstrated, for such a system to operate effectively and for the costs of such a system to be both reasonable and fairly spread, it must be made compulsory. This viewpoint was shared by the Ontario Select Committee on Automobile Insurance. In its final Report when dealing with accident insurance protection, it recommended that:

. . . coverages along the foregoing lines be made an integral and mandatory part of the standard automobile policy sold in the Province of Ontario. (To make it purely optional would defeat the purpose which the Committee foresees for this coverage and increase its cost very substantially.)³²

An All Canada Insurance Federation panel was questioned by Commission Counsel as to whether they agreed with the above cited recommendation of the Ontario Select Committee. The position of the Federation was revealing:

RAE: Do you agree with that?

MAKIN: Yes.

32. Ex. 135C, p. 8.

- Q. Now, why would its being optional increase the cost?
- A. You would be spreading the cost of the cover, Mr. Rae, over vastly fewer people. This in itself would in a sense make it more difficult to administer. We have no actual figures on what the difference in cost would be; but on a very informal discussion basis, and working with figures we estimated it would cost twice as much.
- Q. I see. Depending on how many opted out and in?
- A. Right.³³

Other witnesses also recognized the value of having the accident coverage mandatory. For example, Mr. G. L. Matheson, General Manager for Canada of the Co-operative Fire and Casualty Insurance Company expressed these views under cross-examination by Commission Counsel:

RAE: Do you favour compulsory automobile insurance?

MATHESON: In some minor fields -- for example, in the area of compensation without fault, this point would certainly be worthy of investigation, as there would appear at the moment to be possibly some advantages in having this cover on part of each auto policy, but that in turn does not make the coverage compulsory. It would just mean that anyone who purchased an auto policy would have this coverage.

- Q. Can you see it being effective?
- A. I am not trying to split hairs, Mr. Rae.
- Q. No, I know you are not. Can you see such a program of insurance, regardless of fault, being effective unless it were made compulsory?
- A. I think it could be helpful without being made compulsory, but it may well be much more effective by being part of each policy.³⁴

It appears to be quite generally appreciated that compulsory accident cover would aid in the attainment of effective compensation for those sustaining injury through motor vehicle accidents. Universal compulsion is, however, concerned with much more. Through the principle of insurance it would fairly allocate a selected share of accident costs as a cost of motoring. In consequence, such costs would neither be forced onto those motorists already paying

33. 52/6165.

34. 15/1826.

their fair share nor shifted through a welfare agency to society at large. Such generalization can be related readily to the basic accident policy recommended by this Commission and detailed in Chapter 20. Thus, under the new "no-fault" approach proposed, a member of the family and household of an insured British Columbia driver, injured by a motor vehicle, would receive disability benefits. Such benefits would also be received by passengers suffering bodily injury in a vehicle driven by an insured B. C. driver. On the other hand, were the basic policy not made mandatory, it is likely that the spouse injured while a pedestrian, the child hurt while a bicyclist, or the neighbour maimed while a passenger, would eventually look to general welfare sources or else some type of fund supported by financially responsible drivers who are already bearing their fair share of motoring accident costs.

**APPENDIX
TO
CHAPTER
18**

18:A An Illustration of a Technique used by the Insurance
 Industry to Foster Opposition to Compulsory Insurance.

APPENDIX 18:A

ONE ILLUSTRATION OF THE TECHNIQUE USED BY THE INSURANCE INDUSTRY TO

FOSTER OPPOSITION TO COMPULSORY INSURANCE

NOTE:

Attached is a news release that can be used with newspapers or radio and television stations in your state. Spaces have been left to insert the name of the person to whom the release will be attributed.

Should it be desired, the release can be issued in the name of the National Association of Independent Insurers, the world's largest insurance trade association whose more than 480 affiliated companies write over half of the nation's private passenger automobile liability insurance.

Immediate Release

Compulsory automobile liability insurance is a three-time loser which offers no solution to an uninsured motorist problem in this or any other state. This was the assertion made in a statement issued today by

(Name)	(Title)
(Company)	(Location)

Only three states -- New York, Massachusetts and North Carolina -- have compulsory laws. None of the three states, Mr. _____ said, has achieved the purpose of the legislation: total insuring of its motorists.

In a series on New York's compulsory law, Mr. _____ noted, The New York Daily News declared that the law has "failed miserably to achieve its aims." According to The News, the percentage of uninsured motorists has doubled under compulsory, with an estimated 260,000 to 400,000 uninsured vehicles being operated on the highways.

Massachusetts officials estimate that from 6,000 to 8,000 uninsured motorists are driving in their state on any given day of the year, while in North Carolina the number of uninsured drivers is estimated to run from 100,000 to 150,000.

Even the secretary and manager of the New York Motor Vehicle Accident Indemnification Corp. -- the official state agency through which the uninsured motorist coverage is provided -- has admitted compulsory's failure, according to Mr. _____. He said that in MVAIC's 1966 annual report, the secretary-manager commented: ". . . it is obvious from the constantly increasing number of claims reported that there must be an increase in the number of uninsured automobiles operating on the highways of New York."

Mr. _____ also observed that the failure of compulsory has prompted Gov. John A. Volpe of Massachusetts to declare he is "totally in favor" of repealing the law.

Mr. _____ said that as an alternative to a compulsory law the insurance industry has developed Family Protection coverage, a tried and proven program which offers the most effective, economical method ever devised for protecting the responsible motorist against the uninsured driver. "Coupled with strong financial responsibility laws and a good traffic safety program," he said, "Family Protection coverage out-performs and out-protects compulsory laws on every count and at far less cost and trouble to the public."

Twenty-eight states require by law that Family Protection coverage be offered in all automobile liability insurance policies; it is available on a voluntary basis in the other states.

The demand for Family Protection coverage in all three compulsory states is a frank admission that compulsory is a failure, Mr. _____ pointed out. New York, North Carolina and Massachusetts all require by law that such coverage be offered with every automobile bodily injury liability insurance policy.

"The compulsory law in these three states -- with its administrative burdens, public inconvenience and heavy costs to the taxpayers -- serves no worthwhile purpose," he declared. "The real protection which is afforded is that provided by the Family Protection coverage -- not the compulsory law.

"Family Protection coverage is a modern, broad coverage under which an insured's own company provides protection for bodily injuries and death for which an uninsured or hit-and-run motorist would be liable. At a cost of only pennies a day, it protects the car owner's entire family living in the same household if injured while in his car, in another car (whether driver or passenger), while a pedestrian, or as a cyclist. It covers guests in the insured car. The coverage applies if the accident takes place anywhere in the United States, its territories or Canada."

Mr. _____ said there are five major reasons why compulsory doesn't work:

- . It can't compel.
- . It costs millions of dollars to administer.
- . It creates an unnecessary government bureaucracy.
- . It does not protect the responsible citizen.
- . It increases the cost of auto liability insurance.

Mr. _____ emphasized that compulsory offers no protection against the following scofflaws and irresponsibles:

(1) operators of stolen cars, (2) uninsured out-of-state drivers, (3) hit-and-run drivers, (4) uninsured motorists whose licenses or registrations have been suspended, (5) newly-arrived uninsured residents whose cars are still registered in another state, (6) uninsured motorists who hit you when you are driving in another state, and (7) "insurance dodgers" who cancel their insurance or intentionally let it lapse after obtaining registration for their cars.

In a compulsory state, traffic accidents increase and costs of government and insurance go up. Massachusetts and New York lead the nation in automobile bodily injury accident claim frequency. North Carolina's accident increase has

far outpaced the rise in motor vehicle registrations. Massachusetts and New York insurance rates are twice the national average.

"The major difference between the approach taken in the non-compulsory states and the compulsory states is that a compulsory law employs a shotgun technique -- spraying the insured motorist as well as the uninsured with all its shots," Mr. _____ said. "The state maintains and polices millions of pieces of paper a year for the insured as well as the uninsured. Its random file checks and spot road checks include both the insured and the uninsured.

"This operation is wasteful and inefficient because it operates from a base which squanders time and effort and money on the overwhelming percentage of motorists who are already insured. With the mounting toll of injuries, deaths and property damage on our highways, it borders on the shameful to divert even the slightest amount of a highway patrolman's time to engage in insurance road checks. It makes about as much sense as stationing policemen in every store in the country to search every shopper to make certain he has not been shoplifting."

At one time North Carolina reported that the equivalent of 45 full-time highway patrolmen were assigned to the task of tracking down drivers whose insurance had lapsed.

With Family Protection coverage, Mr. _____ said, no expensive governmental bureaucracy has to be set up, the state is not faced with the task of trying to enforce an impossible law, and police can devote their time to enforcing the highway safety law instead of searching out uninsured auto owners.

"Rarely has an idea been given as long and thorough consideration as compulsory," Mr. _____ explained. "As far back as 42 years ago, compulsory bills were introduced in 38 states. Down through the years, legislature after legislature has considered compulsory proposals. Despite this long exposure, only three states have adopted such laws. The experience in these states has provided a compulsory laboratory from which irrefutable evidence can be drawn."

CHAPTER 19

INSURE THE DRIVER - NOT THE VEHICLE

CHAPTER 19

INSURE THE DRIVER -- NOT THE VEHICLE

An exhibit submitted to this Commission by the President of one of Canada's largest Fire and Casualty Insurers was a copy of an address entitled "Too Little - Too Late", presented to the Annual Convention of the National Association of Independent Insurers at Philadelphia in November 1966, by Mr. John A. Diemand, Chairman of the Board of the Insurance Company of North America.¹

Mr. Diemand, in commencing his address, had this to say in part:

As an active participant and as an observer for over 60 years in both the casualty and property insurance business during bright and profitable years as well as those which seem bleak and filled with insurmountable problems, I often have wondered if the various ideologies of our business couldn't just once unite and agree on one principle in the interest of our policyholder relationships . . .

What I want to discuss today is the result of mistakes of the past, to establish a new course of procedure and to advocate less of the Too Little and Too Late . . .²

At a later point in his speech Mr. Diemand threw out this challenge to the automobile insurance industry:

I am not at this time recommending but I am suggesting an objective examination of the possibility of amending financial responsibility laws and insurance approaches so that the liability or compensating insurance involved could be directed mainly to the driver instead of the vehicle owner. Under the present system, the whole family pays for the carelessness of one member of the family who is a bad driver -- pays through difficulty in getting insurance on the family vehicle or through premium costs levelled on the vehicle. And our industry is blamed when one of its members finds it impossible to insure a family vehicle because of the actions of one family member. Wouldn't many of our problems in underwriting, rating and public relations be solved by such an approach? Of course, this would require

1. Ex. 215, J. A. Diemand, "Too Little - Too Late", p.1.

2. Ibid, p.33.

many changes. But what is wrong with change in the right direction?

In considering this, some thought should be given to the fact that almost the entire effort of controlling driving on our highways is pointed toward the regulation of the individual driver. Shouldn't our insurance point in the same direction?³

"Insure the Driver" -- not a new proposal.

This recommendation in 1966 that the industry give consideration to insuring the driver rather than the vehicle, through the owner of the vehicle, was in no sense original thinking on his part. It has been debated within the automobile insurance industry, both in Canada and in the United States for almost forty years.

In the early 1930's the late Samuel Carlton, A.I.I.C., published the proposition that the driver and not the car should be insured, with an extension of the idea to embrace possibly both the car and the driver as insured subjects. Up to the time of his death, he was convinced that many of the problems surrounding the automobile business, and experience, could be solved if coverage was granted to the driver, but he made little headway in having his views accepted. Now it is apparent that others who have been thinking along the same lines see value in the idea.⁴

In 1952 Mr. Donald Knowlton, Insurance Commissioner, State of New Hampshire, in a memorandum submitted to the Casualty and Surety Committee of the National Association of Insurance Commissioners, earnestly proposed that a Committee of that body make a careful and serious study of his 'Insure the Driver Plan'. In

3. Ex. 215, J. A. Diemand, "Too Little - Too Late", p. 39.

4. Ex. 216C, excerpt from Insurance Agent & Broker - Feb. 1960, pp. 9-10.

introducing this program he drew to the attention of his fellow Insurance Commissioners that:

Some ten years ago, we in New Hampshire gave considerable thought to a plan of furnishing automobile liability insurance on the driver of the car rather than on the automobile. While this plan had appeal to many people, it encompassed such radical change in the present method that we encountered great difficulty in getting the technical assistance necessary to determine whether or not it was workable.

The advocacy of insuring the driver rather than the automobile was not confined over the years to the United States. Mr. R. Parkin, when appearing before this Commission as a witness for All Canada Insurance Federation, stated that he had thought some years ago that a proposal to insure the driver was a good idea, and that he had given a fair amount of study to such a plan, and discussed it with other insurance men. But he had come now to the conclusion that it was not realistic.

The strongest Canadian proponent of this suggested radical change in underwriting is probably Mr. John A. Christie, now resident in Guelph, Ontario, but formerly the Chairman of the Highway Traffic Board in Saskatchewan. In 1961 he presented a paper: "The Case for Insuring the Driver - Not the Car"; and Mr. E.H.S. Piper, Q.C., General Manager of All Canada Insurance Federation, presented another putting forward the opposing view, as part of the program of the 7th Conference of the Canadian Highway Safety Council.⁵ This resulted from a resolution passed at the previous Canadian Highway Safety Council Conference which was approved as follows:

5. Exs. 216C and 216D.

That the Canadian Highway Safety Council appoint a Special Committee to investigate the principle of insuring the driver rather than the owner of the motor vehicle for purposes of driver control and to report thereon to a general session at the next Conference.⁶

In support of his contention that insuring the driver would lead to better driver control and greater equity in underwriting, Mr. Christie quoted excerpts from published articles and statements from recognized automobile insurance authorities. Some of these will be quoted later in this Chapter, along with the opposing arguments of Mr. Piper.

Rate-making Body makes initial proposal.

Consideration of such a change in underwriting was first drawn to the Commissioners' attention by a section of the brief presented by the Canadian Underwriters Association, the body which has guided rate-making in automobile insurance in Canada to a greater extent than any other in past years. The following paragraph on pages 41 and 42 of the C.U.A. brief reads as follows:

The suggestion has been made that the basis of the Automobile Insurance contract should be changed, so as to place the emphasis on the driver rather than on the car. Any such scheme would involve the effecting of insurance by each potential driver in respect of his own operation of any and all vehicles, perhaps as a concomitant of the issue of his driver's license, but there would still have to be a Policy issued in respect of the car itself, both for the Collision coverage and for Third Party liability not attributable to any particular driver. Specific insurance of individual drivers would make it possible to classify and rate drivers on their own exposures and experience, and it is thought that this might, in the long run, be a more equitable and satisfactory method of rating. However, in the case of the typical family car, separate policies for each possible driver would be needed, with an additional one for the car itself; administrative work would be seriously increased, and the suggestion requires further study.⁷

Status of Driver already a factor in Rate-making.

In giving consideration to any benefit which may be obtained by placing all or

6. Ex. 216D.

7. 25/2954-55.

part of automobile insurance coverage on the driver rather than on the automobile (which in effect means the owner of the vehicle) it must be recognized that, under the existing method of rate-making, the standing of the driver or drivers of the vehicle is already a governing factor.

Both driving record and the age of the owner, and of any other driver who customarily uses the vehicle, are taken into consideration for insuring against all third party liability coverage i.e. Bodily Injury and Property Damage.

Driving record and age also govern in part the rates for 'All Perils' and 'Collision' coverage. The only policy riders for which these factors do not affect rates are for 'Comprehensive' and 'Specified Perils' coverage.

Potential driving record is also taken into consideration on vehicle-owners under age 25 who fall into the rating classifications of E, G, J, K, L, or M in that they are awarded a credit of 10% against the rate for Bodily Injury and Property Damage if they have completed a recognized driver training course.

The factors used in current rate-making that are not based on the driver, are the overall accident experience of each Territory of the Province in which the car is customarily located, and the purpose for which the car is used. These factors, in part, affect the rates for B.I., P.D., All Perils and Collision. The age and type of vehicle being insured are used for All Perils and Collision, while both such vehicle groupings and territory are used for 'Comprehensive' and 'Specified Perils'.

The Commissioners recognize that if third party liability insurance were changed

from coverage under an automobile policy, as at present, to direct insurance on all drivers of vehicles, they must concur with the section of the brief presented by the Canadian Underwriters' Association (p. 41) which says that a separate policy would have to be issued to the owner of an automobile covering those factors that are directly pertinent to the vehicle itself, i.e. Collision, Comprehensive, and Specified Perils. That of course, is as the law now stands, but this should not prevent the change being taken care of without additional administrative cost provided careful drafting is ensured.

The extent to which the driver's standing is used, alone and in conjunction with other factors, is made evident by the information presented in the table below:

TABLE 19:1

Rating Methods for Different Types of Auto Insurance

Rating Method	Coverage					
	B.I.&P.D.	Medical	Collision	All Perils	Specified Perils	Comprehensive
Age-Use Category	+	+	+	+		
Driving Record	+	(a)	+	+		
Territory	+	(a)	+	+	+	+
Rating Group			+	+	+	+
Driver Training Credit (b)	+		+	+		

- (a) Although the manual indicates that Medical Payments coverage is also rated by driving record and territory, it is noted that there is one rate for classes A, B, C, D, E, and G, and another for J, K, L, and M, and these do not depend on record or territory.
- (b) Any Private Passenger Vehicle that would otherwise be rated in Class E, G, J, K, L, or M enjoys a 10% premium credit for the coverages checked if all drivers under 25 have successfully completed a certified driver education course.

The Argument against insuring the Driver directly.

Mr. E.H.S. Piper, Q.C., General Manager of the All Canada Insurance Federation, in his arguments to the 7th Annual Convention of the Canada Safety Council, based most of his opposition to a plan of predominantly insuring the driver, rather than the automobile, on the fact that it would require considerable statutory change. He referred to the uniform insurance act of the Common Law Provinces which requires that every owner's liability policy shall insure the person named, and every other person who, with his consent, personally drives any automobile described in the policy against liability imposed by law. He pointed out that the statutes of Quebec, which is not one of the Common Law Provinces, stipulate that the insurance company is directly responsible towards third parties for any damage covered by liability insurance, and further, that the owner of an automobile is responsible for all damages caused by his automobile, unless he proves that the accident was not his fault or the fault of any driver he had authorized to use the vehicle.

Mr. Piper emphasized further that the objective of the Provincial Legislatures has been to ensure that no victim of an automobile accident may be left uncompensated. The basic step by which this objective has been reached is to make the owner personally responsible, or at least, to place the whole onus of non-responsibility on the owner. He quoted the law of Nova Scotia which states:

. . . where any injury, loss or damage is incurred or sustained by any person by reason of the presence of a motor vehicle upon the highway, the onus of proof . . . shall be upon the owner or operator of the motor vehicle.⁸

8. Ex. 216D, p. 2.

Mr. Piper went on to say that Insurance Companies have always contended that it is not their function to determine who shall or shall not operate a vehicle:

At the same time, the insurance companies have always contended that they should be free to appraise and underwrite each risk on its merits. For this reason, it is quite common to find endorsements or other restrictions imposed on owners whereby the insurance contract will not apply if he allows certain persons, or certain classes of persons, to drive his vehicle.⁹

However Mr. Piper nullified his argument somewhat by pointing out that it is best in theory to underwrite risks individually rather than collectively, and, to that extent, insuring the individual driver is preferable to insuring the owner. To do this he claimed would entail a substantial increase in costs.

To substantiate increased cost he drew attention to family units where a single family car may be driven today under one policy of insurance by a father, mother, and several children, but, under an 'insure-the-driver' form of insurance this family would require the issuance of policies to each potential driver. Another example is found where a corporation owning a number of vehicles is able by one policy to cover liability as a result of negligence of any of its drivers. But should the principle of insuring the driver be accepted, it would be a condition of employment that every driver would have to obtain a policy of insurance.

Mr. Piper concluded his arguments with the statement that:

Unless Government is prepared to transfer to private industry the responsibilities of deciding who shall or shall not drive an automobile, it is best to leave the automobile insurance laws alone and concentrate greater effort on improving the qualifications demanded of anyone seeking a licence to drive.¹⁰

9. Ibid., p. 4

10. Ibid., p. 5.

Professors Keeton and O'Connell, in their recently published book Basic Protection for the Traffic Victim, use arguments similar to those of Mr. Piper in arriving at their conclusion:

. . . that in relation to the probable effect on fair allocation of costs, a system of insuring vehicles is preferable to a system of insuring drivers.¹¹

They base their decision primarily on the two points summarized here:

- (1) That it will cost families with a number of drivers, but only one car, more in total than it does today. The authors qualify this by admitting the probability that such families today are charged a lower premium than is equitable with other insureds. The additional cost factor extends also to the insurers who have to issue more policies because there are more licenced drivers than there are registered vehicles.
- (2) That the current method of insuring already takes cognizance of the dangerous driving record of individual drivers through surcharging. Standards for determining the rate of insurance for a particular car may be adjusted according to the composite driving records of the several individuals who are expected to do most of the driving of the insured vehicle.

The Commissioners have noted also the following arguments which oppose the premise that it is drivers, and not cars, which cause accidents; that it is, therefore, more sensible to insure the driver. It has been pointed out that this is not strictly true in that the vehicle may, in certain circumstances, be the direct cause of accidents. For example an automobile may, for one reason

11. Keeton and O'Connell, op.cit., p. 378.

or another, run down-hill after having been parked, or it may cause an accident through the driver losing control because of a mechanical failure in the vehicle.

These critics point also to the advantage of the present system that makes the owner responsible, and so provides a definite party to whom the victims may look for compensation in cases where, although the driver may be at fault, it is not possible to identify him. All occupants of the car may be thrown clear and fatally injured, or in another circumstance they may be too intoxicated to remember who was driving the vehicle.

Industry Officials reply to opponents of Change.

An underwriting executive of one of the leading automobile insurers in the United States, when asked for his views, was quoted in November 1959 by Mr. J.A. Christie, referred to earlier, as first stating:¹²

It is becoming more and more difficult to measure the premium that should be charged for insuring a particular automobile largely because of the difficulty in measuring that risk in terms of the people who will drive it. It is perhaps time to consider a great deal more carefully than ever before insuring the driver rather than the automobile.

Mr. Christie went on to enumerate the problems, as he saw them, of instituting such a change:

- (1) What kind of a rating procedure would we apply to differentiate between:
 - (a) A family consisting of man and wife who have one car,
 - (b) A family consisting of a man and wife and an operator under 25 who have one car,
 - (c) A man and wife and several operators in the family who have one car and,
 - (d) These same families with more than one car?

- (2) In the light of the rate-making procedure which has been used for such a long time, how would you develop rates on an individual insured basis?

12. See footnote 5.

- (3) How do you handle the drive-other-car insurance if you have insurance on on each individual driver?
- (4) What administrative problems are involved for the companies if they were to go to such a program?
- (5) Would it be possible to broaden the comprehensive liability coverage for an individual to include the driving of automobiles limited, of course, to B.I. and P.D.L.?
- (6) What claim problems would develop from insuring an individual instead of the automobile?

None of the spokesmen for the industry who oppose changing the form of insurance from coverage on the vehicle to one on each driver has voiced the following as one of his arguments. Nevertheless it is the opinion of the Commissioners that perhaps the principal stumbling-block to making the change (which has been discussed within the industry for many years as being advantageous) is the one of finding a jurisdiction in which such a desire for change existed to the extent that companies felt warranted in changing, for the one area, the several insurance forms and the underwriting practices that the industry has succeeded in making uniform between themselves and the various international markets to which the companies cater.

After having investigated carefully the objections to a plan of insuring drivers directly, it is necessary to consider now answers to these objections as voiced within the industry itself.

The first of these is the objection presented by Mr. Piper and by Messrs. Keeton and O'Connell that the plan will increase the cost to families having several drivers. This is based on the 'Omnibus Clause' current in North America and covered by Section 232 of the British Columbia Insurance Act, which, quoted in part, reads:

- (1) Every owner's policy shall insure the person named therein, and every other person who, with his consent, personally drives any automobile specifically described in the policy, against the liability imposed by the law upon the insured named therein . . .

One underwriter, as quoted in the October, 1959 issue of The National Underwriter, answers this by stating that half of the time the named insured is not involved in the accident.

If there is one bad actor in five why penalize the other four? Under the family automobile policy, one young driver can keep two parents from driving, or take the whole family into the Assigned Risk Pool.

Many arguments have been voiced against the insuring of the driver, but these arguments are losing their authority in the face of steadily mounting difficulties of insuring the auto risk. One of the arguments is that five policies instead of one (or four, or three, or two) would be more expensive. But doesn't the policy have to record the information of drivers by class now, where they are classified? Of course, one underwriter observed, the driver policy wouldn't need to describe the car, which would reduce the present load of paper work.

Anyway, it is contended, the part of the premium dollar on which paper saving can be made is so small that underwriters believe major effort should be devoted to the large portion losses, where major savings can be made - and where it is imperative to understand who is causing the losses and get the rate to pay for them.¹³

Don. E. Johnson, Underwriter Vice-President of Nationwide Mutual had this to say in 1959:

There is a growing belief, however, that the number of accidents involving persons for whom coverage is provided under the omnibus provision is considerable.

In discussing a change to insuring drivers, Mr. Johnson then stated:

13. Ex. 216C, p. 4.

Such a move would, at that time, be another step in the long term trend towards greater equity in the distribution of the cost of insurance. There are two ways in which this would be true. Although the plan would represent a useful narrowing of coverage, it would be a narrowing of coverage. The cost of accidents heretofore covered under the omnibus provision would therefore be charged against other policies . . .

It may also be that more equitable distribution of insurance costs will ultimately result in a reduction of accidents. It has historically been the case that wherever equitable insurance pricing has pointed up intolerable high levels of hazard, steps have been taken to reduce the hazard.¹⁴

Yet another underwriting executive of one of the leading automobile insurers, as quoted by Mr. J.A. Christie to the 7th Annual Convention of the Canadian Highway Safety Council, had this to say on the same subject:

Undoubtedly the greater interest in the possibility of insuring the individual driver stems from the fact that with the tremendous increase in number of private passenger automobiles, which has taken place over the last five years it is becoming more and more difficult to tie down the operation of a particular automobile to one or two drivers.

The number of families now that have two or more automobiles has increased very materially. With a greater number of automobiles in each family they can be driven by any members of the family as well as by others . . .

Now, however, as it is becoming more and more difficult to measure the premium that should be charged for insuring a particular automobile largely because of the difficulty in measuring that risk in terms of the people who drive it, it is perhaps time to consider a great deal more carefully than ever before insuring the driver rather than the automobile.

As noted earlier, Mr. E.H.S. Piper, Q.C. of All Canada Insurance Federation conceded that, in theory, underwriting practice would be improved if the risks could be evaluated individually rather than collectively. This is endorsed

14. Ex. 216C, pp. 6-7.

by Don. E. Johnson, Vice-President of Nationwide Mutual, who points out that:

The advantages are reduction of risk and improved underwriting control; more equitable distribution of cost of insurance; and possible reduction of losses. The way in which adoption of the plan would reduce risk and improve underwriting control is obvious. Since, for this line, moral hazard is the principal consideration, effective evaluation and handling of risk are made difficult by lack of positive knowledge of the possible number and character of drivers for whom coverage will be provided.

Alternative Plans advocated for "Insuring the Driver".

Reference was made earlier in this Chapter to Mr. Donald Knowlton, Insurance Commissioner, State of New Hampshire, who, in 1952, advocated strongly the introduction of a plan to insure the driver. He was unsuccessful in introducing in his state a complete conversion from the covering of third party liability (under which all insurance for this purpose would be placed on the driver rather than the car) but he was the instigator of an optional or alternate plan to the conventional coverage on the automobile at a very considerable reduction in rates.

This alternative coverage protects the insured, who may be one or more named persons on the contract, against liability for injury or damage while he is driving a car, or while another licensed driver is driving his car, but only if one of the name insureds is a passenger in the car at the time.

Witnesses before the Commission stated that another form of driver's policy is now being issued in Canada.¹⁵ This policy is issued to registered drivers who do not own an automobile. It is authorized by the Association of Superintendents

15. R. E. Bethell, Vancouver Manager, Allstate Insurance Co., 23/2806 and T. O. C. Makin, Branch Manager, Zurich Insurance Co., 33/3801.

of Insurance of the Provinces of Canada under Automobile Standard Forms - S.P.F. No. 2. While neither of the above two plans fulfils the requirements of proponents of an 'insure the driver rather than the automobile' plan, they do indicate that it is quite possible for insurance underwriters to evaluate effectively individual driver risks for the purpose of establishing rate-making other than that generally in effect today.

Coloured Licences that reflect Driver Risk.

It would seem that the most effective way of establishing such rates is that recommended by Mr. William P. Henderson in his 1959 study, 'A Safe Driving Plan for America', in which he advocated that drivers should be issued with three or four different coloured licences that would reflect their accident and traffic violation records. His recommendation stated:

The rating of drivers by the licensing departments of the states in a positive manner to meet present day safe-driving requirements should be staunchly supported. It makes possible for insurance companies to make rates for various drivers commensurate with risk . . . It would establish risk selection on a sound basis never before possible. It could eliminate the need for assigned risk pools and other state regulations.

In Chapter 13 of this Report (on 'Traffic Safety') the Commissioners have shown their concurrence with Mr. Henderson's recommendation by their having endorsed a system of demerit points, based on repeated traffic violations, graded so that the record of such points will be reflected in different coloured licences. The hope is that this system will act as a deterrent against further violations, or, lacking this effect, will lead to automatic suspension. Secondly, the Commissioners recognized, in giving consideration to recommending the institution of insurance on the driver rather than the automobile, that the use of a demerit point system of coloured drivers licences would seem to be the most effec-

tive method of rating and "rating up" by underwriters in arriving at rates on 'driver insurance'.

The underwriting executive quoted earlier as saying that:

It is perhaps time to consider a great deal more carefully than ever before insuring the driver rather than the automobile, . . .

set out six points that would have to be examined prior to making such a plan effective. Of the six, perhaps the most pertinent one is:

In the light of ratemaking procedure which has been used for such a long time, how would you develop rates on an individual insured basis?

The method of arriving at individual rates based on driving experience has been dealt with, but consideration must be given to what type of insurance contract would place this coverage most effectively on the individual driver. It appears to the Commissioners that the answer to this lies in the use of straight accident insurance such as that now covered in Part V of the British Columbia Insurance Act rather than Part VII which relates to Automobile Insurance. This would mean that each driver would insure himself personally against bodily injury and, like other accident insurance, he would have recourse to insurance compensation regardless of who was at fault in causing his injury or loss.

Accident Insurance for Driver and Passengers.

There then remains the problem as to where those who are passengers in a car involved in an accident can look for their compensation. Two options seem to be available:

- (1) That it should be the responsibility of each individual to purchase personal accident insurance, as many already do, or

(2) That the terms of the driver's policy should include as insured, passengers who are riding with him at the time of the accident.

The latter suggestion would not be without precedent to the automobile insurance industry, for certain insurers in Canada already provide such protection to all passengers of automobiles, while being driven anywhere in North America if they are involved in an accident for which the other driver is both negligent and uninsured. Also in the case of gross negligence on the part of the driver of the vehicle a passenger may recover damages from him.

Greater Accuracy in Rate-making.

While the cost of this Uninsured Motorist Protection Policy which covers both the driver and his passengers is very low (currently \$4 per year), there is still the concern that this, and the fact that individual policies will have to be issued to each driver in a family (as opposed to the current Omnibus Clause) will cause insurance under the plan of insuring the driver to be more costly than current coverage. It need only be reiterated that insuring the driver will lead to more accurate risk underwriting. Thus, it could well lead to the better drivers (today comprising over 80% of B.C. drivers) paying less, and in the bad drivers paying a higher but more justifiable premium than they do today. The Commissioners will justify this concept by illustrating approximate rates for driver coverage later in this report.

A Statutory Contract to reduce Cost.

The other unanswered problem is that of increased administration cost to the insurers. First of all, the Commissioners see no reason why a basic standardized policy cannot have its terms fully outlined by statute. Thus, instead of

having to issue policies complete in all detail to each driver, the process could be simplified and made less expensive by the issuing, to the insured, of a simple certificate showing that he is fully covered under the terms contained in the statute. If there should prove to be additional paper work for the insurers this would be only a fractional increase of the administrative cost portion of the premium (today for rate-making 33%). Based on the statements of the underwriters quoted, it would be more than offset in the saving on loss cost (today for rate-making 67% of premium) through greater accuracy in rate-making by the underwriters now being able to identify and appraise directly the potential risk of each individual driver.

Finally, it is obvious, as Mr. Piper has indicated, that present insurance laws in British Columbia would have to be amended drastically in order to provide for the change to the underwriting of drivers, rather than the owners of vehicles. The objection loses weight when it is recognized that changes in the British Columbia Insurance Act may well be necessitated by acceptance of the recommendations of this Commission.



CHAPTER 20

THE PROPOSED PLAN FOR AUTOMOBILE INSURANCE IN BRITISH COLUMBIA



CHAPTER 20

THE PROPOSED PLAN FOR AUTOMOBILE INSURANCE IN BRITISH COLUMBIA

Term of Reference (g):

. . . whether the public of this Province will be better served by the continuation of present procedures for the recovery of damages arising out of motor-vehicle accidents and by the preservation of present forms of insurance coverage or by some variation or variations thereof, or by a plan whereby compensation for damage arising from motor-vehicle accidents may be paid without determination and attribution of responsibility therefor, or by a combination thereof, . . .

Introduction

It is the opinion of the Commissioners that the public of the Province of British Columbia will be better served by the institution of an entirely new method of insurance for compensating victims of motor vehicle accidents than by a continuation of present procedures for recovery of damages arising out of such accidents.

Previous chapters of this Report have dealt in detail with the present procedure under 'Tort Law' of compensating for damage from motor vehicle accidents based on the determination and attribution of fault. These studies emphasized that the present procedure results in unnecessary dissipation of part of the funds which should be received by the victims of accidents as compensation. They showed also that the present procedures are costly in time and money to the insurers, which could result only in increased premium cost to the buyer of motor vehicle insurance.

The number of cases taken to Court for determination of who was at fault in causing motor vehicle accidents is relatively small. Nevertheless, these cases contributed to the congestion in the Court calendars which are already full. For both court settlements and settlements out of court, current driving conditions and the growth in traffic density have created an increasing difficulty in determining whose negligence was the cause of the accident.

The Commissioners therefore recommend that, in future, insurance covering motor vehicle accidents shall provide compensation for motor vehicle damage, injury, and death 'regardless of fault'.

A principal factor contributing towards lowering the premium cost of motor vehicle insurance would be the encouragement of more 'defensive driving'. Such driving would result in fewer highway accidents. To this end there must be greater encouragement of better driving habits. Poor driving habits lead to traffic violations, and, generally speaking, the drivers who disregard traffic laws are more accident-prone than those who observe these laws and the courtesies of the road.

The Commissioners are of the opinion therefore, that it is imperative that detailed and up-to-date statistical records be maintained of each driver's traffic violations and accident record. Further, that instead of the present system of rating motor vehicle insurance premiums on driving record based on accident experience alone, such record should, in future, be based on a demerit point system reflecting each driver's record of both accident experience and traffic violations.

The present system of motor vehicle insurance which is primarily third party coverage on the motor vehicle itself, through its owner, does not lend itself to such a method of underwriting, in that, by the 'omnibus clause' in present motor vehicle insurance policies, the one contract covers accidents caused by any and all drivers who (with the owner's permission) drive the insured motor vehicle. Under such coverage the premium neither reflects adequately the expense caused by the bad driver, nor amply rewards by lowering premiums if the vehicle is driven only by good drivers.

These points are at best only a brief summation of the greater detail given to this subject in Chapter 19 of this Report. On the basis of these studies, the Commissioners recommend that, in future, insurance coverage should be directly on each licensed driver in the Province of British Columbia, rather than on the motor vehicle.

It is in the interest of all British Columbians for drivers to carry at least a certain minimum amount of insurance coverage, thus guaranteeing compensation for injury or death to victims of motor vehicle accidents or their beneficiaries as the case may be. An earlier section of this Report dealt with compulsory insurance and indicated that compulsion was necessary to the basic plan. It would assure not only motor vehicle drivers, but more particularly their passengers, bicyclists, and pedestrians of a certain minimum compensation if they become the victims of a motor vehicle accident.

The Commissioners recommend, therefore, that there should be:

THREE NEW PLANS OF AUTOMOBILE INSURANCE :

● A BASIC ACCIDENT policy	~	compulsory for all drivers.
● A SUPPLEMENTARY policy	~	to be available for purchase by all drivers on a voluntary basis with the coverage additional to that of the basic policy.
● A COLLISION policy	~	two-party no-fault insurance to be purchased by owners of vehicles on a voluntary basis. This contract may also include 'Specified Perils' or 'Comprehensive', or it may be sold as 'All Perils' coverage.

The Basic Accident Policy

The following are the Commissioners' recommendations with respect to the compulsory basic policy, with benefits payable regardless of fault.

The policy is to be mandatory non-cancellable two-party insurance covering the driver and his passengers. This means that each driver shall purchase a compulsory accident policy prior to the annual renewal of his licence to drive.

The policy which will be co-terminous with the licence, will compensate driver and passengers, or their beneficiaries, for loss of income, or for death caused by bodily injury while in a motor vehicle.¹ Like the Uninsured Motorist's Protection Policy dealt with in an earlier chapter, the basic policy will cover also the named insured and members of his family, resident in his household, if hit by a motor vehicle while either a pedestrian or a bicyclist. Where several valid policies may each provide coverage, the industry will be expected to determine which policy (or policies) will be deemed to have provided the relevant coverage.

1. To include getting into and out of a motor vehicle.

In all cases, irrespective of whether a passenger has his own policy or falls under the policy of a member of his immediate family, compensation will nevertheless be paid out of the policy covering the driver of the car involved in the accident. It must also be understood that the driver's policy, even when a borrowed vehicle is involved in an accident, is the source of compensation to occupants of the borrowed vehicle or their beneficiaries.

Compensation Under the Basic Policy

(i) For Death

The maximum benefit under the basic accident policy shall be \$20,000 for each person, aged 18 and over, killed as a result of a motor vehicle accident. For minors killed in motor vehicle accidents a graduated scale of death benefits, payable to beneficiaries, shall be followed. Specifically:

TABLE 20:1

Graduated Scale of Death Benefits

<u>AGE</u>	<u>BENEFIT</u>
0 - 5 years	\$ 1,000
6 - 9 "	3,000
10 - 11 "	5,000
12 - 15 "	10,000
16 - 17 "	15,000

Beneficiaries shall have the option of either accepting the above amount of death benefit on a single payment basis, or taking the actuarial equivalent as a weekly benefit.

(ii) For Disability

The Commissioners are of the opinion that compensation for bodily injury resulting from a motor vehicle accident should contribute to income replacement. They recommend, therefore, that compensation for injury shall be paid neither on a fixed schedule for designated injuries, nor on a lump sum basis, but rather that

there shall be an established uniform weekly indemnity for those disabled -- whether regularly employed in a gainful occupation, as working housewives, or unemployed or retired. Reduced payments are indicated for those under age 18 (infra).

For the purpose of this Basic Policy, and insofar as an employed person is concerned, "Disability" shall be defined as an injury resulting from a motor vehicle accident, which is certified by a qualified physician to be of such a degree that it prevents the injured party from working at his usual gainful occupation, or at some other occupation for which he is reasonably suited by education, training or experience.

In the case of a person unemployed at the time of accident disability, weekly benefit shall be paid only provided that he is certified by a qualified physician to be physically incapable of carrying out any gainful occupation for which he is reasonably suited by education, training, or experience.

In the case of an injured housewife, disability benefits shall be paid provided it is certified by a qualified physician that she is unable to carry out her normal housekeeping responsibilities. Payment shall be made so long as such duties are required to be done by another person, and the physician so certifies, whether or not the other person receives payment therefor.

The payment of disability benefits to a person who is retired, but not yet eligible for the Old Age Pension, shall be subject to the same conditions as those pertaining to an unemployed person. The payment of disability benefits to those persons who are entitled to the Old Age Pension and who are certified as disabled

by a qualified physician, shall continue for as long as they are so disabled or for a period not exceeding one year, whichever is the shorter period.

In all cases of **dispute** between the insured and his insurer as to whether his injury warrants disability weekly benefit, or concerning the duration of such benefit, the dispute shall be determined by the proposed **British Columbia Automobile Insurance Board, whose decision shall be final.** The structure, jurisdiction and functions of this Board are described in Part B of Chapter 23.

All persons covered by this basic policy who are injured as a result of a motor vehicle accident shall receive such benefit on a weekly basis. There shall be a waiting period of one week, with compensation going into effect in the week commencing on the 8th day following that of the accident which caused the disability.

For beneficiaries 18 years of age and over disability payments shall be **\$50 per week.** A weekly indemnity will be paid for the duration of the disability, except as previously stated as applying to persons eligible to receive old age pensions.²

The weekly benefit for disability shall be paid irrespective of the traffic victim's occupation, or lack of same.

For those disabled but under the age of 18 years the following scale of weekly benefits shall apply:

2. The nominal aggregate cost of this approach in instances of lengthy or permanent disability is detailed in Appendix B to this chapter.

TABLE 20:2

Graduated Scale of Disability Benefits

<u>AGE</u>	<u>BENEFIT</u>
0 - 5 years _____	\$10 per week
6 - 9 " _____	15 " "
10 - 11 " _____	20 " "
12 - 15 " _____	25 " "
16 - 17 " _____	40 " "

Compensation shall be adjusted upwards as the disabled child moves from one age bracket to the next.

(iii) Hospital and Medical Care

It is recommended that all persons covered by a driver's basic policy who are injured in a motor vehicle accident shall have their hospital costs (public ward) covered by the B.C. Hospital Insurance Service except for the \$1.00 per day co-insurance (or other current co-insurance) which shall be paid by the injured party himself.

It is recognized that in the current regulations under the B.C. Hospital Insurance Act*, new arrivals in British Columbia are not covered until they have been resident in the province for 3 months. As these new arrivals are required to obtain B.C. drivers' licences and would therefore require the compulsory basic insurance policy immediately after taking up permanent residence, the Commission recommends that such new arrivals, if injured in a motor vehicle accident before completing the three months residence qualification, shall nevertheless be provided (except

* R.S.B.C. 1960, c. 180, as amended.

for the \$1.00 per day co-insurance) with regular hospital care from the date of such motor vehicle accident. Such hospital benefits are to be provided through a new Fund (to be outlined later in this chapter), from the date of the accident until the B.C. Hospital Insurance Service comes into effect for the person concerned.

Concerning medical expenses, as outlined in Chapter 15 covering Term of Reference (e), the Commissioners estimate that currently about 92% of British Columbia's population is covered under either government sponsored or private medical insurance plans. On March 23rd, 1968 the Honourable Wesley Black, Minister of Health, (in the B.C. Legislature) reportedly estimated an even higher percentage of medical coverage for 1967 quoting a minimum figure of 1,920,469 covered by all plans out of an estimated population for British Columbia of 1,938,000 as at the end of April 1967. Furthermore, it is the understanding of the Commissioners that almost all residents of the province will be covered when Medicare goes into effect in British Columbia on July 1st, 1968.

In consequence of the universal coverage anticipated, it is the recommendation of this Commission that, in order to avoid duplication of benefits, there shall be no coverage of medical expenses under the proposed basic accident policy.

Estimated Maximum Premium for Basic Policy

It is the recommendation of the Commissioners that each year the new B.C. Insurance Board shall establish the maximum rate chargeable for the Basic Policy.

It is expected however, that there shall then be free competition to the extent that actual premiums will be set below established maximums. In no case shall an agent or an insurer be permitted to refuse issuance of the Basic Policy to a driver who has been provided by the Motor Vehicle Branch with a new or renewal application form, or to charge more than the maximum premium established for the appropriate colour of licence.

To this end the Commissioners, departing from the current practice of dividing the province into seven different rating territories, have decided there shall be established only one maximum rate covering the whole jurisdictional territory -- the province. The Commissioners also recommend that there shall be no deviation in the established maximum rate to cater to special risk occupations, such as farmers whose vehicles currently are insured with a 20% discount by certain insurers. It is rather the Commission's expectation that by this action there will be created greater competitiveness between insurers in establishing rates on the basic policy to the extent that the insurers individually may, if they wish, lower rates for areas of the province or for special occupations on which they wish to concentrate. (See further notes on rating in Appendix 20:B).

