

MAINE STATE LEGISLATURE

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PUBLIC HEARING

MAY 2, 1973

STATE HOUSE - AUGUSTA, MAINE

ROOM 135

NO - FAULT INSURANCE *****

..... L.D. 1882

..... L.D. 1879

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SOUND OF GAVEL.....

SENATOR COX: This meeting will come to order. For those of you who are here for the first time and who want to testify we will hear from those in favor of the bill, those opposed and those who wish to speak either for or against in that order.

We are going out of order today and the first one we will hear is House Paper 1453, Legislative Document 1882, AN ACT Providing for Maine Motor Vehicle Injury Compensation Plan and for Motor Vehicle Insurance Reform.

The Chair recognizes the Sponsor, Representative Tierney.

REPRESENTATIVE TIERNEY: Senator Cox, fellow members of the Joint Standing Committee on Business Legislation, I have noticed that for this no-fault hearing ... although we may be in unfamiliar territory thatwell, I'll hope to touch on familiar territory first so as to be able to generally enhance the presentation today rather than to take away from it. It's also nice to know that Maurice is here.... we're well represented.....(laughter)

I am the sponsor for L.D. 1882, AN ACT Providing for Maine Motor Vehicle Injury Compensation Plan and for Motor Vehicle Insurance Reform.

The short title of that Bill, as some of you may have heard,... I'd like to call it the Maine Plan. Now, for instance, why do you want to call it the Maine Plan. Certainly a lot of plans offered are Maine Plans. Well, I don't think it's just an euphemism or something.

designed to catch the eye of the Press. I feel that this Bill is unique and it has been developed with the Maine people in mind by Maine people, as a matter of fact right here in the State House.

You will notice, to begin with, that the Sponsor ... and I am the Sponsor... do not generally sponsor their own bills; but I am not just going to duck out and hand the podium over to someone else and I did want to make the presentation of my own bill.

But more important, we are not going to see here today any Harvard Law Professors supporting L.D. 1882. We are not going to find any glib-tongue Illinois or New Jersey lawyers supporting Maine's unique bill, nor anyone who has flown up from Boston or New York from the insurance industries in support of the bill, L.D. 1882.

I will be making the major presentation. 'I will hope that you will follow along with me and the following my presentation, for which I hope there will be questions; certainly that is the intent of what we are trying to do, the only other expert whom I have asked to come is the representative of the associated hospital services, Blue Cross and Blue Shield....I will have.....I have heard comments in the hall this morning which I've heard (when everyone thought I was around the corner) 'we've got to get together and kill that Blue Cross Bill.' I should probably say that this bill has been in the works longer than Blue Cross has been an institutionI would have to assume that my own credibility has been transformed for you to believe that. We did have Charlie Cragin to help us out with some of the technical amendments and on one point he

he brought in three pages on one amendment; the three of us have been working on it going like anything....I think that most of the technical draftmanship in this bill will have to lay on my good friend, Oliver and I guess Tom Downing, Legislative Staff Assistant, who did most of the legal work on this bill.

One more point, Senator Cox before I start my formal presentation and this would be ...I am a member of the Committee...many times I just love to get up and interrupt the speakers if I think, you know, that there is a point. I, personally, have no objection, but of course, the decision rests with the Chair. I have no objections if members of the Committee want to interrupt me with questions, but sometimes it's easy to keep the point in mind and ask the question at the end; but; as I say, that's your decision not mine.

I tried to organize my presentation of L.D. 1882 in some sort of a logical sequence and it seems to me that the logical question that you have to start with on any bill is to ask the question: 'Who is covered' ...who is covered. The answer to this is essentially found on Page 2 Section 2954 and the answer is fairly simple and that is: every resident owner of a motor vehicle in Maine must carry this coverage while the car is registered and any person, any non-resident who is operating for over 90 days must be carrying this sort of insurance.

The only unique point under this section and what I think is relatively important, has to do with the definition of motor vehicles where you'll find that I've included in this definition "motorcycles". Several groups have appeared and said, 'well, we can't have motorcycles

in there because it's too risky'. Too many people get hurt on motor cycles and it costs too much money to substantiate this'.

I philosophically reject that and I certainly think that we can consistently reject that point. If our goal of having any sort of insurance reform or any sort of no-fault package to insure the driving public of Maine, we can't stop by sitting down and saying 'well, are they too risky'. Because if they are too risky, then we would be running counter-clock wise to what we are trying to do, and that is to compensate for injury as a whole and through the Legislative process, and through the philosophical approach I want to keep motorcycles in this law.

So the question of who is covered is relatively simple. Virtually, everyone. Next question to ask then is 'when is it going to be used, when is it applicable'. The answer here is in Section 2957 on Page 4. ...any accident by a vehicle covered under this Act will be covered, whether that vehicle was in Maine or out of Maine. This also includes any number of occupants within that car; be it two or six. We want to cover everyone who is injured. The only point that I would like to make here is that your own act is primary. So let's have Representative Hamblen and I, after this is over, presumably get together....and Cal says, 'let's go down to the Senator for a few drinks....shall we use your car or mine? Let's use mine'. So we drive down to the Senator and we have an accident. Because I have an automobile and because it's registered in my name, I would collect against my own policy, not against Cal's. However, had it happened two months ago when I did

not own an automobile, then I would be covered under Cal's coverage. I think that's fairly similar to all of the bills....but I did want to get that on record.

