STATEMENT OF H. CLAY JOHNSON, PRESIDENT, ROYAL-GLOBE INSURANCE COMPANIES, NEW YORK, N.Y.

My name is H. Clay Johnson and I am President of the Royal-Globe Insurance Companies. These companies are members of the American Insurance Association. They are licensed and doing business in the 50 States and the District of Columbia.

The Royal-Globe Companies' 1967 premiums were a little more than $409 million, of which automobile insurance comprised $142 million of premiums.

We strongly endorse the comprehensive study by the Department of Transportation as contemplated by S.J. Res. 129. I say this with full realization that because the automobile insurance business is vast, highly complex and dependent upon personal on-the-spot decisions by many people, there will inevitably result from the study criticisms of the administration of the insurance function in specific cases. As Mr. Jones has already indicated, however, much of the criticism stems from a misconception of the function of the automobile liability policy.

Mr. Jones has indicated that those witnesses representing American Insurance Association companies will highlight separate aspects of the problem and thereby avoid redundancy. My brief remarks will be confined to state rate-regulatory laws.

You will recognize, I am sure, that the rate-regulatory laws under which our business operates are an important part of the automobile insurance system and that many of the cost and marketing aspects of which Mr. Merrill just spoke are directly or indirectly attributable to the character of such regulation.

Most of the state rating laws were enacted in 1946 and 1947 after the passage of the federal McCarran-Ferguson Act in 1945. That Act, as you know, was designed to permit the continuance of state regulation which had been jeopardized by the Supreme Court's decision in the South Eastern Underwriters Association case. The McCarran Act also granted to the insurance industry a qualified exemption from the federal antitrust laws, making them applicable only to the extent that the insurance business was not regulated by state law.

In approving the McCarran Act, President Roosevelt mentioned the necessity of "affirmative action" by the states. The emphasis on affirmative regulation at that time stemmed additionally from the industry's understandable preoccupation with antitrust matters following the SEUA case. It can best be explained by a quotation from the late Senator Kefauver, accompanying his introduction of a file-and-use rate regulatory bill (S. 568, 87th Congress, 1st Session) for the District of Columbia:

"This problem apparently had its genesis in the belief that the McCarran Act's exemption from Federal antitrust action could be achieved only by 'affirmative regulation.' This, motivated more by the desire to obtain antitrust immunity than the need for obtaining the best regulatory system, the States seized upon the requirement of advance approval before rates become effective. Unfortunately, certain of the deliberations of the Congress prior to the enactment of the McCarran Act gave weight to this argument." (Congressional Record, January 23, 1961, page 1045.)

The concept of affirmative regulation meant the necessity of requiring rate approval by some spervisory body. The member companies of American Insurance Association did not agree with this interpretation of the McCarran Act in 1945, nor do we now. It was and still is our view that regulation requiring rate approval is unnecessary and undesirable. Our position did not prevail. The model rating laws deevloped by the National Association of Insurance Commissioners, in cooperation with the industry, while intended to be a compromise between "prior approval" and "file and use," has become a prior-approval law in actual state operation. It requires rates to be filed subject to a waiting period before they can be used. But in practice rate filings under this type of law must receive advance approval by the state supervisors before they are used.

In support of the prior-approval type of law it can be said that in the late 1940's there was a high degree of rate uniformity since the bulk of the automobile insurance business was written by companies who were members of rating bureaus. Under such conditions, a rigid form of rate regulation may be appropriate. Today, however, vigorous rate competition prevails, particularly in the field of automobile insurance. Nevertheless many states are still trying to impose rigid rate regulation on a competitive price structure. This is inconsistent with the basic principles of free competition.