

warfare among nations. One day the country woke up and found it had decided many of those externalities simply did not have to be tolerated indefinitely.

Something just like this is now happening with respect to the automobile insurance system. The problem is precisely parallel to that of automobile safety. The system is not working well as such, and its secondary effects are wasteful and expensive. On either ground change is in order, and given both, change is as near to urgent as a world of competing sorrows will permit.

The presumption that the automotive companies knew more about their business than did their critics went on for a prolonged period of time, and then suddenly was reversed. That same onset of disbelief is now happening to the insurance companies. Change is upon us.

What is involved, however, is not just the insurance system, but the business system. The automobile industry let free enterprise down pretty badly: it did nothing serious whatever about the problem of vehicle safety until its freedom to do so on its own was taken away.

If the insurance industry does no better, we shall doubtless end up with improved liability arrangements, but in the process we are likely to have discredited the integrity and competence of American business management to a point that liberals and conservatives alike must view with dismay.

There are two senses in which the automobile insurance system is not working well. First, it is an extremely *costly* system. Twice as much is paid out in insurance premiums as is received back in insurance benefits. Moreover, the cost of the system would appear to be especially heavy for the poor, and others who can least afford it. Second, it is a grievously *incomplete* system, which fails to cover many of the most serious accidents.

The present system is, for the most part, based on the concepts of tort liability that developed a century ago. In essence, an individual buys protection against the risk that he will *negligently* cause an accident that will injure another person, or damage another person's property. If that should occur, his insurance company is responsible for compensating the victim, up to the amount of insurance coverage. The company, as it were, goes to court and argues the case.

The problem with the system starts right there, at the beginning. It has to do with the nature of traffic accidents. If they were orderly, discrete events, in which cause and effect could be clearly discerned and ascribed to this person or that, then the present insurance system would work well enough. But accidents are nothing of the sort. In the present stage of motor-vehicle transportation, accidents, perhaps specially minor ones, typically involve a whole range of contributory factors for which the concept of a single "cause" or "negligent party" is very near to absurd.

There are something like 13,600,000 automobile accidents per year in the United States. Given the present driving population, automobile stock, and road system, it is unlikely that any but a fraction of these accidents could be prevented, and impossible in the case of a great number to state with any certainty who is responsible. Moreover, as the number of automobiles increases, it can be stated with confidence that the number of automobile accidents will also increase.

The result is an insurance system that is inherently unstable. The number of accidents goes up and up, and so does the number of claims and counterclaims. No one involved has any incentive to moderation or reasonableness. The victim has every reason to exaggerate his losses. It is some other person's insurance company that must pay. The company has every reason to resist. It is somebody else's customer who is making the claim. Delay, fraud, contentiousness are maximized, and in the process the system becomes grossly inefficient and expensive.

A study of traffic accidents in Michigan has shown that "for every \$1 actually paid into the hands of the injury victim, \$2.20 must be contributed by insurance policyholders and taxpayers." By contrast, group health programs such as Blue Cross and Blue Shield can deliver a dollar of benefits for only \$1.07, and the Social Security Administration can do so for \$1.02 (not counting, it is true, employers' costs in collecting social security taxes).

Moreover, scholars such as Alfred F. Conard have shown that while settlements of small claims are if anything overly generous, just the opposite is the case where serious injuries and losses are involved: "The plain fact," he writes, "is that if one suffers large economic losses from lost wages and extended medical treatment, he cannot expect to recoup these losses from tort law." Just as certainly, the system is biased against the poor, who are least able to wait out the years of litigation which insurance companies are free and able—and all too often anxious—to use as a bargaining weapon.