You will note on Section 5 in that Section on Page 4 a statement that was made throughout this bill and that is, that thisin this Act would only be applicable once; we are not allowing duplication at any time in this bill. In other words, you can't just go out and and by this Act, twice if you were in an accident, collect both times. Again, that's counter to what we're trying to do; and that is, to compensate people on a no-fault basis.

So we've answered the first two questions(1) who is covered and (2) when is it applicable.

Now, I'd like to move to a more important section, I think and that is the section that has to do with benefits. That's on Page 3. L. D. 1882 of the Maine Plan provides no-fault coverage against those insured and recovery on a third-party basis with an upwards limit of \$10,000. You will notice, for example that that's five times higher than LD.1420 submitted by Representative Trask and also significantly higher than the bill introduced by Senator Marcotte.

\$10,000 limit should cover, according to the Department of Transportation figures, 98.5% of all the accidents in Maine.98.5% of all the accidents in Maine should be compensation in full with this plan. A significant point, as I told you earlier, as we go through the various sections of this bill....I'd like you to keep in mind that one would collect in the order of which the accident ...from which the injuries were incurred by the person. Let me run that one by again

and see if I can make it clearer. The person who is injured in an accident....his primary bill would go to his medical coverage. They're listed in that order. That's the number one priority. The second priority would be wage earnings coverage, substitute services. Looking for medical benefits, we find an explanation that is fairly simple... although we would like to note at the present time that past experience has shown that out of a package of this sort, 75% of the total cost would be under this first section....medical costs. Sometimes in my delivery I might fade off and refer specifically to medical benefits bybut I will mean the whole package.

The second section has to do with wage recovery. Under this section any person insured under this Act would collect 75% of his gross (average weekly) wage up to and not to exceed \$150.

Point of explanation: Why only 75%?Well, if you give an injured person 100% of his gross weekly wage on a non-taxable basis, he's not going to go back to work. He's getting more money than he would be getting if he were working. If you only gave him 50%, then that wouldn't be "just" compensation. So, 75% was kind of a rough estimate on that.

Question number two: Why \$150.00....why not compensate everyone indefinitely?First of all, that would cost a lot of money...secondly, the \$150.00 means that the 75% figureit would mean that we are compensating fully anyone who makes \$200.00 a week or less;\$10,000 a year or less....we're compensating fully for their wage recovery for

a 26 week period. The reason that we did choose a cut-off point was that we feel that the vast majority of the people in Maine, who of course do make less than \$10,000 a year....the vast majority of the people in Maine should not be forced to pay for their premium for compensating wage-replacement and there are only a few people in Maine who are over that figure.

Before we leave this point....and I'll get to it again laterit should be noted that if the person does have wage loss in excess of that....in other words, if the person has more than \$10,000 in a year earnings and is not compensated in full....that he can bring suit for that additional amount.

....for 26 weeks, by the way, because that's the cut-off period of Social Security....so that if an injury persists more than that, then Social Security picks them up with their benefits and of course we're not going to pay wage replacement forever....especially when the majority of people are on Social Security.under Social Security.

The next section has to do with substitute servicesand in the main, substitute services have to do with domestic services....if you need maid to come in and clean the house because you're sick and your wife is not working and it has to do with the accident, then that is not to exceed \$50.00 a week....for the same reason, obviously, if it were over \$50.00...people would hire two, three maids to come in and do a really nice job on the house, while you're recovering from an automobile accident, and we don't want that.

On Section (4)....and I wish that Senator Katz were here because

earlier today he asked a question, I think that relates to one of the other bills, I think 1420....occupational benefits are quite liberal in phrasing that. We are much more liberal than the other bills...well, we do feel that occupational therapy and occupational rehabilitation are extremely important for an injured person and they should have the right to collect on that basis.

Finally, and I'm sad that we have to reach this point because there are over 270 cases each year.....the question of survivor benefits. You'll notice that we offer \$10,000 if a person is killed instantly. But that means "if" and in simple terms that there is (under this coverage) a \$10,000 life insurance benefit in this policy. He gets it automatically under his own insured.

If the death is a lingering death...in other words, he's used his medical benefits and so on....he gets \$10,000 less the medical expenses and in a corresponding manner....if you have questions, I'll be glad to help you with that one.

Again, I would like to re-emphasize....if a person goes over on wage replacement or connected services has losses in excess of \$50.00 or in excess of the \$150.00 limit...or his monetary losses exceed \$10,000. just as in the other bill...(although in the other bill it was \$2,000. not \$10,000) he may bring suit in court for the recovery of the excess over \$10,000.

So now we have WHO we are going to cover, WHEN we are going to cover and WHAT we're going to give them. Now, maybe we can get into the core of the bill and some of the facts which I think are peculiarly unique to L.D. 1832.

Who will write the insurance?

Section 2955 on Page 3 states quite clearly that only a company authorized to write health insurance in this State (or any non-profit hospital service) may write this coverage. (reporter's note: "coverage" inserted ...word used 'bill')

The obvious question to ask at this point is WHY?Why do you limit it. Certainly that is discriminatory. It is discriminating against other insurance companies in the field who also wish to offer their services to the consumer.

Well, let me answer that first from a philosophical point of view and perhaps a practical point can be also be put forth....or hashed out at another point later on.

But the philosophical point is this: In the category of insurers of Maine and in the country are best in providing what they do best, dealing with property losses regarding insurance. They provide collision insurance, they provide you with liability; they have expertise...they deal in property.