The Commission's initial estimate of the maximum annual premium for the Basic Policy for drivers who would qualify for a 'white' licence is \$16.76. It is estimated also that, at the present time, 86% of B. C. drivers would qualify for a white licence. In summary, this provides, in all cases involving accident with a motor vehicle, and to all parties concerned (whether driver, passenger, pedestrian or cyclist) a death benefit of \$20,000; a disability income after 1 week of \$50.00 per week -- for life if necessary.³ All of the above benefits

3. These amounts apply to those 18 or over with a reduced scale for those under 18 years of age.

are to be paid regardless of fault.

In arriving at the initial estimated maximum premium it must be recognized that the research staff of the Commission was faced with the fact that the Basic Policy is an entirely new product for which it was not possible to derive data from direct experience elsewhere. Nevertheless, parts of the scheme used in the government operated plan in Saskatchewan are sufficiently similar to have permitted the research staff to embody some actual experience into their calculations. In order to add authority to the assumptions, estimates and calculations made, the Commission employed a firm of Consulting Actuaries, Messrs. Farrant and Company, to verify the Basic Premium calculations as covered in Appendix 20:B to this Chapter. The report of this firm of Consulting Actuaries is also added to this Chapter as Appendix 20:C.

The following is a summary of the hypothesis and calculations that went into the estimate of \$16.76 as the maximum initial premium on the Basic Policy prior to applying differentials:

- (a) Pure Premium, or 'loss cost' as it is frequently referred to, is the amount necessary to cover the pay-out for injury and death without any extra loading for administrative costs, sales expense, or profit.

Using 1960-1965⁴ experience there were 5.02 automobile accident fatalities per 10,000 driver years in British Columbia. Based on \$20,000 death benefit for adults, and reduced scale amounts for

4. Annual Reports, B. C. Superintendent of Motor Vehicles, 1960-1965.

minors, the average death benefit would be \$17,750. Based on this data the pure premium required to cover death benefits alone would be \$8.91.

With respect to injuries arising out of motor vehicle accidents, provincial statistics show that in the years 1960-65 there was an average frequency of 19.2 injuries per 1,000 drivers. As is illustrated more completely in Appendix 20:B this works out (based on \$50.00 per week disability income -- less a 1 week waiting period) as an averaged outlay for weekly disability of \$100 per injured victim which would require a pure premium of \$1.92 per driver.

Estimated Average Total Pure Premium on the
Basic Policy, All Classes

Death Benefit	\$8.91
Disability Benefit	<u>1.92</u>
	<u>\$10.83</u>

- (b) Expense Factors To the above pure premium there must be added a loading to cover underwriting and administrative expense, sales commissions, and an allowance for profit.

With respect to the cost of adjusting claims under this no-fault basic policy, while the amount required for death claims would be negligible, this would be off-set by relatively high costs of administering disability claims occasioned by the possibility of malingering. It is, therefore, the estimate of the Commission that the amount to be added as administrative expense covering adjustment cost should be \$0.48 per policy.

Other underwriting and administrative expense on a uniform compulsory policy the conditions of which will be statutory, should be

reduced considerably from the current cost added to present automobile insurance. All that will now need to be issued to cover this Basic Insurance will be a simple one page certificate. The research department of the Commission estimates that the cost of this reduced paperwork should not exceed an average of \$2.00 per policy.⁵

With respect to an allowance for agent's commission on the Basic Policy it first must be recognized that because this insurance is both uniform and mandatory, the agent's principal role could well be that of taking orders for the Basic Policy with a minimum of service. It is, therefore, the opinion of the Commissioners that, on policies issued to the 86% of drivers who will qualify for the minimum rate, because they are holders of white licences, the commission to be used in the estimate of maximum premiums shall be \$3.00 per policy.⁶ The Commissioners recognized that in the final issue this figure may be amended as a result of negotiation between agents and insurers and to some extent be dependent on the competitiveness in pricing this contract as between insurers. It must, however, be recognized that alert agents will use the issuance of this Basic Policy as the medium towards the sale of supplementary automobile insurance to drivers and collision coverage to owners of vehicles, both of which should carry a higher compensation allowance for the agent.

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5. For 'white' licences it shall be \$1.89; for 'green', \$2.39; for 'yellow', \$2.59; for 'red', \$2.80.
 6. For 'green' licences it shall be \$4.00, for 'yellow' \$5.00, and for 'red' \$6.00.

The other cost factor on which the Commission can use only an estimate, in its illustration of the possible maximum premium for the Basic Policy, is the allowance for contingency reserve and underwriting profit. With the intention of making it sufficiently attractive to encourage capacity sales by each insurer, and to offset what may prove to be wider fluctuation in claims experience, the Commission has used in its estimate the figure of 5% of total premium.

From the above factors of Pure Premium, Adjustment Expense, Underwriting and Administrative Expense, Agents' Commission, and Profit, the total estimated premium for the holders of white licences on the Basic Policy of \$16.76 is calculated and shown below:

Total Pure Premium _____	\$10.26
Adjustment Expense _____	0.45
Underwriting and Administrative Cost _____	1.89
Agents' Commission _____	3.00
Plus Contingency Reserve and Underwriting Profit _	<u>0.82</u>
Estimated Maximum Premium for Basic Policy _____	16.42
Plus 2% Provincial Premium Tax _____	<u>.34</u>
TOTAL ESTIMATED MAXIMUM PREMIUM _____	\$16.76

It is recognized by the Commission that the combined figures used for Underwriting and Administrative Costs, and Agents' Commissions, constitute a higher percentage of the premium than that currently used in rate-making and criticized by the Commission in Chapter 6. The purpose in so doing is to recognize that these are the initial year's maximum premiums in which adequate allowance should be made for contingencies. Actual experience will no doubt result in a considerable reduction in these factors, and in the overall premium, in future years.

Merit Rating Differentials

As was explained earlier in this Chapter a radical change is proposed from the present merit rating system based entirely on accident claims against the policy, to that now recommended by this Commission which will depend on the colour of licence held by each driver, which, in turn, will be based on a point system involving both traffic violation convictions and accident involvement.

Based on statistical data, and the interpretation thereof contained in Appendix 20:B to this Chapter the following is the estimated number of B. C. drivers who will qualify for each of the coloured drivers' licences of white, green, yellow and red, and the Estimated Maximum Basic Premium to be charged to each:

<u>Driver's Licence</u>	<u>Percentage of Total Licensed Drivers</u>	<u>Estimated Maximum Premium for Basic Policy</u>
White	86%	\$16.76
Green	3%	21.36
Yellow	5%	23.91
Red	6%	26.48

Method of Issuance of Licence and Basic Compulsory Insurance

To facilitate enforcement of the compulsory aspect of the Basic Policy, it is necessary to have a direct linkage between the issuance of a driver's licence and the issuance of a driver's Basic Policy. It is also necessary that the terms of the driver's basic accident contract be covered fully by statutory definition and regulation so that only a simple certificate is required identifying the insurer, the insured, and others qualified to claim under the policy. In this context the Commissioners recommend that considerations and methods which follow be observed and employed.

Both the dates of issue and subsequent renewals for each driver's licence and Basic Insurance Policy shall coincide with the driver's birth date. One reason for the Commission so deciding is that use of birth date, for the issuance of drivers' licences, is already employed in British Columbia. It will of course make it necessary in this province to revert back from the current five year licensing period to annual renewals. A further reason for using each driver's birth date is that it will relieve the administrative burden by spreading the issuing of both licences and Basic Policies.

The Basic Policy shall be non-cancellable by either the insurer or the insured throughout the year of issuance. The premium for a year is, of course, payable in advance by all drivers. It will be readily understood that if compulsion of the Basic Policy coverage is to be enforced as proposed it will not be feasible to allow a driver to cancel this coverage after the purchase of insurance has gained him his driver's licence. Even where the insurer decides to grant credit for payment of the basic premium it is equally undesirable that the insurer be allowed to cancel the policy for non-payment. In cases of licence suspension the driver shall not be eligible for a refund of premium. This recommendation is based not only on the relatively low cost of the driver's Basic Policy but more particularly in recognition of the fact that his policy also insures the members of his family resident in the household, who as pedestrians or bicyclists may be injured by a motor vehicle. This protection should be continued even though the insured's driving privilege has been withdrawn.

In order to charge the appropriate premium, issuers of the driver's Basic policy must know in advance the colour of licence to be issued to each driver for the coming year so that his insurance rate may be set accordingly. At the same

time, the Motor Vehicle Branch, in handling the application for a driver's licence will have to satisfy itself, prior to issuing the licence effecting the renewal, that the required compulsory insurance has been purchased. Therefore, the following procedure is recommended by the Commission:

(a) The Motor Vehicle Branch licence bureau shall issue to each driver an application form appropriately coloured to reflect the licence to be issued. As previously stated the colour will be based on the Motor Vehicle Branch's record of each driver's traffic violations and accidents.

(b) Before signing and returning the application to the Motor Vehicle Branch the driver will require an insurer or insurance agent to stamp it or otherwise certify that the Basic coverage has been issued.

(c) The Motor Vehicle Branch will then issue the driver his appropriately coloured annual driver's licence, coinciding with the colour of the licence application form.

Area for which Coverage Effective

Coverage under the Compulsory Basic Accident Policy will apply to the driver and his passengers if they are involved in an accident while driving in any part of continental North America. Within this same area the policy will also provide coverage to the named insured and his family when as pedestrians or cyclists they are injured by a motor vehicle.

Until such time as a similar approach to compensation for victims of motor vehicles is adopted in other jurisdictions, B. C. drivers will be subject to third party liability claims when involved in motor vehicle accidents outside of British Columbia. The Commissioners therefore recommend that it be the responsibility of B. C. drivers to purchase, on a voluntary basis, special third party

liability coverage as Supplementary Insurance on either an annual or a per trip basis before travelling outside the province.

Limitation in Time of Notification

In every case of injury or death resulting from a motor vehicle accident, it shall be mandatory that notification of the accident shall be sent to the insurer, or to his agent, by the insured or by a person authorized to act on his behalf, within fifteen days of the accident.

Similarly, a claim for compensation for injury or death resulting from a motor vehicle accident must be filed within sixty days of the accident.

Prompt Payment of Claims

It is the opinion of the Commissioners that statutory provision should be enacted to ensure prompt payment of all claims after verification thereof.

Claims by Infants or Incapable Persons

Claims by infants or by persons under mental disability shall be filed by their guardians, committees or other legal representatives. Such claims will be made under the same limitations in time as described above.

Suicide and Self-Inflicted Injuries

In line with usual practice in the field of personal accident insurance, no coverage is to be afforded where death or disability is contributed to or caused by intentionally self-inflicted injury. It must be appreciated, however, that suicide or attempted suicide through a motor vehicle accident would be difficult to prove.

Abolition of Fault or Tort Concept

After the implementation of the plan recommended by the Commissioners, the fault or negligence concept in connection with motor vehicle accidents occurring within British Columbia shall be abolished. Consequently, no claim or action may be made or commenced and carried on within the Courts of the Province under tort law, in respect of motor vehicle accidents that occur after the date of implementation.

The No-Fault Concept

As stated earlier in this chapter the Commission is not merely recommending a Compulsory Basic Accident Insurance Policy on the driver. With all right of action in motor vehicle negligence removed, it further recommends that there be made available on a voluntary basis, both Supplementary Accident Insurance on the driver and two party collision coverage for vehicle owners.⁷ The Commissioners would expect that benefits shall be paid even when it is evident that one or more of the drivers involved in the accident was under the influence of alcohol, drugs, or otherwise guilty of breaking the law. To withhold benefits might well cause unjust privation and suffering to members of the driver's family. It is the opinion of the Commissioners that penalization in such cases should be left entirely to the Courts or the Superintendent of Motor Vehicles.

Premium Rating to be based on Demerit Point System

In Chapter 19 of this report, when the advantages of insuring the driver were detailed and analyzed, it was noted that advocates of such an approach were

7. For other types of physical damage -- particularly to real property -- the responsibility for insuring will lie with the owner of such property i.e. through a Homeowner's Policy, etc.

generally in accord that the premium rates for driver's insurance should be based on a demerit point system and coloured drivers licences, reflecting each driver's record of both accident experience and traffic violations. The Commissioners are in full accord with such thinking and therefore recommend the institution of the following demerit point system to form the basis for a differential complex respecting Basic Policy premiums:

DEMERIT POINT SYSTEM

WHITE Driver's Licence: _ _ _ up to a maximum of 3 demerit points
GREEN Driver's Licence: _ _ _ over 3 - maximum 5 demerit points
YELLOW Driver's Licence: _ _ _ over 5 - maximum 7 demerit points
RED Driver's Licence: _ _ _ over 7 - maximum 10 demerit points

The demerit point system recommended for traffic violations follows closely that currently provided as a guide to Magistrates by the B. C. Superintendent of Motor Vehicles. It provides for a maximum of 10 demerit points before automatic suspension of a driver's licence. It is recognized that further experience may well warrant future revisions of the demerit weighting given to specific law infringements. Recommendations are as follows:

CRIMINAL CODE OF CANADA - OFFENCES

10 Demerit Points Each

C. C. C. Sec.

192	_____	Death by criminal negligence
193	_____	Injury by Criminal negligence
221 (1)(B)	_____	Criminal negligence
221 (2)(B)	_____	Failing to remain
221 (4)	_____	Dangerous Driving
222	_____	Drunk Driving
223 (A)(B)(C)	_____	Ability impaired
225 (3)(A)	_____	Driving while under suspension

B. C. MOTOR VEHICLE ACT - VIOLATIONS

2 Demerit Points Each

<u>M. V. A. Sec.</u>		
127	_____	Traffic Control Light (Red Light)
128	_____	Traffic Control Light (Arrows, flashing red and pedestrian crosswalk)
144	_____	Change of lanes
149	_____	Passing on right
157	_____	Left turn other than intersection
158	_____	Right turn other than intersection
159	_____	Reverse turn
160	_____	Signals on turning
163	_____	Yield at intersection
164	_____	Yield right-of-way on left turn
165	_____	Entering through highway
166	_____	Emerging from alley
174	_____	Railway crossing controlled by mechanical device
175	_____	Railway crossing stop sign
176	_____	Commercial vehicles at railway crossing
180	_____	Improper stopping
182	_____	Improperly parked
184	_____	Caution in backing
185	_____	Seating a motorcycle
189	_____	Distance following fire engine
191	_____	Driving on sidewalk
194	_____	Opening door
197-8	_____	Safety equipment
143	_____	Driving on right except when passing
148	_____	Duty when meeting oncoming vehicles
150	_____	Safe passing on left

3 Demerit Points Each

18.8	_____	Obedience to Restriction
134	_____	Obedience to speed signs (construction)
135	_____	Obedience to flagman
139	_____	Slow Driving
140	_____	Speeding
141	_____	Speed playground or school zone
142	_____	Meeting or passing school buses
145	_____	Passing when meeting oncoming vehicles
146	_____	Passing on solid double lines
151	_____	Clear view required on passing
154	_____	Driving against barrier
155	_____	Entering Controlled Access Highway
156	_____	Proper turn at intersection
167	_____	Emergency vehicle approach
169	_____	Right of way between pedestrian and vehicle
177	_____	Stop sign
186	_____	Requirement before moving vehicle
196	_____	Transport Explosives

Motor Vehicle Act (continued)

4 Demerit Points Each

153	_____	Following too closely ⁸
54	_____	Failure to report an accident

6 Demerit Points Each

138	_____	Driving without due care and attention ⁹
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8 Demerit Points Each

69	_____	Permitting use by unlicensed drivers
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10 Demerit Points Each

56	_____	Impersonation
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For each of the traffic violation demerit point groupings suggested for white, green, yellow, and red licences it must be made possible for drivers to improve licence colour and, in turn, their basic insurance rating. It is proposed that this be achieved by a system of crediting 4 points following each year free of traffic violation. If during the year a driver amasses fewer than 4 demerits, the difference will be credited.

Concerning the allotting of demerit points for being involved in a motor vehicle accident it is the recommendation of the Commissioners that a driver involved in one accident (irrespective of cause) should not be penalized by the demerit system,

8. Because of the ambiguousness of Sec. 153 as it pertains to private passenger vehicles, and the difficulty in urban centres of maintaining adequate distance between vehicles, the Commissioners' initial opinion was that allotting 4 demerit points for violation of Sec. 153 was too severe. However, on advice from the Motor Vehicle Branch that the section is used only when following too closely results in an accident, the Commissioners have decided to leave the award at 4 points.

9. As Section 138 is a general section a conviction thereunder does not necessarily warrant 6 demerit points. Therefore, 6 demerit points for a Section 138 violation should only be used provided the violation is not covered by another section.

but that he should be penalized if by repeated accidents, accident proneness is indicated. This thinking parallels that underlying the new approach to compensation.

The Commissioners' decision in this regard stems from a concern to identify people who for a variety of reasons (such as belligerency) drive within the law but have a tendency to be involved in accidents.

The Commissioners recommend that the following demerit points be awarded for accident involvement:

TABLE 20:3

Accident Demerit Points

<u>Accidents</u>	<u>in 1 year</u>	<u>in 2 years</u>	<u>in 3 years</u>	<u>in 4 years</u>
1	0	0	0	0
2	3	2	1	1
3	6	4	4	3
4	9	7	7	5
5	<u>SUSPEND</u>	10	10	7
6		<u>SUSPEND</u>	<u>SUSPEND</u>	10
7				<u>SUSPEND</u>

As may be seen from both Table 20:3 and the following illustrations the 4 point driver's credit applies only against traffic violation demerits. Thus if a driver had 3 accidents in 2 years with no traffic violations he would receive 4 demerit points. If this were followed by an accident and violation free year he would not clear his record but would carry 4 points into the 4th year (green licence). Still another accident and violation free year would reduce the demerits to 3 points (white licence).

If on the other hand the same driver, in the second year, had in addition 6 points for traffic violations he would have a total of 10 demerit points which would mean a red licence in the third year. An accident and violation free third year would produce a credit of 4 points reducing the traffic violation record to 2 points plus the carry-over of 4 points for accidents. Thus, on fourth year the driver would be rated on a total of 6 demerit points (yellow licence).

Pedestrians or bicyclists injured in an accident with a motor vehicle will be covered in the majority of cases by the Basic Policy of a driver who is a resident member of the victim's family. In such cases there will be no accident record for demerit points charged against the named insured on the Basic Policy under which the injured pedestrian or cyclist is covered.

Qualification of New Drivers

While data provided by the B. C. Superintendent of Motor Vehicles suggests that the frequency of accidents and of traffic violations is slightly lower for 16 - 17 year olds than for 18 and 19 year olds, nevertheless, the Commissioners recommend that the minimum licence issuing age in British Columbia be increased immediately from age 16 to age 18 except where a potential driver between 16 and 18 years of age has obtained certification from a licensed driving school.

As driving school facilities become available, driving school certification should be compulsory for all drivers applying for a driver's licence in British Columbia for the first time. This could be carried out on a gradual basis as increase in available driving schools permits. The Commissioners are agreed that a certificate from a licensed driving school should eventually be required of all

new applicants prior to any testing by the Motor Vehicle Branch.

The Commissioners further recommend that all new drivers -- irrespective of age -- who hold certification from a licensed driving school should start off with a white licence and thus with the preferred risk rate for their Basic Policy. Such classification is more advantageous to young drivers than that currently employed by most insurers (with substantial rating up of all young drivers, less a discount if a recognized driver's training course has been completed).

However, until there are in British Columbia sufficient licensed driving school facilities available to cope with all new drivers, the Commissioners recommend that all new drivers -- irrespective of age -- lacking driver's school certification be issued with a green licence in their first driving year and that they be rated accordingly.

The Commissioners make the further recommendation that all drivers who have had their drivers' licences suspended for 1, 2 or 3 months be required to take a new driver test and examination administered by the Motor Vehicle branch before again being licensed to drive. For suspensions of 6 months or more, drivers should first be required to attend a qualifying driver's training course with certification being followed by Motor Vehicle Branch retesting and examination.

Suspension Rules

Under current conditions when a magistrate or judge convicts for a traffic violation he is required to forward to the Motor Vehicle Branch a report covering the same. Section 74 of the Motor Vehicle Act authorizes the court to suspend drivers' licences and to recommend to the Superintendent of Motor Vehicles

the period of suspension. Under Section 78 of this Act the Superintendent may concur with the recommendation or alter it based on a study of the driver's record file. In the past this has frequently meant an increase in the period of suspension.

The Commission is advised that the tendency of most magistrates is to leave the whole matter of licence suspension to the Superintendent, for magistrates do not have before them the driver's past driving record when passing sentence. This practice led the Superintendent arbitrarily to establish the period of licence suspension under Section 78 of the Act, until he was taken to court on writs of certiorari. Since that time the Superintendent of Motor Vehicles has operated under Section 86 of the Act which gives him the same powers as Section 78 but carries the proviso that the driver has the right of appeal to the court. It is interesting to note that while this latter practice has been in effect for over a year (at the time of writing this report) there has not, to date, been an appeal lodged.

The Commission is also informed that both the B. C. Motor Vehicle Branch and the various police forces in the province are frustrated by the number of drivers who, in the past, have been able to argue successfully before certain magistrates that their licence should not be suspended because it would create an inconvenience getting to and from work. In order to prevent such circumstances most jurisdictions in North America using a point system favour a rigid suspension code -- that is they define the period of suspension based on various accumulations. They do not recognize a "hardship" clause that permits a suspended driver to drive his vehicle to and from his place of work.

The Commissioners recommend a rigid plan of suspension, and further that licence suspensions be left in their entirety to the Superintendent of Motor Vehicles. It is expected that he will continue to operate under Section 86 of the Act so that the driver has the right to appeal the decision to the County Court.

In Appendix 20:A to this chapter the Commission provides a list of violations and the suggested compulsory periods of suspension that could result. This list is modelled closely after the Drivers' Improvement Table currently issued by the B. C. Superintendent of Motor Vehicles as a guide to Magistrates.

An Automobile Insurance Compensation and Safety Research Fund

Just as there was need under current insurance practice for the setting up of a fund, first as an Unsatisfied Judgment Fund, and later as the Traffic Victims Indemnity Fund, to compensate people injured in accidents where the negligent party was either judgment proof or unidentified, so is there a need for a new type of fund to be provided to complement the new insurance approach recommended by this Commission.

As was stated in Chapter 14 covering Term of Reference (d), the current Traffic Victims Indemnity Fund was financed in recent years through a loading of a minimum of 2% to the annual premiums charged to all purchasers of automobile third party liability insurance. The collection and disbursement of this fund in British Columbia has always been under direct industry control. The new fund recommended by this Commission should be collected and administered by the proposed British Columbia Automobile Insurance Board whose functions will be dealt with more fully later in this Report. Given the compulsory factor and the inclusion of passenger and pedestrian coverage in the Basic Policy the new fund

will be needed only to a very limited extent to provide compensation for cases now covered by T. V. I. F. This new Automobile Compensation and Safety Research Fund will be of far reaching benefit to the citizens of this Province not only in the matter of compensation for injuries received in motor vehicle accidents, but also in the important question of the development of effective measures for traffic safety.

The purposes of the Automobile Insurance Compensation and Safety Research Fund will be as follows:

- (a) To pay compensation based on the benefits of the Basic Policy to pedestrians or bicyclists, killed or injured as a result of being involved in an accident with a motor vehicle, who are not relatives resident in a household which includes a driver licensed in British Columbia.
- (b) To pay compensation 'regardless of fault' to out-of-province drivers and their passengers (or their beneficiaries) injured or killed by a vehicle operated by a driver licensed in British Columbia. Compensation will be paid only if valid motor vehicle insurance appropriate to the driver's home jurisdiction is held. Also to pay compensation 'regardless of fault' to all out-of-province visitors who, as pedestrians or bicyclists, are killed or injured by a motor vehicle driven by a British Columbia licensed driver. Such death benefit or weekly indemnity shall be on the same basis as that paid out under the Basic Policy where the visitor involved suffers bodily injury while driving. No compensation will be payable to tourists or other out-of-province drivers for physical damage to their vehicles

caused through an accident in this province with a vehicle driven by a B. C. licensed driver.

On behalf of such out-of-province visitors injured in an automobile accident in British Columbia, moneys will be paid out of this Fund to the B. C. Hospital Insurance Service to meet expenses of all hospital treatment resulting from the accident (on a public ward basis), with the injured party responsible for the \$1.00 per day or other current co-insurance. The Fund, however, will not be responsible for the costs of medical attention as the Commission is satisfied that most visitors today carry some form of medical care insurance. Individual visitors have a responsibility to themselves to see that they are so insured.

- (c) Provided there is no reciprocal arrangement made with other jurisdictions whereby all hospital insurance plans are immediately effective for new residents, this new Compensation and Safety Research Fund will pay the B. C. Hospital Insurance Service for all hospital treatment (on a public ward, less co-insurance basis) to new arrivals to this province. In effect the Fund, in such cases, would pay hospital costs from the time of accident until the date equivalent to three months after date of arrival in British Columbia to take up residence.
- (d) As stated in Chapter 13 of this Report, the Commissioners are of the opinion that there is a responsibility on the Province of British Columbia to co-ordinate the various programs of traffic safety to the extent that this will eliminate the waste in time, energy and money by many public-spirited citizens currently caused through conflict in

their methods of approach to traffic safety. The Commissioners therefore recommend that the Government of British Columbia set up a Safety Research Laboratory -- a government operated laboratory divorced from all bodies which could have a pecuniary interest in matters connected with its investigations. This research facility will test alternative safety measures for highways, streets, motor vehicles, and human behaviour with a view to reducing the motor vehicle accident toll and reducing insurance cost. The cost of such traffic safety measures shall be paid for wholly out of this Fund.

- (e) In a later section of this Report there is an elaboration on the need and functions of a new Automobile Insurance Board which will take over, in part, some of the present responsibilities of the B. C. Superintendent of Insurance. It will function also as the statistical agency in British Columbia and establish the maximum premiums chargeable each year for the Basic Policy. This Board, besides ensuring that adequate competition prevails on the 'Supplementary' and 'Collision' coverage, will recommend future statutory changes in coverage to the Provincial Government and will act as an appeal board for policyholders dissatisfied with the service they are receiving from insurers. It is the opinion of the Commissioners that these services should not be provided through a charge against the general revenues of the Province. It is therefore recommended that the administrative cost of this Board should be met out of the proposed Automobile Insurance Compensation and Safety Research Fund.

The Commissioners further recommend that the source of income for maintaining this

Fund should be the British Columbia Gasoline and Diesel Fuel tax. The justification for using an addition to the existing 13¢ per gallon tax on gasoline and 15¢ tax on diesel fuel is not only that motorists will be paying for services from which they will benefit but also that the revenue from the proposed fractional tax increase will mean that tourists and other out-of-province drivers will be contributing to the benefits open to them under subpara. (b) of this section of the Report.

From government sources the Commissioners obtained an estimate that in the fiscal year ending March 31, 1967 the following number of gallons of motor fuel were consumed on which the provincial gasoline and diesel fuel tax was collected:¹⁰

Gasoline	441,000,000
Diesel Fuel	<u>27,000,000</u>
	<u>468,000,000</u>

It has also been ascertained that from 1966 to 1967, industrial and commercial gas consumption was virtually static while service station gas consumption increased approximately 6%. By applying a 6% yearly increase figure to gasoline and diesel fuel sales on which tax has been paid the Commission estimates that 526,000,000 gallons will be sold and taxed in the calendar year of 1969. At an increase in tax of 1¢ per gallon, it would provide a fund of approximately \$5,000,000. However it is not the intention of the Commission to recommend that for the purposes of the Automobile Insurance Compensation and Safety Research Fund, the Gasoline and Diesel Fuel Tax should be increased by an entire 1¢ per gallon. The increase will be determined by the Government.

10. Province of British Columbia Public Accounts 1966-67, p. E3.
Gasoline Tax Collected @ 13¢ per gal. ----- \$57,394,083
Motor Fuel Tax Collected @ 15¢ per gal. --- 3,994,329

By whatever portion of 1¢ per gallon the tax is increased, it is well that it be recognized that, with the exception of one province, British Columbia has currently the lowest tax on motive fuels of any province in Canada.¹¹



SUMMARY OF CONCLUSIONS RELATING TO A NEW BASIC POLICY

The following is a list of the main points comprising the framework of the Basic Policy recommended by the Commissioners to form the base of a new structure of automobile insurance in British Columbia. It is only a summary, and is to be recognized as being no more than a brief and convenient reference to the main features of the whole plan, which has been elaborated upon in the preceding pages.

1. Compensation shall be paid to all motor vehicle accident victims regardless of who may be considered at fault.
2. Insurance shall be based on both the traffic violation experience and the accident experience of each driver instead of the current method of basing automobile insurance rates to a considerable degree on the claims experience surrounding the automobile.
3. The Basic Policy shall be a compulsory coverage for all British Columbia drivers.
4. The Basic Policy will be two-party accident insurance on the driver. It will cover his passengers in a motor vehicle, and all members of his family, currently resident in the same household, if hit by an automobile while getting into or descending from an automobile, or while a pedestrian or a bicyclist.

11. See Table 14:2 Provincial Gasoline and Diesel Fuel Taxes in Chapter 14 covering Term of Reference (d).

5. Compensation for all parties killed as a result of a motor vehicle accident shall be \$20,000 provided the victim was 18 years of age or over. Lower benefits shall be granted those of younger ages, graduated according to age.
6. A weekly indemnity shall be paid to all persons injured in an accident commencing one week after such accident. The disability benefit to persons 18 years of age and over shall be \$50.00 per week for as long as disability lasts. Lower weekly benefits graduated according to age will be paid to injured victims of motor vehicle accidents who are under 18 years of age.
7. There shall be no subrogation of the right to claim insurance moneys for payments for hospital or medical care.
8. The coverage in this compulsory no-fault Basic Accident Policy on the driver, his passengers, and the members of his immediate family, as described in item 4 above, will extend to anywhere in Continental North America.
9. Until such time as other jurisdictions adopt similar basic insurance, British Columbia drivers will be subject to Tort Law for third-party liability when driving outside the province. Thus B. C. drivers will be required to purchase, on a voluntary basis, out-of-province third party liability coverage on a yearly or per trip basis, should they wish to drive outside this province.

10. The rating of Basic Policy premiums will be based on each driver's demerit points awarded for traffic violation convictions and for repetitive accident experience. The premium rating will be commensurate with coloured drivers' licences (issued yearly) reflecting these demerit points. 'White' drivers' licences will carry the lowest premium and will apply to approximately 86% of B. C. drivers. Licences will be rated up in the order green, yellow, and red, with those going above the maximum demerit points for a 'red' licence having their driving licences suspended.
11. The procedure for assuring compulsory Basic Policy coverage is that, based on the record of each driver's demerit points, the Motor Vehicle Branch will issue in advance of each driver's birthday a licence application form of the colour the driver has earned. Before returning the same to receive his driver's licence, he will have his insurer endorse it indicating that the Basic Policy has been issued at a rate commensurate with the colour of the licence.
12. The terms of the Basic Policy will be statutory, requiring only the issuance of a simple certificate to the insured. The policy will be non-cancellable.
13. New drivers who can present a qualification certificate from a registered driving school will receive a 'white' driver's licence and the lowest premium rate for the Basic Policy. Other new drivers without this qualification will be granted a 'green' licence, and will be rated accordingly.

14. The Commissioners recommend the application of more rigid suspension rules as a means of keeping the very careless and bad drivers off the road.

15. An Automobile Insurance Compensation and Safety Research Fund will be provided through a fraction of a cent increase in the Gasoline and Motive Fuel tax to finance three main services:

- (1) Coverage of people injured in motor vehicle accidents in B. C. who would not otherwise be protected under a Basic Policy.
- (2) The setting up of a Provincial Traffic Safety Laboratory and for the co-ordination of existing traffic safety services.
- (3) The operation of a new British Columbia Insurance Board which will gather the statistical data necessary to establish each year the maximum premium that insurers may charge for the Basic Policy. It will also act as an Appeal Board.

16. The estimated maximum premium for the compulsory no-fault Basic Policy is:

for holders of a 'white' licence:	\$16.76
for holders of a 'green' licence:	\$21.36
for holders of a 'yellow' licence:	\$23.91
for holders of a 'red' licence:	\$26.48

**APPENDIX
TO
CHAPTER
20**

- 20:A Driver's Improvement Suspension Table.
20:B Costs of Proposed Basic Accident Coverage.
20:C Certificate of Messrs. Farrant & Co., Consulting Actuaries.

APPENDIX 20:A

DRIVER'S IMPROVEMENT SUSPENSION TABLE

1. Warranting 1 month Suspension

- (a) Over 10 demerit points covering accidents and Motor-Vehicle Act violations excepting those specifically mentioned in the Suspension Table or under Accident Demerits Table.
- (b) one Criminal Code conviction under Sec. 223 (a), or
- (c) one Criminal Code conviction under Sec. 221 (2)(b), or
- (d) one Motor-Vehicle Act conviction, Sec. 138, plus one for speeding.

2. Warranting 2 months Suspension

- (a) one Criminal Code conviction under Sec. 223 (a) plus one for speeding, or
- (b) one Criminal Code conviction under Sec. 221 (2)(b) plus one for speeding, or
- (c) one Criminal Code conviction under Sec. 221 (4) plus one for speeding, or
- (d) one Motor-Vehicle Act conviction under Sec. 138 plus two convictions for speeding, or
- (e) three speeding convictions within 1 year.

3. Warranting 3 months Suspension

- (a) one Criminal Code conviction under Sec. 221 (1)(b), or
- (b) one Criminal Code conviction under Sec. 223 (a), plus one Motor-Vehicle Act conviction under Sec. 138, or
- (c) one Criminal Code conviction under Sec. 221 (2)(b) plus one Motor-Vehicle Act conviction under Sec. 138, or
- (d) one Criminal Code conviction under Sec. 221 (4) plus one Motor-Vehicle Act conviction under Sec. 138, or
- (e) two Motor-Vehicle Act convictions under Sec. 138 plus one conviction for speeding, or
- (f) three speeding convictions plus one Motor-Vehicle Act conviction under Sec. 138, or
- (g) two Criminal Code convictions under Sec. 223 within 3 years, or

- (h) two Criminal Code convictions under Sec. 221 (4) within 2 years, or
- (i) four speeding convictions within 2 years, or
- (j) one Criminal Code conviction under Sec. 225 (3)(a) within 3 months.

4. Warranting 6 months Suspension

- (a) one Criminal Code conviction under Sec. 221 (1)(b) plus one Motor-Vehicle Act conviction either Sec. 138 or Speeding, or
- (b) one Criminal Code conviction under Sec. 223 plus one Criminal Code conviction under Sec. 221 (2)(b) or
- (c) multiple Motor-Vehicle Act convictions plus one Criminal Code conviction within 2 years, or
- (d) two Criminal Code convictions under Sec. 223 over 2 years and within 3 years, or
- (e) two Criminal Code convictions under Sec. 221 (4) over 1 year and within 2 years, or
- (f) two Criminal Code convictions under Sec. 221 (2)(b) over 1 year and within 2 years.

5. Warranting 1 year Suspension

- (a) two Criminal Code convictions under Sec. 223 over 1 year and within 2 years, or
- (b) two Criminal Code convictions under Sec. 221 (4) within 1 year, or
- (c) two Criminal Code convictions under Sec. 221 (2)(b) within 1 year, or
- (d) combination of any two of the above within 2 years but over 1 year.

6. Warranting 2 year Suspension

- (a) two Criminal Code convictions under Sec. 223 within 1 year, or
- (b) combination of Criminal Code convictions under Secs. 223 & 221 (4), 223 & 221 (1), within 1 year.

7. Warranting 3 year Suspension

- (a) three or more Criminal Code convictions within 3 years (other than under Sec. 225 (3)(a)).

APPENDIX 20:B

COSTS OF PROPOSED BASIC ACCIDENT COVERAGE

The proposed Basic policy is to cover:

- (a) accidental death
- (b) disability

without regard to fault of the vehicle driver. There are to be no territorial or other differentials in the premium structure other than one related to colour of licence. In estimating costs it is necessary to estimate:

- (a) costs of death benefits,
- (b) costs of disability benefits,
- (c) colour of licence differential,
- (d) expense loading.

Cost of Death Benefits

Maximum death benefits provided under the basic policy are \$20,000. This maximum is reduced, however for minors and infants as follows:

TABLE 20:B:1

DEATH BENEFITS, BY AGE, UNDER THE BASIC POLICY

<u>Age Last Birthday</u>	<u>Benefit Payable</u>
0 - 5	\$ 1,000
6 - 9	3,000
10 - 11	5,000
12 - 15	10,000
16 - 17	15,000
18 and over	20,000

Examination of the age distribution of accident victims indicates substantial year to year variation, particularly in respect to juvenile age groups. There is no perceptible trend, however, and it was concluded that an average based on six years' experience, 1960-65 would provide a satisfactory means of estimating

average claim size. This estimate is as follows:

TABLE 20:B:2

AGE DISTRIBUTION OF FATALITIES 1960-65

	<u>0-4</u>	<u>5-14</u>	<u>15-19</u>	<u>Over 19</u>	<u>Total</u>	<u>Percentage Over 19</u>
1960	14	21	28	231	294	78.6%
1961	9	23	35	253	320	79.1
1962	19	29	33	304	385	79.0
1963	11	25	41	283	360	78.6
1964	14	27	55	297	393	75.6
1965	<u>20</u>	<u>36</u>	<u>71</u>	<u>373</u>	<u>500</u>	<u>74.6</u>
TOTALS	87	161	263	1741	2252	77.3%
% of Total	3.9	7.1	11.7	77.3	100.0	

Source: Annual Reports: Motor Vehicle Branch, 1960-65.

TABLE 20:B:3

VALUATION OF DEATH BENEFITS PER CLAIM

<u>(1)</u> <u>Age Group</u>	<u>(2)</u> <u>Average Claim</u>	<u>(3)</u> <u>Percent of Claims</u>	<u>(2) x (3)</u>
0 - 4	\$ 1,000	3.9	3,900
5 - 14	5,300	7.1	37,630
15 - 19	16,000	11.7	187,200
20 and over	20,000	77.3	<u>1,546,000</u>
Estimated Average Fatality Claim - \$17,747.30			<u>1,774,730</u>
Rounded to - \$17,750.00			

The unit of exposure is the driver, and the pure premium needed to provide death benefits can be found by multiplying the fatality rate, expressed on a per 1,000 drivers basis, by the average claim size, and dividing the result by 1000. Fatality statistics for a number of jurisdictions reveal fairly wide erratic movements about an apparent downward trend, which is slight. No clear trend is evident in B.C. fatality rates since 1952, on a per vehicle basis.

Statistics on the number of licensed drivers are available only for the post-1959 period, owing to changes in the recording system. The average rate for the 1960-1965 period is .502 deaths per 1,000 drivers, which is believed to be representative (there were 2,252 fatalities in the period, which is sufficient to ensure credibility). The required pure premium for death benefits is therefore given by:

Average Claim	\$17,750.00
x Frequency	<u>.502</u>
Cost per 1,000 Drivers	\$ 8,910.50
<u>Cost per Driver</u>	<u>\$ 8.91</u>

Disability Benefits

The policy provides for disability benefits of \$50.00 per week beyond a one-week waiting period. Basic experience in respect to disabilities arising out of automobile accidents is that of the Saskatchewan Government Insurance Office under the Automobile Accident Insurance Act. It was reviewed by C. H.

Frederickson.¹² Saskatchewan's experience suggests that with a one week waiting period, 25% of those injured qualify for disability benefits, and that the average duration of paid disability is eight weeks. If B. C. experience were similar, and there is no reason to expect otherwise, the average disability claim would be \$400, the cost per injured individual \$100.00.

Injury frequency statistics are perhaps less reliable than fatalities, since some injuries may go unreported. The longer term trend is similar. In estimating disability benefit costs, the 1960-65 average injury rate of 19.2 per 1,000 drivers was used. Cost of disability coverage is therefore:

12. "Valuation of Proposed Automobile Accident Benefits" in All Canada Insurance Federation, Brief, Section IX, Appendix, p. 9. (Ex. 124)

Cost of average claim	\$ 400.00
Proportion of injured claiming	<u>.25</u>
Cost per injured person	\$ 100.00
Injured persons per 1,000 drivers ¹³	19.2
Cost per 1,000 drivers	\$1,920.00
<u>Cost per driver</u>	\$ <u>1.92</u>

The Commissioners have examined the effect on costs of changes in the waiting period from one to two, three and four weeks, but found the savings possible from such extensions to be relatively trivial in relation to claim cost under the basic policy (most of which is accounted for by death benefits).

Colour of Licence Differential

It is contemplated that the Basic Policy will provide for merit rating on the basis of the colour of licence, determined under the point system described elsewhere in this report. Estimating appropriate differentials is difficult because no statistical data exist on accident frequency related to prior point totals for B. C. (or anywhere else so far as is known). The suggested differential is therefore largely a "judgment" figure which will have to be modified in the light of experience as it becomes available.

In developing a proposed differential, it has been assumed that the burden of explanation (in the statistical sense) to be borne by the conviction experience of a given year is equivalent to that now borne by the year's accident experience. The average conviction carries a point value of 2.9 points. There are approximately three times as many convictions as accidents in the Province.

13. Annual Reports, Motor Vehicle Branch, 1960-65.

TABLE 20:B:4

ACCIDENTS, CONVICTIONS, AND VEHICLE AND DRIVER REGISTRATIONS, B.C.
1957-65

Year	Accidents	Convictions (CCC & MVA)	Registrations		Convictions Per		
			Vehicles	Drivers	Accident	Vehicle	Driver
1957	25,976	46,291	487,844	N. A.	1.78	.095	N. A.
1958	24,583	64,012	506,398	N. A.	2.60	.126	N. A.
1959	25,536	80,095	536,120	N. A.	3.14	.149	N. A.
1960	26,091	84,687	566,144	675,000	3.25	.150	.125
1961	27,203	77,016	589,917	689,077	2.83	.131	.112
1962	29,077	77,232	609,215	707,340	2.66	.127	.109
1963	30,924	95,363	648,303	738,007	3.08	.147	.129
1964	38,368	104,682	700,048	814,483	2.73	.150	.129
1965	40,262	124,704	764,353	867,835	3.10	.163	.144

Source: Annual Reports, Motor Vehicle Branch, 1957-1965.

