The only economical way to close this gap is to amend the Social Security Act to cover disability and survivorship cases occasioned by automobile accidents, and not otherwise covered. This would involve a rather trifling extension of the social security system, with immense benefit to the individuals involved. Like the rest of the social security program, it should be paid for by taxes; but it should not be paid for by payroll taxes since the affected individuals may not be on a payroll. It should be paid for by an automobile registration tax. This should be calculated at an amount which would pay for the estimated *additional* disability and survivorship benefits occasioned by this extension of coverage.

Obviously this is an appropriate program for federal action, and one which would be out of the power of the states. The federal tax could be collected along with state annual automobile license fees.

To balance off the addition to their registration taxes, motorists should get some reduction in their liability insurance premiums. This would be accomplished by providing that all social security benefits for disability and survivorship are to be credited against tort liability. This will not only avoid duplicate payments; it will also save a great deal of administrative expense, since social security operates at an administrative expense rate of about 3 percent, compared with about 56 percent for insured tort liability.

VII. RATIONALIZING NEGLIGENCE LIABILITY AND LIABILITY INSURANCE

The rise of insurance companies specializing in high risk, the troublesome growth of assigned risk systems, and the prohibitive costs of liability insurance in special areas illustrate the impasse into which negligence liability and liability insurance have led us. Liability insurance premiums have risen beyond the capacity of many automobiles to pay, but still fall short of liability costs in many companies. The failure of a few liability insurance companies organized to accommodate special risks emphasizes the crisis. It is essential that the costs of liability insurance be controlled. In part, this must be accomplished by changing the rules of liability, and in part by adapting the insurance instrument.

Reducing underwriting expenses.—Forty percent of liability insurance premiums today go to the costs of the insurance process—selling policies, rating customers, and adjusting and defending claims. These costs are considerably higher than those experienced in many other areas of insurance, and can be reduced by applying the lessons learned elsewhere.

The most important reform is to admit group underwriting. Since nearly 20 percent of the insurance premium goes to agency commissions, it is probable that at least 15 percent could be eliminated by group underwriting. This has proved immensely successful and beneficial in health and life insurance. Not only does it reduce the costs of insurance acquisition, but it eliminates much of the necessity for risk rating. Thus it would presumably alleviate the assigned risk problem.

At least one insurance commissioner has recently announced the permissibility of group underwriting. This possibility must be made more widely available.

Crediting collateral benefits.—Another needless cost of liability insurance is paying for things that have already been paid for, or will be paid for, by other, less expensive programs. Under the present law, a claimant sues for and collects damages for medical and hospital expense even if it has already been paid for by his health insurance; for loss of pay, even if it is already made up by sick leave; for disability even if it is going to be compensated by Workmen's Compensation and Social Security. It is easy to see how this got started a hundred years ago, when collateral benefits, if any, were chiefly gifts from friends or charities. Today, with group health insurance, social security, workmen's compensation, sick leave, disability benefits, survivorship benefits, and private pension funds, disregard of collateral benefits is indefensible. It leads to overpayment of claims, over-utilization of congested health facilities and lets aggressive claimants make profits out of minor injuries.

The old rule of disregarding collateral benefits must give way to a new rule of crediting collateral benefits against damages for negligence.

Damages for pain and suffering.—Damages for pain and suffering must be eliminated from ordinary automobile negligence cases.

Damages for pain and suffering immensely increase litigation. Survey evidence shows that they are second only to negligence questions as a source of controversy. Damages for pain and suffering also lead to the wasteful overpayment of small claims, where the amount of pain and suffering is very little. Damages for