For what we are dealing with under this no-fault bill (and the other no-fault bills) is not property at all. We're dealing 75% of those cases with human suffering. In other words, the medical coverage and it seems to me very strange to maintain a dual system... a dual system of paying for hospital bills. If a no-fault bill goes through....let's say any of the others that have been presented so far....we will have essentially developed a unique system. If you have a Blue Cross policy, or any health group insurance policy, Union

Mutual or any of the others, or if you have Medicare....and you have an automobile insurance policy, you are paying twice for the same benefits. If you aren't insured at all, and you were injured, you could collect against your group health insurance policy or against your Medicare or whatever. Now, we are requiring people under the other bill to say, 'well, we also need to require medical payment package on the automobile insurance....we're doing this by the wisdom, power of the Legislature of the State of Maine. So, we want to essentially to develop the "dual" system.

If a person is hurt in his car, he turns to the medical payment package, on his automobile insurance. If he gets out of the car, walks three steps away and falls down, then he turns to his group insurance or governmental services which will provide care.

I don't see the purpose of this. I don't see the need for a dual system..

The second point, of course, has to do simply with expertise. Let the property insurers do what they do best; deal in property insurance, but let the health insurers do what they do best....they deal with the health of the people in Maine.

Next section: Section 2959. How do we get paid? What is the claim procedure? It's relatively simple and I think it's the same for the other bill. That is: we're being paid on a semi-monthly basis, after the bills have been incurred....so that people are being paid within 15 days of the time involved.

Again, we will lead in this Bill....and as I've said this has been worked on by members of the Maine Legislature doing the best that they can....we felt that the wording in L.D. 1420 was represented quite

well and I think that you will find the wording here essentially the same. This has to do with the insurance companies, the insurance providers of service does not act ...if they do not act, then we have attorneys' fees and so forth for that purpose.

Let's move to the next section ...and this has some substance to it....and that has to do with the obvious fact that we make provision for the injured person to recover.....full right to recover.

Now, I've had a few charts made up...they have been done by the Committee...here you can see charted full right to recover.... we've been talking about this for a month. Finally, I felt, why don't we get this out in front of us....this is just a example of the types of losses we're talking about.

Laywers would call human losses "special damages" and they would call non-pecuniary losses, "general" damages. These are the two areas that we are dealing with and the philosophical question which this Committee has to answer before we're done with NO-FAULT if we enact the Bill is to what extent are we going to allow people to recover from the pain that they suffer during theand inconvenience....and physical impairment which they have.

Now, philosophers will take the point, in fact they are correct, that it is impossible to justly compensate a person for the pain he has been suffering. How can you put dollars and cents on pain? No one knows what type of pain a person feels. So they are probably right....and this would of course, lead to a full no-fault system.....in other words, compensation forever on all of your monetary

losses but we won't cover you on the other. However, there is another bill before this Legislature including the Morrill bill....all bills state that in some circumstance injured victims should be allowed to collect for pain and suffering. Now, generally we find ourselves in very difficult logical problem if we try to start 'drawing' lines. We can do this, we can't do that.....I'm not going to reiterate all the arguments that have been made on previous bill presentation, but I would like to summarize a couple of points and I do have a hand-out. I think you'll find it somewhat interesting.

The first is....and no one has actually claimed it....but I did want to re-emphasize it....that is, there is no backlog in Maine on Civil cases. The major problem in Maine court cases has been the problem of criminal cases; for instance in my own county of Androscoggin, I had two people waiting for hearing on civil cases ...accidents, but they called me up and said, ' Jim....gee, I just got delayed three months, what's the matter?' (must be too many automobile cases)Well, what had happened up in Androscoggin County was that the County Attorney very efficiently went out and conducted a very large drug raid. The drug raid was so large that essentially there were so many complications...in the criminal field....we had to hire extra attorneys....it wiped out the entire term of the Androscoggin County Superior Court. So everyone who had a civil case was postponed since criminal cases take preference. So, I don't think that in Maine that it even is alleged, actually, that there is a backlog in Maine in civil matters, because of automobile problems.

Second of all, I'd like to note and point to the states of Maryland and Delaware. They have adopted no-fault bills; I call

them "no-fault" ... some people call them "yes-fault"...but they have adopted a measure and in each case they have maintained the full right to sue and the number of court cases has still dropped....why is that?

It would be logical to say that if you maintain the right to sue, then people will continue to sue,...not true. It seems to me that the preliminary figures that are coming out of Maryland and Delaware showand I think my own understanding of Maine people would go along with this.....says, if you can compensate most people for their economic losses, their medical benefits and so on....\$10,000. will take care of 98% of the people in Maineif you will compensate them for that, they will not be as apt to go into court and sue. I really don't think the people of Maine are suit conscious. It doesn't ring true with me and we're getting these verifications of this out of Maryland and Delaware, which I think bears me out on this point.

We have other pointsI'd like to hand out this sheet.....

We are the doorstep of an arbitrary threshold....let's say that medical benefits are \$500. or over \$501 you can sue; under \$500.00 you can't..This is one example of the problems you have with it. The geographical difference is the hospital costs in Maine. If you look (at the handout) at the top you have Augusta General \$60.00 a day; then you look down to Lincoln and you have \$33.00 a day.if you are going to maintain some kind of threshold, at least get some sort of regional system, as they have done in other states which will say we are going to do this on an over-all survey. It's obvious that if it costs twice as much to be in the hospital in Portland as it does in Hancock

County or in Lincoln, it's going to be much easier to get over that magic limit.....That magic figure of \$500.00. Certainly, people in Portland can sue for an injury, while people living in the upper half of the State can't.