TABLE 20:B:5

AVERAGE POINT VALUES OF 1965 CONVICTIONS

C. C. C. Sec.	Offence	Point Value	Number	Points
192	Death by Crim. Neg.	10	12	120
193	Bodily Harm, Crim. Neg.	10	--	0
221(1)	Criminal Negligence	10	33	330
221(2)	Failing to Remain	10	876	8,760
221(4)	Dangerous Driving	10	450	4,500
222	Intoxicated	10	131	1,310
223	Impaired	10	4,635	46,350
225(3)	Under Suspension	10	918	9,180

TABLE 20:B:5 CONTINUED

<u>C.C.C. Sec.</u>	<u>Offence</u>	<u>Point Value</u>	<u>Number</u>	<u>Points</u>
226	Smoke Screen	0	--	0
281	Taking Without Consent	0	6	0
	<u>Subtotal</u>		<u>7,061</u>	<u>70,550</u>

<u>M.V.A. Sec.</u>	<u>MOTOR-VEHICLE ACT -- VIOLATIONS</u>			
2-10 57	Failure to Display Licence	0	2,962	0
11,18(11)	Change of Address	0	78	0
12	Change of Vehicle	0	4	0
14	Failure to Transfer	0	124	0
16(1)	Removal or Destruction	0	--	0
17	Tourist Registration	0	24	0
18(1),(2)	No Licence Obtained	0	4,439	0
18(6)-18(8)	Violating Restrictions	3	4,914	14,742
19	No Licence in Possession	0	1,142	0
20	Driving while right to obtain, suspended	0	175	0
21-23,25,27, 28	No Chauffeur's Licence	0	463	0
29,33,34	Unlicensed dealer, etc.	0	48	0
36-39	Misuse of "D" Plates	0	50	0
40	Not Properly Equipped	0	342	0
41,42	Failure to Replace	-	--	-
45	Improper Disposition	-	--	-
54	Failure to Report Accident	4	443	1,772
55	False Statement, etc.	0	93	0
56	Impersonation	0	256	0
58	Failure to Stop	0	63	0

TABLE 20:B:5 CONTINUED

<u>M.V.A.Sec.</u>	<u>Offence</u>	<u>Point Value</u>	<u>Number</u>	<u>Points</u>
59	Altering Plates	0	10	0
68	Resp. of Owner Not Driving	0	8	0
69	Permitting Use by Un-Licensed Driver	0	393	0
99	Failure to Surrender Licence	0	--	0
100	Removing without Authority	0	--	0
102	Invalid Pink Card	0	6	0
123	Improper Op. of Emerg. Vehicle	0	--	0
122,124	Failure to Obey instruction	0	14	0
127,128,152	Failure to Obey Signal	2	19,973	39,946
129,131,136	Defacing Control Devices	0	15	0
132-5, 137	Failure to Obey Signs	3	137	411
138-9	Careless Driving	3-6	5,536	27,680
140	Speeding	3	44,678	134,034
141	Schools and Playgrounds	3	2,549	7,647
142	Stopped School Bus	3	106	318
143	Not on right	2	458	916
144-6	Wrong lane	2-3	2,754	5,508
147	Improper leaving	0	7	0
148-51,153,154	Improper passing	2-4	2,472	7,416
155-62	Improper Turns & Signals	2-3	4,386	8,772
163-7	Failure to Yield Right of Way	2-3	3,448	6,896
168-72	Not Exercising Due Care	3	2,526	7,578

TABLE 20:B:5 CONTINUED

<u>M.V.A.Sec.</u>	<u>Offence</u>	<u>Point Value</u>	<u>Number</u>	<u>Points</u>
173	Bicycle Operators	0	--	0
174-6	R. R. Crossing	2	141	282
177	Intersections	3	7,301	21,903
178-81	Improper Stop or Parking	2	2,264	4,528
182	Improperly Parked	0	1,144	0
183	Parking on Private Property	0	4	0
184	Illegal Backing	2	889	1,778
185	Overloaded Motorcycle	2	126	252
186-7	Requirements to Move, etc.	3	54	162
189-90	Fire Vehicles	2	30	60
191	Driving on Sidewalk	2	76	152
194	Opening Door	0	34	0
195	Littering	0	221	0
196	Transport Explosives	0	--	0
197-8	Safety Equipment	0	260	0
201	Defacing Signs	0	2	0
---	Miscellaneous	0	<u>1</u>	<u>0</u>
<u>Subtotal</u>			<u>117,643</u>	<u>292,753</u>
<u>TOTALS</u>			<u>124,704</u>	<u>363,303</u>
<u>Average Point Value</u>			<u>2.9</u>	

It was assumed, therefore, that the three-conviction driver (9 points) should have approximately the same differential charged as a 0 - year claim-free driver.

Using the C.U.A. differential as a basis, the following differential has been derived:

<u>Colour</u>	<u>Points</u>	<u>Equivalent Years Claim Free</u>	<u>Differential</u>	
			<u>"3" = 100</u>	<u>White = 100</u>
Red	8,9,10	0	170	148
Yellow	6,7	$\frac{1}{2}$	157	137
Green	4,5	$1 - 1\frac{1}{2}$	145	126
White	0 - 3	2 - 3	115	100

Actual rates for the various classes depend not only on the differential but on the distribution of drivers by class. Using the Canada wide distribution of owners by claim free class, as a guide, the following distribution is estimated:

TABLE 20:B:6

ESTIMATED DISTRIBUTION OF DRIVERS BY CLASS

	<u>% of Total</u>	<u>Differential</u>	<u>Weighted Differential</u>
White	86.0	100	86.0
Green	3.0	126	3.8
Yellow	5.0	137	6.9
Red	6.0	148	8.9
Weighted Average Differential			105.6

Appropriate pure premiums can be determined by multiplying the average pure premium by the ratio of the class differential to the average differential, as follows:

TABLE 20:B:7

CALCULATION OF PURE PREMIUM, BY CLASS

<u>Class</u>		<u>Pure Premium</u>
White	$(10.83 \times \frac{100}{105.6}) =$	\$ 10.26
Green	$(10.83 \times \frac{126}{105.6}) =$	\$ 12.92
Yellow	$(10.83 \times \frac{137}{105.6}) =$	\$ 14.05
Red	$(10.83 \times \frac{148}{105.6}) =$	\$ 15.18

Expense Loading

Estimated pure premiums, as calculated above, make no provision for allocated claim adjustment expense, treated in the present rating system as a loss payment. In estimating adjustment expenses under the proposed policy, it was concluded that adjustment costs on death claims, which will be payable in predetermined amount on presentation of appropriate evidence of death as the result of an automobile accident, will be negligible in amount and will make no difference in the premium. Claims under the disability provisions, however, may require fairly careful policing to ensure that excessive payments are not made. After examining claim expense for various types of claim, the Commissioners concluded that adjustment expenses in respect of disability cases may amount to as much as 25% of actual payments made, and have provided an estimate of adjustment expenses on this basis.

In allocating this amount to individual rating classes, it was felt that the loading for claim expense ought to be proportional to expected losses in each class, so that those classes involved in a disproportionate share of accidents

would bear an appropriate share of adjustment costs.

TABLE 20:B:8

ALLOCATED CLAIM ADJUSTMENT EXPENSE, BY CLASS

Cost per driver = 25% of pure premium = $.25 \times \$1.92 = \$.48$

<u>Class</u>		<u>Amount</u>
White	$(.48 \times \frac{100}{105.6}) =$	\$ 0.45
Green	$(.48 \times \frac{126}{105.6}) =$	\$ 0.57
Yellow	$(.48 \times \frac{137}{105.6}) =$	\$ 0.62
Red	$(.48 \times \frac{148}{105.6}) =$	\$ 0.67

A more significant portion of the expense loading is that necessary to provide for agents' commissions. While commissions might be reduced to a nominal level on a minimal service basis, since purchase of the basic policy is compulsory, it was felt that the agent could play a useful service role in providing the insured with information on the supplementary coverages available and their appropriateness for a particular insured, and in processing claims. It was felt that this service was useful to all insureds, even those who did not, after considering their situation appear to require supplementary coverage. As a corollary, it was concluded that an adequate level of compensation was needed to produce this level of service. A basic commission rate of \$3.00 per policy was therefore allowed for white licence drivers. Because it was believed that higher rated drivers would, on average, generate a higher volume of demands on agents' time, particularly in respect to initial servicing of claims, the following scales of commission were allowed for coloured licences:

Green	\$4.00 per policy
Yellow	\$5.00 per policy
Red	\$6.00 per policy

In estimating other administrative costs, it was concluded that the underwriting task would be appreciably simplified by the coloured licence system and by the requirement that all applicants be accepted. The main remaining function is policy-writing and record-keeping. Analysis of the expense experience under the Saskatchewan A. A. I. A. (where separate policies are issued for each driver and each vehicle) suggests that approximately \$2.00 per policy would be an appropriate allowance for the administration of this simple policy. The administrative loading for each class, determined by applying the differential to the amount \$2.00 is presented in Table 20:B:9.

TABLE 20:B:9

ADMINISTRATIVE EXPENSE, BY CLASS

<u>Class</u>	<u>Amount</u>
White	$(2.00 \times \frac{100}{105.6}) = \$ 1.89$
Green	$(2.00 \times \frac{126}{105.6}) = \$ 2.39$
Yellow	$(2.00 \times \frac{137}{105.6}) = \$ 2.59$
Red	$(2.00 \times \frac{148}{105.6}) = \$ 2.80$

These items of expense have been added to the pure premium for each rating class, and percentage allowances made for B. C. premium tax at a rate of 2% and for a 5%

underwriting profit allowance. The latter, which represents an increase over the present nominal rate of 2.5% (which it was suggested elsewhere to be inappropriate), requires some explanation. Some liberality is of course desirable because of the novelty of the product insurers are being asked to create, in order to encourage them to provide a market. A more fundamental reason is that the product itself is more risky for the companies to handle, because it substitutes a policy with low claim frequency but high severity for one with higher frequency but relatively low severity. Underwriting results on the resulting portfolio of policies can be expected to be more variable than under present third party liability coverage.

The following table shows estimated premiums for each class with a breakdown of components:

TABLE 20:B:10

PREMIUM COMPONENTS AND TOTAL PREMIUMS, BY CLASS

	<u>White</u>	<u>Green</u>	<u>Yellow</u>	<u>Red</u>
Total Pure Premium	\$10.26	\$12.92	\$14.05	\$15.18
Adjustment Expense	.45	.57	.62	.67
Underwriting and Administrative Cost	1.89	2.39	2.59	2.80
Agent's Commission	3.00	4.00	5.00	6.00
Plus Underwriting Profit	<u>.82</u>	<u>1.05</u>	<u>1.17</u>	<u>1.30</u>
Estimated Maximum Premium for Basic Policy	\$16.42	\$20.93	\$23.43	\$25.95
Plus 2% Provincial Premium Tax	<u>.34</u>	<u>.43</u>	<u>.48</u>	<u>.53</u>
<u>TOTAL ESTIMATED MAXIMUM PREMIUM</u>	<u>\$16.76</u>	<u>\$21.36</u>	<u>\$23.91</u>	<u>\$26.48</u>

A Final Note on Rating

For reasons outlined in Chapter 10, as experience statistics are gathered, ratings for the Basic Policy may well be changed in future years to reflect safety features of the vehicle or vehicles being driven. Other considerations may also come to light through such statistics.

APPENDIX 20:C

FARRANT & COMPANY

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June 14, 1968

The Honorable Mr. Justice R.A.B. Wootton
Chairman
Royal Commission on Automobile Insurance
Fifth Floor, Weiler Building
609 Broughton Street
Victoria, B. C.

Dear Mr. Justice Wootton:

In accordance with the terms of our appointment we have reviewed the information supplied to us regarding the following matters included in the Report of the Royal Commission:

- (i) the maximum premium rates proposed for the Compulsory Basic Accident Policy, and
- (ii) the principles followed in the development of illustrative revised collision premiums.

The information which has been supplied to us has included copies of Chapters 9, 20 and 21 of the Report and details of the studies, relevant to these Chapters, conducted by the Commission's staff.

We have been asked to express our opinion as to the adequacy of the maximum premium rates proposed for the Compulsory Basic Accident Policy. In addition to reviewing the studies conducted by the Commission's staff we have developed corresponding accidental death and disability benefit rates from other statistics in our files and have tested the Commission's proposed rates with those developed from such other sources. On the basis of the analyses conducted it is our opinion that the initial maximum premium rates proposed by the Commission for the Compulsory Basic Accident Policy contain adequate margins to finance the costs of the benefits promised and the expense required in the issuance and administration of all such policies.

Further, following review of the methods used, it is our opinion that reasonable and relatively conservative principles have been followed in the development of the illustrative premiums which would result under the Commission's two-party collision policy proposals.

I am, Sir,

Yours sincerely,

FARRANT & COMPANY

M. H. Farrant, F.S.A., F.C.A.P.,
F.C.I.A.



CHAPTER 21

VOLUNTARY EXTENDED INSURANCE COVERAGE



CHAPTER 21

VOLUNTARY EXTENDED INSURANCE COVERAGE

The Commissioners recommend that the British Columbia Insurance Act be amended to permit maximum flexibility in product design. Given such change, it is expected that industry will make available to drivers and vehicle owners some considerable choice in voluntary endorsements and riders, complementary to the Basic Policy.¹ It is anticipated that two particular supplementary coverages will be of especial significance and therefore they are commented upon here.

Firstly, it is clear that the death and disability income benefits provided under the Basic Policy will be deemed inadequate by some licensed drivers. The Commissioners expect that the industry will offer to consumers, at relatively low cost, multiples of the basic indemnities. Competition in packaging may well see included such ancillary benefits as the cost of ambulance services, and other out-of-pocket expenses resulting from the motor vehicle accident that are not included in the Basic Policy.

Secondly, voluntary physical damage coverage would be proffered and required if the new approach to motor vehicle accidents proposed by the Commissioners is adopted in British Columbia.

It is contemplated that if protection against physical damage to automobiles is required, it will be provided through two party coverages similar to those now in use. The Commissioners suggest, however, that in the case of collision and

1. The Commissioners are strongly of the view that competition will be enhanced by permitting both life, and sickness and accident insurers to sell basic and supplementary contracts.

upset, such policies be subject to a minimum deductible of \$100, to give owners an incentive to practice defensive driving in the newly created motoring environment.² Lower deductibles, while more costly, may increase irresponsible driving due to the fact that the purchasers of such, secure in the thought that their own vehicle is protected, may jeopardize unnecessarily the safety of others.

Present collision coverage applies only when the insured is at fault or when no damages can be recovered from a negligent third party. Since recovery from third parties would be barred, all motor vehicle damage currently being paid for by third party insurance would be borne by the vehicle owner or his insurer. The insurer's share would be limited to claims over any deductible, with loss under that figure resting with the owner of a damaged vehicle.³

In estimating the premiums required to provide the broader coverage under the new collision policy, it is necessary to examine and conclude on questions of claims severity, claims frequency and allocated claims expenses to arrive at pure premiums. Then the matter of expense loading must be resolved.

(a) Severity Under the New Collision Contract

Regarding severity, there is some evidence suggesting that insurers have been

-
2. No such minimum need be imposed in connection with the specified perils or comprehensive coverages.
 3. It is clear that a similar burden rests on motorists today. The practical outcome of many small property damage claims where witnesses are lacking is apt to be a 50-50 split, with the non-negligent party absorbing some deductible. Furthermore, when this occurs both parties are considered to have had a claim on their policy and are classified accordingly.

firmer with third parties than with their own insureds.⁴ Deductibles aside, this would suggest higher claims costs when all claims are paid out of the collision coverage. On the other hand, analysis made in an earlier chapter of this Report pointed to the possibility of savings by insurers through more organized dealings with repair garages. Assuming that the above considerations offset each other, there remains on theoretical grounds no reason to expect that damage to motor vehicles relates in any way to the legal liability of the driver. Thus, average claims would not be larger, though claims frequency would, of course, increase.

(b) Claims Frequency Under the New Collision Contract⁵

Involvement statistics of the Motor Vehicle Branch covering the period 1960-1965 suggest that relative frequencies of accidental property damage being borne by motor vehicle owners or collision insurance, and by liability insurance, is as follows:

Table 21:1

Relative Frequencies of Accidental Property Damage

<u>Vehicle Owner or Collision Insurance</u>	<u>% of Total</u>
(i) single vehicle accidents _____	28.3
(ii) own responsibility in multi-vehicle accidents _____	29.8
(iii) financially irresponsible negligent third parties, based on Commission's estimate of the percentage of uninsureds _____	<u>4.2</u>
<u>Total:</u> _____	<u>62.3</u>
<u>Property Damage Liability (Third Party)</u> _____	<u>37.7</u>

4. As set out in Chapter 2, Commission research found accident victims' opinions of their own insurers generally complimentary while attitudes towards the insurers of other persons were quite critical.
5. Appendix 21:A provides the necessary backup to statistics appearing in this section.

The relative frequency of third party to own financial responsibility equals 37.7 ÷ 62.3 or 0.605.

While the relative claims frequency as indicated by insurance statistics is somewhat higher, it is distorted by the existence of deductibles in collision and all perils coverages and no deductible in third party liability. Furthermore, apparent third party liability frequency is also increased because published insurance statistics do not separate bodily injury liability claims from property damage liability claims. Making the necessary adjustments, an increase in claims frequency of between 58 and 60% is indicated. Thus, evidence from insurance data does not contradict seriously the 60.5% estimate of increased frequency based on involvement statistics and probability considerations having regard to the existence of uninsured motorists.

For the purposes of this Report, the Commissioners believe it more prudent to use the conservative figure of 60.5% as the estimate of the increase in collision frequency that would result if present third party property damage claims were paid under collision coverage, recognizing that the increase may be slightly less.

(c) Allocated Claims Expenses Under the New Collision Contract

As set out in Chapter 9 and more particularly, Table 9:1, a significant share of loss costs was attributable to allocated claims expense. More particularly, under 'physical damage' it was estimated that claims expenses were 24% of payments made, while under 'collision' they were about 17%. Clearly, under the proposed no-fault approach to motor vehicle insurance, a significant proportion of such expenses would be eliminated. This would leave a larger share of the

premium dollar available for the payment of claims.

It is the Commissioners' view that, in determining the approximate average increase in pure premium required for the new coverage, a 10% reduction in the average size of claims should be allowed for. Using a total premium of \$100 for today's type of collision insurance as the base, calculations are made as follows:

TABLE 21:2

Estimate of the Required Increase In Average Premiums
Under the Proposed New Collision Contract

	<u>Collision Contract</u>	
	<u>Present</u>	<u>Proposed</u>
Loss Costs	\$ 67.00	\$108.00
Less Claims Expense Eliminated	<u>Nil</u>	<u>10.80</u>
Pure Premium	\$ 67.00	\$ 97.20

Several of the Commission's earlier conclusions are reflected in expense factor estimates for the new collision contract. Thus, reduction in the underwriting profit allowance to 2% is based on an expectation of more vigorous competition. Once the impact of such competition is felt in British Columbia, the 2% figure may prove an over-estimate. While the profit allowance is significantly lower than the 5% figure indicated for the basic policy, variability in the frequency of bodily injury necessitates the latter. No such risk will be faced by insurers in setting their rates for collision coverages because trend is readily indentifiable. The 15.6% presently being allowed for general expenses,⁶ was

6. Where 15% is paid in agents' commissions, this figure is 2½% lower. Evidence before the Commissioners indicated that with companies employing independent agents two main commission scales were in effect, 15% and 12½%. Canadian Underwriters' Association is the principal user of 12½%, and the Independent Insurance Conference uses 15%.

shown to be excessive (Chapter 9 and Appendix 9:A). In any event, there is no need to increase the dollar equivalent of this allowance simply because the pure premium is increased. All other expenses are held to their traditional percentage of total premiums. The matter of the agent's commission will receive separate attention.

TABLE 21:3

ESTIMATED EXPENSE FACTOR

<u>Expense Factor</u>	<u>Collision Contract</u>	
	<u>Present</u>	<u>Proposed</u>
Agent's Commission (12.5%)	\$12.50	\$17.00
Premium Tax (2.0%)	2.00	2.70
Unallocated Adjust. Expense	0.40	0.50
Underwriting Profit Allow. (2.5% & 2.0%)	2.50	2.70
General Expenses	<u>15.60</u> 33.00	<u>15.60</u> 38.50
<u>Total Premium</u>	\$100.00	\$135.70

It is clear from the above estimates that a 36% increase on the average gross premium may be anticipated. It also appears likely that the expense factor will be reduced from 33% to 28% of the premium dollar. In Appendix B to this chapter, a broad estimate of the cost of the basic contract, plus the proposed collision policy, is contrasted with a sample of 1968 Canadian Underwriters' Association charges for insurance currently available. Despite the more complete coverage proposed, significant savings in premiums are suggested for most insureds.

While the present structure of collision premiums is lacking in statistical justification, as far as rating group differentials are concerned, there is no doubt that it costs more to replace a fender on a Cadillac than one on a Volkswagen. The Commissioners see no reason for departing from the present structure of differentials until more accurate statistics are available. It is

recommended, however, that age-use, owner's driving record and perhaps other items be suitably modified by insurers to take account of the several inconsistencies noted in the earlier chapters of this Report concerned with Term of Reference (c). The proposed Insurance Board should give priority to consideration of the general matter of rate-making and differentials until such time as the emergence of more effective competition forces the differentials in use to approximate their "true" values.

Agent's Commissions

While the 28% average expense factor estimated for the new collision contract makes allowances for agents' commissions of 12.5%, it would be unsound to assume that all expenses, including commissions, must be considered as variable with premiums. The Commissioners are not prepared to recommend the maximum dollar amount of commission chargeable on voluntary coverage. It is felt that any reduction of the percentage allowed for commissions on higher cost insurance should be left as a matter between agent, insurance company and the consumer -- provided there is effective competition.⁷

The Commissioners are convinced that agents provide service to insureds, but they see great merit in the consumer being informed of what such professional services are costing him. Given such information, the buyer may make a rational choice about the amount of such service he is willing to pay for, and, in this way, expedite competition. At the present time insureds are, generally speaking, unaware of what they are paying for the agent's services, the decision

7. While accident-prone vehicle owners place great demands on their agents and should expect to pay many more dollars in commissions than claim-free insureds, premium differences based on age or location alone should not double or triple agents' commissions.

having been settled through negotiations between insurance rating bureaus and agents' representatives.

In the interest of more effective competition, the Commissioners recommend, therefore, that all voluntary motor vehicle insurance contracts sold in the province, whether through independent agents, exclusive agents, or over the counter, should indicate clearly the cost of insurance quite separately from the dollar amount allocated or payable to the agent. This would make the agent's professional fees as readily ascertainable as those charged for services by members of other professions.

The Commission recognizes that this recommendation can be carried out in an equitable manner only if direct writers (who generally use only salaried employees) are provided with certain rules whereby their cost of insurance will not include any of the costs of those services customarily carried out by independent agents.

**APPENDIX
TO
CHAPTER
21**

- 21:A Costs and Claims Frequencies of the Proposed Voluntary Collision Coverage.
- 21:B Contrast of Costs Between the Existing Approach to Automobile Insurance and that Recommended by the Commission.

APPENDIX 21:A

COSTS & CLAIMS FREQUENCIES OF THE PROPOSED VOLUNTARY COLLISION COVERAGE

At present, collision coverage applies :

- (a) where no other vehicle is involved,
- (b) to the extent of the insured's liability where other vehicles are involved,
- (c) to the extent of the negligent third party's liability where the third party is uninsured or otherwise not financially responsible,

subject, of course, to the deductible clause.

Table 21:A:1 shows the percentage of accidents in B. C. involving another motor vehicle (excluding motorcycles) for the years 1959-65. This percentage has been remarkably constant, and suggests that, on the average, some 28.3% of accidents during the period fell within category (a).

In the remaining 71.7%, more than one vehicle was involved. Since liability must be assessed 100% to the several drivers involved in an accident, theoretically the average liability per vehicle may be determined by dividing the number of accidents by the number of involved vehicles. This is done in Table 21:A:2. This ratio also is remarkably constant around its average value of 0.415.

TABLE 21:A:1

B.C. Reported Accidents, 1959-65

	<u>Total Accidents</u>	<u>Involving More Than One Vehicle</u>	<u>Percent</u>
1959	25,536	18,302	71.7
1960	26,091	18,745	71.8
1961	27,203	19,597	72.0
1962	29,077	20,857	71.7
1963	30,924	21,919	70.9
1964	38,368	27,984	72.9
1965	<u>40,262</u>	<u>28,610</u>	<u>71.1</u>
<u>Total (weighted average)</u>	<u>217,461</u>	<u>156,014</u>	<u>71.7</u>

Note: "vehicle" excludes motorcycles.

Source: Superintendent of Motor Vehicles, Annual Reports.

TABLE 21:A:2

Vehicles Involved in Multi-Vehicle Accidents, B.C., 1960-65

	(1) Multi-Vehicle Accidents	(2) <u>Vehicles Involved</u>	(1) ÷ (2)
1960	18,745	45,361	.413
1961	19,597	47,171	.415
1962	20,857	50,138	.416
1963	21,919	53,860	.407
1964	27,984	66,127	.423
1965	<u>28,610</u>	<u>69,344</u>	<u>.413</u>
<u>Total (weighted average)</u>	<u>137,712</u>	<u>332,001</u>	<u>.415</u>

Source: Superintendent of Motor Vehicles, Annual Reports.

Multiplying this fraction by the percentage of accidents involving more than one vehicle provides an estimate of the number of collision claims arising under category (b) (insured's own liability) in the following table. This estimate is 29.8%. (This is stated in terms of whole claim equivalents. The actual number of files will be higher because of claims for fractional liability.)

The claims remaining are attributable to negligent third parties and would be paid by them, or their insurers if such parties are financially responsible. As an estimated 10% of drivers are at present uninsured, it is estimated that damage resulting from an additional 4.2% of accidents is paid by non-negligent vehicle owners or their insurers.

In sum, the involvement statistics suggest that relative frequencies of accidental property damage being borne by vehicle owners, or collision insurance, and by liability insurance is as follows:

TABLE 21:A:3

Relative Frequencies of Accidental Property Damage

<u>Vehicle Owner or Collision Insurance</u>	<u>Percent of Total</u>
(a) Single vehicle accidents _____	28.3
(b) Own liability in multi-vehicle accidents _____	29.8
(c) Financially irresponsible negligent third party _____	<u>4.2</u>
Total V.O. or C. _____	62.3
<u>Property Damage Liability (Third Party) _____</u>	<u>37.7</u>
	100.0
Relative frequency of Third Party Financial Responsi-	
bility to Own Financial Responsibility = $\frac{37.7}{62.3}$ =	0.605

Relative claim frequency as indicated by insurance statistics is somewhat higher. It should be borne in mind, however, that the relative frequency of insurance claims is distorted by the existence of a deductible in collision and all perils coverage and no deductible in third party liability, which tends to increase the reported frequency of the former relative to the latter. Further, the published insurance statistics do not separate bodily injury liability claims from property damage liability claims although they are reported separately and apparently are treated as separate claims. This increases further the apparent third party liability frequency. While adjustments can be made for these factors, sample data must be used to do so. On the other hand the involvement statistics are complete, cover several years, appear to show a consistent pattern through the years, and have a common lower cut-off. Unless there are extreme differences in severity between single vehicle and multi-vehicle accidents, (which would make the estimate of (a) biased) substantial confidence in (a) is justified.

Table 21:A:4 shows raw claim frequency data for third party liability and various

collision coverages, on a Canada-wide basis. Table 21:A:5 shows B.C. frequencies, which are not reported by coverage. While these indicate third party claim frequencies to be above collision frequencies (except in the \$25 deductible category) the above qualifications should be noted. The basis used for deflating reported third party claim frequencies to the basis of \$100 deductible property damage claim frequencies is a sample consisting of B.C. claims paid on May, 1964 policies, obtained on card form from the Central Statistical Agency. The Results of the analysis of this sample are reported in Table 21:A:6.

TABLE 21:A:4

Claim Frequencies, Third Party Liability and
Various Collision Coverages, Canada, Policy Years 1961-65
 (Per 1000 vehicles)

	<u>B.I. & P.D.</u>	<u>Collision</u> (\$25 Ded.)	<u>Collision</u> (\$50 Ded.)	<u>Collision</u> (\$100 Ded.)	<u>Collision</u> (\$250 Ded.)
1961	9.6	13.0	8.9	7.5	5.7
1962	10.1	13.1	9.8	8.2	6.2
1963	10.2	13.1	9.9	8.3	6.4
1964	10.2	13.1	10.0	8.3	6.7
1965	9.6	12.6	9.0	7.7	6.6

Source: Green Book 1966, p. 3.

TABLE 21:A:5

Claim Frequencies, Third Party Liability and
All Collision Coverages, B.C., Policy Years 1961-65

	<u>B.I. & P.D.</u>	<u>Collision</u>
1961	7.5	5.8
1962	7.5	5.9
1963	8.4	6.3
1964	8.3	6.3
1965	7.3	5.6

Source: Green Book, 1966, p. 61; 1964, p. 71.

TABLE 21:A:6

Analysis of B.I. & P.D. Claims in B.C., May 1964

<u>Category</u>	<u>Number of Claims</u>	<u>Amount (\$000)</u>
Bodily Injury	297	404.2
Property Damage:		
Under \$100	666	37.5
100 - 249	416	70.2
250 and Over	<u>365</u>	<u>211.9</u>
Total P. D.	1,447	319.6
<u>TOTAL</u>	<u>1,744</u>	<u>723.8</u>

Property damage claims in excess of \$100 totalled 781, or 44.8% of the total. By applying this percentage to the B.I. & P.D. claim frequencies reported in Table 21:A:4, the frequencies shown in Table 21:A:7 are obtained.

TABLE 21:A:7

Relative Frequencies of P.D. Liability and Collision Claims - Canada

(1) <u>Policy Year</u>	(2) <u>Total B.I. & P.D.</u>	(3) .448 x <u>B.I. & P.D.</u>	(4) <u>Collision</u> (\$100 Ded.)	(5) <u>(3) as % of (4)</u>
1961	9.6	4.3	7.5	57
1962	10.1	4.5	8.2	55
1963	10.2	4.6	8.3	55
1964	10.2	4.6	8.3	55
1965	9.6	4.3	7.7	56

These suggest that claim frequency would be increased in the order of 55-57% if claims presently payable under third party property damage coverage were made payable under an expanded collision coverage. This estimate is based on Canada-wide frequencies, which are all that is available by deductible. Because the mix of deductibles sold in B.C. is not known, it is difficult to interpret the statistics of Table 21:A:5. However, the figures in Table 21:A:5 at least sug-

gest that B.C. collision frequencies are a lower percentage of national \$100 deductible collision frequencies than B.C. third party frequencies are of national third party frequencies. If this is so, then the estimate of the increase in collision frequency that would result if present third party property damage claims were paid under collision coverage should be increased somewhat, to between 58% and 60%. (Table 21:A:8)

TABLE 21:A:8

Relative Frequency of P.D. Liability and Collision Claims - B.C.

(1) Policy Year	(2) B.I. & P.D. Frequency	(3) .448 x B.I. & P.D.	(4) Collision (all)	(5) (3) as % of (4)
1961	7.5	3.4	5.8	59
1962	7.5	3.4	5.9	58
1963	8.4	3.8	6.3	60
1964	8.3	3.7	6.3	59
1965	7.3	3.3	5.6	59

It will be recalled that the estimate of the increase in frequency, based on involvement statistics and probability considerations, having regard to the existence of uninsured motorists, was 60.5%.

Average collision claims involve not only multi-vehicle accidents, but also single vehicle accidents of various types. In some of these, i.e. collisions with pedestrians and bicycles, damage to the involved vehicle is apt to be slight. In others, involving collisions with trains, bridge abutments or simply leaving the highway, damage is apt to be more severe than in the typical, urban, two car collision. There are no a priori grounds on which one may determine whether the average cost of collision claims in single vehicle accidents is above or below that in multiple-vehicle accidents, and therefore

whether average collision claims are apt to be more or less than average third party property damage claims.

Data here are somewhat restricted. Table 21:A:9 shows the average size of claims paid under \$100 deductible policies for Canada as a whole. Since there is reason to believe that B. C. costs might be atypical, the ratio of B.I. & P.D. claim size in B. C. to that for the country as a whole was used to adjust the estimated B. C. claim size. This adjustment, designed to reflect differences in wage levels and repair costs between B. C. and the national average, is applied to the average claim plus \$100 (since \$100 has been deducted), and \$100 has been deducted from the resulting product to arrive at an estimate of claim size.

TABLE 21:A:9

Estimate of Average \$100 Deductible Collision Claim, B.C.
Policy Years 1961-65

(1)	(2)	(3)	(4)	(5)	(6)
<u>Policy Year</u>	<u>Average Collision (Canada)</u>	<u>B.I. & P.D. Average (Canada)</u>	<u>B.I. & P.D. Average (B. C.)</u>	<u>Ratio (4) ÷ (3)</u>	<u>Estimated B.C. Collision Claim</u>
1961	337	361	400	1.11	384
1962	352	385	450	1.17	428
1963	367	414	452	1.09	410
1964	374	444	493	1.11	426
1965	398	501	577	1.15	474

Source: Green Book 1966, pp. 3, 61, Col. 6 calculated: -

$$\text{Ratio} \times ((2) + \$100) - \$100$$

For the policy month of May 1964, the sample contained 781 P. D. claims over \$100 costing \$282,100, an average of \$361, which is well below the estimate of the average collision claim. However, the entire sample of third party claims for this policy month consists of 1744 claims totalling \$723,800, an average of

\$415 each, which is also substantially below the average of this policy year in which costs rose rapidly. Inflating the estimate by the ratio of the year to May, would yield an estimated average of \$429. After providing for a deductible of \$100, these claims would average only \$329 each. Thus there seems a distinct possibility that the additional claims resulting from adding to collision coverage would be cheaper than those being paid at present.

There are several reasons for such a discrepancy. One is the possibility that single-vehicle accidents are more severe. The evidence from involvement statistics suggests that injury is 50% more likely when only one vehicle is involved. If injuries to pedestrians are excluded, the difference is not nearly as great, but still tends to show more injuries from single vehicle accidents. It is difficult to make any inferences about the severity of property damage from such statistics. Another reason for the apparent discrepancy is that the claimant, under liability policies, is dealing with an insurer with whom he has no relationship, and who is not motivated to please his customer.

APPENDIX 21:B

CONTRAST OF COSTS BETWEEN THE EXISTING APPROACH TO AUTOMOBILE INSURANCE
AND THAT RECOMMENDED BY THE COMMISSION

Illustration A (All illustrations are based on 1968 C. U. A. Automobile Rate Manual. Figures used are rounded.)

Example 1

- (i) Territory 1: including Vancouver, New Westminster, and Burnaby.
- (ii) Class 04: pleasure; unmarried male principal operator, whether applicant or not, ages 25 to 29 inclusive; no male driver under 25 years of age.
- (iii) Driving Record 3: no claims for 3 prior years.
- (iv) \$50,000 third party liability.
- (v) \$100 deductible on collision.
- (vi) Rating Group 5: e.g., 1968 Ford Galaxy 500, 1968 Chevrolet Impala, or 1966 Pontiac Parisienne.

Premium under present approach:

3rd Party Liability	\$ 86
Collision	<u>65</u>
Total	\$151

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>88</u>
Total	\$105

Example 2

- (i) Territory 2: including Victoria and Saanich Peninsula.
- (ii) to (vi) As in example 1.

Premium under present approach:

3rd Party Liability	\$ 50
Collision	<u>44</u>
Total	\$ 94

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>60</u>
Total	\$ 77

Example 3

- (i) Territory 4: including Kamloops, Nelson, Creston, Revelstoke, Rossland.
- (ii) to (vi) As in Example 1.

Premium under present approach:

3rd Party Liability	\$ 51
Collision	<u>71</u>
Total	\$122

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>97</u>
Total	\$114

Example 4

- (i) Territory 5: including Prince Rupert, Cariboo, and North and South Peace River Electoral Districts.
- (ii) to (vi) As in Example 1.

Premium under present approach:

3rd Party Liability	\$ 86
Collision	<u>123</u>
Total	\$209

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>167</u>
Total	\$184

Illustration B

Example 1

- (i) Territory 1: including Vancouver, New Westminster, and Burnaby.
- (ii) Class 12 (unmarried male principal operator, whether applicant or not, 21 or 22 years of age),
- (iii) to (vi) as in Illustration A, Example 1.

Premium under present approach:

3rd Party Liability	\$194
Collision	<u>170</u>
Total	\$364

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>231</u>
Total	\$248

Example 2

- (i) Territory 2: including Victoria and Saanich Peninsula.
- (ii) to (vi) as in Example 1.

Premium under present approach:

3rd Party Liability	\$113
Collision	<u>115</u>
Total	\$228

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>156</u>
Total	\$173

Example 3

- (i) Territory 4: including Kamloops, Nelson, Creston, Revelstoke, and Rossland.
- (ii) to (vi) as in Example 1.

Premium under present approach:

3rd Party Liability	\$110
Collision	<u>219</u>
Total	\$329

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>298</u>
Total	\$315

Example 4

- (i) Territory 5: including Prince Rupert, Cariboo, and North and South Peace River Electoral district.
- (ii) to (vi) as in Example 1.

Premium under present approach:

3rd Party Liability	\$185
Collision	<u>378</u>
Total	\$563

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>514</u>
Total	\$531

Illustration C

Example 1

- (i) Territory 1: including Vancouver, New Westminster and Burnaby.
- (ii) Class 02: pleasure; principal operator, whether applicant or not, is unmarried male 30 years of age or over, married male 25 years of age or over; no male driver under 25 years of age; not more than 2 drivers per automobile in the household; automobile not used for driving to or from work more than 10 miles one way.
- (iii) to (vi) as in Illustration A, Example 1.

Premium under present approach:

3rd Party Liability	\$ 74
Collision	<u>57</u>
Total	\$131

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>78</u>
Total	\$ 95

Example 2

- (i) Territory 2: including Victoria and Saanich Peninsula.
- (ii) to (vi) as in Example 1.

Premium under present approach:

3rd Party Liability	\$ 44
Collision	<u>38</u>
Total	\$ 82

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>52</u>
Total	\$ 69

Example 3

- (i) Territory 4: Kamloops, Nelson, Creston, Revelstoke and Rossland.
- (ii) to (vi) as in Example 1.

Premium under present approach:

3rd Party Liability	\$ 39
Collision	<u>55</u>
Total	\$ 94

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>75</u>
Total	\$ 92

Example 4

- (i) Territory 5: Prince Rupert, Cariboo, and North and South Peace River Electoral districts.
- (ii) to (vi) as in Example 1.

Premium under present approach:

3rd Party Liability	\$ 66
Collision	<u>95</u>
Total	\$161

Premium under proposed approach:

Basic (white)	\$ 17
New Collision	<u>129</u>
Total	\$146

It must be understood that all computations reflect the anticipated 36% increase on the average gross collision premium, with no allowance for possible variations due to territorial or other differences.

Complex refinements incorporating such differences are unlikely to cause changes in the patterns exhibited above.



CHAPTER 22

INSURING DRIVERS OF COMMERCIAL VEHICLES



CHAPTER 22

INSURING DRIVERS OF COMMERCIAL VEHICLES

Up to this point the Commissioners' attention has been focused on private passenger vehicle insurance. For insurance purposes motor vehicles that are not classified as private passenger automobiles may be categorized as commercial, public, or garage automobiles. The following listing gives a breakdown of vehicles falling into these three categories:¹

(1) Commercial Automobile

- (a) A motor vehicle of the truck, tractor or sedan delivery type.
- (b) An ambulance, fire or police automobile or automobiles used in the business of a funeral director.
- (c) A trailer intended for use with a commercial automobile.
- (d) A motorcycle, motor scooter or motorette used for commercial purposes.
- (e) A jeep.

Exclusions: Any motor vehicle

- (a) used for renting or the carrying of passengers for a consideration.
- (b) used for demonstrating and testing.
- (c) held for sale by an automobile dealer.
- (d) with a Gross Vehicle Weight not in excess of 7800 lbs. used for pleasure purposes only.

(2) Public Automobiles

- (a) Taxi:
means an automobile, the body of which was designed and built for the purpose of carrying passengers (not more than seven), used in the business of carrying passengers for compensation or hire to destinations designated by the passenger.

1. Canadian Underwriters Association Automobile Rate Manual, January 1, 1968, pp. 107, 155-6, 167.

- (b) **Public Bus:**
means an automobile, the body of which was designed and built for the purpose of carrying passengers, used in the business of carrying passengers for compensation or hire along a designated route upon public streets or highway, or on sightseeing trips or outings other than those coming within the definitions of School Bus or Hotel, Golf or Country Club Bus or Rural Mail Delivery Automobile.
- (c) **School Bus:**
means an automobile which is used in the business of carrying school children, students or teachers for compensation or hire to and from school, or to and from school games and outings.
- (d) **Hotel, Golf or Country Club Bus:**
means an automobile, the body of which was designed and built for the purpose of carrying passengers, used by or on behalf of a hotel, golf or country club in connection with the business or activities of such hotel or club in the business of carrying passengers for compensation or hire between such hotel or club, and docks, railroad stations and other passenger stations, and to picnics, outings and games, and other purposes necessary and incidental to the business or activities of such hotel or club.
- (e) **Transportation of employees:**
means an automobile which is used for transporting employees to and from their place of employment.
- (f) **Drive Yourself Automobiles:**
means an automobile of the Private Passenger or Commercial Automobile type which is used for renting (without driver).
- (g) **Rural Mail Delivery Automobile:**
means an automobile "of the private passenger automobile" or commercial automobile type which is used in the business of carrying passengers for compensation or hire along a rural mail route while but only while it is being used to deliver mail along that rural mail route.

(3) Garage

- (a) **Automobile Dealer and Repair Garage:**

A risk principally engaged in the business of selling and repairing automobiles or motorcycles.
- (b) **Automobile Repair Garage:**

A risk solely engaged in the business of repairing and servicing automobiles or motorcycles, not selling new or used automobiles or motorcycles.
- (c) **Automobile Service Station:**

A risk engaged in the business of operating a public gasoline or oil supply station, and/or a public service station providing the services of:

Washing, filling and lubrication;

battery, ignition, spring and tire repairs, but no engine or body repairs.

The selling or servicing of incidental automobile parts and accessories, including the calling for and delivering of customers' automobiles.

An Automatic Car Wash.

(d) Automobile Storage Garage:

A risk principally engaged in the business of storing, parking, washing and cleaning automobiles.

(e) Automobile Open Air Parking Station:

A risk principally engaged in the storing, parking, washing, calling for and delivering of customers' automobiles.

Premium and loss statistics relating to the three vehicle classifications stated above are not published separately except in the Automobile Statistical Exhibit or 'Green Book'. Although differences in computation of earned premiums exist between vehicle classifications, reference to the Green Book dated June 30, 1967, indicates that other than private passenger automobile insurance represents about 20% of total automobile insurance premiums earned in Canada. In British Columbia the figure is approximately 15%. A possible reason for the lower figure in British Columbia, in comparison with Canada as a whole, is that in British Columbia a fair proportion of logging trucks is not insured under automobile insurance because such trucks are unlicensed and operate only on private logging roads.² In terms of total motor vehicle registrations in British Columbia in 1967, 18.8% are other than private passenger vehicles.³

2. Special permission may be obtained for these vehicles to cross a public road.

3. M.V.B. estimate, computed from the Annual Report.

Present requirements necessitate the issuing of different types of licences for the purpose of driving different classes of vehicles. Class A and Class B drivers' licences pertain to the operation of certain vehicles classified for insurance purposes as public automobiles. Class C licences are required for the operation of commercial vehicles such as trucks, although this is not a universal requirement. For example, owners of commercial vehicles are not required to have Class C licences unless they are driving for hire. (At present, no special examination is required to obtain a Class C licence.)

The differences between private passenger automobile insurance and other than private passenger automobile insurance (what may be termed commercial automobile insurance) are not considerable, but are of sufficient importance to warrant comment. The types of coverages available are basically the same and claims are paid in the same manner.

The primary differences between private passenger and commercial automobile insurance rest in the rate-making procedures. The following factors are considered in establishing rates for the coverages mentioned for commercial automobiles -- with the exception of ambulances, fire, police and funeral directors' automobiles:

(a) Bodily Injury, Property Damage and Medical Payments

according to: 1. Territory
2. Class and Driving Record

(b) All Perils, Collision

according to: 1. Territory
2. Class and Driving Record
3. Rating Group

(c) Comprehensive, Specified Perils

according to: 1. Territory

2. Class
3. Rating Group⁴

'Class', as it pertains to commercial automobile rate-making, refers to class of business. The 1968 Canadian Underwriters Association rate manual shows twenty-three different classes of business. Rating groups are determined either by:

- (a) the vehicle's gross vehicle weight, or
- (b) the list price of cab and chassis plus cost of body and equipment permanently attached thereto.

The 1968 C.U.A. rate manual shows fifteen different rating groups.

The determination of rates for commercial automobile insurance appears to be subject to significantly greater degrees of underwriting judgment than is the case with private passenger automobile insurance. Respecting commercial insurance there is no evidence before the Commissioners that the varying premiums for class of business or for rating groups are statistically based. Nor is there evidence that adjustments in premiums for class of business or rating groups are based on loss statistics for each class or rating group.

In earlier sections of this Report the Commissioners have detailed the steps involved in the rate-making process for private passenger automobiles. The trend factor derived from private passenger claims experience is applied also to the commercial rate-making process, yet the claims experience of the commercial business is not directly incorporated in the computation of the trend factor. In some instances the rate-making formula is not used at all, and full underwriting

4. C.U.A. Automobile Rate Manual, 1968, p. 108.

judgment is exercised. Situations of this type sometimes arise, when, for a given type of coverage, there is a small number of vehicles insured or when the total premium amount is relatively small. The more extensive use of underwriting judgment in setting commercial rates is confirmed by Mr. C. L. Wilcken, Actuary for Canadian Underwriters Association.⁵

Different factors are considered in establishing rates for the various vehicles defined as public automobiles, such as buses for public transportation. On the other hand, factors essentially similar to those for private passenger automobiles are considered in establishing rates for taxis.

