

Now Professors Keeton and O'Connell would change all this. They would substitute for our concept of negligence, the philosophy that it does not matter how you drive your car, you are still entitled to recover.

Under the Keeton and O'Connell plan the drunken driver, the dope addict, the criminal who is trying to escape from the police and crashes his motor vehicle, the man who intentionally runs through a red light, the teenager who participates in a drag race on a crowded highway, all of these people are entitled to recover.

I think it only fair to ask yourselves the question, how are you going to finance this kind of system?

The answer is very simple. You are going to take money away from innocent victims and put it in the hands of those who perpetrate the disaster. This violates the principles of fairplay and responsibility.

Professor Keeton says there is nothing immoral about compensating wrongdoers, and I agree. I am not at all opposed to a system whereby the wrongdoer recovers in addition to the innocent, but I am opposed to the system whereby the wrongdoer recovers instead of the innocent and that is exactly what happens under the Keeton and O'Connell plan. Some have described the Keeton and O'Connell plan as a new and revolutionary idea but it is neither. The idea for compensating victims on a nonfault system was first proposed in 1932 in something called the Columbia plan.

I think it interesting to note that in the ensuing 36 years not a single American juristic has seen fit to adopt any of the other compensation plans. One reason for this is that every plan that was proposed until Keeton and O'Connell was vastly more expensive than the present system.

Now Professors Keeton and O'Connell have attempted to eliminate the expense objection in a very direct and simple manner. They have taken away all the benefits. Now it is obvious that you can sell cheaper insurance if you want to reduce the benefits that are payable under the terms of the policy.

Under the Keeton and O'Connell plan, all motorists would be required to buy an accident and health policy even though most Americans already have accident and health coverage.

So for most people this would be a duplication of coverage. You would be entitled to recover something if you were injured in a motor vehicle accident, you would recover from your own insurance carrier regardless of fault, something called net economic loss.

But in the determination of net economic loss you first compute what your lost wages were and you add to this the cost of medical expenses and then you deduct all amounts which you either receive or which you are eligible to receive from collateral sources.

That means you deduct Blue Cross, Blue Shield, union fringe benefits, accident health policies of any other nature, social security, medicare, medicaid, Government employee benefits, all of these must be deducted.

And in excess of the deductions for collateral sources you deduct \$100 of the wage loss in excess of collateral sources. You then deduct 15 percent additionally of the wage losses and finally you deduct everything for pain and suffering.