This is the type of problem that you get into....when you set arbitrary limits. Same problem we had the other day....when we talked about, well, if we had certain figures ...significant injurythe problem is in defining thatit's like playing god..... to be able to say, well, we feel that this is significant and this is not significant.

I feel that Maine has a long line of cases on this point ...I don't see any compelling reason has been given us to get rid of this problem.

I just wanted to reiterate some of these points....the point of threshold in my own position and the position of L.D. 1882.

Now, how are we going to pay for it? Since we've offered much higher benefit taxes than any other bill and we still maintain the right to sue so the obvious question that would come to anyone's mind is 'the cost must be astronomical'. Well, in looking at this situation, it seems to me that the philosophy which I am going to be guided under is this: it's no trick to reduce premiums by reducing benefits.

We're going to try to do....and which I hope will happen with L.D. 1882....would be that by banning significant costs of the human suffering part of the package, medical payments, essentially, the human losses.....by banning significant profits on that point I think we can

offer a substantial cost reduction to the people in the State of Maine.

That's difficult....politically that would be a suicidal route. Because you have at the present time, whether you like it or not, whether it's under status quo or any other procedure.....you have millions and millions of dollars floating around in society in the form of insurance premiums. Someone is going to get them.... someone is going to get to invest them. So, here we have a point of a first-term legislator coming along and says,....he's going to try to limit costs, the hard route....but I think it's the route that Legislature should favor.

How do we do it?

Point number one: Attorneys' fees. There is a section involved in this on Pages 5 and 6 which relates to Section 2961.... let me summarize it for you.

This section is the first out-right flat prohibition on legal fees that you can find in the 18 volumes of the Maine Revised Statutes, Annotated. There is a section where if you feel that fees are in excess....you can appeal and so on....but this is a flat out-right prohibition. No legal fees may be collected on that first \$10,000. Nothing. The insurer provides it himself. It's really quite simple....we tried to make the wording as tight as we couldwe told them to do so...but knowing that lawyers oftentimes take their position in and out of words, and that no matter how hard I tried we might still have failed...we still had to be able to figure out a way to collect the fee, so you'll find a sentence for that section which gives the Supreme Judicial Court of Maine the authority to

promulgate rules and regulations to carry out the intent of that bill. We have tried to make it as tight as possible.

So, we did that to the attorneys; we have to say something of the other hand too. The insurer...provider of the insurance.

You'll find on Page 7 a rather short summary, section 2963 where we require that an individual insurer be able to operate at an 80% efficiency level to write this policy. Uh-uh.

Here's a bundle of problems; benefit cost ratios and how do you define it...can it be used....that's impossible. I'd like to give you another hand-out from an article which was referred to earlier.

It came out in February, 1973 written by Calvin H. Brainard. Let's look at the first page, not the whole article but I think it's importantthey're talking about the resultsunderwriting results of the Massachusetts insurer.

You'll find at the bottom of the first page that statement that: "The purpose of this article is to examine the other side of the market--the effect of no-fault on the costs and profit margins of Massachusetts insurers of automobiles".

And he states in the next sentence: No-fault is very "gratifying as to results in Massachusetts".

If you read this through, you will find that they seem to feel that you will develop...can develop some sort of cost benefit ratio. On the second page of what I have given you is listed the results of underwriting for the year 1971. You can see in the left hand column Premiums in millions....in the middle column Losses in millions....

some of us prefer to refer to losses in terms of benefits paid to recipients....but anyway.....there you see the loss ratio results.

So they seem to feel that this is a workable concept; so workable that it is a means of demonstrating to the insurance industry how possible the Massachusetts insurance no-fault cost rate was.

So we feel that if they are capable of using that tenant that we should be able to do so. However, some of the arguments at the other hearingI think were quite citeful and perhaps we are going to have reword the definition of "costs"...of that ratio, but I am sure that we will be able to do that.

I'd like to note futher that using the cost benefit ratio that we have....the cost benefit ratio for Mainemedical care package ...revolved around 37%....37¢ on the dollar. I think it is incredibly low....I think we can do a lot better.

I then move now to the next section...alternate coverage... I think we can save a lot of money when we do that. It should be noted that a very substantial majority of the people in the State already have some type coverage....public members, senior citizens, people who are on welfare..people who are on Medicare, Medicaide.... people in group subscribers and the various health insurance policies. The Health and Insurance Group shows that they estimate that approximately 97% of Maine people have some sort of health insurance. What we have done is this: the next chartthis is merely a copy of what we have in the Bill....so I have put it up here so that you could all examine it.

In a word, we are making this policy the policy of last resort. We're making it the policy of last resort. Under the principle that as few people as possible are going to draw on this no-fault tax, that as few people draw against it, the rates are going to be lower.

We certainly are not going to be paying out as much. So how do we do it?

First of all, if a man is covered under the workmens compensation plan, that's where he goes first...second, the person that has Medicare, Medicaide or has perhaps benefits under the Veterans Administration, he will not turn to his automobile insurance policy; he turns to the Government as in the example of the senior citizen paying social security...they have paid it for many years; that's where their tax dollar goes...this is why the programs were instituted. So why would he pay under this for something that he already has under the government program.

We could make this on a mandatory fee; of course he would have to go against first any government program which he has, under which he is able to collect. The next attractible benefit is the optional rule. We have had a commitment at least of Maine's largest provider of care...Blue Cross...and we will have a gentleman later on who will go over this in detail. They will provide a rider to their program and I'll hope that you will hold any questions on that line and present them to the experts who have the experience obviously and would be the people who will be writing it besides.