A unique difference in coverage, applicable to all public transportation automobiles including taxis, is to be noted. Bodily injury and property damage for private passenger automobile insurance commonly includes passenger hazard insurance. For public transportation automobile insurance, B.I. and P.D. coverage is separated into two distinct types of coverage: road hazard and passenger hazard. Insurance coverage for the damage to the property of passengers is not included in the above coverages but is carried as an additional coverage.

Public buses are rated according to the following factors:⁶

(1) Bodily Injury and Property Damage - Road Hazard and Passenger Hazard

- According to:
1. Territory
 2. Driving Record

5. 27/3216

6. C.U.A., Automobile Rate Manual, 1968, p. 158.

3. Designated Seating Capacity
(British Columbia only -- According to Carrying Capacity)
4. Distance of operations as follows:
 - (a) Within corporate limits of any city or town or within 15 miles of such limits. 100% of Manual Rates.
 - (b) Beyond the limits stated in (a) and not more than 50 miles between terminal points. 120% of Manual Rates.
 - (c) More than 50 miles and not more than 150 miles between terminal points. 135% of Manual Rates.
 - (d) More than 150 miles between terminal points. 160% of Manual Rates.

(2) Medical Payment

According to: 1. Limit Per Person

(3) All Perils, Collision

According to: 1. Territory
2. Driving Record
3. List Price new

(4) Comprehensive, Specified Perils

According to: 1. Territory
2. List price new or agreed value

Different bases are used in rate-making at the present time for automobile insurance for the third category of vehicles classified as other than private passenger automobiles, namely the 'garage' vehicles. In this group the rating may be on a payroll basis, it may be on a blanket basis, or on the basis of a monthly average inventory.

When an insured has five or more vehicles, most insurers require that his insurance must be submitted for fleet rating.⁷ It is further required that the automobiles be owned by the insured, registered under the Motor-Vehicle Act in the name of the insured, and under one operating management. Certain of the vehicles

7. Other than those rated in the Garage Section.

classified as public automobiles, such as taxis and public buses, are required to be submitted for fleet rating if the insured has three or more of such vehicles.

It must be pointed out that statistics on all fleets are not presented in the 'Green Book' on a consistent basis. Therefore it is not possible to determine the exact importance of fleet policies in terms of total automobile insurance premium volume. Indications are, however, that for bodily injury and property damage coverage, all fleet policies constitute approximately 8% of the total earned premiums throughout the country.

The methods of rating fleets may be somewhat technical and vary depending upon the insurer to whom the application is submitted. In rate-making for fleets the C.U.A. assumes that the manual premium applicable to the total number of vehicles at the inception of the forthcoming year is that rated under Driving Record 'O' of the applicable class, which is the category denoting an accident within the last year. Discounts are then given for good claims experience. If the claims experience of the fleet is unfavourable, a debit experience rate may be applied to the pertinent manual premium. This procedure is inconsistent with other rate-making practices which rate up from a three-year accident-free experience.

Certain insurers have expressed dissatisfaction with fleet policies. In the event that a debit rate is applied, the insured may approach other insurers, some of which may consider the bad claims experience to be unrepresentative, and offer a better rate. In such a situation, the insured's original insurer suffers both the bad claims experience and loss of the insured's business.

A related factor that may generate dissatisfaction with fleet policies, is the lack of credibility respecting fleet experience. The following exchange between Commission Counsel and members of an All Canada Insurance Federation panel indicates awareness in the industry of this factor:

RAE: All right, let us take a genuine fleet of a couple of hundred.

McINTOSH: Yes.

Q. You will treat them as a fleet and give them a specific rate and rate them on their experience, would you not?

A. Yes.

Q. That is not a credible number, is it?

DAMOV: Not absolutely, no.

Q. So the only thing you have got is homogeneity of a type but you haven't got credibility, is that right?

MAKIN: I should point out, Mr. Rae -

Q. Just a moment, is that right?

DAMOV: Yes, basically.⁸

Industry witnesses appearing before the Commission were not prepared to identify any fictitious fleets in this province, nor in fact, that there was any fictitious fleet coverage being sold in B.C. This however, would appear to be in conflict with the response to Commission Counsel by the spokesman for the Insurance Agents Association of B.C.:

RAE: Generally. You can break it down, if you wish.

HARBORD: All, all fleet owners get rates based on the experience of the fleet, either a debit rating, or credit rating, and those can be quite substantial either way. Insofar as the private passenger automobile are concerned there are a number of what we call fictitious fleets where a number of employees in a firm will arrange insurance on a fleet basis, and they are not truly entitled to such an arrangement by virtue of the fact that the registration and the use of the automobile varies widely, but it's a growing problem here, and much more so in the east, in Ontario.

Q. Whether you agree with this action or not, it is a contravention of the spirit of Section 250 that we were referring to the other day?

A. Yes, it is, very much so.⁹

Section 250 of the B.C. Insurance Act deals with discriminative rates. Sub-

8. 51/6034.

9. 7/796.

section 2 of that Section is directed toward the prevention of underwriting fictitious fleets and reads as follows:

(2) No rating bureau and no insurer or other person shall fix or make for, or offer or charge to, any person by reason of his being one of a group engaged in the same trade, calling, profession, or occupation, or of his membership in any club, society, union, guild, or other association, or of common employment, or of common occupancy of the same building or group of buildings or for any other reason, a lower rate of premium under a contract of automobile insurance than such person would pay under such contract if the reasons aforesaid did not exist; and every rating bureau, insurer, and person who violates any provision of this section is guilty of an offence against this Act.

It must be recognized, however, that this wording does not prevent an insurer from offering a fleet policy to a group of persons who register and operate their vehicles individually, provided that the insurer does not offer automobile insurance elsewhere in the province.

Rate competition on fleet policies may become more intensive than on other automobile insurance when the fleet is of a substantial size. The premium may be of such size that many insurers will bid for the business.

Within C.U.A. there is no rate competition on fleets between its member companies. Although members of the C.U.A. are entitled to be told what the fleet rate is on any coverage by a C.U.A. member, or on any potential insureds for whom the necessary statistical information has been submitted, the loss experience or any information relative thereto is held to be confidential. Evidence of competitive restrictions respecting fleets on individual C.U.A. companies is contained in the following:

RAE: Mr. Damov?

DAMOV: Yes.

Q. The C.U.A. does exercise control over fleet rating now?

A. Yes.

Q. You may compete with the I.I.C. but not within the C.U.A. membership?

A. Not during the term of the policy for which the rate has been established, yes.¹⁰

Under current insurance practice information on premium rates in commercial automobile insurance is even less readily available than information on rates in private passenger automobile insurance. Rate manuals often do not quote rates for certain coverage for different vehicles. Instead they advise the applicant to apply to the company's underwriting office for the appropriate rate.

In general, competition in commercial automobile insurance rates is similar to that found in the private passenger field. In 1967 virtually no rate differentiation existed between member companies of the C.U.A. and the I.I.C. Those companies which deviate from the C.U.A. -- I.I.C. private passenger rates appear to do so on their commercial-type insurance rates as well. The following Tables 22:1 and 22:2 give an indication of the 1966 commercial rates charged in the province by four insurer organizations.¹¹

As may be inferred from Table 22:2 commercial rate differentiation exists only to a limited degree, and the extent of the rate differentiation is similar to that found in private passenger rates. The Commissioners conclude, therefore, that, with the exception of some fleet rates, there is a like reduction of effective competition.

The Commissioners have a purpose in outlining thus the wide variety of commercial vehicles covered by automobile insurance in British Columbia, and the

10. 51/6035

11. Commission Staff Study.

Table 22:1
Types and Classifications of Commercial Vehicles
used in comparative rate data in Table 22:2

	<u>Model Year</u>	<u>B. C. Territory</u>	<u>Driving Record</u>	<u>Gross Vehicle Weight or List Price</u>	<u>B.I. & P.D. Limits</u>	<u>All Perils Deductible</u>	<u>Collision Deductible</u>	<u>Specified Perils Deductible</u>
<u>EXAMPLE</u>								
1. <u>Gravel Truck</u>	1965	1	3	\$6,000	\$100 M	\$250		
2. <u>Logging Truck</u>	1962	3	0	\$4,000 (actual cash value)	200 M		\$250	\$25
3. <u>Farm Tractor</u> (used to haul semi-trailer)	1964	5	3	6,000 lbs.	50 M	250		
4. <u>Farm Truck</u> (transportation own property only)	1962	1	3'	8,000 lbs.	200 M	250		
5. <u>Bakery Panel Truck</u>	1965	2	2	7,000 lbs.	100 M	50		
6. <u>Laundry Panel Truck</u>	1964	4	2	5,000 lbs.	50 M	250		
7. <u>Oil Truck</u> (within radius of 25 miles)	1964	7	3	\$8,000	200 M	250		
8. <u>Pick-up Truck</u> (trucking for others within 25 mile radius)	1963	6	0	6,000 lbs.	100 M	250		
9. <u>Platform Truck</u> (trucking for others within 100 mile radius)	1961	2	2	10,000 lbs.	200 M	250		
10. <u>Road Grader</u>	1961	7	3	\$8,000	200 M	250		

Table 22:2

Illustration of Commercial Rates Effective

January 1, 1966

ORGANIZATION

Example	Company 'A'			Company 'B'			Company 'C'			Company 'D'		
	B.I. & P.D.	Other	Total	B.I. & P.D.	Other	Total	B.I. & P.D.	Other	Total	B.I. & P.D.	Other	Total
1.	255	134	389	R	R	R	256	136	392	255	134	389
2.	146	178	324	R	R	R	R	R	R	143	178	321
3.	11	18	29	10	33 *	43	12	18	30	11	18	29
4.	63	35	98	53	23 *	76	64	36	100	62	35	97
5.	68	51	119	56	44	100	70	52	122	67	51	118
6.	63	22	85	54	17	71	64	22	86	62	22	84
7.	80	133	213	R	R	R	80	132	212	77	133	210
8.	64	56	120	R	R	R	64	56	120	64	56	120
9.	271	213	484	R	R	R	R	R	R	269	Unknown	
10.	59	133	192	26	144	170	58	132	190	58	133	191

R - Refer to Company for Rate.

* - Collision & Comprehensive - All Perils not sold on these vehicles.

varying and complicated methods of rate-making employed at present by the insurance industry in providing this coverage. It is to ascertain whether the plan of compulsory no-fault basic accident insurance and no-fault voluntary supplementary coverage, recommended for private passenger vehicles, could be applied also to commercial motor vehicles.

Having examined this question carefully the Commissioners see no reason why the proposed plan for future insurance, as it applies to drivers and owners of private passenger vehicles, may not be applied with equal success to the owners and drivers of all types of commercial vehicles. Such a program would lead to greater unification in both rate-making and administration for the insurer, simpler and more clear-cut protection against loss for the driver, and relief in the insurance to be carried by most commercial vehicle owners.

Most drivers of commercial vehicles are also drivers of private passenger vehicles. In order to avoid duplication or other confusion in the insuring of such drivers, the Commissioners recommend that, in the application of the proposed new compulsory basic policy, only one contract shall be issued to each such driver. The contract will be at the same rate as it would be if the commercial driver were the driver of a private passenger vehicle only; i.e., the rate will depend upon the colour of his driver's licence.

The Commissioners recommend, also, that the same compulsory basic driver's policy shall be issued to operators of motorcycles, motor scooters, ski-doods, and similar motor vehicles.

The third party coverage carried at the present time by drivers of motorcycles

and motor scooters is considerably less costly than is that for private passenger automobiles. This policy protects the driver against loss in the event of a claim against him as the driver of a vehicle involved in an accident which caused injury or death to other persons, or damage to the property of others. The 1965 Annual Report of the B.C. Motor Vehicle Branch indicates that accidents involving motorcycles resulted in more than twice as many deaths and injuries as did those of all other motor vehicles on the roads. In spite of these statistics, the cost of third party liability coverage for motorcyclists is low because, in the majority of accidents involving motorcycles, the extent of damage to other property is relatively small. At the same time, in such accidents, it has been shown that in most cases it is the motorcycle driver (and his tandem passenger) who suffers injury. The proposed new basic policy on drivers would provide protection for the motorcyclist and his passenger against loss by injury or death.

As the driver's compulsory basic policy for the operator of a motorcycle, motor scooter, or other motor vehicle of like type will be issued at the same rate as the policy for the driver of a private passenger automobile, motorcyclists may feel that they are being discriminated against. In fact, the statistics indicate that such drivers should really pay a higher premium for the same protection for themselves and their passengers. Nevertheless, the Commissioners feel that, at least in the initial phases of applying the new form of insuring drivers, the premium charged should be uniform for all classes of drivers. It should be noted that motorcycles and motor scooters represent only 1.7% of all motor vehicles on the roads of British Columbia.

It may well be, however, that further accident experience, or a rapid increase in the number of these vehicles being licensed, will lead to a revision of the

motorcyclist's rating. A fixed surcharge may have to be added to the standard basic premium when insurance is sold to drivers of motorcycles and motor scooters.

Drivers of commercial vehicles, with the exception of farm-help, and the proprietors of businesses, are covered for compensation by the compulsory Workmen's Compensation Act, S.B.C., 1968, c. 59, which states, in part:

. . . the Board is subrogated to the rights of the workman or his dependent

Therefore, if the driver of a commercial vehicle is injured in an accident while driving such vehicle in the course of his employment, and it may be proved that the accident was caused by the negligence of another driver, the Workmen's Compensation Board may maintain an action to recover the compensation for injury or death from the other driver. In cases where the compensation so obtained is less than the amount the Board would otherwise have paid to the injured workman or his beneficiary, the difference may be paid by the Workmen's Compensation Board to the workman or his dependents.

This enactment is based on the principle of tort law. Under the plan of automobile insurance proposed by the Commissioners reference to tort law in its application to automobile accidents would be discarded. The reason for doing so has been explained in another part of this Report. It is the opinion of the Commissioners that, when their proposed plan is made effective, the Workmen's Compensation Board will have no longer the statutory right of subrogation referred to above.

Any helper who, as a part of his employment, is riding as a passenger in a

commercial vehicle owned by his employer, and who is covered by the Workmen's Compensation Act, would receive compensation for loss by injury or by death (resulting from an accident involving that vehicle) through the Workmen's Compensation Board. But if he does not have coverage by virtue of the Workmen's Compensation Act, his compensation would be paid by the insurer who issued the driver's basic policy, and within the limits of that policy.

The Commissioners recommend that drivers of commercial vehicles, who do not come under the regulations of Workmen's Compensation, should receive compensation for injury or death resulting from an accident while driving a commercial vehicle under the terms of the driver's no-fault basic or supplementary automobile insurance policies. This may appear to be inequitable in comparison with the responsibilities entailed in the Workmen's Compensation Act, but it is offset by the fact that proprietors and farm-help, not covered by that Act, are usually only periodic drivers of commercial motor vehicles.

The Commissioners make the further recommendation that such owners and farm-help who intend to drive a commercial vehicle from time to time, should be required to qualify for a Class C driver's licence -- the minimum requirement for all employed truck drivers.

Removal of the right of subrogation in cases of automobile accident may result in the Workmen's Compensation Act rate (payable by employers for their drivers) being increased by a small amount. Professor A. M. Linden stated in the evidence he presented before the Commissioners that, in the last year for which statistics were then available, the Workmen's Compensation Board recovered

through subrogation approximately \$223,000.¹² With such recovery, any increase in W.C.B. rates will probably be small. Indeed, the amount will be more than offset by the employers' saving in cost of insurance because of the removal of third party liability.

Under this proposed plan the owner of commercial vehicles will have to cover collision damage (and other supplementary coverage such as fire & theft, etc.) to his own vehicles on a basis similar to what it is today -- except that it will be no-fault coverage. In dealing with collision insurance the Commissioners see little need to recommend any changes or restrictions to fleet coverage but rather to encourage the insurers to offer competitively whatever discounts they see fit. This recommendation bears the provision that such competition does not result in offsetting fleet coverage losses by raising the premiums above what would otherwise have been charged for non-fleet collision damage, or even on basic and supplementary driver insurance premiums. To prevent such action insurers should be required to provide the B.C. Automobile Insurance Board with loss ratio statistics on fleets separately from those to be supplied on other forms of coverage.

In the matter of buses and other similar public passenger motor vehicles the driver would be required to carry the compulsory basic driver's accident policy. This would place him in a position similar to that of commercial truck drivers in that it would cover him while driving his own automobile (incl. his passengers and his family as pedestrians, etc.) and would also cover him if involved in an accident while driving his bus -- provided he is not covered under the Workmen's

12. 41/4876

Compensation Act. If he is covered by Workmen's Compensation, and he is injured or killed while driving in the course of his employment, he or his beneficiaries would receive compensation from this fund and not from his own basic driver's policy.

The compensation of passengers injured or killed in an accident involving the public automobile in which they are riding, is another matter again. They would not be covered by the driver's basic policy, but by passenger liability insurance purchased by the transportation company -- with the premium rate based on the seating capacity of the bus, much along the same principle as that used in current rate-making for buses. Under the new proposal, compensation would be paid irrespective of who was at fault for the accident, and in no case should the coverage on each passenger be less than the amount of compensation that is payable to passengers in private passenger automobiles under a driver's basic policy.

It is the opinion of the Commissioners that all classes of fare-paying passengers, and the drivers of the vehicles conveying them should be treated in the same manner. Therefore, the Commissioners recommend that the procedure outlined above for bus transportation shall also apply to taxi transportation.

In order to ensure that the required coverage on passengers is carried by bus and taxi owners, it shall be the responsibility of the B.C. Public Utilities Commission, before the issuance of licences for the carrying of fare-paying passengers, to obtain proof from the owners of buses and inter-municipal taxis that such insurance or other acceptable financial responsibility is or will be in effect. For taxis licensed to operate within a single municipality this

responsibility should be placed on the municipal licensing authority.

In the case of U-drive hire vehicles, compensation for injury and death resulting from an automobile accident involving the U-drive automobile to the driver or his passengers will be payable out of the driver's basic or supplementary accident policy.

For all commercial vehicles or trailers, the owner may carry, on a voluntary basis, collision insurance (and such ancillary coverage as fire and theft, etc.) on his own vehicle or vehicles. Such will provide protection on a no-fault basis. Owners will have no responsibility for damage to the property of other persons.

Driver's Record

The Commissioners recommend that the British Columbia Department of Motor Vehicles maintain a record of each individual driver in such a form that his every traffic violation and every accident involvement will be displayed in the one record. Whether a driver operates only one motor vehicle or several, and whether the latter are of only one type or several, every demerit point earned by him on any of such vehicles should be entered in the single record. The importance of this is apparent in the case of the driver of commercial motor vehicles who also owns and drives one or more private passenger automobiles. The colour of the one common driver's licence, issued to him and authorizing him to operate any of these motor vehicles, is determined by the total number of demerit points (less the deduction of credit points) registered on his record at the time of renewal of his licence. This also determines the rating for his compulsory no-fault driver's basic policy of insurance.

The Commissioners do not recommend that the rates for collision coverage on commercial motor vehicles should take into account the colour of the drivers' licences. Many commercial vehicles are operated at different times by different drivers, and it is quite possible that the colours of the licences of the several drivers may vary from time to time.



CHAPTER 23

THE DUTIES OF THE B. C. SUPERINTENDENT OF INSURANCE
AND THOSE OF A PROPOSED NEW B. C. AUTOMOBILE INSURANCE BOARD



CHAPTER 23

THE DUTIES OF THE B.C. SUPERINTENDENT OF INSURANCE
AND THOSE OF A PROPOSED NEW B.C. AUTOMOBILE INSURANCE BOARD

Term of Reference (h):

Whether such a variation or a plan for compensation or such a combination, if recommended, should be administered privately or by or through a governmental agency or a combination thereof.

A. THE SUPERINTENDENT OF INSURANCE FOR BRITISH COLUMBIA

Section 309 of the B.C. Insurance Act, R.S.B.C. 1965, C. 19, authorizes the appointment of a Superintendent of Insurance for this province and such officers and clerks as may be necessary to enable him to perform the duties assigned to him. Further, Section 314 states that the Superintendent shall perform such duties, in addition to those prescribed by or under this Act, as may be assigned to him by the Minister.¹

Other duties currently assigned to the Superintendent of Insurance in British Columbia include administration of allied insurance statutes; the Real Estate Act; the Investment Contract Act; the Mutual Fire Act; and the Collection Agency Licensing Act. Besides administering these Acts, the Superintendent is the depository for certain bonds under other statutes.

To assist him with these various duties he is provided with a consulting life insurance actuary, two inspectors, a male chief clerk, a bookkeeper, and clerks and stenographers that included make up a total staff of twelve. The majority of the staff is located with the Superintendent in Victoria. The remainder consists of two inspectors and one stenographer with headquarters in Vancouver.

1. The Attorney-General of British Columbia.

It is of note that only one of these inspectors -- a chartered accountant -- deals with insurance in all its types; the other inspector at the present time works exclusively with collection agents and bailiffs.

It is intended that this Report deal only with the duties of the B. C. Superintendent insofar as automobile insurance is concerned, except that cognizance will be taken of the extent of these responsibilities as they may be governed by his other duties and the limitations imposed by the number of his staff.

Section 316 (1) of the Act requires the Superintendent or his subordinate to visit annually every head office of licensed insurers located in this Province for the purpose of examining into its transactions and affairs. As this requires principally the checking of reserves and solvency of insurance companies which hold provincial licences but are not covered by Federal Government licensing, it, in effect, applies only to two companies writing automobile insurance. Quite logically this duty is assigned to the Chartered Accountant Inspector in Vancouver.

However it must be recognized that there are thirty-four provincial companies writing various types of insurance. With his many other duties it is impossible for the one inspector to conform with terms of this section of the Act by examining adequately all of these companies' transactions and affairs once each year. The Commissioners have no reason to believe that this inspector does not carry out adequate examinations of these companies' books and records, but are informed that he can do so only once in approximately every three years.²

2. 89/9776.

The Commissioners recommend that, for inspection purposes, the B. C. Department of Insurance be adequately staffed in order that effective, prompt and regular inspection may be made in conformity with the intent of the statute.

Subsection 2 of the Section 316 of the Act provides that if the Minister, upon a report of the Superintendent, deems it necessary, the Superintendent may visit and examine insurers operating in this Province whose Head Office is located outside of the Province, and Subsection 3 provides that such insurers must pay to the Superintendent all expenses connected with such examination. That this subsection has never been employed is due principally to the fact that the Federal Superintendent of Insurance in Ottawa already carries out inspection, insofar as solvency is concerned, of the majority of insurers who hold Federal Registry.

There are, however, certain insurers to whom the powers of Subsection 2 of Section 316 of the B. C. Insurance Act could well apply -- that is, to insurers who are registered only in some other Province (and without Federal Registry), yet are operating in this Province. The apparent reason that inspection of these companies' records and transactions is not carried out by the B. C. Superintendent of Insurance is due entirely to limited staff and time available. Were such an inspection carried out the procedure would be for the B. C. Inspector to make a joint inspection of the companies' books with the co-operation of the Superintendent of Insurance of the Province in which such companies have their Head Office and Registry.

An important function insofar as automobile insurance is concerned is that contained in Section 96 (1) of the Act which requires every licensed insurer trans-

acting the business of automobile insurance in the Province to prepare and file, when required, with the Superintendent or with such statistical agency as he may designate, a record of its automobile insurance premiums and of its loss and expense costs in the Province.

In the case of British Columbia this data is not filed with the Provincial Superintendent, but rather under the terms of this section of the Act, he, in common with all other Provincial Superintendents of Insurance, has designated that it be filed with the Central Statistical Agency which produces the 'Green Book' annually. He is represented through the Superintendents of Insurance for Ontario and Quebec on the Automobile Insurance Statistical Committee, an industry committee largely responsible for the Green Book. All practice, thus far, is in line with Section 96 of the B. C. Act, but that which fails to conform is the absence of any attempt to require automobile insurance companies, operating in this Province, to provide a record of their expense costs in the Province. This has been dealt with more fully earlier in this Report.

While Section 97 of the B. C. Insurance Act provides that insurers shall, upon request of the Superintendent, furnish him promptly with copies of tables of rates, it was evident to the Commissioners that such a request has either not been made, or if made not fulfilled. Few if any current rate manuals are presently on file in the Superintendent's office. Even if they were on file, the Superintendent has no one on his staff competent to interpret these rates to ensure that they are fair and equitable so far as the insured is concerned, or sufficient to assure continued solvency of the insurer. True, Section 317 of the Act states that the Superintendent, with the Minister's consent, may at any time make a valuation of the contracts of a licensed insurer then in force,

but this section has been employed only insofar as life insurance is concerned.

Statutory conditions for all automobile insurance policies are listed under Section 222 of the Act and in order to ensure that all policies sold in this Province conform with these statutory conditions, Section 224 of the Act requires that the B. C. Superintendent of Insurance must approve an insurer's policy before it may be issued or delivered in the Province. The Commissioners believe that this condition is being adhered to rigidly.

Other Sections of the B. C. Insurance Act give the Superintendent power to issue licences to the insurers and to renew them as of March 1st each year. He is also given powers to refuse licences, to amend, suspend or revoke them. Sections 44 to 77 inclusive, outline his duties with respect to deposits from Provincially registered companies, and Sections 78 to 91 inclusive deal with procedures on the winding up of such companies. His office also maintains up-to-date records of insurance companies, agents, salesmen, and adjusters licensed to do business in British Columbia.

With respect to the licensing of automobile insurance agents, salesmen, and adjusters, Regulations under the Act by Order in Council No. 1908, July 25, 1963 provide for the Insurance Board of British Columbia to be established to assist the Superintendent of Insurance in the determination of the suitability of applicants for licences, and to advise him on suspension and cancellation of such licences. For the purpose of deciding on the suitability of applicants for licence, they are required to pass a written examination on knowledge of the business. This examination is set by the Superintendent on the advice of the above Board. The Board comprises seven members, of whom three represent the

insurers, three the agents, and one the licensed adjusters. The only point that may be questioned seriously in this procedure is that only private adjusters are required to pass this examination and be licensed; there is no test of qualification or licence required from insurance company personnel employed as company adjusters.

There are many other duties of the Superintendent of Insurance listed in the B. C. Insurance Act not enumerated in this Report since they are not directly pertinent to further recommendations by the Commissioners. The Commissioners state that it is their conclusion that the Superintendent of Insurance of British Columbia is carrying out fully his duties in line with the requirements of his Minister of the Government and within the limitations of his staff.

The principal purpose in the Commission's dealing briefly with the duties of the Superintendent of Insurance of British Columbia is to make it quite clear that, based on the multiplicity of his other duties, plus the limitation of his staff and their lack of statistical or actuarial experience, it will not be possible for this department to perform many of the new requirements the Commissioners would place on Government by the adoption of the plan proposed by the Commission.

It is therefore the considered opinion of the Commissioners that a three man board should be established by the government of British Columbia to be known as the B. C. Automobile Insurance Board -- or other like nomenclature. Later in this Chapter the duties and responsibilities of this Board will be outlined and recommendations as to its membership will be stated.

The duties dealing with the merchandising of automobile insurance in this Province that the Commissioners suggest should remain the responsibility of the B. C. Superintendent of Insurance include all licensing of insurers, agents, salesmen and adjusters, and the establishing of the necessary qualifications for licensing; and the maintenance of up-to-date records on those licensed, and the publication of their names in the B. C. Gazette. The Superintendent should also maintain his current authority with regard to the suspension and cancellation of such licences.

The Superintendent should continue to be responsible for checking regularly the solvency of insurers, and their maintenance of adequate reserves of a type acceptable to the Government. He should maintain his current powers in dealing with the winding up of insurance businesses in the Province. The Superintendent should also continue with duties outlined in the Act concerning fair dealing between agent and insurer, and vice-versa.

The Commissioners, however, advocate strongly that, under the proposed plan for automobile insurance in British Columbia, the Superintendent of Insurance should not have responsibility for securing from insurers data of premium income, expense cost, or loss ratio covering their annual operations in this Province. He should not have responsibility for either: establishing that premium rates are fair yet adequate, or amassing the data necessary for rate-making. Further, the Superintendent should no longer be required to act as investigator or adjudicator of complaints by insureds dealing with either premium rating or accident compensation. The Commissioners suggest that these duties and responsibilities be assigned to the British Columbia Automobile Insurance Board.

B. THE BRITISH COLUMBIA AUTOMOBILE INSURANCE BOARD

Specifically, the Commissioners recommend that the following duties be allocated to the B. C. Automobile Insurance Board:

1. The Board shall establish for each year the maximum rate on the compulsory basic accident policy.
 - (a) This rate shall be on a province-wide basis for each classification of licence (i.e., white, green, yellow or red).
 - (b) No insurer shall be permitted to quote above this rate, but may compete freely below it.

2. The Board shall keep an actuarial check on the rates charged by insurers for:
 - (i) supplementary automobile accident coverage,
 - (ii) out-of-province third-party insurance, and
 - (iii) collision contracts.

The principal purposes of this responsibility will be:

- (a) to ensure that adequate competition on these coverages is maintained,
 - (b) to satisfy Government that excessive rates are not charged by any insurer on these forms of protection so as to make it possible for the insurer to sell the compulsory Basic accident Policy at an unjustifiably low premium.
-
3. To carry out the duties set out in items 1 and 2 above:
 - (a) The Board shall require and maintain statistical data concerning the coloured drivers' licences, accidents and violations. It shall obtain this information from the Superintendent of Motor Vehicles in such form and with such frequency as it may require.

- (b) It shall receive from all insurers operating in this Province a record of the premium rates they are charging for each classification and each type of insurance relating to automobile accidents, and a list of their claims with respect to classification and type. This information will be provided in such form and with such frequency as required by the Board.
 - (c) It shall require from each insurer, at a date stipulated annually, the actual combined administrative and selling expenses covering automobile accident insurance coverage, and the allied supplementary insurance, being merchandized in the Province by the insurer.
- 4. So as to minimize administrative costs, the Commissioners recommend that the conditions of the annual compulsory Basic Policy be made statutory. It should be, therefore, the responsibility of the Board to recommend to Government for approval and enactment such statutory conditions, and, from time to time thereafter, such amendments as are deemed necessary.
- 5. It shall be the duty of the Board to recommend to the Government of British Columbia, on the basis of continuing study of the Basic Policy and its application, such changes in its coverage and benefits as experience would seem to warrant.
- 6. The Board shall act as a Board of Appeal for the following purposes:
 - (a) To encourage drivers to advise the Board if for any reason they are refused issuance of basic automobile accident coverage by any insurer or his agent.
 - (i) After investigation of the circumstance, and if the driver's

complaint is found justified, the Board shall issue to the insurer concerned an order that insurance be issued.

(ii) The Board shall investigate all complaints made to it, and may recommend to the Superintendent of Insurance that the licence of the insurer or agent concerned be cancelled.

(b) Relating to the compulsory Basic Policy, the Board shall hear appeals by insureds who are dissatisfied with compensation received or compensation offered, and shall check the matter with the insurer. The decisions of the Board shall be final.

(c) The Board shall take similar action with respect to dissatisfaction reported to it by automobile owners relative to compensation paid or degree of repair arranged for by an insurer under the voluntary no-fault collision coverage.

7. To perform such other duties relating to automobile insurance as may be assigned to it from time to time.

The Commissioners recommend further that the B. C. Automobile Insurance Board shall consist of three members having, respectively, the following qualifications:

1. A Chairman of the Board who shall serve full-time, and who may be a civil-servant, but who must have university qualification as a statistician (and, if possible, with secondary qualification as an economist), and who shall have had continuing experience in statistical interpretation.
2. A part-time Member, to be appointed by the Government, who has had business and organizational experience, but who previously has not been connected directly with a private automobile insurer, nor has been or is a civil servant.

3. A part-time Member, to be nominated by the private automobile insurers licensed to transact business in British Columbia.

The members of the B. C. Automobile Insurance Board shall be appointed by the Lieutenant-Governor-in-Council, and shall hold office during good behaviour. Their remuneration and allowances shall be fixed from time to time by the Lieutenant-Governor-in-Council.

The full Board shall meet at the call of the Chairman. All matters pertaining to rate changes, statutory conditions, and the disposition of appeals, shall require a decision by the full Board, and action on such matters shall be dependent upon a majority decision.

The Commissioners are of the opinion that neither the B. C. Superintendent of Insurance nor the B. C. Superintendent of Motor Vehicles should be a member of the B. C. Automobile Insurance Board.

The details of the constitution and powers of the Board need no further elaboration in this Report. Such constitution and powers may be modelled upon those of the B. C. Workmen's Compensation Board.³

3. Workmen's Compensation Act, 1968, S.B.C., C. 59, s. 67, et seq.



CHAPTER 24

PRIVATE OR PUBLIC ADMINISTRATION OF THE PLAN



CHAPTER 24

PRIVATE OR PUBLIC ADMINISTRATION OF THE PLAN

The Commissioners, as it has been seen, have recommended an entirely new formula for automobile insurance for British Columbia comprising the Compulsory Basic Policy, the Voluntary Supplemental Accident Protection and the Voluntary Collision Coverage. They have studied the relative advantages of marketing of the insurance by one or another of the following media:

- (a) exclusively by Government,
- (b) exclusively by private insurers in open competition,
- (c) competitively by both Government and private insurers.

Within any society there are individuals and organizations favouring state ownership for its own sake. At the hearings of this Commission, several thought provoking submissions favouring new approaches to automobile insurance were presented. In several such briefs, an exclusive state scheme of automobile insurance was called for.¹ Very little by way of substantive evidence or original argument was provided, however, supportive of such a role by government. Public ownership appeared as the end in itself. On the other hand, it is only fair to state that discussion by opponents of state enterprise provide less than satisfactory evidence and few constructive theories with which to approach decisions dealing with entry of public enterprise, or the expansion or contraction of the role of public enterprise in a society such as ours.

The Commission recognizes that today Government ownership or control is commonplace in highly industrialized societies, in developing nations, and in under-

1. See, for example, the briefs of the B.C. Federation of Labour (Ex.13); the Official Opposition of the Legislature of British Columbia (Ex.35); District #1, the International Union of Mine, Mill and Smelter Workers (Canada) (Ex.44).

developed countries. It is today accepted in such fields as education, health, welfare, and to a considerable degree in culture, but it is also found frequently in certain areas of the economy where private enterprise predominates. Where this is so, public enterprises may fall into the following broadly labelled classifications:

- (1) public utilities, transportation, and communication,
- (2) insurance, banking, and finance,
- (3) new development projects.

Government enterprise comes about usually as a matter of necessity, not choice. Public ownership permits governmental intervention in matters of national or regional interest, makes available vast sums for capital development, unifies whole industries and provides otherwise unattainable benefits and services. However, it is elemental to observe that that has usually been accomplished out of public funds obtained through taxation.

At times, public enterprise is occasioned by failure of competition and regulation to remedy abuses which may prevail under private enterprise. It goes without saying that, in national emergencies and the like, in extreme circumstances clearly involving the national interest, or at least in those of a particular jurisdiction, public enterprise is likely warranted. Public ownership should also be a vehicle to be considered where competition is no longer workable and consumers are being abused, where a natural monopoly is involved, where the necessary private capital cannot be attracted or held yet the industry or service is deemed essential, and where external exploitation needs thwarting.

In the above context it is interesting to note the reasoning behind the introduction of government-owned enterprise in areas relating to insurance. First,

the following excerpt from the 1946 Report on the Study of Compensation for Victims of Automobile Accidents prepared by a special committee of the Saskatchewan Government.²

The fact remains, however, that the western provinces, particularly Saskatchewan, have been left in an extremely vulnerable position, unable to accumulate wealth during the prosperous years, and having to seek charity elsewhere during the years of difficulty. It is the proper function of government to reduce so far as possible the injurious effects of this artificial barrier to the satisfaction of the wants of this society. It is necessary to do this in order to overcome natural barriers and develop resources which will produce a diversity in the provincial economy in order to give it greater long term balance. It would be both inequitable and economically impossible to obtain the capital for such development out of taxation. The answer lies in the development of industrial activity as public utilities beginning with those that are most wasteful in the hands of private enterprise, so far as this is possible within economic and constitutional limitations . . . and the reinvestment of the profits in further economic and social activity.

It is only with the foregoing in mind for a background that the status of The Government Insurance Office can properly be appreciated. It is not one more competing corporation. It is an instrumentality by which some part of the general objective may or should be achieved -- to give insurance to the people for a price more nearly in line with its proper cost -- to invest its reserves and surpluses in further industrial development -- and to provide additional capital for investment in human beings as such in the form of more adequate social services.

The reasoning in the above report is credited in part with the bringing into effect on April 1, 1946 of the Saskatchewan Automobile Accident Insurance Act -- a compulsory plan of compensation for losses arising from motor vehicle accidents regardless of fault.

It is noted in passing that before the Automobile Accident Insurance Act was introduced not more than 10% of Saskatchewan car owners carried even partial insurance.

2. Ex. 287F, p. 64. The Saskatchewan Automobile Accident Insurance Act was based on the earlier recommendations of the special committee consolidated in the above report.

The Commission also recognizes that when, at a later date, the Saskatchewan Government Insurance Office offered Supplementary Insurance to A.A.I.A. it decided to do so competitively with the private insurers rather than as a plan supplied exclusively by government.

Through its own research, the appearance of a panel of senior administrators of the Saskatchewan Government Insurance Office at its hearings, and the panel's extensive cross-examination by industry counsel, the Commission had an opportunity to assess thoroughly the management and operations of Saskatchewan's Automobile Accident Insurance Act Fund. The performance of the Fund and the thoroughness of its management was impressive and noted by the Commissioners. The satisfaction of the residents of Saskatchewan with the program and their seeming unwillingness to alter existing arrangements are certainly understandable. Full consideration was given also to all other available facts. Furthermore, the existence of a useful "bench mark" in the Saskatchewan Plan was recognized throughout the Commission's deliberations.

The British Columbia Workmen's Compensation Act³ is another form of accident insurance that has been operated with relative success under an exclusively government-administered plan. Based on the conditions as they pertained at that time, the 1916 Report of the Committee of Investigation on Workmen's Compensation Laws expressed the following views which are worthy of recall:⁴

It is impossible within the compass of this Report to more than indicate in a general way the nature of the evidence which is before

3. S.B.C. 1968, c. 59.

4. Province of British Columbia, Report of the Committee of Investigation on Workmen's Compensation Laws, Victoria: King's Printer, 1916, p. 12.

the Committee on this subject, but from a careful consideration of that evidence it is apparent that the casualty insurance companies, from the standpoint of economy, have utterly failed to show as good results as either the mutual companies or the State-administered funds, and this both as to rates of premiums and costs of administration. The economic waste of allowing casualty insurance companies to carry on this class of insurance unquestionably amounts to many millions of dollars each year, and when we consider that this money is either secured by increased premiums from employers or retained from moneys which otherwise might be paid to injured workmen and their dependents, the advantage in eliminating the waste is apparent. The evidence also discloses that the cost of administration through a State Fund is less than through a mutual insurance company, and that such cost in case of an exclusive State Fund is less than where the State Fund is operated along with competing insurance companies.

Notwithstanding the fact that this Province is favoured with having as local representatives of the casualty insurance companies men who are apparently disposed to co-operate with the proposed legislation, we realize that the companies in question are nearly all extra-provincial companies, many of them English and American corporations whose policies are determined by the men in charge at their head offices, and who are not likely to be materially influenced in shaping that policy by the local situation which might develop in this single Province.

. . . After considering the information and evidence submitted and endeavouring to give due weight to the advantages and disadvantages of the different methods of handling this matter of insurance, the Committee is unanimously of the opinion that the system proposed by the Bill to the complete exclusion of casualty insurance companies is by far the best adapted to meet the requirements in this Province. Such a system would, in our opinion, not only save the employers of this Province an immense amount of money, but would contribute greatly to the success of the Act as a whole by eliminating many undesirable features usually attendant on a competitive company system.

While conditions have changed since 1916 there has developed a firm acceptance of the scheme of Workmen's Compensation in British Columbia. The fund is under the direct management of a government appointed Board.⁵ Before a recent Royal Commission inquiry into Workmen's Compensation in British Columbia, a submission was made by industry that optional private coverage in that field of insurance

5. It must be noted that the moneys for Workmen's Compensation in B.C. are provided by employers and not employees.

be permitted, but was not acted upon.

Mention must be made of the recent report of the Royal Commission on Compensation for Personal Injury in New Zealand. In urging a wide ranging and universal scheme designed to recompense individual loss attributable to personal injury "irrespective of fault and regardless of cause", the New Zealand study recommended an exclusively government-operated fund. A portion of the report, indicating strong bias against insurance companies is as follows:

- (1) In the absence of personal liability and with the disappearance of any element of voluntary contribution there can be no place for the insurance companies. Their purpose is to seek business from individuals who might wish to cover themselves at their own choice in respect of personal contingencies of their own definition.
- (2) It is said that the State should hesitate before interfering with private enterprise in what is claimed to be a legitimate field of operation. There is much confusion of thought about this matter. Private enterprise cannot claim as of right to handle a fund such as the compulsory road injury fund or workers' compensation fund in New Zealand. Those funds have arisen not because owners of vehicles or employers have been persuaded to provide the business, but because Parliament has ordained that they must do so.
- (3) Moreover, the insurance system itself can offer no central impetus in the important areas of accident prevention and rehabilitation. It is operating in an area which ordinarily would be handled by the central Government as a social service. It cannot avoid adversary problems. In terms of administration it is very expensive.⁶

The New Zealand Report is still under study and has not been acted upon. It must, in any event, be obvious that given the approach and scope of the New Zealand Commission's recommendations, there are few parallels to be drawn in the atmosphere of British Columbia.

6. New Zealand, Report of the Royal Commission of Inquiry, Compensation for Personal Injury in New Zealand, Wellington: Government Printer, 1967, pp. 180-181.

In considering the New Zealand approach set out above one should not lose sight of the political theories and ideology prevailing there.

Through its review of the current operations and environment of the automobile insurance industry in British Columbia, the Commission found conditions quite different from those apparent in Saskatchewan around 1946 and British Columbia in 1916 and referred to above. In fact, of all the circumstances under which exclusive public enterprise is appropriate, only one appears relevant, thereby warranting closer attention. Competition among private insurers in British Columbia has fallen short of being effective and efficiency has lagged as a consequence. Automobile insurers, in the presence of less than effective competition, are operating with a significant portion of the premium dollar still unavailable for the indemnification of those suffering injury.

Government participation in the automobile insurance business along with private insurers also prevails in France and in most of Australia. In France, for example, 29 insurers in 8 groups were nationalized by a 1946 statute. There are indications that these will be reduced to 3 groups during 1968.⁷ Today, two characteristics of the nationalized French insurance companies are widely reported. Firstly, they remain in active competition with private enterprise while retaining their individual identities. Secondly, the nationalized insurance companies are as much concerned with profit maximization as those privately owned. Apparently initial objectives have long been lost sight of, and thus, as loss ratios rose in 1962 and investment income failed to provide the needed off-set, nationalized insurers seemingly took steps to curtail writings.

The market share of state insurers in France is depicted in Table 24:1.

7. Letter February 19, 1968, received by the Commission from the Canadian Embassy, Commercial Division, Paris, France.

TABLE 24:1

Market Share of Government Corporations in the
French Automobile Insurance Market*

<u>1961</u>	<u>1962</u>	<u>1963</u>	<u>1964</u>	<u>1965</u>
28.2	26.6	26.1	25.6	25.5

* on a premiums earned basis and including Mutuelles Agricoles.

Source: Rapport du Ministre de l'Économie et des Finances au
Président de La République, Activité des Sociétés
d'Assurances et de Capitalisation, 1965, pp. 83, 85, 90.

In Australia a different pattern is to be found. Political considerations have created an inflexibility in rates such that private automobile insurers have been discouraged from continuing to compete with state government insurance offices. The result has been a considerable increase in the government's share of the business.

In this context, the Commissioners were impressed by a paper delivered to the Insurance Institute of New South Wales in August 1967 by Mr. R. M. Porter, General Manager of the Government Insurance Office of that State. Significant excerpts include:

The Government Insurance Office has incurred a consolidated loss of \$11 millions to 30th June, 1966 in transacting compulsory Third Party Insurance in New South Wales. The results for the 1966/67 financial year will add significantly to this figure.

The consequence of losses of this magnitude which have been incurred in a climate of controlled premiums has been that most insurers in New South Wales have ceased to write Third Party Insurance, leaving the Government Insurance Office with 95% of the business.

So we now have the extraordinary situation of a Government instrumentality having been given a virtual monopoly by choice of the private insurers rather than by direct Government action. I cannot see any possibility of other insurers re-entering the field in New South Wales for the reason that premiums do not at present cover the cost of claims, and I doubt that they will in the foreseeable future. The very nature of Third

Party Insurance requires retention of substantial reserves. The G.I.O. provision for unsettled claims alone is now in the vicinity of \$100 millions, the investment of which contributes to interest earnings sufficient to permit of underwriting losses of quite sizeable amounts being absorbed in a year before incurring a net loss on the account. For this reason, there is little likelihood of future premiums being fixed at a level which would permit of an insurer achieving any measure of long term profit without the benefit of investment income.

. . . The reluctance of any Government to move to increase premiums is understandable as the matter of Third Party Insurance, whether increase of premiums or method of disposal of claims is involved, seems inevitably to become a lively political issue.⁸

The following Table 24:2 further illustrates the rise in recent years of the Australian States' share of the automobile insurance market, particularly as this applies to Mr. R.M. Porter's own State -- New South Wales.

TABLE 24:2

Government Insurance Offices'
Percentage Share of Total State Premiums

	New South Wales	Victoria	Queensland	South Australia	Western Australia	Tasmania
<u>Compulsory Third Party</u>						
1966	89.4	34.4	37.0	--	36	38
1965	88.6	31.1	36.2	--	35	34
1964	87.9	30.5	35.1	--	34	32
1958	79.6	24.0	38.5	--	29	19
<u>Comprehensive Motor Vehicle</u>						
1966	12.3	7.0	15.8	--	25	8.8
1965	12.1	6.0	13.2	--	24	8.5
1964	11.3	5.8	12.2	--	23	8.3
1958	9.1	4.1	9.1	--	5	9.6

Source: Correspondence received from the named states, February - March, 1968, and G. Pursell, "Rate Control and Government Competition in Australia Non-Life Insurance" The Journal of Risk & Insurance, June, 1967, p. 247.

8. Attached to letter to the Commission, dated March 29, 1968, from General Manager, Government Insurance Office of New South Wales, pp. 1-2; 3.

Clearly, with government insurance as a safety valve, the lid can be kept on inappropriate rate maxima over extended periods of time. Attention is directed to the problem only when repeated deficits in the government's insurance operations become too burdensome.

Again using Workmen's Compensation practices as an illustration, several of the states in the United States have carried out this program as a competitive measure between private casualty companies and the state government. Drawing from that experience it is obvious that an interplay of related variables does affect the quality of risks which end up on the books of the competing state insurer.⁹

The Commission has recommended establishment of rate ceilings for the compulsory basic coverage. Although such very limited regulation may protect against extreme price abuses without enveloping the industry in the complexities and drawbacks of the typical United States variety of rate regulation, massive overcharging has not been, and is unlikely to become, the major problem in British Columbia.¹⁰ To serve the public interest more completely, it is necessary to ensure that competition will be vigorous enough to prevent any ceiling on rates from becoming the industry's "illustrative rate". It is also essential to have effective price competition in the market for policies beyond the basic cover being proposed in this Report. Since the premium volume of such excess

9. For example, larger buyers of insurance seeking a variety of coverages represent a very stable element in the population and appear to do their business with those able to provide "one stop" shopping.

10. Some discussion of this aspect of U. S. rate-regulation took place at the hearings. See 23/2762-3 and 58/6828-39.

cover will be related in significant measure, to protection of the automobile itself, sickness and accident branches of life insurers cannot be expected to serve as major competitive forces. To be assured of effective competition, and to ensure that such competition blocks any return to conditions prevailing prior to the appointment of this Commission, the Commissioners are placing great reliance on the Insurance Board and its role as the B.C. statistical agency, responsible for gathering, analysing and publishing data on claims costs and more particularly expense costs. In so doing, they are of course, rejecting the remaining alternative of recommending the introduction, administration and operation of a competing government agency in the automobile insurance field, except as suggested supra.

To remove one form of fire and casualty insurance from the private insurer could result in an increase in cost to the buyers of other forms of such insurance i.e., fire, theft, homeowner's protection, etc. Within each company and each agency, administration and selling costs are shared among these various forms of insurance. To remove one class of insurance may not result in a corresponding reduction in overhead but only result in the other classes having to carry an increased expense loading. According to one senior industry witness, however, this result is problematical and not certain.¹¹

The Commissioners are not prepared to recommend any exclusive government administration of its proposed approach to compensation. While of the unanimous view that an exclusive state fund for automobile insurance is not the optimal solution for British Columbia, this Commission would expect that the proposed In-

11. 54/6391-93.

insurance Board stay continually apprised of the structural characteristics, conduct and performance of the automobile insurance industry in the Province. It would also expect to see the dominant role of the Insurance Bureau of Canada and other influential groups controlled so that ample competition may prevail in the industry. Should there continue to be discriminatory pricing and a lack of proportionality between prices and marginal costs or other evidence of less than effective competition, or should British Columbians again be subject to a "tight market" for automobile insurance for whatever cause, the Commissioners would recommend the immediate establishment of a Government Insurance Office.

The studies of the Commission have not shown guilt or improper conduct which would warrant government taking over a business which was initially pioneered at considerable risk.

Significantly, the insurance industry has not yet had any notice in British Columbia from government of dissatisfaction with the conduct and performance of the industry. Before a take-over or entry into competition by government, in the opinion of the Commissioners, the industry is entitled to some gesture of dissatisfaction by way of warning or notice.

As a result of its studies it is the strong opinion of this Commission that careful and continuous scrutiny by the proposed Insurance Board over competing private insurers is the optimal approach. Through resultant competitive pricing of the product along with (a) the new approach to compensation for loss and damage arising out of motor vehicle accidents and (b) greater choice in the amount of service to be purchased as an addition to the protection itself, residents of this Province will be well served.

Conclusion

Taking all of these facts into consideration, the Commissioners have concluded that:

- (a) the 1946 social and economic environment of Saskatchewan which was significant in the introduction of the very workable government plan of automobile insurance is quite different from that which exists in British Columbia today.
- (b) under an exclusive governmental fund there would likely be rigidities and more limited innovation which would more than off-set reductions in the percentage of the premium dollar siphoned away in expenses.
- (c) the magnitude of the savings will in any event be significantly reduced under the new approach to compensation recommended in this Report.
- (d) there are external diseconomies inherent in the introduction of an exclusive government fund for automobile compensation, including a reduction in the servicing available to the consumers of other lines of insurance,

and finally that:

- (e) effective competition is, in fact, attainable in automobile insurance, and that the industry is not a natural monopoly. The injection of such competition and its preservation is possible and will result in great improvements in efficiency and fairer pricing.

The Commission, based on its study of the advantages and disadvantages of each method outlined in this Chapter, recommends that, initially, the opportunity be given to the private insurers solely to market in British Columbia the Basic Policy, the Supplementary Insurance, and the Collision Coverage.

However, if the industry shows a disinclination to participate in the offering to the public of the new types of contracts recommended by the Commission, and under the conditions which it has proposed, or other conditions satisfactory to government, or at a later date shows a disinclination to compete, then the Government of British Columbia should take over the sole selling in British Columbia of all automobile insurance.



CHAPTER 25

THE METHOD AND PROCEDURES THAT WOULD BE MOST EFFECTIVE
IN THE INTRODUCTION OF CHANGE



CHAPTER 25

Term of Reference (i):

THE METHOD AND PROCEDURES THAT WOULD BE MOST EFFECTIVE IN THE
INTRODUCTION OF CHANGE

The shift from present procedures to the Commission's recommended approach for the recovery of damages arising out of automobile accidents will pose some minor difficulties during the transition period. It is appreciated no doubt that significant change can seldom be accomplished without some confusion and inconvenience. At the outset in this particular case, burdens will, of necessity, be placed on insurers, their agents, and the Department of Motor Vehicles. Furthermore, British Columbia motorists will experience some awkwardness in re-arranging their automobile insurance. The methods and procedures advanced here reflect one of the several possible patterns designed to minimize both the duration and the degree of inevitable inconveniences. For the best results, it is felt that the final and precise detailing should be undertaken by representatives of the appropriate government departments, of the agents' associations, and of insurers. The Commissioners believe that no major difficulties are to be anticipated, and they point out that great benefits will accrue to British Columbians from the change-over.

What must be avoided during the transition period (when the right of action in motor vehicle negligence, as heretofore available, has been taken away) is having only some of those with driving permits carrying the new two party form of coverage, while others retain the present forms of insurance. Given careful preparation and phasing towards a predetermined cut-off date for existing forms of coverage, such a situation may be avoided at a minimum of administrative cost. Collisions then would not involve one motorist carrying paid up insurance

of the old form and another relying on the new two party accident contract.

One feasible approach, favoured because its simplicity minimizes costs, would entail procedures somewhat as follows:

- (a) Assuming that the new form of coverage is to be mandatory as of January 1, 1970, all policies issued during 1969 would expire on December 31, 1969. Such an approach eliminates any need for policy rebates.¹
- (b) All drivers would be issued two party insurance on January 1, 1970. The term of coverage would vary, expiring on the insured's date of birth during 1970. (It is anticipated, however, that in order to hold down costs, those with birthdays in January would be issued a 12-13 month contract to be renewed in January, 1971.) Thus, a person with a birth date of November 1 would be issued 10 months' coverage, while the driver with a March 1 birth date only two months protection up to his birth date in 1970, when his policy would be renewed up to his birthday in March, 1971.
- (c) These initial short-term basic coverages, averaging about seven months duration, would be issued without regard to violation or accident records. Pricing would be based on the expected average pure-premium. It would be unreasonable to do otherwise and expect the Motor Vehicles Branch to process simultaneously the violation and accident records of over 800,000 drivers as at December 31, 1969.
- (d) It is anticipated that the Motor Vehicles Branch would be able to issue the appropriate annual renewable coloured drivers' licences in time for the

1. Insurance companies should be encouraged to exercise initiative here. Thus, nothing should be done to preclude insurers from issuing contracts during 1969 combining traditional insurance to the end of 1969 with new coverages to expire on the insured's birth date in 1970.

first renewals of the basic contract on the insured's birth date in 1970. The licences issued would be co-terminous with the insurance policy and the latter would be non-cancellable. The amount of initial per capita subsidy to those who, on renewal, receive coloured drivers' licences is expected to be nominal.

- (e) During the interim period between December 31, 1969 and the driver's birth date in 1970, it will be necessary for each driver to carry his interim policy certificate along with his existing driver's licence in order to be able to prove insurability. After his 1970 birth date his coloured driver's licence will itself be proof of basic two party coverage.
- (f) Mandatory driver training for those applicants for driving permits under 18 years of age may be introduced ahead of time, possibly by July 1, 1969.

While the above details relate essentially to basic coverages, they do set out some of the necessary guideposts for additional insurance. It is felt that, without further detailing by the Commissioners, the industry may be relied upon to introduce and provide the necessary voluntary complements, including collision coverage and supplementary cover, designed as extensions of the basic limits.

Finally, mention must be made of the need to inform residents and visitors of the new scheme. British Columbia motorists will have to be educated in all the implications of the changes well in advance of implementation. In this regard, a co-operative effort involving government, agents, and the industry is essential.

EPILOGUE

EPILOGUE

The recommendations of the Commissioners are to bring about accident insurance payable upon a no-fault basis in the place and stead of automobile insurance payable upon a fault basis. That, in essence, is the burden of this Report.

The conclusions of the Commissioners have been reached after mature consideration.

In this regard it should be pointed out that the "present" approach to compensating persons injured in motor vehicle accidents was found to be no deterrent whatever to the negligent or erratic conduct of the motorist. The investigations have shown conclusively that insurers almost invariably bear part of the economic loss caused by guilty persons, whether the guilt (viz. negligence) be a civil or a criminal matter. The party found responsible is shielded from a claimant by his insurance.

Again, withholding of compensation is not a valid form of punishment. The punishment of those guilty of misconduct, of whatever form, causing or contributing to accidents and inevitable losses, must be left to the appropriate courts or other designated authority. This consequence must not be borne by the facility of insurance. The withholding of compensation may only, as it so often does, inflict suffering upon innocent persons -- the spouse, child or guest of the insured.

When these factors are clearly understood there can be no doubt that a change of policy and law such as recommended by the Commissioners is long overdue. While the theory may be commended from an ethical and philosophical viewpoint, it can stand far more firmly upon practical good common sense which should be a base for all sound law and custom.

ACKNOWLEDGEMENT

All persons employed by this Commission with the length of time of their engagement therewith, appear listed in Appendix B. The Commissioners, before concluding the Report, wish to express the utmost gratitude they feel for the faithful and intelligent discharge of the various duties assigned to these people. Some will be singled out for obvious reasons.

Mr. H. L. Robinson was the first Secretary of the Commission. His was the arduous task of setting up the office and the system carried on in the course of the administration until shortly before his most regrettable death on January 26, 1967. Mr. Robinson was very much a gentleman and he set the standard and atmosphere which has prevailed in and about the offices of the Commission throughout the administration.

His successor is Mr. H. S. C. Archbold who was eminently qualified to succeed Mr. Robinson and who has given excellent service as Secretary. His qualifications are in brief, the following:

A graduate of the Universities of Toronto and Alberta, he has served at different times as a school master, a manufacturer's representative and a liaison officer in industry. After a period with the Royal Canadian Mounted Police, he served overseas with the Canadian Army during World War II. Subsequently, he was one of the first Canadian officers loaned to the United Nations as a military observer and he served with the U. N. Mission in Kashmir. He entered the Civil Service of Canada in 1952 serving in the Department of National Defence in Western Canada and in Europe where he was attached to N.A.T.O. Subsequently, he held administrative appointments in Ottawa. He returned to British Columbia in 1961.

G. Gordon S. Rae, Esq., Q. C., was counsel for the Commission until his well deserved elevation to the Bench of the Supreme Court of British Columbia.

Mr. Rae was peculiarly well-suited to be counsel to the Commission having a tremendous energy, excellent knowledge of the subject under review, knowledge of the law, infinite courtesy before the public meetings of the Commission at all times, and, it should also be said, to the Commissioners throughout the whole term of his engagement. He had in addition, a most satisfactory perspicacity and imagination which he applied in drawing out the facts sought by the Commission. The Commissioners had to abide by the circumstance of his elevation, but they were delighted that Mr. Rae should have been so honoured.

Dr. G. D. Quirin was especially qualified to be the Research Director of the Commission. His qualifications are extensive and are indicated only briefly as follows:

A graduate of the University of Alberta and Princeton University, he earned numerous academic honours. He has had a wide experience in both industrial and academic appointments having served as a statistician, economist and a consultant in the petroleum industry prior to a succession of appointments in the Universities of British Columbia, Malaya, Singapore and Toronto within the field of Economics and Business Administration. Dr. Quirin is the author of some 20 articles within the field of his study.

The Commissioners have appreciated his advice and assistance. He lent himself assiduously to all the problems entrusted to him.

Dr. Quirin was assisted materially in the research work of the Commission by Dr. Richard A. Holmes and his staff in the Department of Economics and Commerce at Simon Fraser University.

Professor Holmes is a graduate of the University of Saskatchewan and Indiana University. His teaching experience in statistics, econometrics and economic theory has been in the University of British Columbia and Simon Fraser University. He served one year as research economist for the Canadian National Railways. He is the author of a number of articles published in various journals of Economics and Political Science.

W. F. Martin, Esq., Chartered Accountant, had the misfortune of becoming ill during the term of his engagement with the Commission but he should be mentioned

here as one who applied himself most diligently in the offices of Assistant Research Director and Technical Advisor.

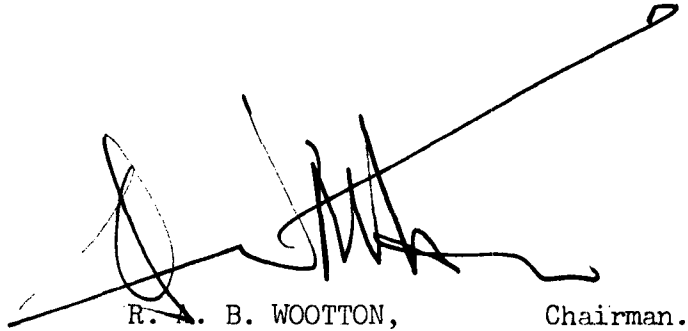
Mrs. D. A. Stewart was the dean of the women on the staff of the Commission and she and the other secretaries displayed a constant, never ending willingness in what, at times, was a very heavy load of work. A generous tribute must be made to them all, but particular mention is made of Mrs. M. A. Clayton, Miss Cynthia Bradfield and Miss Wendy Young, who, with Mrs. Stewart, were responsible for the ultimate preparation and assembly of this Report.

The Commission was fortunate in the summer months to have students from the University of British Columbia and the University of Victoria to assist in research work and whilst most of them had to quit their duties on the resumption of their terms at the Universities, Mr. D. H. Mitchell was able to remain for several months with the Commission, during which time he was of the utmost value in the intricate business of mathematical calculations and other details required. Mr. Mitchell was succeeded by Mr. W. K. Amundson who has given valuable service in the same field. It is of interest to know that Mr. Mohan Jawl was the recipient of a Commonwealth scholarship in the amount of \$10,000 for two years' study at London University, indicating his merit and also the calibre of the students employed.

The Commissioners wish to express their appreciation of the assistance rendered to them by Messrs. Farrant & Co., Actuarial Consultants, of Vancouver, who undertook the considerable task of checking the results of the work of the Commission.

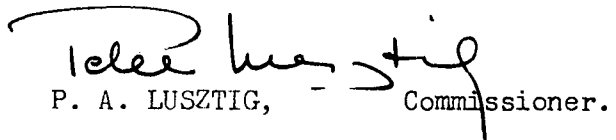
The Commissioners observe that after two years of service they can happily certify to the excellent cooperation and assistance given by all persons engaged

by the Commission. Their only regrets have been that death and illness have terminated the employment of some persons. This Report has been produced as the result of a great deal of mutual cooperation in a difficult area of study.

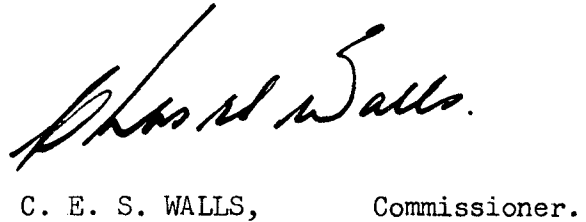


R. A. B. WOOTTON, Chairman.

Dated at VICTORIA, B.C.,
this **30th.** day of
July, A.D. One Thousand,
Nine Hundred and Sixty-
Eight.



P. A. LUSZTIG, Commissioner.



C. E. S. WALLS, Commissioner.



GENERAL APPENDICES

- A : Order-in-Council No. 293, January 25th, 1966.
- B : The Commissioners, Advisors and Administrative Staff of the B.C. Royal Commission on Automobile Insurance.
- C-1: List of centres in which press-notices advertised Hearings by the Commission and details of the presentation of Briefs.
- C-2: Map of British Columbia showing underlined the location of these centres.
- D : Persons and organizations that submitted briefs.
- E : Persons and organizations that corresponded with the Commission, but did not present briefs.
- F : The Contributory Negligence Act, RSBC 1960, C.74, as amended.
- G : List of embassies, departments, offices and persons from which information was received by the Commission in response to enquiries.
- H : List of all persons who appeared as Witnesses before the Commissioners.
- I : List of Exhibits filed during Hearings.
- J-1: Index of Tables appearing in this Report.
- J-2: " " Figures " " " " .
- K : Insurance Act, RSBC 1948, C.164, Part VII, as amended.



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I hereby certify that the following is a true copy of a Minute of the Honourable the Executive Council of the Province of British Columbia, approved by His Honour the Lieutenant-Governor on the 25th day of January, A.D. 1966.

E. E. P. ...
ASSISTANT DEPUTY PROVINCIAL SECRETARY.

To His Honour

The Lieutenant-Governor in Council:

The undersigned has the honour to

report:

THAT the Public Inquiries Act empowers the Lieutenant-Governor in Council to cause inquiry to be made into and concerning any matter connected with the good government of the Province:

AND TO RECOMMEND THAT, pursuant to the Public Inquiries Act and all other powers thereunto enabling, Commissioners be appointed to make inquiry into and concerning monetary losses and expense resulting from motor-vehicle accidents involving persons adverse in interest and into feasible and sound proposals for moderation thereof, and in so doing to inquire particularly into

- (a) the costs and delay involved in the determination and recovery of compensation by victims of motor-vehicle accidents,
- (b) the portion of total damages that are recovered by victims of motor-vehicle accidents by court proceedings and by settlement and whether adequate compensation is obtainable by such victims under present procedures,
- (c) the cost to insurers, to persons who pay insurance premiums, and to the public generally of providing present forms of automobile insurance determined on the basis of past and current experience and whether the cost is in proper relationship to the effective protection obtained,
- (d) the operation of the arrangements with Traffic Victims Indemnity Fund,
- (e) the changes in the need for insurance resulting from the availability of hospital insurance, pre-paid medical services plans, and compensation under the Workmen's Compensation Act,
- (f) the justification for recent variations in automobile insurance premium rates,

- (g) whether the public of this Province will be better served by the continuation of present procedures for the recovery of damages arising out of motor-vehicle accidents and by the preservation of present forms of insurance coverage or by some variation or variations thereof, or by a plan whereby compensation for damage arising from motor-vehicle accidents may be paid without determination and attribution of responsibility therefor, or by a combination thereof,
- (h) whether such a variation or a plan for compensation or such a combination, if recommended, should be administered privately or by or through a governmental agency or a combination thereof, and
- (i) the method and procedures that would be most effective in the introduction of change if recommended,

and report their findings and recommendations to the Lieutenant-Governor in Council in accordance with the Act:

AND TO RECOMMEND THAT the Commissioners, for the purpose of making the inquiry, be authorized to hold hearings as they may deem appropriate:

AND THAT the remuneration for witness fees and allowances to witnesses in respect of mileage and maintenance be on the same scale as provided in the Supreme Court of British Columbia, and that the Commissioners be authorized to employ such counsel and consultants and such clerks and stenographers as are considered necessary for the purpose of conducting the inquiry at the usual rate for such services:

AND THAT the Commissioners be authorized to engage advisers and research assistants as they may deem necessary:

AND THAT the usual living and travelling expenses be paid to each Commissioner for each day during which he is engaged in the performance of the powers and duties of the Commissioners, together with an honorarium to be fixed by the Lieutenant-Governor in Council:

AND THAT the following persons be appointed under the Great Seal as Commissioners:

MR. JUSTICE ROBERT ALEXANDER BURNIE WOOTTON,
DR. PETER ALFRED LUSZTIG, and
CHARLES EDWARD STUART WALLS, ESQ.

DATED this 25th day of January, A.D. 1966.

"W.D. Black"

PROVINCIAL SECRETARY.

APPROVED this 25th day of January, A.D. 1966.

"W.A.C. Bennett"

PRESIDING MEMBER OF THE EXECUTIVE COUNCIL.

W.A.C.

APPENDIX 'B'

BRITISH COLUMBIA ROYAL COMMISSION ON AUTOMOBILE INSURANCE

Chairman

The Honourable Mr. Justice R. A. B. WOOTTON

Members

Professor Peter A. LUSZTIG, B.Com., M.B.A., Ph.D.
Charles Edward Stuart WALLS, Esquire

Secretary

H.L.ROBINSON, Esq., 1 Mar 66 - 31 Dec 66
H.S.C.ARCHBOLD, Esq., C.D., B.Sc., M.A., from 3 Jan 67

Counsel

G. Gordon S. RAE, Esq., Q.C.

Director of Research

Professor G.D.QUIRIN, B.A., M.A., A.M., Ph.D.

Research Associate

Professor R.A.HOLMES, B.A., M.A., Ph.D.

Technical Advisor

William F. MARTIN, Esq., C.A.

Actuarial Consultants

Messrs.FARRANT and COMPANY

Research Assistants

W. K. AMUNDSON, 1 May - 15 Sep 67
E. N. GELLING, 8 May - 31 Aug 67
D. K. HARRISON, 21 Jun - 31 Aug 67
M. S. JAWL, 1 Jun - 31 Aug 67
J. T. LITTLE, 1 May - 15 Sep 67
D. H. MITCHELL, 1 Jun - 15 Sep 67

Special Assistants

D. H. MITCHELL, 16 Sep 67 - 15 Apr 68
W. K. AMUNDSON, from 22 Apr 68.

Staff

Mrs. D. A. STEWART, Supervisor, from 4 Apr 66
Mrs. M. A. CLAYTON, from 6 Feb 67
Miss C. D. BRADFIELD, from 31 May 67
Miss W. A. YOUNG, 26 Jun - 1 Sep 67,
and from 2 May 68.
Miss W. F. HARLOCK, 4 May 66 - 26 May 67
Miss V. KIRKENDALE, 18 May - 15 Sep 67

<u>Location</u>	<u>Name of Newspaper</u>
Abbotsford	Abbotsford, Sumas & Matsqui News
Ashcroft	Ashcroft Journal
Burns Lake	Lakes District News
Campbell River	Campbell River Courier Upper Islander
Chilliwack	Chilliwack Progress
Cloverdale	Surrey Leader Ltd.
Courtenay	Comox District Free Press
Cranbrook	Cranbrook Courier
Creston	Creston Review Creston Valley Advance
Dawson Creek	Peace River Block News
Duncan	Cowichan Leader
Fernie	Fernie Free Press
Fort St. John	Alaska Highway News
Golden	Golden Star
Grand Forks	The Grand Forks Gazette
Haney	Haney Gazette
Hope	Hope Standard
Kamloops	Kamloops Daily Sentinel
Kelowna	Kelowna Daily Courier
Kimberley	The Daily Bulletin
Kitimat	Northern Sentinel
Ladysmith	Ladysmith-Chemainus Chronicle
Langley	Langley Advance Publishing Co. Ltd.
Lillooet	Bridge River Lillooet News
Mission	Fraser Valley Record

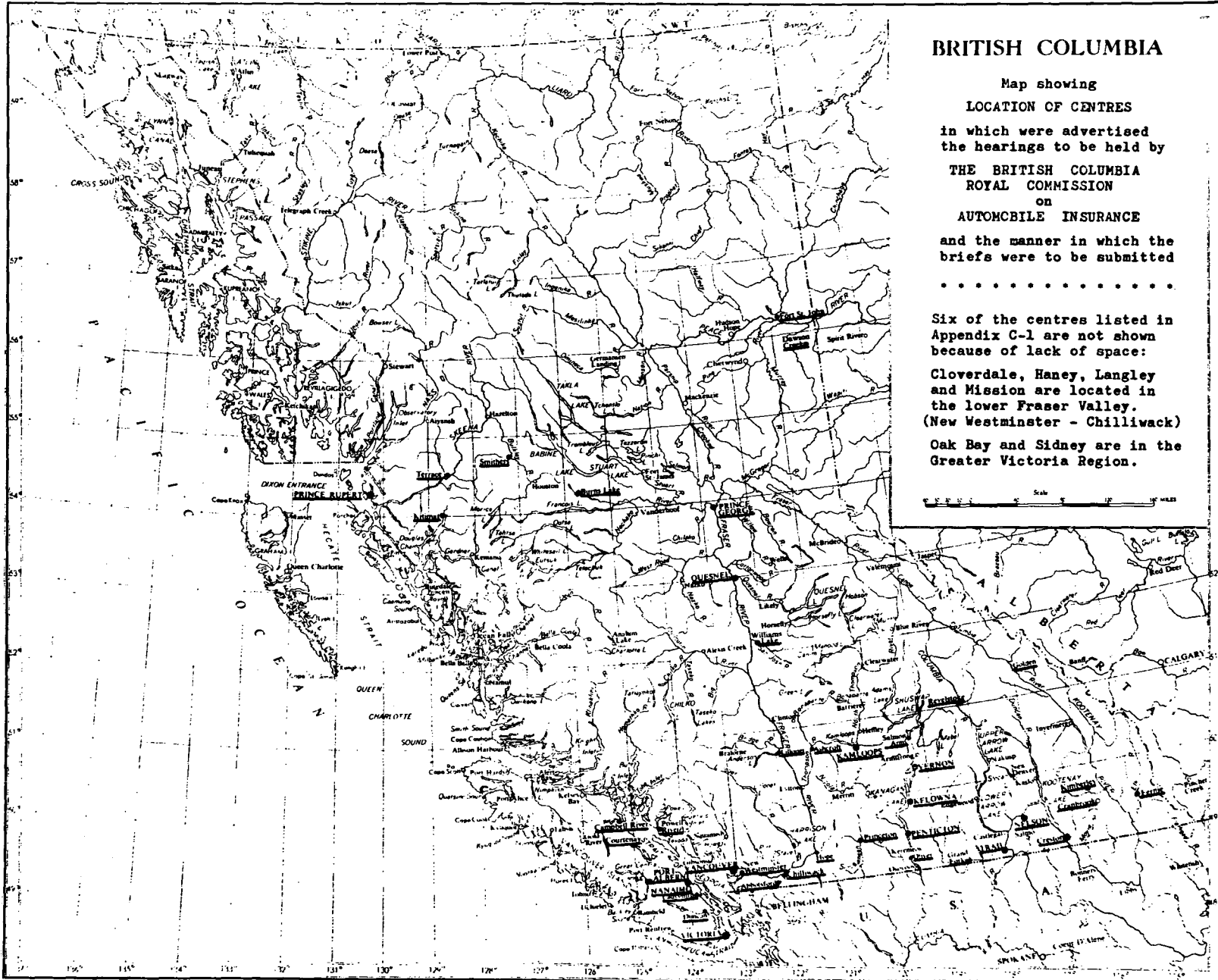
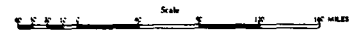
<u>Location</u>	<u>Name of Newspaper</u>
Nanaimo	Nanaimo Daily Free Press
Nelson	Nelson Daily News
New Westminster	The Columbian
Oak Bay	Oak Bay Leader
Oliver	Oliver Chronicle
Penticton	Penticton Herald
Port Alberni	Twin City Times West Coast Advocate
Powell River	Powell River News
Prince George	Prince George Citizen Prince George Progress
Prince Rupert	Prince Rupert News
Princeton	Similkameen Spotlight
Quesnel	Cariboo Observer
Revelstoke	Revelstoke Review
Salmon Arm	Salmon Arm Observer
Sidney	Saanich Peninsula & Gulf Islands Review
Smithers	Interior News
Terrace	Omineca Herald
Trail	Trail Times
Vancouver	Daily Province Vancouver Sun Country Life in British Columbia
Vernon	Vernon News
Victoria	Times Colonist
Williams Lake	Williams Lake Tribune Williams Lake Times

BRITISH COLUMBIA

Map showing
LOCATION OF CENTRES
 in which were advertised
 the hearings to be held by
THE BRITISH COLUMBIA
ROYAL COMMISSION
 on
AUTOMOBILE INSURANCE
 and the manner in which the
 briefs were to be submitted

.....
 Six of the centres listed in
 Appendix C-1 are not shown
 because of lack of space:

**Cloverdale, Haney, Langley
 and Mission are located in
 the lower Fraser Valley.
 (New Westminster - Chilliwack)**
**Oak Bay and Sidney are in the
 Greater Victoria Region.**



Produced by Geographic Services, Survey and Mapping Branch, Dept. of Lands, Forests and Water Resources, Victoria, B.C.

<u>NAME</u>	<u>WITNESSES</u>	<u>COUNSEL</u>	<u>EVIDENCE</u>
ALL CANADA INSURANCE FEDERATION	D. Damov M. W. Donald F. H. Ellis D. W. Kilgour A. M. Linden T.O.C. Makin G. W. McGill D. McIntosh D. B. McNeil R. Parkin H. L. Purdy L. J. Ross	D. McK. Brown, Q.C. E.H.S. Piper, Q.C.	34/3860-4125 36/4126-42/5016 46/5322-49/5790 50/5793-54/6395 55/6397-58/6857
ALLSTATE INSURANCE COMPANY OF CANADA	R. E. Bethell	D. McK. Brown, Q.C. David C. Miller (by courtesy of the Commission)	20/2287-24/2869
ASSIGNED RISK PLAN (B.C.)	A. McGowan R. Parkin	G. S. Cumming	17/1995-18/2747
AUTOMOBILE DEALERS ASSOCIATION	C. A. Simpkins		9/971-982 9/1014-1084
AUTOMOTIVE RETAILERS ASSOCIATION	J. Dawson Donn Dean G. Graveson J. L. Kinneard		9/983-1009 10/1085-11/1261
BEVIS, F. J.	T. Moran		1/25-103
BRADY, B. E.			11/1316-1328
B. C. FARMERS' INSTITUTE			14/1753-1759
B. C. FEDERATION OF AGRICULTURE	R. D. Pilling		70/7967-7997

THOSE WHO SUBMITTED BRIEFS : APPENDIX 'D'

<u>NAME</u>	<u>WITNESSES</u>	<u>COUNSEL</u>	<u>EVIDENCE</u>
B. C. FEDERATION OF LABOUR	E. P. O'Neal P. A. Phillips		2/107-176 14/1635-1747
B. C. SUPERINTENDENT OF INSURANCE	E. T. Cantell		3/215-303 89/9748-9807
B. C. SUPERINTENDENT OF MOTOR VEHICLES	R. A. Hadfield		87/9533-88/9749
CAMPBELL, W. W.			74/8268-8363
CANADIAN UNDERWRITERS' ASSOCIATION	D. B. Martin F. C. Smart C. C. Wilcken	C.C.I. Merritt, Q.C.	25/2870-29/3458
COCKING, R. E.			74/8363-8398
COLEMAN CREEK FARMERS' INSTITUTE			14/1753-1759
CO-OPERATIVE FIRE AND CASUALTY CO. LTD.	G. L. Matheson	A. M. Harper, Q.C.	15/1760-16/1994
COWICHAN AGRICULTURAL SOCIETY	T. D. Groves		65/7495-7509
D'ARCY, G. C.			63/7379-7390
FERGUSSON, P. C.			2/177-212
FIELDHOUSE, J.			63/7369-7373
FRUIT GROWERS MUTUAL INSURANCE CO.	N.R.C. Pooley R. F. Woolner		70/7908-7966 71/7998-8049
GRAFTON, W.			63/7347-7363
HAMPER, H. H.			12/1441-1486

Appendix D : continued

<u>NAME</u>	<u>WITNESSES</u>	<u>COUNSEL</u>	<u>EVIDENCE</u>
HELIN, K.			13/1488-1500
INDEPENDENT INSURANCE CONFERENCE	M. Price T.O.C. Makin	F. U. Collier	30/3459-33/3854
INSURANCE AGENTS ASSOC. (B.C.)	J. V. Harbord	C. C. Locke, Q.C. D. Vickers	5/470-7/821
INSURANCE BUREAU OF CANADA	C. A. Baines D. J. Deeks T. J. Diggory J. W. Henderson R. F. Hogan I. D. Mair W. F. Spry	R. F. Wilson, Q.C.	66/7515-69/7907 75/8399-78/8706
INTERNATIONAL UNION OF MINE, MILL AND SMELTER WORKERS (CANADA)	E. L. Walker		8/955-970 11/1262-1344 13/1548-1634 19/2250-2285
JABOUR, D. E.			14/1751-1753
LAW SOCIETY OF B.C.	C. D. McQuarrie, Q.C.		12/1345-1440
LEWIS, W. C.			11/1277-1315
MALKIN, R. E.			72/8050-8096
MORGAN, G.			63/7373-7379
McMURRAY, W. C.			65/7481-7494
THE OFFICIAL OPPOSITION, B. C. LEGISLATURE	A. B. MacDonald, M.L.A.		4/305-465

Appendix D : continued

<u>NAME</u>	<u>WITNESSES</u>	<u>COUNSEL</u>	<u>EVIDENCE</u>
SAFETY COUNCIL OF B.C.	S. C. Kershaw		72/8096-8179
SAFETY COUNCIL OF NORTH VANCOUVER	W. E. Blackburn Mrs. B. D. Foreman		73/8226-8267
SAFETY COUNCIL OF VANCOUVER	C. A. Belcher J. Plaskett		73/8180-8224
SASKATCHEWAN GOVERNMENT INSURANCE OFFICE	N. Bortnick L. W. Devine J. O. Dutton J. Green, Q.C. W. G. McInnis		79/8709-86/9532
SHOTTON, W.			63/7364-7368
TRAFFIC VICTIMS INDEMNITY FUND	K.F.V. Malthouse J. E. Morley	G. S. Cumming	43/5017-45/5316
TRIAL LAWYERS ASSOCIATION OF B.C.	T. O. Griffiths	F. Lewis	7/821-8/896
VANTAX INSURANCE POOL	C. R. Sutherland		8/897-954
WALDOCK, H. E.			64/7391-7477
WAWANESA MUTUAL INSURANCE CO.	R. A. Hargrave M. C. Holden E. G. Peakes G. C. Trites	A. M. Harper, Q.C.	59/6862-62/7346

Appendix D : continued

APPENDIX 'E'

THOSE WHO CORRESPONDED WITH THE COMMISSION, BUT DID NOT SUBMIT BRIEFS

American Society of Insurance Management
B. C. Automobile Association
B. C. Credit Union League
Bulkley-Tweedsmuir District Women's Institute
Canadian Re-insurance Company
Co-operative Insurance Service
Economical Mutual Insurance Co.
Hamilton Automobile Club
Kamloops District Women's Institute
Lone Butte Farmers' Institute
Ontario Law Reform Commission
Teamsters' Joint Council No. 36
Telkwa & District Chamber of Commerce
Vancouver & District Port Maritime Council

D. J. Almas	J. E. Fielding	K. A. Robertson
W. T. Areshenkoff	L. E. Fisher	S. Rosser
B. Ashten	W. W. Foot	A. Schleifer
G. W. Ashworth	R. G. Foster	E. L. Schumacher
L. K. Ayotte	A. J. Gargrave	E. L. Scott
R. Baker	L. Grove	J. L. Shearer
C. T. G. Banfield	G. Gustavson	C. M. Shelford
C. R. Barber	H. W. Hadlund	J. S. Sherman
E. H. Barnes	R. Hands	G. O. Slacke
E. M. Boyd	M. Hardin	J. Smith
G. R. Boyd	A. R. Hobkirk	C. E. Stephens
A. J. Bradford	H. J. Houldsworth	B. Straight
D. K. Bragg	Mrs. P. S. Inglis	J. M. Strynadka
J. K. Carson	J. Ingram	Mrs. F. Tarves
Miss E. Chambers	B. P. Johnson	G. A. Taylor
F. Chisholm	L. W. Jorgensen	J. D. Tisdalle
P. D'A. Collings	D. E. Kerry	F. C. Tossell
S. J. Cook	D. G. Laughren	R. Tuson
G. W. Davies	J. Lcewen	A. van Egmond
Mrs. J. de Vos	Mrs. A. Loriault	H. Vlug
H. B. Dobbyn	A. L. Mabee	Mrs. E. L. Waddington
Y. Drean	V. Maree	W. A. Walters
M. Duncan	Mrs. D. F. Miller	H. Weatherby
Mrs. C. Edwards	W. McLeod	J. H. Weatherdon
A. Fearnley	A. C. Olson	M. Weber
Mrs. R. Ferris	Mrs. T. J. Oppen	Mrs. E. A. West
G. Fischas	V. S. Redman	W. G. Whitaker

APPENDIX 'F'

1960

CONTRIBUTORY NEGLIGENCE

CHAP. 74

CHAPTER 74

Contributory Negligence Act

Title. **1.** This Act may be cited as the *Contributory Negligence Act*. R.S. 1948, c. 68, s. 1.

Apportionment of liability for damages in proportion to degree of fault.

2. Where by the fault of two or more persons damage or loss is caused to one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each person was at fault, except that

- (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and
- (b) nothing in this section shall operate so as to render any person liable for any damage or loss to which his fault has not contributed. R.S. 1948, c. 68, s. 2.

Provisions governing awarding of damages.

3. The awarding of damage or loss in every action to which section 2 applies shall be governed by the following provisions:—

- (a) The damage or loss (if any) sustained by each person shall be ascertained and expressed in dollars:
- (b) The degree in which each person was at fault shall be ascertained and expressed in the terms of a percentage of the total fault:
- (c) As between each person who has sustained damage or loss and each other person who is liable to make good the damage or loss, the person sustaining the damage or loss shall be entitled to recover from that other person such percentage of the damage or loss sustained as corresponds to the degree of fault of that other person:
- (d) As between two persons each of whom has sustained damage or loss and is entitled to recover a percentage thereof from the other, the amounts to which they are respectively entitled shall be set off one against the other; and if either person is entitled to a greater amount than the other, he shall have judgment against that other for the excess. R.S. 1948, c. 68, s. 3.

Apportionment of liability for costs.

4. Unless the Judge otherwise directs, the liability for costs of the parties to every action shall be in the same proportion as their respective liability to make good the damage or loss; and the provisions of section 3 governing the awarding of damage or loss apply, mutatis mutandis, to the awarding of costs, with the further provision that where, as between two persons, one is entitled to a judgment for an excess of damage or loss and the other to a judgment for an excess of costs there shall be a further set-off of the respective amounts and judgment shall be given accordingly. R.S. 1948, c. 68, s. 4.

APPENDIX 'F' - continued

CHAP. 74

CONTRIBUTORY NEGLIGENCE

9 ELIZ. 2

Liability of joint tortfeasors, and right of contribution.

5. Where damage or loss has been caused by the fault of two or more persons, the Court shall determine the degree in which each person was at fault, and except as provided in sections 6 and 7 where two or more persons are found at fault they are jointly and severally liable to the person suffering the damage or loss, but as between themselves, in the absence of any contract express or implied, they are liable to make contribution to and indemnify each other in the degree in which they are respectively found to have been at fault. R.S. 1948, c. 68, s. 5; 1951, c. 15, s. 2.

Conditions relieving from liability under *Motor-vehicle Act*.

6. Where damage or loss has been caused by the fault of two or more persons, and where one of these persons is relieved of liability for the whole or any part of that damage or loss by virtue of section 71 of the *Motor-vehicle Act*, no contribution or indemnity in respect of the damage or loss relieved against is recoverable from the person so relieved; but the Court shall nevertheless determine the degree in which each person was at fault, and every person at fault, other than the person so relieved, is liable to the person suffering the loss or damage relieved against in the degree only to which he is found to have been at fault, and for a proportion of the damage or loss relieved against equivalent to the degree of fault. The Court may determine the degree of fault notwithstanding that any party who is relieved from liability by virtue of said section 71 is not a party to the action. This section shall not affect any portion of the damage or loss in respect of which there is no relief by virtue of said section 71. R.S. 1948, c. 68, s. 6; 1949, c. 13, s. 2.

Negligence of spouse.

7. In any action founded upon fault or negligence and brought for loss or damage resulting from bodily injury to or the death of any married person, where one of the persons found to be at fault or negligent is the spouse of such married person, no damages, contribution, or indemnity shall be recoverable for the portion of loss or damage caused by the fault or negligence of such spouse, and the portion of the loss or damage so caused by the fault or negligence of such spouse shall be determined although such spouse is not a party to the action. 1951, c. 15, s. 2.

Questions of fact.

8. In every action the amount of damage or loss, the fault (if any), and the degrees of fault are questions of fact. R.S. 1948, c. 68, s. 7.

Actions against personal representatives.

9. (1) Where a person dies who, because of this Act, would have been liable for any damages or costs had he continued to live, any action or third-party proceedings that, because of this Act, could have been brought or maintained against the person who has died may be brought and maintained or, if pending, may be continued against the executor or administrator of the deceased person, and the damages and costs recovered are payable out of the estate of the deceased person in like order of administration as the simple contract debts of the deceased person.

APPENDIX 'F' -- continued

1960

CONTRIBUTORY NEGLIGENCE

CHAP. 74

Appointment
of representa-
tives.

(2) If there is no executor or administrator of the deceased person appointed in the Province within three months after his death, the Court or a Judge may, on the application of any party intending to bring or continue an action or third-party proceedings under this section, and on such notice to such other parties, either specially or generally by public advertisement, as the Court or Judge may direct, appoint a representative of the estate of the deceased person for all purposes of the intended or pending action or proceedings and to act as defendant therein; and the action or proceedings brought or continued against the representative so appointed and all proceedings therein shall bind the estate of the deceased person in all respects as if a duly constituted executor or administrator of the deceased person were a party to the action.

Limitation.