In other words, then, the person would be collecting against his own group health insurance policy. We would, in L.D. 1882, be taking advantage of group benefits and Representative Deshaies has a bill in which are listed some of the advantages of group insurance in a variety of areas.

We take advantage of group benefits; we take advantage of anyone who will enter into a collective bargaining agreement whether it be union, teacher or a person employed by the State where the State picks up a certain percentage of the Blue Cross and Blue Shield.

We are taking the load of the automobile accident and pushing it back....making it a subject of collective bargaining. It also provides, in the end result, lower costs....Because you have fewer people joining against this policy, and that's our goal. Questions on that, as I said I'll ask you to hold.

I ask you to endorse L.D. 1882. A few small points..... you will see the statement of fact and it's quite lengthy because I wrote it and I thought it would be a good idea if legislators, when they look at the statement of fact...(before they couldn't wade through all the legal mumbo-jumbo)...you will now notice in the statement of fact two points: subrogation is one and the other is insuring investment. The actual wording of the Act is actually in the very last line at the top of Page 9. What we do here...the insurance commission at the present time as we know, under the insurance laws, has a whole number of facts that he takes under consideration when he makes his decision as to what will be offered to the public. Under this section

we require....have added a clause that the insurance commission give due consideration because we want to give the insurance commission some incentive....shall be given 75% of subrogation recoveries and 75% of investment income. Insurance companies, after all are getting to be like banks. They make most of their profit not from premiums, but from the fact that they can use that money while they have it; invest it and make a profit. Well, that's quite logical....we just want to give the insurance commission the authority to develop some kind of procedure and come up with some answers. The same is true of subrogation and that is a difficult subject and I don't really want to try to define it...unless we say that one insurance company stands in the shoes of a person who is injured and goes up against another insurance company and that on a mass basis it results in mass solutions.

Subrogation was one of the number one subjects that we heard about in this bill.....in an earlier hearing, I don't recall by whom. There are also some sections that deal with general services performed which I think are important. For example, there's Determination of Coverage; Section 2965 and one peculiar point is that this would be the only insurance policy in Maine which is non cancelable except for non-payment of premium.

So if a person gets old, or if a person gets sick, and has a hard time driving, they're not going to have this section of their policy cancelled. You cancel them out on everything else...or if you want to cancel them out because they have been driving carelessly and have had 15 accidents, that's o.k., but if our goal is to provide

to the people of Maine the opportunity to achieve and get themselves coverage for medical compensation...then I don't think it should be cancelled.

And I think you'll find that when the benefit costs are costed out by an actuary, you'll find that that small clause will cost us very little.

That is essentially my presentation and I would be happy to entertain any questions.

SENATOR COX: You have my compliments for an extremely able presentation. You have already answered a lot of my questions in your brief.

Are there any questions?

REPRESENTATIVE DESHAIES: Jim, I have one or two. You've answered the first one, concerning cancellation, in your closing remarks. Section 3966 on Page 4....wouldn't this conflict with the present bill that we have heard concerning compensations....I forget the L.D. number.

SENATOR TIERNEY: Which one....?

REPRESENTATIVE DESHAIES: The Automobile Cancellation Control Act that we heard Monday.....or maybe prior to that.

SENATOR TIERNEY: It might very well

Q. That's the one where we deleted the immunity clause?

A. It might very well.

Q. I think it does.

A. I'm sure that this Bill conflicts with a great many plans

Q. It would seem to me that the bill that we have heard concerning automobile cancellation would conflict with that particular paragraph.

A. It may very well be.

Q. The other question: motorcycles...they are presently rated quite differently...you've left them in there and I'm sure that you have a reason...butand I'm sure that you are aware that they are presently rated differently than automobiles....because of their obvious exposure which is considered higher than a car....?

A. I think that you've brought up a good point because people on motorcycles do have accidents but we can't lose sight of the forest for the trees. If we enact any form of no-fault legislation, we are essentially enacting a philosophy. Now this is not Cornwall vs.....

Q. I'm not arguing that....

A. I understand that, but what I'm trying to do, unless the costs are very astronomical, I want to leave motorcycles in.

Q. I understand. ...but my question was have you taken that into consideration?....the cost?...the rate structure?

A. I guess I don't know too much about that at the moment.

Q. Another question: if I understand the content of this bill...I was taking notes as you were making your presentation...quite frankly, I haven't read this bill....there is no threshold in this bill.

A. No, that's right....

Q. Until the out-of-pocket expenses, special damages, call it what you will, exceed \$10,000.

A. No, there's no threshold at all, except ...I guess you'd call it a floating threshold for legal fees...there's no threshold such as

so many medical benefitsyou go below it you can sue....above it you can't.

Q. That's where I'm not clear because in this #2961 you say attorneys fees are not allowed. I think that's what you said.

A. Right. Under no-fault recovery....on that amount up to \$10,000.

Q. I don't follow this threshold concept and attorneys fees. I don't see the connection. I wish you'd elaborate.

A. O.K. fine. The first bill, threshold bill, I think came down through Representative Trask and that bill essentially says that you have a medical threshold of \$500.remember that chart I had before?we'll go back to it. Essentially what that says: if you are caught under the top part of that chart, or under \$500. you can't sue. Many people in the insurance industry said that's too low, you should get it up higher.up to \$1,000 or \$2,000. Threshold, of course has a lot of problems and was declared unconstitutional in Illinois which is why I feel fairly sure that the clause in there...in Representative's Trask's bill....we were a little worried about that....it's the last clause in L.D. 1420 which says that if the court declares this act unconstitutional the whole act is void. We don't have that problem here. o.k.?