(3) No action or third-party proceedings shall be brought against a representative of the estate of the deceased person appointed under subsection (2) after the expiration of ten months from the death of the deceased person, and no action or proceedings shall be brought against the executor or administrator of the deceased person under subsection (1) after the expiration of six months from the death of the deceased person. 1959, c. 18, s. 2.

APPENDIX 'F' - continued

1962

CONTRIBUTORY NEGLIGENCE (AMENDMENT) CHAP. 15

CHAPTER 15

R.S.B.C. 1960,
c. 74.

An Act to Amend the Contributory Negligence Act

[Assented to 29th March, 1962.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short title. **1.** This Act may be cited as the *Contributory Negligence Act Amendment Act, 1962*.

Re-enacts
s. 6. **2.** Section 6 of the *Contributory Negligence Act*, being chapter 74 of the *Revised Statutes of British Columbia, 1960*, is repealed and the following substituted:—

Motor-vehicle Act. “6. (1) Notwithstanding anything contained in this Act, where damage or loss has been caused by the fault of two or more persons, then,

“*(a)* where one of those persons is relieved of liability for the whole or any part of that damage or loss by virtue of section 71 of the *Motor-vehicle Act*, no contribution or indemnity in respect of the damage or loss relieved against is recoverable from the person so relieved; and every person at fault, other than the person so relieved, is liable to the person suffering the damage or loss relieved against for that damage or loss in proportion only to the degree in which he is found to have been at fault; but

“*(b)* where one of those persons who would otherwise have been relieved of liability for the whole or any part of that damage or loss by virtue of section 71 of the *Motor-vehicle Act* loses that relief by reason of having been guilty of gross negligence, then every person at fault, including the person who would otherwise have been relieved, is liable to the person suffering the damage or loss relieved against for that damage or loss in proportion only to the degree in which he is found to have been at fault.

“(2) The Court may determine the degree of fault, notwithstanding that any party who has caused or contributed to the damage or loss is not a party to the action.

“(3) This section shall not affect any portion of the damage or loss in respect of which there is no provision for relief by virtue of section 71 of the *Motor-vehicle Act*.”

APPENDIX 'G'

The Commission received valuable information from the following sources:

AUSTRALIA: Attorney-General's Department

State Government Insurance Office of New South Wales
" " " " " Queensland
" " " " " Tasmania
" " " " " Victoria
" " " " " Western Australia

CANADA: Department of External Affairs:

Canadian Embassy in France
" " " Denmark
" " " Sweden

Department of Insurance, Ottawa:

Province of Alberta Superintendent of Insurance,
Division of Safety and Driver Improve-
ment.
" " British Columbia Attorney-General's Department,
Superintendent of Insurance,
Superintendent of Motor Vehicles,
Division of Driver Education,
Hospital Insurance Service.
" " Manitoba Division of Safety and Driver Improve-
ment,
Superintendent of Insurance.
" " New Brunswick Department of the Provincial Secretary,
Superintendent of Insurance.
" " Newfoundland and
Labrador Department of Finance,
Superintendent of Insurance.
" " Nova Scotia Department of Highways,
Superintendent of Insurance.
" " Ontario Department of Transport,
Accident Claims Branch,
Driver Control Branch,
Superintendent of Insurance.
" " Prince Edward Island Department of Provincial Secretary,
Superintendent of Insurance.
" " Quebec Department of Transportation and Com-
munications,
Superintendent of Insurance.
" " Saskatchewan Highway Traffic Board,
Government Insurance Office,
Superintendent of Insurance.

NEW ZEALAND: State Insurance Office,
Department of Transport.

SOUTH AFRICA: Department of Transport.

APPENDIX 'G' - continued

THE UNITED KINGDOM: Board of Trade,
Ministry of Transport
British Insurance Association.

THE UNITED STATES: Judiciary Committee of Congress

State of Alabama	Department of Motor Vehicles.
" " Alaska	Department of Public Safety.
" " Arizona	Department of Motor Vehicles.
" " California	Department of Motor Vehicles.
" " Colorado	Department of Revenue.
" " Connecticut	Department of Motor Vehicles.
" " Florida	Department of Public Safety.
" " Hawaii	District Court of Honolulu, Traffic Violations Bureau.
" " Idaho	Department of Law Enforcement.
" " Illinois	Department of State.
" " Indiana	Bureau of Motor Vehicles.
" " Kansas	Motor Vehicle Department.
" " Louisiana	Department of Motor Vehicles.
" " Maine	Department of State.
" " Maryland	Department of Motor Vehicles.
" " Michigan	Department of State.
" " Minnesota	Department of Highways.
" " Missouri	Department of Revenue.
" " Montana	Highway Patrol (Driver Examinations).
" " Nevada	Department of Motor Vehicles.
" " New Jersey	Department of Law and Public Safety.
" " New York	Department of Motor Vehicles.
" " North Carolina	Department of Motor Vehicles.
" " Oklahoma	Safety Council.
" " South Carolina	State Highway Department.
" " Utah	Department of Public Safety.
" " Virginia	Commissioner of Insurance and Senior Rate Analyst.
" " Washington	Speaker of the House of Representatives, Department of State.
" " Wisconsin	Motor Vehicle Department.
District of Columbia	Department of State.

FOREIGN EMBASSIES:

High Commission for The Commonwealth of Australia.
" " " Great Britain, and
U. K. Trade Commissioner, Vancouver.
Royal Belgian Embassy, and the Consul-General of Belgium, Vancouver.
Royal Danish Embassy
Embassy of France, and the Ministry of Justice, Paris,
the Ministry of Economics and Finance, Paris.
Embassy of Germany
Embassy of Ireland
Embassy of Italy
Embassy of Mexico
Royal Netherlands Embassy
Royal Norwegian Embassy
Royal Swedish Embassy
Embassy of Switzerland

APPENDIX 'G' - continued

INDIVIDUAL SOURCES

John A. Christie, Guelph, Ontario.
William P. Henderson, Naples, Florida.
T. G. Ison, University of British Columbia.
T. Grayson Maddrea, CPA, Richmond, Virginia.
George W. Shadoan, Attorney, Washington, D.C.
University of Michigan, Highway Safety Research Institute.
University of Washington.

<u>WITNESS</u>	<u>ON BEHALF OF</u>	<u>ADDRESS</u>	<u>QUALIFICATION</u>	<u>EVIDENCE APPEARS AT</u>
BAINES, Clement A.	Insurance Bureau of Canada	President Zurich Life Insurance Co. of Canada 111 Richmond Street West Toronto 1, Ontario	Manager, Canada Zurich Ins. Co. (I.I.C.) 45 years in Insur- ance.	66/7515-69/7007; 75/8399-73/2706.
BELCHER, Charles A.	Vancouver Traffic and Safety Council	#302, 2280 Bellevue Avenue West Vancouver, B. C.	President of Vancouver Traffic and Safety Council.	73/8180-8224.
BETHELL, Robert E.	Allstate Insurance Co. of Canada	Allstate Insurance Co. 1847 West Broadway Vancouver, B. C.	Manager, Vancouver Regional Office	20/2287-24/2869.
BEVIS, Frederick J.	Self	601 Richmond Avenue Victoria, B. C.	Retired electrician	1/25-103.
BLACKBURN, William E.	North Vancouver Safety Council	383 St. James Crescent West Vancouver, B. C.	President of North Vancouver Safety Council, member of the Bar of B. C.	73/8226-8261.
BORTNICK, Norman	Saskatchewan Government Insurance Office	2215-11th Avenue Regina, Saskatchewan	C.A.; Treasurer of S.G.I.O.	79/8709-81/9014.
BRADY, Brandon E.	Self	4239 Napier Street North Burnaby, B. C.	Manufacturer for 20 years.	11/1316-1328.
CAMPBELL, Walter W.	Self	255 East Hastings Street Vancouver, B. C.	President of Scottish Agencies Ltd.; since 1949 insurance agent	74/8268-8363.
CANTELL, Edward T.	B. C. Superintendent of Insurance	Room 18 Law Courts Victoria, B. C.	Superintendent of Insurance, Province of British Columbia	3/215-303; 89/9752-9807.
COCKING, Raymond A.	in re James Kelly and Canadian Indemnity Co.	730 Rogers Building 470 Granville Street Vancouver 2, B. C.	Member of the Vancouver Bar.	74/8363-8398.
DAKOV, Daniel	All Canada Insurance Federation	The Travelers Insurance Co. 101 Richmond Street West Toronto 1, Ontario	Graduate in Law, U. of Paris (1950) Manager, Travelers Ins. Co., Canada; Director, All Canada Insurance Fed- eration; Director, Insurance Bureau of Canada, Automobile Research Committee; Director, Underwriters Laboratories of Canada; governing committee, Nuclear Insurance Association of Canada.	47/5453-54/6395.
DAWSON, John	Automotive Retailers' Assoc. (B.C.) Body Shop Division	1687 West Broadway Vancouver 9, B. C.	West Vancouver Body Shop Estimator - 22 years.	10/1085-1213.
DEAN, Donn	Automotive Retailers' Assoc. (B.C.) Body Shop Division	6919 Herritt Avenue Burnaby 1, B. C.	Operator Body Shop - 20 years.	10/1085-11/1261.

<u>WITNESS</u>	<u>ON BEHALF OF</u>	<u>ADDRESS</u>	<u>QUALIFICATION</u>	<u>EVIDENCE APPEARS AT</u>
DEEKS, Douglas J.	Insurance Bureau of Canada	4 Kings Street West Toronto 1, Ontario	Manager, Management Consulting Dept., Kates, Peat, Marwick & Co., 5 years.	66/7519; 66/7515-69/7907; 75/8399-78/8706.
DEVINE, Lawrence W.	Saskatchewan Government Insurance Office	2215-11th Avenue Regina, Saskatchewan	Superintendent of S.G.I.C.	79/8709-86/9530.
DIGGORY, Thomas J.	Insurance Bureau of Canada	4 Kings Street West Toronto 1, Ontario	Principal, Management Consulting Dept., Kates, Peat, Marwick & Co.; 12 years.	66/7515-69/7907; 75/8399-78/8706.
DONALD, Merlin W.	All Canada Insurance Federation	President Robert Hampson & Company 465 St. John Street Montreal 1, Quebec	Insurance business 35 years; President, Hampson Group; Fellow, Insurance Institute of Canada; Member, Council of Canadian Underwriters' Assoc; Director, I.B.C.; President, All Canada Insurance Federation (1 year).	34/3860-3916; 55/6397-56/6667.
DUTTON, James C.	Saskatchewan Government Insurance Office	2215-11th Avenue Regina, Saskatchewan	General Manager, S.G.I.O.	79/8709-86/9530.
ELLIS, Frederick H.	All Canada Insurance Federation	General Manager Ontario Safety League 208 King Street West Toronto 1, Ontario	General Manager, Ontario Safety League since 1957; Staff Officer, Accident Prevention Central Command.	34/3916-36/4198.
FERGUSON, Peter C.	Self	2740 Beach Drive Victoria, B. C.		2/177-212.
FOREMAN, (Mrs.) Barbara D.	North Vancouver Safety Council	383 St. James Crescent	Chairman, Driver Training Committee, North Vancouver Safety Council; B. C. Safety Council, 8 years.	73/8261-8267.
GRAFTON, William	Self	537 Harbinger Avenue Victoria, B. C.		63/7347-7363.
GRAVESON, George	Automotive Retailers' Assoc. (B.C.) Body Shop Division	9681 Princess Drive North Surrey, B. C.	Service Manager, Chrysler Dealership, New Westminster, B. C.	10/1085-1213.
GREEN, John	Saskatchewan Government Insurance Office	2215-11th Avenue Regina, Saskatchewan	J.C.; General Counsel, S.G.I.O., 22 years.	79/8709-86-9530.
GRIFFITHS, Thomas C.	Trial Lawyers' Association of B. C.	816 - 821 470 Granville Street Vancouver 2, B. C.	President, Trial Lawyers' Association of B. C.	7/821-8/896.
GRUVES, Tom D.	Cowichan Agricultural Society	Cowichan Agricultural Society Westholme, Vancouver Island, B. C.	Director, ex-President	65/7495-7509.

APPENDIX H - continued

<u>WITNESS</u>	<u>ON BEHALF OF</u>	<u>ADDRESS</u>	<u>QUALIFICATION</u>	<u>EVIDENCE APPEARS AT</u>
HADFIELD, Raymond A.	B. C. Superintendent of Motor Vehicles	Parliament Buildings, Victoria, B. C.	Motor Vehicle Branch 35 years. Superintendent since 1 Jan. 65.	87/9533-88/9749.
HAMPER, Harry H.	Self	1361 Robson Street Vancouver 5, B. C.	Consultant, accident and loss prevention.	12/1441-1486
HARBORD, Justin V.	Insurance Agents' Association of B. C.	Harbord Insurance Ltd. 609 Yates Street, Victoria, B. C.	Harbord Insurance Ltd. since 1946; Past-President B. C. Insurance Agent's Assn.; Vice-president, Federation of Insurance Agents and Brokers of Canada.	5/470-7/821.
HARGRAVE, Robert A.	Wawanesa Mutual Insurance Co. Ltd.	207 Donald Street Winnipeg, Manitoba	Actuarial Assistant, Wawanesa Mutual Insurance Co. Ltd.; B. Comm. U. of Manitoba.	60/7042-62/7346.
HELIN, Kurt	Self	1285 Silverwood Crescent North Vancouver, B. C.	Professional Engineer.	13/1488-1500.
HENDERSON, James W.	Insurance Bureau of Canada	759 Victoria Square Montreal 1, Quebec.	Manager for Canada, Royal Exchange/Atlas Group; 33 years in insurance.	66/7515-69/7907; 75/8399-78/8706.
HOGAN, Ronald F.	Insurance Bureau of Canada	55 Yonge Street Toronto 1, Ontario.	Principal, Management Consulting Service; Price & Waterhouse & Co.	66/7515-69/7907; 75/8399-78/8706.
HOLDEN, Milton C.	Wawanesa Mutual Insurance Co. Ltd.	207 Donald Street, Winnipeg, Manitoba.	President and Managing Director; 40 years with firm.	59/6864-6969; 60/6982-7042-62/7346.
KERSHAW, Stephen C.	B. C. Safety Council	1186 Nicola Vancouver, B. C.	Executive Director, B. C. Safety Council 3½ years.	72/8096-8179.
KILGOUR, David W.	All Canada Insurance Federation	St. Joseph's School 3954 West 29th Avenue Vancouver, B. C.	B.A. (Man.), LL.B. (Tor.)	42/4979-5016.
KINNEARD, James L.	Automotive Retailers' Assn. B. C. (Body Shop Division).	1687 West Broadway Vancouver 9, B. C.	Secretary-manager, Automotive Retailers Association.	9/983-1009; 10/1085.
LEWIS, William C.	Self	756 Belair Drive Richmond, B. C.	Federal Civil Service (ret'd). 50 years driving experience.	11/1277-1315.
LINDEN, Allen M.	All Canada Insurance Federation	Professor of Law School of Law (Boalt Hall) University of California Berkeley, California.	Professor of Tort Law at Osgoode Hall Law School, Toronto. Ontario Bar, 1960; author of the Osgoode Hall Study; Chairman, Torts Sub-section, Association of Canadian Law Teachers; visiting professor, University of California.	39/4631-42/4977.

APPENDIX H - continued

WITNESS	ON BEHALF OF	ADDRESS	QUALIFICATION	EVIDENCE APPEARS AT
MACDONALD, Alexander B.	Official Opposition, B. C. Legislature	796 Granville Street Vancouver, B. C.	Member of the B. C. Bar; practicing barrister and solicitor; Member of the B. C. Legislative Assembly.	4/305-465.
McGILL, Gordon W.	All Canada Insurance Federation	99 Deep Dene Place West Vancouver, B. C.	Claims Manager for Canada Northwestern Mutual Ins. Co.; President, B. C. Chapter, Member, National Directorate, Canadian Insurance Claims Managers Association; Inter-Company Arbitration Board.	36/4198-37/4284; 37/4299-38/4498; 39/4555-4602.
McGOWAN, Anthony	B. C. Automobile Assigned Risk Plan	675 West Hastings Street Vancouver, B. C.	Manager, B. C. Assigned Risk Plan since Sept. 1, 1965. Chairman of the Governing Committee B. C. Assigned Risk Plan approximately ten years. Insurance business since 1918.	17/1995-18/2247.
McINNIS, William G.	Saskatchewan Government Insurance Office	2215-11th Avenue Regina, Saskatchewan	Chief Automobile Accident Insurance Underwriter for S.G.I.O.	79/8709-86/9530.
McINTOSH, Duncan	All Canada Insurance Federation	President Gore Mutual Ins. Co. Galt, Ontario	Vice-president All Canada Insurance Federation; Vice-president Underwriters' Adjustment Bureau; director South Water Memorial Hospital, Guelph, Ont.	47/5453-49/5790; 50/5793-54/6395.
McMURRAY, William C.	Self	Fitt Meadows, B. C.	Caretaker; sawmill operator, Quesnel, B. C.	65/7481-7494.
McNEIL, Donald B.	All Canada Insurance Federation	Riddell, Stead, Graham & Hutchison Bank of Canada Building Vancouver, B. C.	C.A.; Partner in firm 9 years.	56/6848-6857.
McQUARRIE, Colin D.	Law Society of B. C.	207 Third Avenue New Westminster, B. C.	B.C.; Benchler of the Law Society of B. C.	12/1345-1440.
MAIR, Ian D.	Insurance Bureau of Canada	635 Dorchester Blvd. West Montreal 2, Quebec	Fire and Casualty Manager for Canada, Prudential Insurance Co. Ltd. of England.	66/7515-69/7907; 75/8399-78/8706.
MAKIN, Thomas O. C.	Independent Insurance Conference All Canada Insurance Federation	Provincial Manager Fire & Casualty Division Zurich Insurance Co. 1600 Dorchester West Montreal, Quebec.	29 years in insurance; Chairman, Automobile Committee, Independent Insurance Conference; Past Vice-president, Independent Automobile and Casualty Insurance Conference Member, Superintendents of Insurance Advisory (continued on next page)	30/3459-33/3853.

APPENDIX H - continued

<u>WITNESS</u>	<u>ON BEHALF OF</u>	<u>ADDRESS</u>	<u>QUALIFICATION</u>	<u>EVIDENCE APPEARS AT</u>
MALKIN, T.C.C. (continued)			Committee; Member, All Canada Automobile Committee.	
MALKIN, Robert E.	Self	2469 Cornwall Street Vancouver 9, B. C.	Director & Honorary-secretary, Vancouver Traffic and Safety Council.	47/5453-5790; 50/5793-54/6395; 55/6397-56/6667; 72/8050-8096.
MALTHOUSE, Kenneth F. V.	All Canada Insurance Federation	5638 Crown Vancouver, B. C.	B. C. Manager, All Canada Insurance Federation; Director, Traffic Victims Indemnity Fund.	43/5017-5145
MARTIN, Donald B.	Canadian Underwriters' Association	40 Scott Street Toronto 1, Ontario	President Canadian Underwriters' Association 1965-66; General Manager for Canada, Royal Insurance Group; Fellow of the Institute of Actuaries of London, Eng.; Fellow of the Chartered Insurance Institute of London, Eng.; Fellow of the Royal Economic Society; Associate of the Society of Actuaries (North America); Fellow of the Canadian Institute of Actuaries.	25/2870-29/3457.
MATHESON, Gordon L.	Co-operative Fire and Casualty Company	1920 College Avenue Regina, Saskatchewan	General Manager for Canada of the Co-operative Fire & Casualty Insurance Company since 1955.	15/1760-16/1993.
MCRAN, Thomas		P. O. Box 785 Victoria, B. C.		1/25-103.
MORLEY, John Edwin	All Canada Insurance Federation	4674 Cedarcrest Avenue North Vancouver, B. C.	Claims Manager, Traffic Victims Indemnity Fund (B.C.); Safeco General Insurance Company Group, ten years.	37/4284-4297; 38/4500-39/4554; 43/5017-45/5316.
O'NEAL, Edward P.	B. C. Federation of Labour	517 E. Broadway Vancouver, B. C.	Secretary-treasurer B. C. Federation of Labour 8 years; vice-president since 1956.	2/107-176; 14/1635-1747.
PARKIN, Robert	B. C. Automobile Assigned Risk Plan; All Canada Insurance Federation	Vice-President Shaw & Begg Limited 465 St. John Street Montreal 1, Quebec.	Chairman, governing committee, Automobile Assigned Risk Plan of Canada, Chairman Automobile Insurance Committee, All Canada Insurance Federation.	17/1995-19/2247; 47/5453-49/5790; 50/5793-54/6395; 55/6397-56/6667.
PEAKE, Eric G.	Wawanesa Mutual Insurance Company Ltd.	1505 Georgia Street Vancouver, B. C.	Regional Manager, B. C. and the Yukon, Wawanesa Mutual Insurance Company, Ltd.	50/7041-52/7346.

APPENDIX H - continued

<u>WITNESS</u>	<u>ON BEHALF OF</u>	<u>ADDRESS</u>	<u>QUALIFICATION</u>	<u>EVIDENCE APPEARS AT</u>
PHILLIPS, Paul A.	B. C. Federation of Labour	3590 West 22nd Avenue Vancouver, B. C.	3 years research associate, Centre of Community Studies, Saskatoon; lec- turer in Economics, U.B.C. and U. Victoria; Research Director, B. C. Federation of Labour.	14/1635-1747.
PILLING, Ronald D.	B. C. Federation of Agricul- ture	B. C. Beef-Cattle Growers Association Kelowna, B. C.	Secretary, B. C. Beef-Cattle Growers Association, formerly Secretary, B. C. Federation of Agriculture.	70/7967-7997.
PLASKETT, James	Vancouver Traffic and Safety Council	3162 Bewicke Avenue North Vancouver, B. C.	Manager, Vancouver Traffic and Safety Council, 20 years.	73/8180-8224.
PCOLEY, Nigel R. C.	Fruit Growers Mutual Insurance Company	Fruit Growers Mutual Insurance Co. Kelowna, B. C.	President of Fruit Growers Mutual Insurance Co.	70/7908-7966; 71/7998-8049.
PRICE, Manley	Independent Insurance Conference	Provincial Manager Zurich Insurance Company 1159 West Broadway Vancouver, B. C.	LL.B (U.B.C.) Zurich Insur- ance Co. since 1953; 7 years Chairman or member, Automobile Rating Com- mittee for B. C. Indepen- dent Insurance Conference.	30/3459-33/3853.
PURDY, Henry L.	All Canada Insurance Federation	Faculty of Commerce and Business Administration University of British Columbia Vancouver 8, B. C.	B.A. (B.C.); M.A. (Wash.); Ph.D. (Chicago); Head Research Dept., B. C. Electric Co. Ltd.; 1953 - Vice-President and Pres- ident, B. C. Electric Co. Ltd.; Lecturer in Economics at U.B.C.	46/5322-5426; 57/6672-58/6847.
RCSS, James	All Canada Insurance Federation	Director Metropolitan Planning Com- mission 424 S. W. Main Street Portland, Oregon.	Highway Designer, Idaho High- way Dept.; Highway Research Board, Washington, D. C.	34/3916-36/4198.
SIMPKINS, Clarke A.	Retail Automobile Dealers	2422 Burrard Street Vancouver, B. C.	Member Automobile Dealers Association of Greater Vancouver.	9/971-982; 9/1014-1084; 13/1501-1547.
SMART, Frederick C.	Canadian Underwriters' Association	350 Bay Street, Toronto, Ontario.	30 years, Insurance Industry; Casualty Manager for Can- ada, Phoenix of London Group since 1950; Past Chairman, All Canada Automobile Committee; Past Chairman, Canadian Underwriters' Association Automobile Executive Committee; Chair- man, Automobile Rates Com- mittee, Canadian Under- (continued on next page)	25/2870-29/3457.

APPENDIX H - continued

<u>WITNESS</u>	<u>ON BEHALF OF</u>	<u>ADDRESS</u>	<u>QUALIFICATION</u>	<u>EVIDENCE APPEARS AT</u>
SMART, F.C. (continued)			writers' Association, Past Chairman of other Technical Committees of Canadian Underwriters' Association; Deputy Chairman Statistical Advisory Committee, Superintendents of Insurance of Provinces of Canada; Deputy Chairman, Advisory Committee on Automobile Standard Forms.	
SPRY, William F.	Insurance Bureau of Canada	625 Church Street Toronto 5, Ontario	President, Canadian General Group of Insurance Companies (I.I.C.)	66/7516 (in chief) 66/7520-69/7907; 75/8339-78/8706.
SUTHERLAND, Charles R.	Vantax Insurance Pool	677 East 5th Avenue Vancouver, B. C.	Manager, Vantax Insurance Pool.	8/397-954.
TRITES, Gordon C.	Wawanesa Mutual Insurance Company Ltd.	209 Donald Street Winnipeg, Manitoba	Assistant General Manager	60/7042-62/7346.
WALDOCK, Humphrey E.	Self	1011 Burrard Bldg. 1030 West Georgia Vancouver 5, B. C.	Member of the Bar of B. C.; Experience in personal injury cases.	64/7391-7477.
WALKER, Ernest L.	International Union of Mine, Mill & Smelter workers (Canada)	2414 Main Street Vancouver 10, B. C.	Compensation officer, International Union of Mine, Mill & Smelter Workers (Canada).	8/955-967; 11/1262-1276; 11/1328-1344; 13/1548-1634; 19/2250-2285.
WILCKEN, Carl L.	Canadian Underwriters' Association	Canadian Underwriters' Association 31 Prince Andrew Place, Don Mills, Ontario.	Actuary; Fellow, Casualty Actuarial Society; Insurance Industry since 1951.	25/2870-29/3457.
WOLNER, Robert F.	Fruit Growers Mutual Insurance Company	Fruit Growers Mutual Insurance Company Kelowna, B. C.	Underwriter.	70/7903-7966; 71/7993-3049.
WORMALD, John D.	International Union of Mine, Mill & Smelter Workers (Canada).	2614 East 5th Avenue Vancouver, B. C.	Medical aide, B. C. Workmen's Compensation Board, ten years.	13/1548-1634.

APPENDIX H -- continued

EXHIBIT NUMBER	TRANSCRIPT REFERENCE	SUBJECT OF EXHIBIT
1A	1/8	Letter of Commission: The Chairman: Mr. Justice Robert Alexander Burnie Wootton.
1B	1/8	Letter of Commission: Dr. Peter Alfred Lusztig.
1C	1/8	Letter of Commission: Mr. Charles Edward Stuart Walls.
2	1/8	Oaths of Office of the Commissioners.
3	1/10	B. C. <u>Gazette</u> , 3 February 1966: Appointment of Commissioners and Terms of Reference.
4A	1/10	B. C. <u>Gazette</u> , 24 March 1966: Notice of first hearing before the Commission, and appointment of Secretary.
4B	1/10	B. C. <u>Gazette</u> , 31 March 1966: Notice of hearings.
4C	1/10	B. C. <u>Gazette</u> , 7 April 1966: Notice of hearings.
5	1/11	Copy of the <u>Public Inquiries Act</u> , R. S. B. C. 1960, Ch. 315.
6	1/11	Press notices of appointment of the Commission and dates of hearings.
7	1/48	<u>Brief</u> of Messrs. Bevis and Moran.
8	1/49	Newspaper article "Western Producer", 20 April 1966.
9	1/52	"Financial Post", 16 October 1965.
10	1/55	"Monetary Times", May 1965: re Saskatchewan Government Automobile Insurance.
11	1/56	"The B.C. Agent", January 1966: re Royal Commission on Automobile Insurance.
12	1/57	"The B.C. Agent", January 1966: J.V. Harbord, re government insurance.
13	2/119	<u>Brief</u> and appendices, E. P. O'Neal.
13A	14/1647	Supplementary <u>Brief</u> .
14	2/183	<u>Brief</u> , P. C. Fergusson.
15	3/216	<u>Insurance Act</u> of British Columbia.
15A	3/216	Regulations under the <u>Insurance Act</u> .
16A	3/217	Report of the Superintendent of Insurance, 1961.
16B	3/217	Report of the Superintendent of Insurance, 1962.
16C	3/217	Report of the Superintendent of Insurance, 1963.
16D	3/217	Report of the Superintendent of Insurance, 1964.
16E	3/217	Report of the Superintendent of Insurance, 1965.
16F	3/218	Printer's proof: Automobile Insurance Premiums and Losses, 1965.
16G	89/9753	Printer's proof: Automobile Insurance Premiums and Losses, 1966.
17	3/219	Chapter 63 of the Statutes, 1961: Traffic Victims Indemnity Fund.
18A	3/221	Report of the Traffic Victims Indemnity Fund, June 61 - February 62.
18B	3/221	Report by Mr. Malthouse, Treasurer, T.V.I.F., 27 September 62.
18C	3/221	Report by Mr. Malthouse, Treasurer, T.V.I.F., 18 May 63.

LIST OF EXHIBITS : = : APPENDIX 'I'

<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBIT</u>
18D	3/221	Report by Mr. Malthouse, Treasurer, T.V.I.F., 22 April 64.
18E	3/221	Report by Mr. Malthouse, Treasurer, T.V.I.F., 7 February 66.
18F	3/222	Peat, Marwick, Mitchell & Co.: Auditor's Report, T.V.I.F., 16 July 62.
18G	3/222	Peat, Marwick, Mitchell & Co.: Auditor's Report, T.V.I.F., 4 July 63.
18H	3/222	Peat, Marwick, Mitchell & Co.: Auditor's Report, T.V.I.F., 25 June 65.
18I	3/223	Peat, Marwick, Mitchell & Co.: Auditor's Report, T.V.I.F., 11 January 66.
18J	3/223	Report of Operation, T.V.I.F., 1 June 64 - 31 May 65, and 1 June 65 - 31 December 65.
19	3/224	Memo: "T.V.I.F. claims paid, from inception to 31 December 65".
20	3/225	<u>Motor Vehicle Act</u> and Regulations (1 July 65) with Bill No. 46 (re T.V.I.F.).
21	3/225	British Columbia Automobile Assigned Risk Plan, 1 June 61.
22A	3/228	Minutes: Annual Conference: Superintendents of Insurance, 1962.
22B	3/229	Minutes: Annual Conference: Superintendents of Insurance, 1963.
22C	3/229	Minutes: Annual Conference: Superintendents of Insurance, 1964.
22D	3/229	Minutes: Annual Conference: Superintendents of Insurance, 1965.
22E	3/229	B. C. Assigned Risk Plan, uniform reporting form, 23 March 66.
22F	89/9751	Experience of Assigned Risk Plan for year 1966.
22G	89/9753	Minutes: Annual Conference: Superintendents of Insurance, 1966.
23	3/234	Directive: Superintendent of Insurance to all other-than-life insurance agents re: Assigned Risks, 8 November 65.
24	3/238	Canadian Underwriters' Association, (Board Company) Rate Manual, 1 January 66.
24A	3/239	Canadian Underwriters' Association, (Board Company) Rate Manual, 1 July 65.
25	3/239	Independent Insurance Conference Automobile Rate Manual (B.C., 1966).
26A	3/243	Complete set of automobile insurance standard forms and general instructions approved by Superintendent of Insurance, all provinces except Quebec.
26B	3/243	Report of the Superintendent of Insurance, 1961.
27	3/247	Report of the Superintendent of Insurance, 1965.
28	3/248	'Green Book' (Automobile experience as of 30 June 65).
29	3/252	Supplementary Report on the Assigned Risk Plan.
29A	4/449	List, Automobile Insurance Statistical Committee, February 1966.
30	3/262	Affiliations of company members of the Automobile Insurance Statistical Committee.
30A	27/3128	Insurance Board of B. C.: "Questions and Answers" for agents' examinations.
31	3/268	Power-of-Attorney and M. V. Liability Card for drivers other than B. C. residents.
32	3/277	Annual Statements: Canadian, British and foreign companies.
33	3/278	

Appendix 'I' : continued

<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBITS</u>
34	3/287	Report on Automobile Insurance Legislation and Standard Forms.
35	4/319	<u>Brief</u> of the Official Opposition, B. C. Legislature.
36A	4/401	Report of the Saskatchewan Government Insurance Office, 1964.
36B	4/401	Report of the Saskatchewan Government Insurance Office, 1965.
37	5/471	<u>Brief</u> of the Insurance Agents' Association of B. C.
38	5/472	Submission of the Canadian Federation of Insurance Agents and Brokers Association.
39	7/742	Correspondence: Attorney General to Harbord; Harbord to Matson; Matson to Harbord, October 20 - 26, 1965.
40	7/835	<u>Brief</u> , Trial Lawyers' Association of B. C.
41	7/835	Ames' Report.
41A	7/835	Summary of the Ames' Report.
42	7/837	Roscoe Pound, "The Proposal of an Automobile Accident Commission".
43	8/902	<u>Brief</u> , Vantax Insurance Pool.
44	8/962	<u>Brief</u> , International Union of Mine, Mill & Smelter Workers (Canada).
45	8/968	Correspondence: D. McK. Brown and E. L. Walker, 13 & 20 September 1966.
46	8/968	Nova Scotia Royal Commission on Automobile Insurance, Vols. 1 & 2, 30 September 57.
47	8/969	B. C. <u>Gazette</u> , 5 May 66, p. 1031: Notice to those intending to file briefs.
48	8/969	Press advertisements re submission of briefs and notices of hearings.
49	8/969	B. C. <u>Gazette</u> , 25 August 66, p. 2097: Notice of hearings in Vancouver commencing 19 September 66, with various press notices and advertisements of the same.
50	9/983	<u>Brief</u> , Retail Automobile Dealers.
51	9/1008	<u>Brief</u> , Automotive Retailers Association (Body Shop Division).
52	10/1165	Automotive Retailers Association Motor Vehicles Test Statistics in B. C.
53	11/1245	List of executive and directors, Automotive Retailers Association of B. C., 1966.
54	11/1248	Automotive Retailers Association (Body Shop Division) Minutes re submission to the Royal Commission, 15 March 66; 5 May 66; 17 May 66 and 13 September 66.
55	11/1249	Automotive Retailers Association, Minutes, 13 April 66; 11 May 66; 8 June 66; 13 July 66; 7 September 66.
56	11/1280	<u>Brief</u> , W. C. Lewis.
57	11/1321	<u>Brief</u> , Brandon E. Brady.
58A	11/1329	B. C. Department of Railways certificate.
58B	11/1330	B. C. Driver's Licence (front).
58C	11/1330	B. C. Driver's Licence (back).

Appendix 'I' : continued

<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBITS</u>
59	11/1332	Letter, Wormald to Safeco Insurance, re: Cancellation.
60	11/1333	Documents re: Operation of T. V. I. F.
61	11/1335	Western District Union, Mine, Mill and Smelter Workers, re: Beagle and Bratten.
62	12/1376	<u>Brief</u> , Law Society of B. C.
63	12/1442	<u>Brief</u> , Harry H. Hamper.
64	13/1495	<u>Brief</u> , Kurt Helin.
65	13/1503	Letter, Simpkins to Rae, 29 September 66, re: Wage Levels.
66	13/1503	Telegram, from Trade Association to Simpkins, re: dealers selling insurance.
67	13/1509	Prospectus, August 26, 1966, re: G.M.A.C. Debentures, Ref. operating income of Motors Insurance Corporation.
68	13/1511	Memo, from Wolfe Chevrolet Oldsmobile Ltd. to Simpkins re: B. C. Government Insurance Department requirements for dealer to obtain licence as agent for insurance.
69	13/1553	Letter, Canadian Indemnity Company to Mr. K.V. Malthouse, 23 September 66.
70	13/1569	D. B. S. census of persons of Italian descent resident in B. C.
71	13/1630	Letter, Co-operative Fire & Casualty Insurance Co., 13 February 62.
72	14/1750	Extract from the <u>Canadian Underwriter</u> issue of April 15, 1966.
73	14/1753	<u>Brief</u> , D. E. Jabour.
74	14/1758	<u>Brief</u> , B. C. Farmers' Institute.
75	15/1780	<u>Brief</u> , Co-operative Fire & Casualty Company Ltd.
76	15/1801	All Canada Insurance Federation pamphlets re: safe driving, auto insurance, T.V.I.F., costs, etc.
77	15/1811	Co-operative Fire & Casualty Company Ltd. Rate Manual.
78	15/1819	Pamphlets for teenaged drivers.
79	16/1918	<u>Canadian Underwriter</u> , 15 October 65, p. 12, article on "Yazer Plan" re: young drivers.
80	16/1918	<u>Canadian Underwriter</u> , 15 April 66, statistical data.
81	16/1935	Letter: S.G.I.O. to Claims Department, Co-operative Insurance Services Ltd., Regina, <u>Automobile Accident Insurance Act</u> (transferred to Ex. 146M).
82	17/1999	Endorsement of <u>Brief</u> submitted by B.C. Automobile Assigned Risk Plan.
83	17/2079	<u>Brief</u> , B. C. Automobile Assigned Risk Plan.
84	18/2211	Proposal to all provincial Assigned Risk Plans by Economical Mutual Insurance Co.
85	18/2226	Automobile Insurance Exchange Plan, 5 August 1965.
86A	18/2227	B. C. Automobile Assigned Risk Plan Statistics, Letter, September 26, 1966.
86B	18/2228	Depopulation of the A.A.R.Plan.

Appendix 'I' : continued

<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBITS</u>
86C	18/2228	Summary of declinations by companies, 1965 and assignment credits.
86D	18/2228	List of subscribers declining applications in 1966.
87	18/2243	Automobile Experience as of 30 June 1966 ('Green Book').
87A	18/2243	Association of Superintendents of Insurance, Supplementary Report on Assigned Risk Plan, 16 September 1966.
88	18/2245	Association of Superintendents of Insurance, Report on Auto Insurance Assigned Risk Plan, 15 August 1966 (Cantell).
89	19/2249	Copy of "The Canadian Insurance", April 1966 (refers to Ex.80).
90	20/2290	<u>Brief</u> , Allstate Insurance Company of Canada.
91	20/2290	B. C. Automobile Rules and Rate Manual, 3 January 66, Allstate Insurance Co.
92	21/2459	Qualifying questions for agents writing "young driver" business.
93	22/2661	Application and questionnaire forms, Canadian Standard Auto Policy, Allstate.
93A	23/2691	Allstate "Illustrator" Insurance Policy Form.
94	23/2724	Linden's Tables IV & V, comparison of rates for different types used, driver age, etc.
95A	23/2729	Frequency curve, number of insureds at different levels of underwriting quality.
95B	23/2741	Comparison, one company/whole industry in underwriting quality of insureds.
96	23/2758	New Business writings, Allstate.
97	24/2816	Allstate rate changes in B. C. 1962 through 1966.
98	24/2826	Series of pamphlets re: Safe Driving.
99	24/2831	Questionnaire to policyholders re: service by agents.
100	24/2852	Standard Automobile Policy, Owner's Form, June 1966, Allstate.
101	25/2870	<u>Brief</u> , Canadian Underwriters' Association (Appendix see 28/3312).
102	25/2876	C.U.A. statistical plans, general instructions, etc. for automobile insurance.
103	25/2881	C.U.A. Statutes, By-laws, Rules and Regulations, 1 June 1959.
104	27/3142	Address: P.D. Johnson, "Actuarial Aspects of Motor Insurance", C.U.A., 31 Oct. 66.
105	27/3155	Nova Scotia Board of Commissioners, Public Utilities Inquiry into Auto Insurance Rates, 29 July 1965.
106	27/3190	Casualty Actuarial Society, Boston, 15 November 1965, "Rate-Making Procedures for Automobile Liability Insurance".
107	27/3226	Private passenger automobile classifications, 1964-1966.
108	27/3243	Statements: Director, Investigation & Research, Inquiry under Companies Investigation Act into Business of Automobile Insurance, 1957.
109	27/3247	Restrictive Trades Practices Commission, re: business of auto insurance in Canada, 1960.

Appendix 'I' : continued

<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBITS</u>
110A	28/3278	Accident distribution by age group, New York, 1947.
110B	28/3282	Age of driver at time of accident, study of B.I. and P.D.
110C	28/3283	Comparative tabulation, Annual Report, Supt. of Motor Vehicles, B.C., 1964.
111	28/3313	Saskatchewan Automobile Experience Extension Policies, 1960-64.
112	28/3362	Average loss cost per private passenger automobile, third party liability, 1965 'Green Book'.
113	29/3374	Tabulation: Differential complex-driving record, Cantell Report, p. 45, Tables 1,2,3.
113A	29/3385	Tabulation: Test of 1965 claim free year differentials based on 1965 automobile exhibit, non-farm.
113B	29/3385	Tabulation: Test of 1965 claim free year differentials based on 1965 automobile exhibit, including farm vehicles.
113C	29/3385	Tabulation: Comparison of 0/3 differentials with age-use differential.
113D	29/3453	Tabulation: Graph of Ex. 113 (C).
114	29/3440	"Practical guide to arbitration" and Canadian Inter-Company Arbitration Agreement.
115	29/3440	Letter: to C.U.A. from Director, Investigation and Research, Combines Investigation Act, 2 May 1963.
116	30/3462	<u>Brief</u> , Independent Insurance Conference.
117	30/3472	I.I.C. Rate Manuals, 1961-65 inclusive.
118	31/3487	I.I.C. Constitution and Regulations.
119	31/3517	Letter, B.C. M.V.B. to I.I.C. re: number of vehicles licensed in B.C.
120	33/3815A	Statement, net premiums written, net premiums earned, 1963-64.
121	33/3818	I.B.C. Bulletins (five).
122	33/3821	I.B.C. Bulletin No. 66-22.
123	34/3894	<u>Preliminary Brief</u> of All Canada Insurance Federation.
124	35/4021	<u>Main Brief</u> of All Canada Insurance Federation.
124A	37/4338	All Canada Insurance Federation <u>Brief</u> , Volume 2.
124B	37/4338	All Canada Insurance Federation <u>Brief</u> , Volume 3.
124C	37/4338	Study No. 2, back portion of Volume 3.
125	35/4021	Typical Roadway Section.
126	35/4024	Before/after Comparison, Virginia Location Improvement.
127	35/4026	Before/after Comparison, Washington, D.C., Location Improvement.
128	35/4034	Sketch of Older and Newer Concepts of Ditch-Line Design.
129A	35/4037	Memorandum, U.S. Dept. of Commerce, 16 July 64: re funds for highway construction.

Appendix 'I' : continued

<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBITS</u>
129B	35/4037	Evaluation of Minor Improvement Projects, 1962.
129C	35/4037	Table of Accident-Reduction Projects and Costs.
130	35/4042	Illustrations of Older and Newer Types of Guard-rail.
131A	36/4126	Summary of Congressional Intent: <u>Highway Safety Act</u> 1966: National Safety Council October 1966.
131B	36/4126	Summary; PL 89-563, 564.
132	36/4233	Letter from International Business Machines.
133	37/4268	Trial result reports, Northwestern Mutual Insurance Co.
133A	37/4269	Northwestern Mutual Insurance Co. Trial Experience 1961-66.
134	38/4389	Print out: I. B. M.
135A	38/4390	Interim Report, Ontario Select Committee, Automobile Insurance, March 1961.
135B	38/4390	Second Interim Report, Ontario Select Committee, September 1961.
135C	38/4390	Final Report, Ontario Select Committee, March 1963.
136A	38/4391	A.C.I.F. submission to Ontario Select Committee on Automobile Insurance, Sept. 1960.
136B	38/4391	A.C.I.F. submission to Ontario Select Committee on Auto Insurance, 14 August, 1961.
136C	38/4391	A.C.I.F. submission to Ontario Select Committee on Auto Insurance, 7 November 1962.
137	38/4424	Print outs: Study of Insurance Claims in B.C., 5 December 1966.
138	39/4506	Letter from Northwestern Mutual Insurance Co. re: body shop hourly rates.
139A	40/4640	Northwestern Mutual Insurance Co. Automobile Rate Manual, 1 January 1966.
139B	40/4640	Saskatchewan Automobile Extension Policy of Rates and Coverages.
140	40/4714	Insurance Bureau of Canada further report on the Osgoode Hall Study.
141	43/5096	<u>Brief</u> , Traffic Victims Indemnity Fund.
142	43/5117	Document titled: "Insurance Industry Operated Funds".
143	44/5270	Document, total claims paid and average cost of claims, for successive years.
144	45/5284	Memo re: Mine, Mill & Smelter Workers and Wormald Memorandum, with attachments.
145	45/5308	Resolution, Exec. Committee, A.C.I.F., 17 October 1946, re: Unsatisfied Judgment Fund.
146A	45/5317	Bill S26, Senate of Canada, 25 July 63, re: Co-operative Fire & Casualty Co.
146B	45/5317	Co-operative Fire & Casualty Co. Ltd., By-Laws.
146C	45/5317	Co-operative Fire & Casualty Co. Ltd., 1965 Reports.
146D	45/5317	Directions to agents re depopulation of Assigned Risk Plan, with attachments, Nov. 65.
146E	45/5317	Memo to branches covering loss potential index underwriting system, November 1961.
146F	45/5317	Memo, savings effected by direct billing.
146G	45/5317	Operating statement by provinces, 1 January 65 - 31 December 65.
146H	45/5317	(transferred from Ex. 81) Letter, S.G.I.O. to Claims Dept. A.C.I.F.

Appendix 'I': continued

<u>EXHIBIT</u> <u>NUMBER</u>	<u>TRANSCRIPT</u> <u>REFERENCE</u>	<u>SUBJECT OF EXHIBITS</u>
146I	45/5317	Memo, Saskatchewan operations, all lines, 61-65; personal lines, 1 Jan. - 30 June 66.
146J	45/5317	Underwriting report for B. C., 1963 - September 66.
146K	45/5317	Memo, experience of committee of Swedish Motor Insurance companies.
146L	45/5318	Average auto claim and expense costs, 1963 - September 1966.
146M	45/5318	Comparison, surcharge/non-surcharge auto business, 1964 - September 1966.
147	47/5452	Motor Vehicle Branch, suspensions 1965-66, with court orders, etc.
148	47/5463	Agency Contract, Zurich Insurance Company.
149	47/5502	Survey of rates currently in force in B. C.
149A	53/6235	Worksheets identifying sources of Ex. 149.
150	47/5544	P. R. Bulletin, A.C.I.F., entitled "Let's face it", 4 November 1965.
151	47/5546	P. R. Bulletin, A.C.I.F., re: Ex. 150, 24 January 1966.
152	47/5546	P. R. Bulletin, A.C.I.F., "What, Why, Who - Automobile Assigned Risk Plan".
153	47/5546	P. R. Bulletin, A.C.I.F., "Notes re Automobile Insurance".
154	47/5555	Cancellations of auto third-party liability after sixty days, by provinces.
155	47/5555	Cancellations of auto third-party liability in B.C., by months, with reasons.
156	47/5555	B.C. Summary of actual reasons stated.
157	47/5555	Cancellations as a percentage of total M. V. registrations, 1965.
158	48/5581	Dept. of Education, Wash. State, amounts spent on driver-training programs.
159	48/5582	Dept. of Education, Oregon State, total cost of driver-training.
160	48/5582	Illinois State shows value of driver education. New York State ditto.
161	48/5592	Classification and rate-list, Workmens Compensation Board, 1966.
162	48/5592	Workmens' Compensation Board, 49th Annual Report, 31 December 1965.
163	48/5626	Letter, C.U.A. Statistics, 9 Jan. 67, re: 'Green Book', cost of B. C. T.V.I.F.
164	48/5644	A.C.I.F. document re: "Automobile Insurance Premium Rate Supervision".
165	49/5706	Speech: "What must we do to keep it?"
166	49/5740	<u>Canadian Underwriter</u> , 15 February 1966, "Compensation Without Fault".
167	49/5782	12 August 1966, Recommendations of Auto Insurance Committee re: name, over-population of Assigned Risk Plan.
168	50/5805	"Canadian Insurance", December 1966, speech by W.W. Foot to Insurance Institute of Canada.
169	50/5860	I.B.C. Bulletin 65-3 re: Fair Share in a Free Market.
170	50/5881	Mr. Locke's suggested rules for insurers writing proportionate share of business.
171	51/5930	Address, 19 February 1965, W. W. Foot, "Automobile Insurance in One Easy Lesson".

Appendix 'I' : continued

EXHIBIT NUMBER	TRANSCRIPT REFERENCE	SUBJECT OF EXHIBITS
172A	52/6100	Supplementary rating program of the Travelers Insurance Co.
172B	52/6100	Supplement to 172A, 21 April 1965.
172C	52/6100	Letter: to Travelers managers, 26 June 1964, to accompany Ex. 172A.
173	53/6232	Various groups listed to identify companies affiliated or unaffiliated with rating organizations.
173A	53/6233	54th Annual Report, Superintendent of Insurance.
174	53/6235	Superintendent of Motor Vehicles chart of suspensions and re-instatements, 1957-66.
175A	53/6236	Agency Contract, Shaw and Begg.
175B	53/6236	Agency Contract, Travelers Insurance Co.
176	53/6237	Agency Contract, Gore Mutual Insurance Co.
177	55/6400	All Canada Insurance Federation draft of notes, Technical Committee of Auto Committee, 23 August 1966.
178	55/6401	Report by R. Parkin to Auto Committee, with letter, 3 August 1966.
179	55/6403	Letter, M. Donald to R. Parkin, 29 August 1966, re: open market and Assigned Risk Plan.
180	55/6403	Resolution, Canadian Bar Association, 30 August 1966, re: impaired driving.
181	55/6405	Draft of an amended Assigned Risk Plan (not effected); Auto Committee
182	56/6555	Survey by A.R.C. Gruneau Research Ltd.
183	56/6653	"Philadelphia Daily News", 25 July 1966, Analysis of New Point System for Driving Violations.
184	57/6706	"Insurance Week", Seattle, 6 January 1967, report on Washington State Legislature Study.
185	57/6728	<u>Evidence</u> of Dr. H. L. Purdy.
186	58/6857	Summary of findings of D. B. McNeil, C. A.
187A	58/6859	List of companies reporting mid-term cancellations, 1966.
187B	58/6859	Returns by individual companies listed in Ex. 187A.
187C	58/6859	Summary of reasons for cancellations, third party liability, 1 Jan. - 31 Dec. 1966.
188	59/6869	<u>Brief</u> , Wawanesa Mutual Insurance Company Ltd.
189	59/6893	Wawanesa Safety Guide Book.
189A	61/7164	"Winnipeg Free Press", 6 Feb. 67: Report of Special Committee on Highway Traffic and Safety, Saskatchewan Legislature.
190A	59/6904	"Facts and Figures of the Automotive Industry for 1965".
190B	59/6904	Two-line Graph: "Deaths per 10,000 Registered Motor Vehicles".

Appendix 'I' : continued

EXHIBIT NUMBER	TRANSCRIPT REFERENCE	SUBJECT OF EXHIBITS
190C	59/6904	Three-line graph: "Deaths per 100,000 Registered Motor Vehicles".
190D	59/6905	Tabulation supporting Ex. 190B.
190E	59/6905	Tabulation supporting Ex. 190C.
190F	59/6905	"Trends in Motor Vehicle Deaths per 10,000 Registered Vehicles".
191	59/6912	Legislative Research Committee, North Dakota: "Automobile Liability Insurance, 1950".
192	59/6915	Rate in coverage comparison, Winnipeg and Regina.
193A	59/6916	Canada Inter-Province Motor Vehicle Liability Insurance Card (Dominion Group).
193B	59/6916	Dominion Insurance Corporation renewal certificate, 1966-67.
193C	59/6916	Bill from agent for renewal of above auto insurance policy.
194	59/6918	S.G.I.O. pamphlet: " <u>Saskatchewan Automobile Accident Insurance Act Explained</u> ".
195	59/6921	Letter: Century Insurance Co. Ltd. to Mr. Peake, 14 Oct. 66: re cost of premium, Vancouver.
196	59/6923	Saskatchewan Regulations: 38/66, 4 March 66, and 52/66, 30 March 66: "Automobile Insurance Act".
197	59/6928	"Saskatchewan Extension Policy Experience, Wawanesa, 1 Jan. - 30 September 1966, (Net of re-insurance, 1948-1965)."
198	59/6928	"Saskatchewan Extension Policy Experience, Wawanesa, 1 Jan. - 30 September 1966, (Gross of re-insurance, 1948-1965)."
199	59/6968	A.C.I.F., Lists of Board of Directors, 1962-1966.
200	59/6969	A.C.I.F., Lists of Members of Automobile Committee, 1962-1966.
201	60/6982	A.C.I.F. Financial Statements, 1961-1965 inclusive.
202	60/6991	Press release, Hon. David Bolt, 2 December 1965, re: fire insurance rates for Saskatchewan schools.
202A	60/7041	"Winnipeg Free Press", 2 December 1965: "Insurance Scandal Alleged in Saskatchewan".
203	60/7024	Distribution of expenses by class as of 31 December 1966, B.C. operations of Wawanesa.
204	60/7034	Wawanesa Mutual Insurance Co. Ltd. Rate Book, 1966.
205	60/7050	Letter to all agents from Auto Manager, Wawanesa, Vancouver, 13 January 1967, re: Surcharges.
206	60/7053	Automobile Driver-Training Experience, 1959-1966.
207	60/7077	Lloyd's of London re-insurance summary.
208	60/7084	Wawanesa: Allocation of Expenses.
209	60/7094	Letter, Exec. Director, Saskatchewan Hospital Services Plan, 30 November 1962, to all insurance adjusters and companies in liability field.
210	60/7095	Exec. Director, Medicare Insurance Commission, 30 November 1966, to Inspector, Wawanesa, Regina, re: Subrogation in Medicare.

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<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBIT</u>
211	61/7100	Net auto premiums written by merit rating, pleasure cars only, including extension policy, cumulative experience, 1956-60 inclusive.
212	61/7131	Letter, 22 November 1965, Wawanesa to all agents re depopulation of Assigned Risk Plan.
213	61/7149	Policy count, "Grey Risk" vs. Assigned Risk, Wawanesa, 1965-66.
214	61/7158	Wawanesa "Experience of Principal Under-Age Operator, 1965-66.
215	62/7215	Address: John A. Diemand, November 1966, to National Association of Independent Insurers, Philadelphia (National Underwriter).
216A	62/7222	Letter, 9 January 1967, M. C. Holden to J. A. Christie, re: Research into Driver Safety Training, Saskatchewan.
216B	62/7222	Reply, 11 January 1967: re: need to support programs for driver control.
216C	62/7223	Canadian Highway Safety Council: "The Case for Insuring the Driver, Not the Car".
216D	66/7512	Canadian Highway Safety Council: "The Case for Insuring the Owner, rather than the Driver".
217	62/7225	Indemnity Agreement, London & Midland General Insurance Co. (Collateral Agreement).
218	62/7309	Wawanesa: Analysis of Auto Insurance written, 1961-65 inclusive.
219	62/7314	Computation of standard deviations on re-insurance.
220	62/7321	Wawanesa Mutual Insurance Co.: Saskatchewan only, Automobile Extension Policy, Cover and Rates, 1965.
221A	62/7334	Dollar Experience, Wawanesa, 1966, B.C. Assigned Risk Plan income and outgo.
221B	62/7334	Abstracts showing record reported by applicant, and what it was found to be.
222	63/7355	<u>Brief</u> , W. Grafton.
223	63/7367	<u>Brief</u> , W. Shotton.
224	63/7370	<u>Brief</u> , J. Fieldhouse.
225	63/7376	<u>Brief</u> , G. Morgan.
226	63/7379	<u>Brief</u> , G. C. D'Arcy.
227	64/7421	<u>Brief</u> , H. E. Waldock.
228	64/7442	Re: an intended action: Wolff et al. vs. Attorney General of B. C.
229	64/7453	Letter, D. B. McNeil to H. E. Waldock, re Ex. 186.
230	64/7477	Letter, D. B. Martin to Dr. P. A. Lusztig, dated December 14, 1966, headed, "Accident Free Rate Differentials".
231	64/7479	Letter to The Chairman from Northwestern Mutual Insurance Co. dated, 3 January 1967, re: 1. Claim costs in Canada B.I. & P.D. & Collision. 2. Subrogation and salvage return. 3. Allocated and unallocated cost data. 4. History of automobile claims. 5. Incurred loss ratios in B. C.

Appendix 'I' : continued

<u>EXHIBIT</u> <u>NUMBER</u>	<u>TRANSCRIPT</u> <u>REFERENCE</u>	<u>SUBJECT OF EXHIBITS</u>
232	64/7480	Press notices of Commission hearings, December 21-29, 1966.
233	65/7482	<u>Brief</u> , W. C. McMurray, and correspondence attached to the <u>Brief</u> .
234	65/7510	<u>Brief</u> , Cowichan Agricultural Society.
235	66/7513	Letter from President, A.C.I.F. to Premier of Saskatchewan, 9 February 1967, re: Costs of Driver Education.
236	66/7514	Bulletins of The Insurance Bureau of Canada (10 items).
237	66/7524	<u>Brief</u> , Insurance Bureau of Canada, with attachments.
238	66/7525	Calculation of Automobile Underwriting Profit (or loss) of Dominion and Provincially Registered General Insurance Companies for a 5 year period.
239	66/7526	"Document Brief" of I. B. C.
240	66/7528	"The Law and The Profits", Federal Superintendent of Insurance: <u>Canadian Under-</u> <u>writer</u> , 15 November 1963.
241	66/7583	"Development of Private Passenger Rating Categories", see Ex. 320.
242	67/7613	<u>Supplementary Brief</u> , I. B. C.
243	67/7629	Research Study: various concepts for analysis of investment income, December 1966.
244	67/7683	Names of companies involved in Research Study.
245	67/7692	Names of companies involved in study of Expense Allocation.
246	68/7698	I.B.C. Bulletins: supplementary to Ex. 121 and Ex. 236.
247	68/7704	Calculation of Rates of Return on Investment Capital of Canadian General Insurance Cos.
248	68/7709	Calculation of rates of return on invested capital by Canadian Industries, Provincial and Federal Government Enterprises.
249	68/7791	"Agent Main Factor in Marketing Insurance to Public", American Agency Bulletin, Feb. 65.
250	68/7791	Automobile Special Risks Department, Jan. 1967, Canadian General Insurance Group.
251	68/7798	Premiums written in Canada, 1962.
251D	75/8404	Memoranda on interviews, I.B.C. with Federal Officials, 1964-65.
252	69/7835	Letter, 27 December 1966: I.B.C. to Peat, Marwick, Mitchell & Co. and Price, Waterhouse & Co., re: investment income study.
253	69/7837	Letter, 31 August 1966, I.B.C. to Peat, Marwick, Mitchell & Co. and Price, Waterhouse & Co., re: Terms of Reference for the Research Study, Ex. 243.
254	70/7923	<u>Brief</u> , Fruit Growers' Mutual Insurance Co.
255	70/7945	Financial Statement of Fruit Growers' Mutual Insurance Co., 31 December 1966.
256	70/7957	Fruit Growers' Mutual Insurance Co. By-Laws adopted 16 January 1956, with amendments.
257	70/7974	<u>Brief</u> , B. C. Federation of Agriculture.
258	70/7978	C.U.A. Rate Manual.

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<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBIT</u>
259	70/7978	Amendment for 1967 to the Superintendent's Statistical Plan.
260	71/8046	Extract from "The Province", Vancouver, 30 January 1964: "Will This Deter Hit-and-Run Drivers?"
261	72/8087	<u>Brief</u> , R. E. Malkin, with appendix.
262	72/8119	<u>Brief</u> , B. C. Safety Council.
263A	72/8120	Constitution and By-Laws, B. C. Safety Council.
263B	72/8120	List of directors, B. C. Safety Council.
264	72/8162	Pamphlet: "The President's Committee for Traffic Safety".
265	73/8191	<u>Brief</u> , Vancouver Traffic and Safety Council.
266	73/8225	All Canada Insurance Federation Master Instructors' Course, 1967.
267	73/8260	<u>Brief</u> , North Vancouver Safety Council.
268	74/8278	<u>Brief</u> , W. W. Campbell.
269	74/8349	Letter, 21 February 1967 from Provident Insurance Co. re: automobile special risks.
270	74/8365	Correspondence between R. E. Cocking and Secretary, R.C.A.I., 16 September 1966, 6 December 1966 and 9 January 1967.
271	74/8380	Letter: Ontario Provincial Police to R. E. Cocking, 16 June 1966.
272	75/8463	Statutory Underwriting Profit, 1966.
273	76/8562	State of Maryland Insurance Department, Dec. 17, 20 & 22, 1965; application by N.B.C.U. for revisions of automobile insurance rates.
274	76/8568	Arkansas hearings of application by N.B.C.U. for auto insurance rate adjustments, March 1967.
275	76/8569	Kentucky Dept. of Insurance; N.B.C.U. application for revision of insurance rates for private automobiles.
276	76/8571	Washington State Legislature; report of Joint Interim Committee on Insurance, Dec. 1966.
277	76/8578	State Corporation of Virginia, opinion on application by N.B.C.U. rating bureau for revision of insurance rates #17357.
278	77/8599	Letter from Director, I. & R. Combines Investigation Act, to Mr. R. F. Wilson for I.B.C., re: Alberta.
279	77/8600	Letter from Home Insurance Co. to Mr. I. Mair, 10 March 1967.
280	77/8601	"Calculation of Return on Investment Portfolio of Canadian Companies in Canada".
280A	92/10175	Comments on Ex. 280 by consultant accountants, 12 April 1967.
281	77/8612	Submission: Canadian Bankers Association to Standing Committee on Finance, Trade & Economic Affairs #231, 10 November 1966.

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<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBIT</u>
282	77/8676	Document: "Guardian Insurance Co. of Canada", re: source of data and basic data.
282A	92/10175	Comments on Ex. 282 by consultant accountants, 12 April 1967.
283	77/8689	Correspondence between A.C.I.F. and the Premier of Saskatchewan, March 10 & 17, 1967, re: Operations of S. G. I. O.
284	77/8691	Advertising in press by The Insurance Industry re: automobile insurance, 1965-67.
285	78/8695	Report, Director of Investigation and Research, Combines Investigation Act, year ending March 31, 1965.
286	78/8698	Excerpt from Best's Weekly News Digest, 18 March 1967.
287A	79/8713	The Saskatchewan Government <u>Insurance Act</u> , R.S.S. 1965, Ch. 41.
287B	79/8713	The Saskatchewan Government <u>Automobile Accident Insurance Act</u> , with amendments, 1967. A.S.S. 1965, Ch. 409.
287C	79/8715	The Saskatchewan Government <u>Vehicles Act</u> , with amendment, 1967, R.S.S. 1945, Ch. 91.
287D	79/8715	The Saskatchewan Government <u>Contributory Negligence Act</u> , R.S.S. 1944, Ch. 22.
287E	79/8716	The Saskatchewan Government <u>Insurance Act</u> , R.S.S. 1965, Ch. 143.
287F	79/8717	Report on Compensation for Victims of Automobile Accidents.
287G	79/8723	Saskatchewan Automobile Insurance Guide, 1967.
287H	79/8724	<u>Saskatchewan Automobile Accident Insurance Act, Explained.</u>
287I	79/8726	Saskatchewan Regulations, Order-in-Council 69/67 and 73/67.
287J	79/8727	Saskatchewan Application for, and form of Driver's Licence.
287K	79/8727	Saskatchewan Registration Certificate for a Motor Vehicle.
287L	79/8741	Saskatchewan <u>Motor Vehicles Insurance Premiums Tax Act</u> , 1967: Bill 81.
287M	79/8742	Saskatchewan Accident Report and Claim Card.
287N	79/8751	Annual Report of the Saskatchewan Government Insurance Office, 1966.
288	80/8805	S.G.I.O. Report to the B.C. Royal Commission on Automobile Insurance.
289	80/8816	"Saskatchewan, Canada, Report to the Legislature", State of California, 19 Jan. 1967.
290	80/8827	<u>A.A.I.A. Underwriting Experience</u> , 3 years, ending 30 April 1966, schedules 1 - 18X.
291	81/8945	"Cook Report", study of S.G.I.O. and Saskatchewan Guarantee & Fidelity Co. Ltd.
292	82/9052	"Regina Leader-Post", 8 March 1967: New Insurance Rates Printed.
293	82/9130	"Regina Leader-Post", 2 March 1967: S.G.I.O. Report Stirs Debate.
294	82/9131	"Regina Leader-Post", 28 March 1967: Valteau Explains Excess Auto Risk.
295	83/9223	Summary of <u>A.A.I.A. Coverages</u> , Surplus and date-levels, 1946-68.
296	84/9333	S.G.I.O.: Denials - other insurance: 1963-66.
297	85/9414	Legislative Regulation of Casualty Insurance; John Green and Richard Buxbaum.

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<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBIT</u>
298	85/9428	S.G.I.O. Distribution of Investment Income, 31 December 1966.
299	85/9456	<u>Canadian Automotive Trade</u> , October 1965: "Does Government Insurance Eliminate Body-Shop Woes?"
300	86/9508	Saskatchewan <u>Automobile Accident Insurance Act</u> : Schedule of Driver Registrations.
301	86/9514	Washington State Senate Bill 292, 30 January 1967: An Act relating to Auto Insurance.
302	86/9516	Comparison between <u>A.A.I.A.</u> and a representative of the Insurance Industry.
303	86/9518	National Underwriter, 3 March 1967: "Kentucky Sales Auto Rates Must be Offset by Investment Income".
304	86/9520	Hon. D. Boldt: News release by Minister-in-Charge of S.G.I.O., 6 October 1966.
305	87/9550	"Point System Value", used by M.V. Branch in examining drivers' records.
306	87/9553	Driver's Improvement Suspension Guide.
307	87/9570	Report of Superintendent of Motor Vehicles, 1965, B. C.
308	87/9573	Listing of numbers of Warning Letters, notices of intent to suspend, hearings, etc.
309	87/9583	California Study: "Driving Under Suspension and Revocation".
310	87/9591	Guide for physicians in determining fitness to drive a motor vehicle.
310A	88/9671	Physicians form of report to M.V.B. on fitness to drive.
311	87/9601	Tabulations: 16, 17, 18, 19, 20 yrs. old drivers who had accidents, convictions, etc. B. C., 1966.
312	87/9607	Intensive study of 344 motor vehicle accidents, Vancouver, B. C., May 1966.
313	87/9611	California Study: "Impaired Driving".
314	88/9641	"Guide to Traffic Safety": Canadian Government Specifications Board, December 1966.
315	88/9642	Set of 28 standards for safety features: Canadian Government Specifications Board, November 1966.
316	88/9643	Warning Letter (to accompany Ex. 308): Motor Vehicle Branch.
317	88/9667	Uninsured drivers involved in occurrences, by age groups, 1966.
318	88/9699	Court of Appeal Decision: R.V. Anderson Jack, driving while licence under suspension.
319	88/9714	Accident Involvement Statistics, 1961, 1962, 1963, 1964, 1965.
320	88/9748	History of private passenger auto classifications from 1942.
321	89/9750	Premiums, Greater Vancouver Territory 1, 1952-57, \$100,000 P.L. & P.D., Collision, \$100. deductible, comprehensive.
322	89/9750	Financial Statements to 30 September 1966, T.V.I.F. Operations.
323	89/9751	Summary of claims paid during calendar year 1966, T.V.I.F.
324	89/9752	Year-by-Year Breakdown since 1960 hit-and-run claims showing dispositions of applications.

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<u>EXHIBIT NUMBER</u>	<u>TRANSCRIPT REFERENCE</u>	<u>SUBJECT OF EXHIBIT</u>
325	89/9769	Number of companies licensed for automobile insurance in B. C., 1956-66.
326	92/10073	Letter from Canadian Insurance Claims Managers Association to Malthouse of A.C.I.F., 30 June 1967, with attached sheets.
327	92/10074	British Columbia Economic and Financial Review, 19 June 1967.
328	92/10135	List of Grounds for Mid-Term Cancellation.
329	92/10173	Joint Study of Automobile Insurance Expense Allocation plus amendments attached to a letter from M. Hogan, 29 May 1967.
330	92/10173	Letter from D.B. Martin, Western Insurance Co., 13 December 1966.
331	92/10174	Letter from F. C. Smart, Phoenix of London Group, 11 January 1967.
332	92/10176	Material from Wawanesa Mutual Insurance Co.
333	92/10176	Replies to comments of Mr. Waldock, from W.C.B., College of Physicians and Surgeons, and the Law Society.
334	94/10281	Material received from A. C. I. F.
335	94/10281	Material received from Co-operative Fire & Casualty Co.
336	94/10281	Material received from Vantax Insurance Pool.
337	94/10281	Material received from B. C. Safety Council.
338	94/10282	Material received from Allstate Insurance Co. of Canada.
339	94/10282	Material received from S. G. I. O.
340	94/10281	Newspaper advertisements concerning Commission's hearings of Argument.

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APPENDIX 'K'

1960

INSURANCE

CHAP. 197

CHAPTER 197

Insurance Act

[Consolidated for convenience only, June 1, 1966.]

Title. **1.** This Act may be cited as the *Insurance Act*. R.S. 1948, c. 164, s. 1.

APPLICATION OF ACT

Application to insurers and contracts. **4.** This Act, except as hereinafter provided, applies to every insurer that carries on any business of insurance within the Province and to every contract of insurance made or deemed to be made within the Province. R.S. 1948, c. 164, s. 4.

Provincial companies. **5.** In the case of any conflict between this Act and the Act by or under which a Provincial company is incorporated this Act shall prevail. R.S. 1948, c. 164, s. 5.

PART VII

SPECIAL PROVISIONS RELATING TO AUTOMOBILE INSURANCE

Interpretation. **217.** In this Part, unless the context otherwise requires,
“Assigned Risk Plan” means the British Columbia Assigned Risk Plan as presently constituted and operated by insurers licensed to issue motor-vehicle liability policies;
“driver’s policy” means a motor-vehicle liability policy insuring a person named therein in respect of the operation or use by him of any automobile other than an automobile owned by him or registered in his name;
“insured” means a person insured by a contract, whether named or not;

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“motor-vehicle liability policy” means a policy or that part of a policy insuring the owner or driver of an automobile against liability for loss or damage to persons or property;

“owner’s policy” means a motor-vehicle liability policy insuring a person named therein in respect of the ownership, operation, or use of an automobile owned by him and specifically described in the policy, and in respect of the ownership, operation, or use of any other automobile which may be within the definition thereof appearing in the policy. R.S. 1948, c. 164, s. 161; 1951, c. 41, s. 15; 1961, c. 29, s. 4.

Application of Part VII.

218. (1) This Part applies to automobile insurance and to any insurer carrying on the business of automobile insurance and to all contracts made in the Province on or after the first day of September, 1932.

Insurance of automobile by fire policy.

(2) Nothing in this Part shall prevent the insurance of an automobile against loss or damage by fire under a policy of fire insurance, and in that event this Part does not apply.

Application of Part.

(3) This Part, other than section 242, does not apply to insurance of an automobile chiefly used or operated off highways unless insured under a form of policy approved under this Part.

Insurers to subscribe to Assigned Risk Plan.

(4) Every insurer from time to time licensed to issue motor-vehicle liability policies shall subscribe to the Assigned Risk Plan and shall be bound by any and all provisions governing subscribers.

Filings.

(5) The Assigned Risk Plan shall file with the Superintendent a copy of its constitution, by-laws, rules, and regulations, and any amendments thereto, not later than the first day of June, 1961, or within ten days after the same are made. R.S. 1948, c. 164, s. 162; 1961, c. 29, s. 5.

Application for Insurance

Requirements as to written applications.

219. (1) No insurer shall make any contract for a period exceeding fourteen days without a written application therefor, signed by the applicant or his agent, duly authorized in writing.

Persons forbidden to act as agent.

(2) No person carrying on the business of financing the sale or purchase of automobiles, and no automobile-dealer, insurance agent or broker, and no officer or employee of any such person, dealer, agent, or broker shall act as agent of the applicant under this section.

Application for driver’s policy.

- (3) Every written application for a driver’s policy shall set forth
 - (a) the name, address, and occupation or business of the applicant;
 - (b) particulars of all accidents, losses, or claims arising out of the ownership, use, or operation of an automobile by the applicant within the three years preceding the application;
 - (c) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him;
 - (d) whether any licence, permit, registration certificate, or other like authority, issued to the applicant under a law or Statute of any Province, State, or country relating to automobiles, has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application; and

- (e) such further information as the insurer may require or the Superintendent may prescribe.
- Application in other cases.** (4) Every other written application shall set forth
- (a) the name, address, and occupation or business of the applicant;
 - (b) the description of the automobile to be insured as the described automobile;
 - (c) the purchase price to the applicant of the automobile so described;
 - (d) whether purchased new or otherwise;
 - (e) particulars of any mortgage, lien, or encumbrance thereon;
 - (f) the place where it is and will usually be kept;
 - (g) the locality in which and the purpose for which it is and will be chiefly used;
 - (h) particulars of all accidents, losses, or claims arising out of the ownership, use, or operation of an automobile by the applicant within the three years preceding the application;
 - (i) whether any insurer has cancelled any policy of automobile insurance of the applicant, or refused automobile insurance to him;
 - (j) whether any licence, permit, registration certificate, or other like authority, issued to the applicant or member of his family and household under any law or Statute of any Province, State, or country relating to automobiles, has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application; and
 - (k) such further information as the insurer may require or the Superintendent may prescribe.
- Special contracts.** (5) Where the requirements of subsection (3) or (4) are, in the opinion of the Superintendent, inapplicable to any special form of contract, the Superintendent may prescribe the form of application or vary, omit or add to those requirements.
- Red-ink endorsement.** (6) Upon every written application and policy there shall be printed or stamped in conspicuous type, not less in size than ten point and in red ink, a copy of subsection (1) of section 225.
- Renewal of contract.** (7) Where a contract is renewed without change or only the amount of the insurance, the rate of premium, or the method of rating is changed, the renewal may be effected without a written application.
- Copy of application.** (8) A copy of the application, or such part thereof as is material to the contract, shall be embodied in, endorsed upon, or attached to the policy when issued by the insurer. R.S. 1948, c. 164, s. 163; 1951, c. 41, ss. 16, 17.
- Amendment of contract.** **220.** Where it is proposed to change the subject-matter of a contract by substitution or addition of one or more automobiles, the insurer may so amend the contract by an endorsement of the policy, but in that

case it shall obtain a written application signed in accordance with section 219 and containing such particulars required by that section as relate to the new subject-matter. R.S. 1948, c. 164, s. 164; 1961, c. 59, s. 19.

Policy of Insurance

Contents of policy.

- 221.** (1) Every policy shall set forth
- (a) the name and address of the insurer;
 - (b) the name, address, occupation, or business of the insured named therein;
 - (c) the premium for the insurance;
 - (d) the subject-matter of the insurance;
 - (e) the indemnity for which the insurer may become liable;
 - (f) the event on the happening of which liability is to accrue;
 - (g) the term of the insurance; and,
 - (h) except in case of motor-vehicle liability policies, the name of the person to whom the insurance-money is payable.

Discrepancy between the application and the policy.

(2) Unless otherwise expressly stated therein, any written application shall be deemed to be one for a policy embodying the terms and conditions of the insurer's corresponding standard policy form approved under this Act; and the policy shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application, and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

Insured entitled to copy.

(3) Notwithstanding any agreement, the insurer shall deliver or mail to the insured named therein the policy or a true copy thereof and every endorsement or amendment of the policy or a true copy thereof. R.S. 1948, c. 164, s. 165.

Statutory conditions.

- 222.** Subject to the provisions of sections 223, 241, and 247,
- (a) the conditions set forth in this section are statutory conditions and deemed to be part of every contract of automobile insurance and shall be printed on every policy with the heading "Statutory Conditions";
 - (b) no variation or omission of a statutory condition shall be valid nor shall anything contained in any addition to a statutory condition or in the description of the subject-matter of the insurance be effective in so far as it is inconsistent with, varies, or avoids any such condition.

STATUTORY CONDITIONS

In these statutory conditions, unless the context otherwise required, the word "insured" means a person insured by the policy, whether named or not.

Material Change in Risk

1. (a) The insured named in the policy shall promptly notify the insurer, or its local agent, in writing, of any change in the risk material to the contract and within his knowledge.

(b) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" shall include

Sale (i) any change in the insurable interest of the insured named in the policy in the automobile by sale, assignment, or otherwise, except through change of title by succession, death, or proceedings under the Bankruptcy Act;

and in cases other than motor-vehicle liability policies:

Mortgage or Lien (ii) any mortgage, lien, or encumbrance affecting the automobile after the application for the policy;

Other Insurance (iii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the policy or any portion thereof.

Prohibited Use 2. (1) The insured shall not drive or operate the automobile

Intoxication (a) whilst under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or

Unlicensed Driver (b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile, or while he is under the age of sixteen years or under such other age as is prescribed by the law of the Province where he resides at the time the policy is issued; or

Suspended Licence (c) while his licence to drive or operate an automobile is suspended, or while his right to obtain a licence is suspended, or while he is prohibited under order of any Court from driving or operating an automobile; or

Prohibited Trade (d) for any illicit or prohibited trade or transportation; or

Racing (e) in any race or speed test.

Permission of Uses Prohibited (2) The insured shall not permit, suffer, allow, or connive at the use of the automobile

Intoxication (a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or

Unlicensed Driver (b) by any person, unless such person is for the time being either authorized by law or qualified to drive or operate the automobile, or while such person is under the age of sixteen years or under such other age as is prescribed by law; or

Suspended Licence (c) by any person while that person's licence to drive or operate an automobile is suspended, or while his right to obtain a licence is suspended, or while that person is prohibited under order of any Court from driving or operating an automobile; or

Prohibited Trade (d) for any illicit or prohibited trade or transportation; or

Racing (e) in any race or speed test.

Uses Prohibited without Permission 3. Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used

(a) to carry explosives or to carry radioactive material for research, education, development, or industrial purposes, or for purposes incidental thereto; or

(b) as a taxicab, public omnibus, livery, jitney, or sightseeing conveyance or for carrying passengers for compensation or hire.

Trailer 4. Unless otherwise provided in this policy, in respect of the indemnity provided therein against liability for loss or damage to persons or property,

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[Clause (c) of subsection (1) of Statutory Condition 2 and clause (c) of subsection (2) of Statutory Condition 2 above have not yet been proclaimed to be in force. (July 1st, 1964.)]

(a) an automobile covered by the policy shall not be used for towing a trailer owned by the insured unless like indemnity is also provided by the insurer in respect of the trailer; and

(b) a trailer covered by the policy shall not be towed by an automobile owned by the insured unless like indemnity is also provided by the insurer in respect of the automobile.

War Risks Excluded 5. In cases other than motor-vehicle liability policies the insurer shall not be liable for loss or damage that is caused, directly or indirectly, by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities (whether war be declared or not), or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.

Loss or Damage to Persons or Property 6. (1) The insured shall promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident; shall verify by affidavit, or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writ, letter, document, or advice received by him from or on behalf of the claimant.

Insured to Give Notice of Accident and Claim

Co-operation of Insured and Insurer in Claim Settlement

(2) The insured shall not voluntarily assume any liability or settle any claim except at his own cost. The insured shall not interfere in any negotiations for settlement or in any legal proceeding, but, whenever requested by the insurer, shall aid in securing information and evidence and the attendance of any witness, and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

Loss or Damage to the Automobile 7. (1) Upon the occurrence of loss of or damage to the automobile, the insured shall, if the loss or damage is covered by this policy,

(a) forthwith give notice thereof, in writing, to the insurer, with fullest information obtainable at the time, and shall, at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the automobile from further loss or damage; or until the insurer has had a reasonable time to make the examination provided for in statutory condition 9:

(b) deliver to the insurer within ninety days of the date of the loss or damage a statutory declaration stating, so far as the insured knows or believes, the place, time, cause, and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile, and that the loss or damage did not occur through any wilful act or neglect, procurement, means, or connivance of the insured.

Examination of Insured (2) The insured shall submit to examination under oath, and shall produce for examination, at such reasonable place as is designated by the insurer or its representative, all documents in his possession or control which relate to the matters in question, and shall permit extracts and copies thereof to be made.

Insurer Liable for Cash Value of Automobile (3) The insurer shall not be liable beyond the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the automobile or any part thereof with material of like kind and quality; provided that in the event of any part of the automobile being obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of such part at the time of loss or damage not exceeding the maker's last list price.

Repairs (4) Except where an appraisal has been had, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild, or replace the property damaged or lost with other of like kind and quality, giving written notice of its intention so to do within seven days after the receipt of the proofs of loss; but there can be no abandonment of the automobile to the insurer without its consent. In the event of the insurer exercising such option, the salvage, if any, shall revert to it.

In Case of Disagreement (5) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, such questions shall be determined by appraisers before recovery can be had hereunder, whether the right to recover on the policy is disputed or not, and independently of all other questions.

Appraisal (6) The insured and the insurer shall each select one appraiser, and the two so chosen shall then select a disinterested umpire. Thereafter the two appraisers together shall estimate or appraise the loss or damage, stating separately sound value and damage, or determine the adequacy of such repairs or replacements, and, failing to agree, shall submit their differences to the umpire.

Appointment of Appraisers (7) In case either party fails to name an appraiser within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting, or dies, a Judge of a Superior, County, or District Court having jurisdiction in the county or district in which the appraisal is to be made may appoint such appraiser or umpire on the application of the insured or of the insurer.

Award (8) An award in writing of the two appraisers, or of one appraiser and the umpire, shall determine the nature and extent or adequacy of the repairs and replacements made or required, or the amount of such loss or damage.

Costs of Appraisal (9) Each party shall pay the appraiser selected by him, and shall bear equally the other expenses of the appraisal and of the umpire.

Waiver 8. Neither the insurer nor the insured shall be deemed to have waived any term or condition of this policy by any act relating to the appraisal or to the delivery and completion of proofs of loss, or to the investigation or adjustment of the claim.

Inspection of Automobile 9. The insurer shall be permitted at all reasonable times to inspect the automobile and its equipment.

Time and Manner of Payment of Insurance Money 10. (1) An insurer shall pay the insurance money for which it is liable under a contract within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 6, within fifteen days after the award is rendered by the appraisers.

When Action May Be Brought (2) The insured may not bring an action to recover the amount of a claim under the policy unless the requirements of statutory conditions 5 and 6 are complied with nor until the amount of the loss has been ascertained as therein provided, or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

Limitation of Actions (3) Every action or proceeding against an insurer under a contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose, and not afterwards.

Who May Give Notice and Proofs of Claim 11. Notice of claim may be given and proofs of claim may be made by the agent of the insured named in the policy in case of absence or inability of such insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for, or in the like case, or if such insured refuses to do so, by a person to whom any part of the insurance money is payable.

Cancellation 12. (1) The policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force.

(2) This policy may be cancelled at any time by the insurer giving to the insured named in the policy fifteen days' notice in writing of cancellation by registered post, whether registered within or without Canada, or five days' notice of cancellation personally delivered, and refunding the excess of paid premium beyond the pro rata premium for the expired time. Repayment of excess premiums may be made by money, post-office order, postal note, or cheque. Such repayment shall accompany the notice, and in such case the fifteen days above mentioned shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

"Paid Premium" (3) In this condition the expression "paid premium" means premium actually paid by the insured to the insurer or its agent, and does not include any premium or part thereof paid to the insurer by an agent unless actually paid to the agent by the insured.

Notice 13. (1) Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in this Province. Written notice may be given to the insured named in the policy by letter personally delivered to him or by registered letter addressed to him at his last post-office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. In this condition the expression "registered" shall mean registered within or without Canada. R.S. 1948, c. 164, s. 166; 1951, c. 41, ss. 18-22; 1955, c. 37, s. 2; 1957, c. 31, s. 18; 1959, c. 43, s. 9; 1960, c. 22, s. 2.

Certain conditions not part of policy.

223. (1) If the policy does not insure against liability for loss or damage to persons or property, statutory condition 5 shall not be deemed to be part of the policy.

(2) If the policy does not insure against loss of or damage to an automobile, statutory condition 6 shall not be deemed to be part of the policy. R.S. 1948, c. 164, s. 167.

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Policy to be approved by Superintendent.

224. No insurer shall issue or deliver a policy in the Province until a copy of the form of policy has been on file with the Superintendent for at least thirty days, unless sooner approved in writing by him, nor if within that period the Superintendent notifies the insurer in writing that the said form of policy is not approved. The Superintendent shall, on being so required, specify the reasons for not approving or for disapproving thereof. R.S. 1948, c. 164, s. 168.

Effect of misrepresentation, fraud, or violation of conditions.

225. (1) Where an applicant for a contract gives false particulars of the described automobile to be insured, to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein, or where the insured violates a term or condition of the policy or commits a fraud, or makes a wilfully false statement with respect to a claim under the policy, a claim by the insured is invalid and the right of the insured to recover indemnity shall be forfeited.

No defence where statement not in written application.

(2) Where a written application for a contract is made, no statement of the applicant shall be used in defence of a claim under the policy, unless it is contained in the written application. R.S. 1948, c. 164, s. 169; 1951, c. 41, s. 23.

Relief against forfeiture.

226. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, or where there has been a cancellation of the policy by a notice that was not received by the insured owing to his absence from the address to which the notice was addressed, and the Court deems it inequitable that the insurance should be forfeited or avoided on that ground or cancelled, the Court may, on such terms as it may deem just, relieve against the forfeiture or avoidance or, if the application for relief is made within ninety days of the date of the mailing of the notice of cancellation, against the cancellation. R.S. 1948, c. 164, s. 170; 1966, c. 45, s. 10.

How policy payable.

227. Insurance money is payable in the Province in lawful money of Canada. R.S. 1948, c. 164, s. 171.

Waiver.

228. No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part, unless the waiver is stated in writing and signed by an agent of the insurer. R.S. 1948, c. 164, s. 172.

Subrogation.

229. (1) The insurer, upon making any payment or assuming liability therefor under a contract of automobile insurance, shall be subrogated to all rights of recovery of the insured against any person, and may bring action in the name of the insured to enforce such rights.

(2) If the net amount recovered, after deducting the costs of such recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, such amount shall be divided between the insurer and

the insured in the proportions in which such loss or damage has been borne by them respectively. R.S. 1948, c. 164, s. 173.

Use of red ink.

230. No red ink shall be used in printing a policy, except for the name, address, and emblem of the insurer, the policy number, and for the purposes mentioned in this Part. R.S. 1948, c. 164, s. 174.

Rights of insured preserved.

231. Any act or omission of the insurer resulting in non-compliance or imperfect compliance with any of the provisions of this Act shall not render a contract invalid as against the insured. R.S. 1948, c. 164, s. 175.

Motor-vehicle Liability Policies

Coverage of owner's policy.

232. (1) Every owner's policy shall insure the person named therein, and every other person who, with his consent, personally drives any automobile specifically described in the policy, against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage

- (a) arising from the ownership, use, or operation of any such automobile within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof; and
- (b) resulting from
 - (i) bodily injury to or the death of any person; or
 - (ii) damage to property; or
 - (iii) both.

Coverage of persons other than owner.

(2) Nothing in subsection (1) shall preclude coverage being provided in an owner's policy to the person named therein, and such other persons as may be specified therein who, with his consent, personally drive any other automobile within the definition thereof appearing in the policy, against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage

- (a) arising from the ownership, use or operation of any such automobile within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof; and
- (b) resulting from
 - (i) bodily injury to or the death of any person; or
 - (ii) damage to property; or
 - (iii) both.

(3) In the event of the death of the person named in the owner's policy, the following persons shall be deemed to be the insured under the policy:—

- (a) The spouse of the deceased insured if residing in the same dwelling premises at the time of his death:
- (b) As respects the specifically described automobile and a newly acquired automobile where the automobile was acquired by the deceased insured prior to his death, and a temporary substitute automobile, all as defined by the policy,

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(i) any person having proper temporary custody thereof until grant of probate or administration to the personal representative of the deceased insured;

(ii) the personal representative of the deceased insured.

Rights of unnamed insured.

(4) Any person insured by but not named in a policy may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. R.S. 1948, c. 164, s. 176; 1951, c. 41, s. 24; 1960, c. 22, s. 4.

Coverage of driver's policy.

233. Every driver's policy shall insure the person named therein against the liability imposed by law upon such insured for loss or damage

(a) arising from the operation or use by him of any automobile, other than an automobile owned by or registered in the name of such insured, while he is personally in control as driver or occupant of such automobile within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports within those countries; and

(b) resulting from

(i) bodily injury to or the death of any person; or

(ii) damage to property; or

(iii) both. R.S. 1948, c. 164, s. 177; 1951, c. 41, s. 25.