Under our Bill there is no threshold as far as your right to sue for what's on the bottom part of the line. You can have \$200.00 in medical bills and still sue for the pain you suffered because you only had \$200.00 in medical bills.

Q. This is where you lose me....I don't understand it. Under most other bills that we have heard, specifically the 1420 bill, the non-percuniary lawsunder the threshold system 1420 any permanent impairment does not bar court action.

A. Absolutely correct. I think here at the time...first of all I don't want to get into the definitional problems. It's clear to you and me sitting here in Augusta what is significant; that's easy for us but what's going to happen two years out there when someone gets hurt....naturally, and I don't blame the insurance companies for this, because they are in the business, naturally to offer the lowest rates and they can't offer the lowest rates unless they can eliminate an awful lot of claims. So you have a lot of words in your act like "significant", "impairment" and so on....then you're in a lot of trouble.

As Professor Keaton said in answer to my question...aren't these going to have to be litigated?he said, ' yes, it is' and so what that means is that when something has to be litigated you're saying the only way you can prove it is to go to Law Court in many casesSupreme Court....so when you use the words "significant" and so forth, you get yourself into a whole lot of trouble.

The only reason why I could say that you need a threshold is to stop payments on these lower claims...stop ...don't let a person sue when he only has a small claim because of ---in other states it's a valid argument perhaps---too many cases on the docket and so forth; but that hasn't been documented in Maine. Therefore, that's why

we're calling it the Maine Plan. Of course you can sue for damages over \$10,000 on the top section.

Q. The attorneys fees.....you say in section 2961....they are "not allowed".

A. That's right. You can't do it. When I say you can't collect a legal fee, it means on that first \$10,000...at the present time... let's say you had an accident, single car accident and you are going to collect against your own insured, right?

You collect your medical benefits, disability or whatever you happen to have. Let's say that you have to go out and hire a lawyer for that. Now any lawyer that's worth his salt will say o.k. let's go after pain and suffering too.

At the present time.....let's say that you get all of the packagelet's say that you get a total package because the injury is \$15,000. At the present time the lawyer can get a contingent fee of 25% (or 1/3) of the entire \$15,000 covered. Not only does he get 1/3 of the pecuniary losses, but he's also taking 1/3 of the portion of medical losses. Now, I feel personally that that is unconstitutional.

I think what we are trying to do is compensate people for medical bills and I don't want lawyers to take 1/3 off the whole thing.

DESHAIES: So there is a problem of fees charged and the rate?

TIERNEY: Right.

Q: Now, there's one last question, Jim. This hospital benefit is what I'd like to know about. I just want to state an observation; I won't make it in the form of a question. I have nothing against the Town of Jackman. I think it's a lovely place...

REPRESENTATIVE TIERNEY: ...You just wouldn't want to live there.

REPRESENTATIVE DESHAIES: ...probably some day....at the moment

You take \$40.00 for a hospital room in Jackman vs. Portland....\$40.00 in Jackman and \$59.00 in Portland. This is an assumption on my part and I'm not totally knowledgeable about units...but wouldn't they offer different services?

REPRESENTATIVE TIERNEY: Possible.

Q.observation only.

A. It might well be. In Portland, you have a parking garage and somehow you get the premium rate; but you don't need a parking garage in Jackman...the Jackman Memorial Hospital, that's true but the point is if you have different rates.....

REPRESENTATIVE DESHAIES: I understand.....

REPRESENTATIVE TIERNEY:then you are discriminating.

Q. The only other observation I would make on this sheet would be that possibly Portland has more to offer and possibly they can justify a higher rate.

A. One last thing....on the rate reduction..the operating expenses, the loss rate on that sheet for various companies listed....for numerous states....is that for the B.I. injury only....what does that represent?

A. I'd like to clarify that. Of course I didn't make that chart... the person who did....well, people the other day mentioned in committee 'it's impossible to come up with any costs or ratios that make any sense. It's a meaningless concept'....that type of discussion was floating around when we were discussing Representative's Smith's bill, but this chart shows that Massachusetts has been quite profitable. And that type of analysis is used by term agencies and by the Professor himself to come

to come up with some kind of ratio and that's what I'm trying to do here.

Q. You don't know whether it represents B I or what?

A. It's the no-fault plan of Massachusetts.

Q. There's nothing on this sheet that has reference to Massachusetts rate reduction.

A. The rest of the article (of which you have only a portion) does. There were rate reductions....but, what you have answers the two force rate reductions at maximum (given us by the insurance commission) but even so, Massachusetts calls it very gratifying---quote.

Q. But in that article there is some reference to rate reduction?

A. Oh sure.

Q. In the article also there was....I'm sure that they must have clarified exactly what these loss ratios represent...BID or the overall taxes or what.

A. I have the whole article right here...afterwards, if you want to go over it we can.

REPRESENTATIVE DESHAIES: O.K.

SENATOR COX: Any further questions? Question from Representative Maddox.

REPRESENTATIVE MADDOX: On occupational services benefits, if there is no litigation under \$10,000 who determines what is reasonable and what isn't?

REPRESENTATIVE TIERNEY: Quite obviously, I don't know...you've got a good point there. Perhaps we'd better find out. I think under the claim procedure that we do allow "reasonable"...let me sum it up that when we cost this out we will find that this section represents a very

minor percentage of the tax.. 75% of that entire section is under Part I which is medical benefits. II, III, IV and V combined adds up to the other 25%. But I think that you have a very good point and we might have to work out something. This is my bill, what is into it now is there because a number of people have talked with me and said, 'this is what the people of Maine should have'. What is in here now I can also take out. That's some of the advantages of having it in committee.

SENATOR COX: Any further questions?

REPRESENTATIVE DONAGHY: We have been quite considerate of the consumer here. Is this going to give any freedom of choice...or are we going to start right off quick and say who we must buy from?

REPRESENTATIVE TIERNEY: We've written in section 2693....if you will look there you'll find that this act becomes effective, if passed on January 1, 1974....however, the tax figure wouldn't kick in until January 1, 1975; so anyone would be allowed to write the tax for the first year and then if they could make the efficiency level, then we'll go on from there. Obviously, 80% for performance is an arbitrary figure and we've got a long way to go between now and the time this bill is reported out.

Q. Why should anyone be satisfied with 75% of their income if they are not at fault? We started out here talking about a couple of playboys going up to the Senator and having a few drinks....

A. Perhaps I shouldn't have....I'm the quiet type and go home every night.
...laughter....

Q. let's say that the playboys go up around that teardrop thing up there (rotary) and through the stop light and ram some family...and the head of the family is in the car...he's just getting by now or perhaps not getting by..is he going to be expected to get by on 75% of his salary

when it's our fault?

A. That's an excellent point, Representative Donaghy. However, he would be getting 75% of his gross income tax free which is probably pretty close to what he's getting already so he'd probably be pretty much on the same level on a no-fault basis. However, he will have full-right tort recovery, so he can still ask for any difference.

Q. How do you know that he is paying any taxes?

A. Well, we all pay taxes.

Q. If you have...I know some families on social security and they don't pay any taxes.

A. We all have social security taken out...but perhaps in this case if 75%...or maybe 30% would be better. Or even 85%, but at 75% it's better than the other bills because for instance in Representative Trask's bill, that was 30% but that 30% was taxable. I think it's a fairly generous provision, but perhaps if we can get it costed out we could go higher.

Q. Many of our bureaucrats here in Augusta..the amount of money that you have in these bills, \$150.00 a week and a lot of people make more than \$150.00 a week, right here in State Government.

A. Well, of course, at \$150.00, that's the 75% we're allowing and anyone can still sue. You can sue for medical loss, wage replacement loss and so forth if you go over the benefits. You do have to take it in the form of a legal setting, the court room, I would like to add, however, I don't know how many of you watch Perry Mason....in the United States today in most any trial, you get suit on trial, if you mention to the jury that the person is insured and he achieved (got so much money against his insurance company)...bingo...you've got a mistrial. The jury is supposed to sit there and pretend as though

the plaintiff and the defendant are not insured; they're supposed to pretend that, we take care of that under this bill. That is, to give the right to the attorneys in the case to be fully open to the jurors and say, ' yes, we've already filed under the no-fault basis--- the person has already been compensated \$7,000 medical bills; \$1,500. in wage replacement and so on,, make it very open to the jury; so we have a little bit of judicial reform here too.

Q. Again, you're helping out the two playboys that caused the accident?

A. Well, no, it's their fault, they can't sue. If we're still operating under the premise of the playboys, they're going to get their maximum of \$10,000; if they are injured that much, but they aren't going to get any more.

Q. Yes, but the playboys are the defendants in this case. The attorney is not going to be able to do his usual pleading before that jury about

A. Oh yes, of course he can. The only thing we're saying is we're giving the attorney the right --more right -- the right to say the plaintiff has already been given such and such an amount, but we're suing here for wage replacement. It's a game of magic; the jury sits there, they don't know whether the defendants are insured or not, so you play the tremendous game of you know, asking for damages and the two drunken playboys there, they are not insured and you could go on all day with this beautiful suit and not get anywhere because they're probably judgment proof; but if they are insured then it's insurance company vs. insurance company and I think we ought to get all our cards on the table.

Q. What about commercial vehicles; are they included?

A. To the extent that they are involved, they will have to purchase a

contract. There is a specific reference on Page 4, Section 2957,

"When a person is injured by or while occupying a motor vehicle owned by a person, firm or corporation in the business of transporting persons or property or by or while occupying a vehicle owned by an employer, primary coverage...."

....all motor vehicles are going to have to be insured whether they are owned by a trucking company or not.

SENATOR COX: Representative Deshaies: ...

REPRESENTATIVE DESHAIES: Jim, I hate to keep coming back to this.. but I am familiarizing myself with your bill...as I told you I haven't had time to read it.

Jim, have you covered pedestrians in your bill?

REPRESENTATIVE TIERNEY: Right. That seems to be covered by the person.. let me put it this way, ...the policy doesn't 'walk around the pedestrian' it 'rides around with the car'. Unless the pedestrian has his own policy because he has a car....let's say for example, the little old lady who doesn't own a car, that would be covered by the person owning the car.
Q. You've got that subrogation thing....it's left a big question mark in my mind...I'm not clear on that...

A. Well, there are probably people here who are much more qualified to speak on that....I can mull through it if you want....I see a number of attorneys here in the room.... perhaps we can....

Q. O.K. One last question: have you had an opportunity to have an actuarial study made about savings in this bill?

A. We have some protective cost analysis, but I'm not going to pretend that it is an actuarial study. This was done by just a few of us

and what we did was ...after we were underway I invited Associated Hospital Service of Maine, we talked to Union Mutual and we talked to Blue Cross and they have some low-cost figures and I'd like it if you would ask them when they come up here.