Additional agreements.

234. (1) Under an owner's policy or a driver's policy the insurer shall,

(a) upon receipt of notice of loss or damage caused to persons or property, serve the insured by such investigation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as may be deemed expedient by the insurer; and

(b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action which may at any time be brought against the insured on account of loss or damage to persons or property; and

(c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the limits of the insurer's liability; and,

(d) in case the injury be to a person, reimburse the insured for outlay of such medical aid as may be immediately necessary at the time.

Order settling question which insurer defends insured.

(2) Where a person is insured under more than one motor-vehicle liability policy (whether the insurance is first-loss insurance or excess) and a question arises under clause (b) of subsection (1) between an insurer and the insured, or between the insurers, as to which insurer

shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its policy, the insured or any insurer may apply to a Judge of the Supreme Court of British Columbia in Chambers, and the Judge shall give such directions as may appear proper with respect to the performance of the obligation.

Notice of application for order.

(3) On an application under subsection (2), the only parties entitled to notice thereof and to be heard thereon are the insured and his insurers, and no material or evidence used or taken upon such an application is admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use of the automobile in respect of which the insurance is provided.

Rights and obligations preserved.

(4) An order under subsection (2) shall not affect the rights and obligations of the insurers with respect to payment of any indemnity under their respective policies.

Contribution by insurers.

(5) Where the insured has indemnity under two or more policies and one or more is or are excess insurance by virtue of section 240, the insurers shall, as between themselves, contribute to the payment of expenses, costs, and reimbursement provided for in subsection (1) in accordance with their respective liabilities for damages against the insured. R.S. 1948, c. 164, s. 178; 1951, c. 41, s. 26.

Exceptions from liability.

235. Subject to section 239, the insurer is not liable under an owner's policy or a driver's policy

(a) for any liability imposed by any workmen's compensation law upon the insured; or

(b) for loss or damage resulting from bodily injury to or the death of

- (i) the son, daughter, wife, husband, mother, father, brother, or sister of the insured while being carried in or upon, or entering or getting on to, or alighting from the automobile; or
- (ii) the insured;

or, unless the coverage is expressly extended under section 238,

(c) to any person, not the owner of the automobile, engaged in the business of an automobile garage, repair-shop, or service-station, or as an automobile-dealer, for loss or damage sustained while engaged in the operation or repair of the automobile; or

(d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon, or entering or getting on to, or alighting from the automobile; or

(e) for loss of or damage to property carried in or upon the automobile, or to any property owned or rented by, or in the care, custody, or control of, the insured; or

(f) for loss or damage resulting from bodily injury to or the death of any employee of the insured while engaged in the operation or repair of the automobile;
 or, where the coverage is expressly excluded by an endorsement approved by the Superintendent,

(g) for loss or damage arising from the ownership, use, or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile with a separate power or heating unit, while at the site of the use or operation of such machinery or apparatus. R.S. 1948, c. 164, s. 179; 1951, c. 41, s. 27; 1955, c. 37, s. 3.

Nuclear
 energy hazard
 insurance.

236. (1) Where an insured is covered, whether named therein or not, under a policy of automobile liability insurance for loss or damage resulting from bodily injury to or the death of any person or damage to property arising directly or indirectly out of a nuclear energy hazard and is also covered, whether named therein or not, against such loss or damage under a policy of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to such loss or damage,

(a) the automobile liability insurance is excess to the nuclear energy hazard liability insurance, and the insurer under the policy of automobile liability insurance is not liable to pay beyond the minimum limits prescribed by section 237;

(b) the unnamed insured under the policy of nuclear energy hazard liability insurance may, with respect to such loss or damage, recover indemnity under such insurance in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

(2) The expression "nuclear energy hazard" means the radioactive, toxic, explosive, or other hazardous properties of prescribed substances under *The Atomic Energy Control Act (Canada)*.

(3) For the purposes of this section, a policy of nuclear energy hazard liability insurance is deemed to be in force at the time of the event giving rise to the loss or damage, notwithstanding that the limits of liability thereunder have been exhausted. 1960, c. 22, s. 5.

Minimum
 liability under
 policy.

237. Every owner's policy and driver's policy shall insure, in respect of any one accident, to the limit of at least fifty thousand dollars, exclusive of interest and costs, against loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property; and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property,

(a) any claims arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to an amount of forty-five thousand dollars; and

(b) any claims arising out of loss of or damage to property shall have priority over claims arising out of bodily injury or death

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to an amount of five thousand dollars. R.S. 1948, c. 164, s. 180; 1957, c. 31, s. 19; 1961, c. 29, s. 6; 1962, c. 29, s. 4; 1964, c. 24, s. 6.

Extension of coverage.

238. (1) The insurer may, by an endorsement on the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in the case of an owner's policy or driver's policy, in whole or in part, in any or all of the following respects, namely: The matters mentioned in clauses (c), (e), and (f) of section 235.

Idem.

(2) The insurer may, by an endorsement on the policy or by provision in the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage, in whole or in part, in the case of an owner's policy or driver's policy in respect to the matter mentioned in clause (d) of section 235.

Idem.

(3) The insurer may, in the case of an owner's policy, extend the coverage, in whole or in part, in respect to the operation or use of automobiles not owned by or registered in the name of the insured.

(4) The insurer may, in the case of an owner's policy or a driver's policy, extend the coverage to such other matters as the Superintendent may approve.

Where approval of Superintendent required.

(5) No insurer shall extend the coverage under subsection (3) or (4) without the approval of the Superintendent as to the form of the extended coverage, the method of providing therefor, and as to the necessity or otherwise of an additional stated premium for the coverage. R.S. 1948, c. 164, s. 181; 1951, c. 41, s. 28.

Coverage within one year of accident, Canada, U.S.A., or Alaska.

239. (1) An insurer issuing an owner's policy or a driver's policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein, agree that at the direction of the named insured it will indemnify each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to, or alighting from the automobile specifically described in the policy, or within the definition thereof appearing in the policy, within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof, if the automobile is being used by the insured named in the policy or with his consent, for all reasonable expenses incurred, within one year from the date of the accident as a result of the injury, for necessary medical, surgical, dental, ambulance, hospital, professional nursing, and funeral services.

Approval of Superintendent.

(2) No insurer shall give the insurance under subsection (1) without the approval of the Superintendent as to the terms and conditions thereof. 1951, c. 41, s. 29; 1958, c. 22, s. 8.

Liability of insurer where other insurance.

240. (1) Subject to subsection (2), if the insured named in a policy has or places any additional or other valid insurance of his interest in the subject-matter of the contract, or any part thereof, the insurer is liable only for its rateable proportion of any loss or damage.

Order of assumption of loss.

(2) Insurance under a valid owner's policy is, as respects the liability arising from the ownership, use, or operation of the automobile specifi-

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Effect of subsecs. (1) and (2).

cally described in the policy, a first-loss insurance and insurance attaching under any other valid motor-vehicle policy is excess insurance only.

(3) A copy of subsections (1) and (2) shall be printed or stamped in conspicuous type, not less in size than ten point, upon every automobile-insurance policy, and those subsections constitute terms of the contract between the insurer and the insured, and subsection (2) operates as between insurers. 1951, c. 41, s. 29; 1955, c. 37, s. 4.

Policy in special cases.

241 (1) Where any provision of this Part, including any statutory conditions, is wholly or partly inapplicable by reason of the requirements of any Act or, in the opinion of the Superintendent, is unsuitable to any special form of contract, he may approve a form of policy sufficient or appropriate to insure the risks required or proposed to be insured.

(2) Where a form of policy is so approved, the Superintendent shall specify in writing the statutory condition or other provision to which subsection (1) refers and send a copy of the writing to the insurer, and thereafter the contract in the form so approved shall have effect according to its terms, notwithstanding that those terms conflict with or omit the condition or other provision is specified. R.S. 1948, c. 164, s. 182; 1951, c. 41, s. 30; 1957, c. 31, s. 20.

Application of insurance money under motor-vehicle liability policy.

242. (1) Any person having a claim against an insured, for which indemnity is provided by a motor-vehicle liability policy is, notwithstanding that such person is not a party to the contract, entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity, and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

Limitation of action.

(1a) No action shall be brought against an insurer under subsection (1) after the expiration of one year from the final determination of the action against the insured, including appeals (if any).

Other creditors not entitled to share.

(2) No creditor of the insured is entitled to share in the insurance money payable under any such policy in respect of any claim for which indemnity is not provided by the policy.

Insurer absolutely liable.

(3) (a) No assignment, waiver, surrender, cancellation, or discharge of the policy, or of any interest therein, or of the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the policy; and

(b) No act or default of the insured before or after such event in violation of the provisions of this Act or of the terms of the contract; and

(c) No violation of the Criminal Code or of any law or Statute of any Province, State, or country, by the owner or driver of the automobile,

shall prejudice the right of any person, entitled under subsection (1), to have the insurance money applied upon his judgment or claim, or be available to the insurer as a defence to such action.

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Case of denial that motor-vehicle liability policy is such a policy.

(4) It is not a defence to an action under this section that an instrument issued as a motor-vehicle liability policy by a person engaged in the business of an insurer, and alleged by a party to the action to be such a policy, is not a motor-vehicle liability policy; and the provisions of this section apply, mutatis mutandis, to the instrument.

Contribution among insurers.

(5) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection (1) to be made parties to the action and to contribute according to their respective liabilities, whether this be rateably or by way of first-loss or excess insurance, as the case may be; and the insured shall, on demand, furnish the insurer with particulars of all other insurance covering the subject-matter of the contract.

Defence where excess coverage.

(6) Subject to subsection (7), where a policy provides, or, if more than one policy, the policies provide, for excess coverage, or for extended coverage in pursuance of subsections (1), (2), and (4) of section 238, nothing in this section shall, with respect to such excess coverage or extended coverage, prevent an insurer from availing itself, as against a claimant, of any defence that the insurer is entitled to set up against the insured.

Policy providing for extended coverage.

(7) Where a policy provides for extended coverage in respect of loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to or alighting from an automobile operated in the business of carrying passengers for compensation or hire subsection (6) shall apply only to that part of such extended coverage

- (a) which exceeds any minimum coverage required by this Act; or
- (b) where a greater minimum coverage is required by or pursuant to any other Act of, or in force in, the Province, which exceeds such greater minimum coverage.

Liability of insured to reimburse insurer.

(8) The insured is liable to pay or reimburse the insurer, upon demand, any amount which the insurer has paid by reason of the provisions of this section which it would not otherwise be liable to pay.

Right of insurer to be joined in actions.

(9) Where an insurer denies liability under a motor-vehicle liability policy it has the right upon application to the Court to be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action for which it is or might be asserted that indemnity is provided by the said policy, whether or not the insured enters an appearance or defence in such action; and upon being made a third party such insurer has the right to contest the liability of the insured to any party claiming against the insured and to contest the amount of any claim made against the insured to the same extent as if were a defendant in the action, including for such purpose the right to deliver a statement of defence to the claim of any party claiming against the insured, and to deliver other pleadings, and to have production and discovery from any party adverse in interest and the right to examine and cross-examine witnesses at the trial.

Insured to give notice of action and disclose insurance.

244. Every insured against whom an action is commenced for damages occasioned by an automobile shall

- (a) give notice thereof in writing to the insurer within five days after service of notice or process in the action; and
- (b) disclose to a judgment creditor entitled to the benefit of any motor-vehicle liability policy particulars of such policy within ten days after written demand therefor. R.S. 1948, c. 164, s. 184.

Conditions of licence.

245. (1) A licence to carry on the business of automobile insurance in the Province is subject to the following conditions:—

- (a) In any action in the Province against the licensed insurer, or its insured, arising out of an automobile accident in the Province, the insurer shall appear and shall not set up any defence to a claim under a contract issued out of the Province, including any defence as to its limit or limits of liability under the contract, that might not be set up if the contract were a motor-vehicle liability contract issued in the Province:
- (b) In any action in another Province or Territory of Canada against the licensed insurer, or its insured, arising out of an automobile accident in that Province or Territory, the insurer shall appear and shall not set up any defence to a claim under a motor-vehicle liability contract issued in British Columbia, including any defence as to its limit or limits of liability under the contract, that might not be set up if the contract were a motor-vehicle liability contract issued in that Province or Territory.

(2) The licence of an insurer who commits a breach of either of the conditions of licence set out in subsection (1) may be cancelled. R.S. 1948, c. 164, s. 185; 1963, c. 19, s. 10.

Motor-vehicle liability contract provisions.

246. (1) Every motor-vehicle liability contract issued in British Columbia shall provide that in the case of any loss arising out of an automobile accident in any Province or Territory in Canada

- (a) the insurer shall be liable up to the minimum limits prescribed for that Province or Territory if those limits are higher than the limits prescribed by the contract; and
- (b) the insurer shall appear in any action or proceeding against the insurer and shall not set up any defence to a claim which might not be set up if the contract were a motor-vehicle liability contract issued in that Province or Territory.

(2) An insurer that issues or delivers a motor-vehicle liability contract in British Columbia, or any renewal thereof, or any evidence of the continuation of the contract, shall issue to the insured a card evidencing the insurance, and the Superintendent shall approve the form of the card.

Insured to give notice of action and disclose insurance.

244. Every insured against whom an action is commenced for damages occasioned by an automobile shall

- (a) give notice thereof in writing to the insurer within five days after service of notice or process in the action; and
- (b) disclose to a judgment creditor entitled to the benefit of any motor-vehicle liability policy particulars of such policy within ten days after written demand therefor. R.S. 1948, c. 164, s. 184.

Conditions of licence.

245. (1) A licence to carry on the business of automobile insurance in the Province is subject to the following conditions:—

- (a) In any action in the Province against the licensed insurer, or its insured, arising out of an automobile accident in the Province, the insurer shall appear and shall not set up any defence to a claim under a contract issued out of the Province, including any defence as to its limit or limits of liability under the contract, that might not be set up if the contract were a motor-vehicle liability contract issued in the Province:
- (b) In any action in another Province or Territory of Canada against the licensed insurer, or its insured, arising out of an automobile accident in that Province or Territory, the insurer shall appear and shall not set up any defence to a claim under a motor-vehicle liability contract issued in British Columbia, including any defence as to its limit or limits of liability under the contract, that might not be set up if the contract were a motor-vehicle liability contract issued in that Province or Territory.

(2) The licence of an insurer who commits a breach of either of the conditions of licence set out in subsection (1) may be cancelled. R.S. 1948, c. 164, s. 185; 1963, c. 19, s. 10.

Motor-vehicle liability contract provisions.

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- (a) the insurer shall be liable up to the minimum limits prescribed for that Province or Territory if those limits are higher than the limits prescribed by the contract; and
- (b) the insurer shall appear in any action or proceeding against the insurer and shall not set up any defence to a claim which might not be set up if the contract were a motor-vehicle liability contract issued in that Province or Territory.

(2) An insurer that issues or delivers a motor-vehicle liability contract in British Columbia, or any renewal thereof, or any evidence of the continuation of the contract, shall issue to the insured a card evidencing the insurance, and the Superintendent shall approve the form of the card.

(3) The Superintendent may supply cards to an insurer that issues motor-vehicle liability contracts outside the Province if it has complied with the provisions of the *Motor-vehicle Act*.

(4) Before supplying cards to an insurer pursuant to subsection (3), the Superintendent shall require the insurer to file with him an undertaking that it will issue cards only to persons who are non-residents of British Columbia and who are insured under contracts that are motor-vehicle liability insurance contracts within the meaning of this Act. 1959, c. 43, s. 10; 1963, c. 19, s. 11.

Policies Other than Motor-vehicle Liability Policies

Partial payment of loss clause.

247. A policy, other than a motor-vehicle liability policy, may contain a clause to the effect that the insurer in the event of loss shall pay only an agreed portion of any loss which may be sustained or the amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed upon the face of the policy in conspicuous type, in red ink, the words "This policy contains a partial payment of loss clause." R.S. 1948, c. 164, s. 186.

Claims to be adjusted with insured.

248. Where a claim is made under any policy other than a motor-vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the policy as well as with any person having an interest indicated in the policy. R.S. 1948, c. 164, s. 187.

Provisions for protection of insurance agents in respect of their commissions.

249. (1) In this section the expression "agent" means an insurance agent licensed under this Act and authorized by a licensed insurer on its behalf to solicit and receive applications for insurance, to collect premiums, and to sign or countersign policies, and whose compensation or profit therefor consists wholly of a commission on premiums derived from such business.

(2) Except in the case of a policy signed, countersigned, or issued at its head office in the Province, no licensed insurer shall issue any policy unless the policy is signed or countersigned by an agent, but no agent shall sign a policy in blank or in otherwise incomplete condition.

(3) The commission on any policy signed, countersigned, or issued at the head office of an insurer in the Province shall be paid to an agent, and there shall be written on the policy the words "Issued on behalf of _____, resident authorized agent at _____," with the name of the agent and of the place where he carries on business.

(4) The person in charge of the head office of an insurer in the Province shall forthwith, upon the signing, countersigning, or issue of a policy at such head office, notify the agent of the date of the policy, the name of the insured, and the property insured.

(5) This section does not apply to a mutual company or to a contract of reinsurance. R.S. 1948, c. 164, s. 188.

Discriminative Rates

Discriminative rates prohibited.

250. (1) In this section the expression "rating bureau" means any association or body, whether incorporated or not, which fixes or promulgates or assumes to fix or promulgate rates of premium to be charged for contracts of insurance made by insurers which are members of the association or body.

(2) No rating bureau and no insurer or other person shall fix or make for, or offer or charge to, any person by reason of his being one of a group engaged in the same trade, calling, profession, or occupation, or of his membership in any club, society, union, guild, or other association, or of common employment, or of common occupancy of the same building or group of buildings, or for any other reason, a lower rate of premium under a contract of automobile insurance than such person would pay under such contract if the reasons aforesaid did not exist; and every rating bureau, insurer, and person who violates any provision of this section is guilty of an offence against this Act.

(3) Nothing in this section shall prohibit the fixing, making, offering, or charging of a special rate where the contract relates to two or more automobiles owned by and registered in the name of the same person. R.S. 1948, c. 164, s. 189.

BIBLIOGRAPHY

BIBLIOGRAPHY

BOOKS

- Archer, S. H., and D'Ambrosio, C. A., The Theory of Business Finance, The McMillan Company, New York, 1967.
- Attorney General's Department, A Comparative Study of Automobile Insurance Premiums in Canada, Attorney General's Department, Victoria, British Columbia.
- Battles, R. E., The Agency System in Relation to Insurance Economics, National Association of Insurance Agents, Inc., New York, 1958.
- Best, Alfred M., Company, Inc., Best's Digest of Insurance Stocks, Alfred M. Best Company, Inc., New York, 1964.
- Blum, W. J., and Kalven, H., Jr., Public Law Perspectives on a Private Law Problem, Auto Compensation Plans, Little, Brown and Co., Toronto, 1965.
- Bohlinger, A., and Morrill, T. C., Insurance Supervision and Practice in England, State of New York Insurance Department, New York, 1948.
- Brainard, C. H., Automobile Insurance, Richard D. Irwin, Inc., Homewood, Illinois, 1961.
- Canadian Government Specifications Board, Guide to Traffic Safety, Queen's Printer, Ottawa, 1967.
- Canadian Life Insurance Association, 1967 Canadian Life Insurance Facts, Canadian Life Insurance Association, Toronto, 1967.
- Cheit, E. F., Injury and Recovery in the Course of Employment, John Wiley and Sons, Inc., New York, 1961.
- Cheit, E. F., and Gordon, M. S., Occupational Disability and Public Policy, John Wiley and Sons, Inc., New York, 1963.
- Conard, A. F., Morgan, J. N., Pratt, R. W., Jr., Voltz, C. E., and Bombaugh, R. L., Automobile Accident Costs and Payments, Studies in the Economics of Injury Reparations, University of Michigan Press, Ann Arbor, 1964.
- Dickerson, O. D., Health Insurance, Richard D. Irwin, Inc., Homewood, Illinois, 1963.
- Earle, William D. S., 1967 British Columbia Insurance Directory, William D. S. Earle, Vancouver, 1967.
- Edwards, E. O., and Bell, P., The Theory and Measurement of Business Income, University of California Press, Berkeley and Los Angeles, 1961.
- Ehrenzweig, A. A., "Full Aid" Insurance for the Traffic Victim, University of California Press, Berkeley and Los Angeles, 1954.

- Gregg, D. W., Life and Health Insurance Handbook, Richard D. Irwin, Inc., Homewood, Illinois, 1964.
- Haddon, W., Jr., M. D., Suchman, E. A., and Klein, D., Accident Research, Methods and Approaches, Harper and Row, New York, 1964.
- Halsbery, The Earl of, Halsbery's Laws of England, Vol. 28, Butterworth and Co., Ltd., London, England, 1959.
- Hart, C. S., Sourcebook of International Insurance and Employee Benefit Management, Vol. I, Europe, American Management Association, Inc., New York, 1967.
- Hensley, R. J., Competition, Regulation, and the Public Interest in Nonlife Insurance, University of California Press, Berkeley and Los Angeles, California, 1962.
- Horngren, C. T., Cost Accounting, A Managerial Emphasis, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1964.
- Insurance Counsel Journal, Vol. XXXIII, No. 2, A Study of Contingent Fees in the Prosecution of Personal Injury Claims, The Defense Research Institute, Inc., Milwaukee, Wisconsin, 1966.
- The Journal of American and Foreign Antitrust and Trade Regulations, The Antitrust Bulletin, Federal Legal Publications, Inc., Washington, 1966.
- Keeton, R. E., and O'Connell, J., Basic Protection for the Traffic Victim -- A Blueprint for Reforming Automobile Insurance, Little, Brown and Company, Toronto, 1965.
- Kihlberg, J. K., Narragan, E. A., and Campbell, B. J., Automotive Crash Injury in Relation to Car Size, Cornell University Press, Ithaca, New York, 1964.
- Kulp, C. A., Casualty Insurance, The Ronald Press Company, New York, 1956.
- Lengyel, S. J., Insurance Companies' Accounts, an Economic Interpretation and Analysis, Verona Press Pty. Ltd., Melbourne, Australia, 1947.
- Little, Arthur D., Inc., The State of the Art of Traffic Safety, A Critical Review and Analysis of the Technical Information on Factors Affecting Traffic Safety, and Summary Report, Arthur D. Little, Inc., Cambridge, Massachusetts, 1966.
- Magee, J. H., and Bickelhaupt, D. L., General Insurance, Richard D. Irwin, Inc., Homewood, Illinois, 1963.
- Magee, J., and Serbein, O., Property and Liability Insurance, Richard D. Irwin, Inc., Homewood, Illinois, 1967.
- Markowitz, H., Portfolio Selection, John Wiley and Sons, Inc., New York, 1959.
- McClellan, G. S., Safety on the Road, The H. W. Wilson Company, New York, 1966.

- Mehr, R. I., and Cammack, E., Principles of Insurance, Richard D. Irwin, Inc., Homewood, Illinois, 1961.
- Meyer, J. R., Peek, M. J., Stenason, J., and Zwick, C., Economics of Competition in the Transportation Industries, Harvard University Press, Cambridge, 1959.
- Miller, J. H., Accident and Sickness Insurance provided Through Individual Policies, The Society of Actuaries, Chicago, 1956.
- Ministry of Transport, Road Safety -- A Fresh Approach, Her Majesty's Stationery Office, London, 1967.
- Motor Vehicle Branch, Department of the Attorney General, British Columbia Guide to Safe Driving, Queen's Printer, British Columbia, 1964.
- Motor Vehicle Manufacturers' Association, Facts and Figures of the Automotive Industry, Motor Vehicle Manufacturers' Association, Toronto, 1964.
- Nader, R., Unsafe at Any Speed, Parkel Books, Inc., New York, 1966.
- National Association of Independent Insurers, The Auto Insurance Story -- Let's Look at the Record!, National Association of Independent Insurers, Chicago, (n. d.).
- National Revenue, Department of, Taxation Division, Taxation Statistics, Parts I and II, Queen's Printer, Ottawa, 1965.
- National Safety Council, Guide to Traffic Safety Literature, Cumulative Edition 1955-1965, Vol. 10, National Safety Council, Chicago, 1966.
- Peacock, A. T., The Economics of National Insurance, William Hodge and Company Ltd., London, 1952.
- Pearson, C. O., What It Costs to Run an Insurance Agency, (n. p.), (n. d.).
- The President's Committee for Traffic Safety, Highway Safety Action Program, United States Government Printing Office, Washington, D. C., 1966.
- Randall, D. A., Dollars on the Highway, McClelland and Stewart Limited, Toronto, 1967.
- Reed, P. B., Adjustment of Property Losses, McGraw-Hill Book Company, Inc., New York, 1953.
- Scientific and Industrial Research, Department of, Road Research Laboratory, Research on Road Traffic, Her Majesty's Stationery Office, London, 1965.
- Scientific Research, Department of, Road Research Laboratory, Research on Road Safety, Her Majesty's Stationery Office, London, 1963.

- Smith, Adam, An Inquiry into the Nature and Causes of the Wealth of Nations, Adam and Charles Black, Edinburgh, 1863.
- Snider, H. W., Readings in Property and Casualty Insurance, Richard D. Irwin, Inc., Homewood, Illinois, 1959.
- State Superintendent of Insurance, The Problem of the Uninsured Motorist, State of New York Insurance Department, New York, 1951.
- National Safety Council, Statistics Division, Accident Facts, National Safety Council, Chicago, 1963.
- Stone and Cox Limited, Canadian Motorists' Handbook, Stone and Cox Limited, Toronto, 1966.
- Stone and Cox Limited, Stone and Cox, General Insurance Yearbook, Canada, 1964-65 Edition, Stone and Cox Limited, Toronto, 1964.
- Stone and Cox Limited, Stone and Cox, General Insurance Yearbook, Canada, 1966-67 Edition, Stone and Cox Limited, Toronto, 1966.
- Superintendent of Insurance, A Study of Automobile Insurance Rates, Province of British Columbia, Queen's Printer, British Columbia, 1966.
- Superintendents of Insurance of the Provinces of Canada, Association of, Automobile Standard Forms and General Instructions, Association of Superintendents of Insurance, Toronto, 1955.
- Superintendents of Insurance of the Provinces of Canada, Association of, Automobile Standard Forms and General Instructions, Association of Superintendents of Insurance, Toronto, 1960.
- United States Department of Commerce, Bureau of Public Roads, Accidents on Main Rural Highways Related to Speed, Driver, and Vehicle, United States Government Printing Office, Washington, D. C., 1964.
- Whitney, S. N., Antitrust Policies -- American Experience in Twenty Industries, Vols. I and II, The Twentieth Century Fund, New York, 1958.
- Wilcox, C., Public Policies Toward Business, Richard D. Irwin, Inc., Homewood, Illinois, 1960.
- Williams, C. A., Jr., Price Discrimination in Property and Liability Insurance, The University of Minnesota Press, Minneapolis, 1959.
- Zoffer, H. J., The History of Automobile Liability Insurance Rating, University of Pittsburgh Press, Pittsburgh, 1959.

PERIODICALS

Analogy, New Approaches to Learning, Allstate Insurance Company, Illinois, Winter 1966/1967, Summer 1967.

Automobile Experience, By Province and Statistical Territory, and By Type of Automobile - Coverage - Classification, Experience of All Companies - Board and Non-Board Combined, Statistical Agency of the Canadian Underwriters' Association, Annually 1960-1967.

Automobile Fire, Theft, and Collision Manual, National Automobile Underwriters' Association, New York 1964, Oregon 1962, Washington 1962.

The British Columbia Gazette, Queen's Printer, British Columbia, Weekly from Feb. 3, 1966, to Mar. 31, 1968.

Bulletin of the University of Wisconsin, University of Wisconsin, Madison, 1948, Vol. II, No. 3, Sept, 1948, J. W. Cowee, "Federal Regulation of Insurance".

Canada Almanac and Directory, 1966, Copp Clark Publishing Co., Toronto, 1966.

The Canada Gazette, Queen's Printer, Ottawa, 1967, Vol. CI, No. 2, Ottawa, Jan. 14, 1967.

Canada Yearbook, 1966, Queen's Printer, Ottawa, 1967, Dominion Bureau of Statistics, Canada Year Book, Handbook, and Library Division.

Canada Yearbook, 1967, Queen's Printer, Ottawa, 1968, Dominion Bureau of Statistics, Canada Year Book, Handbook, and Library Division.

Canadian Bar Review, Vol. XXXIX, M. C. Shumiatcher, "Legislation - State Compulsory Insurance Act - An Appraisal".

Chitty's Law Journal, (n. p.), May 1965, J. Green, Q. C., "Liability Without Fault".

Financial Post Survey of Industrials, 1966, 40th Annual, Maclean-Hunter Publishing Company Limited, Toronto, 1966.

Financial Post Survey of Investment Funds, 1966, Vol. 5, and 1967, Vol. 6, Maclean-Hunter Publishing Company Limited, Toronto, 1966, 1967.

Harvard Business Review, Harvard University Press, Cambridge, Massachusetts, Vol. 42, No. 1, Jan. - Feb., 1964, D. B. Hertz, "Risk Analysis in Capital Investment".

Insurance Counsel Journal, (n. p.), Vol. XXXV, No. 2, April 1968.

Journal of Finance, (n. p.), Vol. XXI, Sept. 1965, W. F. Sharpe, "Risk Aversion in the Stock Market".

The Journal of Insurance Information, September - October 1967, Insurance Information Institute, New York, 1967.

Northwestern University Law Review, Northwestern University School of Law, Chicago, 1963, J. O'Connell, "Taming the Automobile".

United States Investor (n. p.), Nov. 19, 1951, R. Kenny, "Great Danger in Those Shotgun Criticisms of Compulsory Insurance".

REPORTS

Activité des Sociétés d'Assurances et de Capitalisation et des autres entreprises régies par le décret-loi du 14 juin, 1938, Année 1965, Rapport du Ministre de l'Économie et des Finances au Président de la République, Imprimerie Nationale, France, 1966.

Alberta, Province of:

Report of the Legislative Committee Appointed to Examine into Matters Relating to Automobile Insurance, 1966.

Select Committee on Automobile Insurance Report, Alberta Legislative Assembly.

Australia:

Report of the Royal Commission on Third Party Compulsory Insurance, Dr. E. G. Coppel, Q. C., Commissioner, State of Victoria, Australia, 1959.

British Columbia, Province of:

Annual Report of the Motor Vehicle Branch, 1945-1966, Queen's Printer, British Columbia.

Annual Report of the Superintendent of Insurance, 1962-1966 inclusive, plus preliminary data to 1967 Report, British Columbia Superintendent of Insurance, Queen's Printer, British Columbia.

18th Annual Report, 1966 -- 19th Annual Report, 1967, British Columbia Hospital Insurance Service, Queen's Printer, British Columbia, 1967, 1968.

Annual Report for the Year Ending March 31st, 1966, Department of Social Welfare, Queen's Printer, British Columbia, 1966.

Report of Motor Vehicle Traffic Accidents in the Province of British Columbia for Year Ending December 31st, 1964; For the Dominion Bureau of Statistics, Ottawa, Data Processing Division, Department of Industrial Development, Trade, and Commerce, Victoria, British Columbia, 1965.

Statistics of Hospitalized Accidents, British Columbia, 1966, Research Division, B. C. Hospital Insurance Service, Department of Health Services and Hospital Insurance, Victoria, British Columbia.

A Study of Automobile Insurance Rates, Province of British Columbia, Superintendent of Insurance, Queen's Printer, British Columbia, 1966.

California, State of:

Final Report of the Traffic Accident Consequences Subcommittee of the Committee on Judiciary to the California Legislature, Assembly of the State of California, 1959.

Semi-Final Report, Assembly Interim Committee on Finance and Insurance, California Legislature, (n. d.).

Cars, Drivers, and Accidents: The Environment of Automobile Insurance, Proceedings of a Conference held at Student Union Buildings, University of Washington, November 19, 1966, Graduate School of Business Administration, University of Washington, Seattle, 1967.

Federal Role in Traffic Safety, Hearings Before the Subcommittee on Executive Reorganization, of the Committee on Government Operations, United States Senate, Parts III and IV, United States Government Printing Office, Washington, 1966.

Florida Automobile Liability Insurance Study and Conclusions and Highway Accident Prevention Study and Recommendations, 1966, Florida Action Committee for Traffic Studies, 1966.

Hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, United States Senate,
Part 2, Consumer Credit Industry, United States Government Printing Office, Washington, 1967.
Part 10, Operations of Foreign Companies, United States Government Printing Office, Washington, D. C., 1961.
Part 11, and 12, The Insurance Industry, United States Government Printing Office, Washington, D. C., 1963, 1965.

New York, State of:

Preliminary Reports of the Superintendent of Insurance to the New York Legislature, covering years 1960-1965, New York State Insurance Department, New York.

Report of the New York State Legislative Committee to Study the Problem of the Unsatisfied Judgement Fund and Compulsory Insurance, Legislative Document No. 36, 1957.

New Zealand,

Report of the Royal Commission of Inquiry, Compensation for Personal Injury in New Zealand, The Honourable Mr. Justice Woodhouse, D. S. C., Government Printer, Wellington, New Zealand, 1967.

Nova Scotia, Province of:

Province of Nova Scotia, The Board of Commissioners of Public Utilities, in the Matter of the Insurance Act and in the Matter of an Inquiry into Automobile Insurance Rates, Queen's Printer, Nova Scotia, 1965.

Province of Nova Scotia Royal Commission on Automobile Insurance, Vols. I and II, Queen's Printer, Nova Scotia, 1957.

Ontario, Province of:

Final Report on Laws Relating to the Liability of Employees and Second Interim Report on Laws Relating to the Liability of Employers, The Honourable Sir William Ralph Meredith, C. J. O., King's Printer, Ontario, 1913.

Legislature of Ontario Debates, Fourth Session of the Twenty-Seventh Legislature, May 31, 1966, Clerk of the House, Queen's Printer, Toronto, 1966.

Report of the Automobile Insurance Technical Committee to the Minister of Transport, Department of Transport, Ontario, 1965.

Select Committee on Automobile Insurance,

- Interim Report, March 1961,
- Second Interim Report, December 1961,
- Final Report, March 1963,

Legislative Assembly of Ontario.

Statement Made to the Ontario Legislature by the Honourable Irwin Haskett, May 31, 1966.

Osgoode Hall Study on Compensation for Victims of Automobile Accidents, The Report of, A. M. Linden, Ryerson Press, Toronto, 1965.

Preliminary Reports of the Superintendent of Insurance to the New York Legislature, Covering the years 1960-1965, New York Insurance Department, New York.

Prices and Profits in the Property and Liability Insurance Industry, Report to the American Insurance Association, November, 1967, Arthur D. Little, Inc., Cambridge, Massachusetts, 1968.

Proceedings, 21st Annual Meeting, National Association of Independent Insurers, Bellevue Stratford Hotel, Philadelphia, November 14-17, 1966, Bulletin No. 66-105, National Association of Independent Insurers, Chicago, 1966.

Proceedings of the Forty-Eighth Annual Conference of the Association of Superintendents of the Provinces of Canada, September 21 to September 25, 1965, Halifax, Nova Scotia, Association of Superintendents of the Provinces of Canada, Toronto, 1965.

Report of Actuaries, Case No. 17680- Investigation into Private Passenger Automobile Liability Insurance Rate Making Procedures, Cancellation Provisions and Renewal Practices, Commonwealth of Virginia, Aug. 1, 1966, Woodward and Fondiller, Inc., New York, 1966.

Report of the Attorney General's National Committee to Study the Antitrust Laws, March 31, 1965, United States Government Printing Office, Washington, 1955.

Report on Automobile Liability Insurance, Legislative Research Committee of North Dakota, 1950.

Report of the Commissioner, the Honourable Mr. Justice Charles W. Tysoe, Commission of Inquiry, Workmen's Compensation Act, Queen's Printer, British Columbia, 1966.

- Report of the Committee of Investigation on Workmen's Compensation Laws, A. V. Pineo, D. Robertson, and J. H. McVety, King's Printer, British Columbia, 1916.
- Report of the Committee to Study Compensation for Automobile Accidents, Columbia University Council for Research in the Social Sciences, International Printing Company, Philadelphia, 1932.
- Report Concerning the Business of Automobile Insurance in Canada, Restrictive Trade Practices Commission, Department of Justice, Ottawa, Queen's Printer, Ottawa, 1960.
- Report of the Director of Investigation and Research, Combines Investigation Act, For the Year Ended March 31, 1966, Queen's Printer, Ottawa, 1966.
- Report on Indemnity for Motor Vehicle Accidents and Highway Safety, Study by Committee appointed by the Attorney General, Manitoba, 21st January, 1944, Queen's Printer, Manitoba, 1944.
- Report on the Insurance Industry, Committee on the Judiciary, Washington, D. C.
- Report to the Legislature, Financial Responsibility Study Committee,
- California Jurisdiction Report
 - Maryland Jurisdiction Report
 - Massachusetts Jurisdiction Report
 - New Jersey Jurisdiction Report
 - New York Jurisdiction Report
 - North Carolina Jurisdiction Report
 - North Dakota Jurisdiction Report
 - Ontario Jurisdiction Report
 - Saskatchewan Jurisdiction Report
 - Virginia Jurisdiction Report
 - A Report on Compensation Regardless of Fault Plan,
Department of Motor Vehicles, Sacramento, California, 1967.
- Report on the Problem of Providing Compensation for Victims of Motor Accidents, with Particular Reference to Compulsory Insurance and the Financial Responsibility of Motorists, John J. Robinette, at Request of All Canada Insurance Federation, The Carswell Company, Limited, Toronto, 1943.
- Report of the Sub-Committee on Cost and Profit Factor Study of Casualty Lines, Casualty and Surety Committee, National Association of Insurance Commissioners, Chicago, 1952.
- Report of the Superintendent of Insurance for Canada, Vol. I Abstracts of Statements of Insurance Companies in Canada, Vol. II Annual Statements, Fire and Casualty Insurance Companies, Annually 1956-1966, Queen's Printer, Ottawa.
- Report on Twelfth Annual Workshop, Sheraton-Dallas Hotel, Dallas, Texas, April 20-22, 1966, Bulletin No. 66-43, National Association of Independent Insurers, Chicago, 1966.
- Royal Commission on Automobile Insurance Premium Rates, Interim Report and Final Report, 1930, Mr. Justice Hodgins, King's Printer, Ontario, 1930.

Royal Commission of Inquiry into the Workmen's Compensation Board of British Columbia and the Workmen's Compensation Act, Report of Organizational Meeting Proceedings.

Royal Commission on Transportation, Vol. III, Queen's Printer, Ottawa, 1962.

Saskatchewan, Province of:

A Report on the Study of Compensation for Victims of Automobile Accidents, Special Committee of the Saskatchewan Government Appointed to Study the Problem of Compensation for Victims of Automobile Accidents, Queen's Printer, Saskatchewan, 1947.

Switzerland:

Assurance Privées -- Législation Fédérale, Etat au 1^{er} janvier 1962, Chancellerie Fédérale, Berne, Suisse, 1962.

Washington, State of:

Report of the Joint Interim Committee on Insurance of the Washington State Legislature, Dec., 1966.

STATUTES

British Columbia, Province of:

Apprenticeship and Tradesmen's Qualification Act, 1955, c. 3, as amended.

Blind Persons Allowance Act, 1951, (2nd Sess.), c. 1, as amended.

Contributory Negligence Act, R.S. 1948, c. 69, as amended.

Contributory Negligence Act Amendment Act, 1962, c. 15.

Disabled Persons Allowance Act, 1954, c. 7, as amended.

Evidence Act, R.S. 1948, c. 113, as amended.

Forest Act, R.S. 1948, c. 128, as amended.

Forest Act Amendment Act, 1966.

Gasoline Tax Act, 1948, R.S. 1948, c. 327, as amended.

Gasoline Tax Act, 1958, 1958, c. 59, as amended.

Health Insurance Act, R.S. 1948, c. 143, as amended.

Hospital Insurance Act, R.S. 1948, c. 151, as amended.

Hospital Insurance Act Regulations, revised March 6, 1967.

Industrial Transportation Act, 1955, c. 36, as amended.

Insurance Act, R.S. 1948, c. 164, as amended.

Insurance Premiums Tax Act, 1957, c. 58, as amended.

Medical Grant Act, 1965, c. 25.

Medical Services Act, 1967, c. 24.

Motor Carrier Act, R.S. 1948, c. 226, as amended.

Motor Vehicle Act, 1957, c. 39, as amended.

Motor Vehicle Act Amendment Act, 1966, c. 30.

Official Surveys Act Amendment Act, 1964, c. 35.

Province of British Columbia - Supreme Court Rules, 1961, Queen's Printer, British Columbia, 1960.

Public Inquiries Act, R.S. 1948, c. 162, as amended.

Public Service Group Insurance Act, 1960, c. 43, as amended.

Public Service Group Insurance Act Amendment Act, 1965, c. 42.

Social Assistance Act, R.S. 1948, c. 310, as amended.

Statute Law Amendment Act, 1966, c. 45.

Taxation Act, R.S. 1948, c. 322, as amended.

Taxation Act Amendment Act, 1966.

Traffic Victims Indemnity Fund Act, 1961, c. 63.

Traffic Victims Indemnity Fund Act, 1961, Amendment Act, 1964, c. 60.

Unemployment Relief Act, R.S. 1948, c. 349, c. 1, as amended.

Workmen's Compensation Act, R.S. 1948, c. 370, as amended.

Queen's Printer, British Columbia.

Canada, Government of:

Canada Assistance Plan, 1966, c. 45.

Canadian and British Insurance Companies Act, 1965, as amended.

Disabled Persons Act, 1954, c. 55.

An Act to Amend the Disabled Persons Act, 1957, c. 5.

An Act to Amend the Disabled Persons Act, 1962, c. 3.

An Act to Amend the Old Age Assistance Act, the Disabled Persons Act and the Blind Persons Act, 1963, c. 26.

Foreign Insurance Companies Act, 1965, as amended.

Hospital Insurance and Diagnostic Services Act, 1957, c. 28.

Medical Care Act, 1966, c. 64, Queen's Printer, Ottawa.

New Brunswick, Province of:

The Revised Statutes of New Brunswick, Chapter 113, Insurance Act, with Amendments to December 31, 1965, Queen's Printer, New Brunswick, 1966.

Newfoundland, Province of:

An Act to Amend and Consolidate the Law Relating to the Use and Operation of Vehicles and for Other Purposes Relating Thereto, Queen's Printer, Newfoundland, 1962.

New Zealand:

The Motor Vehicles Insurance (Third-Party Risks) Regulations 1963/76.

The Motor Vehicles Insurance (Third-Party Risks) Regulations 1963/76, Amendment, No. 4.

Transport Act 1962.

Transport Amendment Act 1963.

Transport Amendment Act (No. 2), 1963.

Transport Amendment Act 1964.

Transport Amendment Act 1965.

Transport Amendment Act (No. 2), 1965.

Transport Amendment Act 1966, Queen's Printer, Wellington, New Zealand.

Ontario, Province of:

The Highway Traffic Act, Queen's Printer, Ontario, 1966.

Prince Edward Island, Province of:

The Insurance Act, 1951, with Amendments to 1964, Irwin Printing Co. Ltd., Charlottetown, P. E. I., 1966.

Saskatchewan, Province of:

The Automobile Accident Insurance Act, R.S.S. 1965, c. 409.

The Automobile Accident Insurance Act, 1963, c. 38.

An Act to amend the Automobile Accident Insurance Act, 1963, 1964, c. 51.

Saskatchewan Regulation 38/66.

Saskatchewan Regulation 69/67.

The Vehicles Act, R.S.S. 1965, c. 377, Queen's Printer, Saskatchewan.

Pamphlet: Automobile Accident Insurance Act Explained, Revised 1960 and 1965, Saskatchewan Government Insurance Office, Queen's Printer, Saskatchewan, 1960 and 1965.

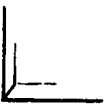
ARTICLES

Competition and Regulation in the Insurance Industry, Address delivered by B. Smith, Jr., Executive Vice-President, Insurance Company of North America, Williams College, Williamstown, Massachusetts, April 9, 1958.

The Keeton-O'Connell Plan: Reform or Regression?, Address by J. S. Kemper, Jr., President, Lumbermens' Mutual Casualty Company, before the Auto Claims National Conference, University of Illinois, College of Law, Champaign, Illinois, 1967.



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