SENATOR COX: Any further questions?

REPRESENTATIVE OBRIEN: I find it rather amusing that you're not going to allow any attorney fees from the standpoint of giving away.... I find that amusing....but anything over the benefits you're entitled to sue....there would be no attorney fees for up to...but over that they would.

REPRESENTATIVE TIERNEY: That's the whole point of this bill.... there are medical costs plus other things in that bill and when an attorney takes 1/3 of the package ...he's getting 1/3 of the whole thing. Many attorneys don't sit down to figure out 'I did some work on this section; I didn't do any work on that section'..... when the attorney gets this...he gets the whole package and he doesn't do any subtracting out.

SENATOR COX: Are there any further questions?

REPRESENTATIVE TIERNEY: If there are no further questions, I'm going to ask Mr. Thomas Cathcart who is here today from Blue Cross to speak as to how his Association can insure; the provider of this service. He is going to speak about some of the mechanics of the bill and then after that I'm going to be up again and introduce a few other people.

MR. CATHCART: Senator Cox, Members of the Committee, I am Thomas Cathcart; I am Director of Health Care Planning and Research for Maine Blue Cross and Blue Shield. What I'd like to do this afternoon

this (the mike) is a little low for me....I'm six feet five inches tall....

What I'd like to do here this afternoon is just make quickie statement that will give you a little bit of the background of what our interest in the Tierney Bill is and then put it out for questions.

What is Blue Cross' interest in automobile insurance? In one word, "none". We are not approaching no-fault insurance from this aspect. Rather we see no-fault insurance as an approach to return the injured person to wholeness without concern as to fault, but only according to his needs. This, as we see it, falls mainly within the province of health care.

Philosophically, right off the bat, one encounters many problems. And maybe they can be simplified by looking at the various aspects of automobile insurance separately. Basically, there are three such areas:

1. Protecting the car: This includes liability for the other person's car; it includes collision protection for your own car.
2. Protecting other property. -- and this is what we call property damage.
3. Protecting the owner and this means bodily injury coverage to protect him from claims when the accident is his fault. Now, this is under the present system, not under the Tierney Bill.

Now, you may say that one area of automobile insurance has been left out and that would be medical insurance payments. This is true but I have omitted it for a reason. Medical payments insurance is an area that has crept into the automobile insurance virtually unnoticed

because it was not recognized at the time as being properly in the province of health care rather than auto insurance. With the advent of the no-fault concept of auto insurance, we are being made aware of the proper place of this type of coverage.

Another factor is also responsible for our re-thinking of this problem. This factor is the increasing use of the so-called "systems" approach to the solution of problems. Instead of coming with piecemeal solutions as problems arise, what we are now attempting to do is to see the relationships that exist between the problem that arises and the existing or appropriate system into which it most adequately fits.

When this is done with the no-fault system we are struck by two facts:

1. Health care insurance has been paying these bills for quite a while and
 2. The majority of people (the Health Insurance Institute says that it's 9 out of 10 people) are now covered by some form of health care coverage, either through group or as an individual.
- This means that there is a direct connection between the health care carrier and the payment of automobile accident injury reparations. It is now evident that this is not a new area of concern for the health care carrier, but one in which he has been deeply involved and in which he has more expertise, I would submit, than the liability carrier.

Now one of the factors that adds to the cost for the consumer right now, under the present system, is the paying of duplicate coverage.

Remember, there were 9 out of every 10 people covered for medical expenses. When coverage is provided twice by health care insurance and by medical payments, (automobile insurance) it means that the consumer has paid twice for the same benefits. As the old saying goes, 'there's no such thing as free ride'. If a person is getting a benefit, he's paying for the benefit. If he is getting more coverage than is needed (or twice as much coverage as is needed) he is also paying more than is necessary.

Now, it also costs more to administer these benefits and if benefits are being paid by two organizations, the consumer is paying two administrative costs to two insurance companies.

Closely allied to this process of administration is the possible confusion to the providers of necessary health care; hospital, doctors and so forth. They have already established efficient and inexpensive procedures for administering claims. These procedures would probably be disrupted, and are being disrupted in the present system, by having to deal with accident claims differently than with health care claims and with having to deal with two claims instead of one.

By including no-fault benefits in the area of health care, the consumer is also being helped by the health care carriers' ability to bring about cost controls within the health care system and here I am thinking of such things as utilization review and peer review. This is committees of doctors working within the hospital or working within the State Medical Association or the State Osteopathic Association to study patterns of care in the health care system to make sure that care is being rendered in the appropriate setting; making sure that only those who need to be hospitalized are hospitalized and

so forth. Now, Health Care carriers have worked with these committees; these review committees to try to hold down costs; liability carriers obviously have not because they don't have this sort of arrangement with dealers in health care.

Another advantage which accrues to the consumer by making the health care carrier primarily responsible for the payment of claims is the reduction in cost of the no-fault package. Under the provisions of the Tierney Bill, the no-fault benefit payments are reduced by the amount of the claim paid by the consumers' health care coverage. It follows naturally, then that if claims payments are reduced, the costs are reduced. In other words, what the Tierney Bill makes possible is for the health care insurer, who writes the no-fault package to offer at least two levels and maybe there are more.

One would be to the person who now has health care insurance. To that person we would offer a complete scope of benefits as defined in the Bill. But, for the person who now has health insurance, what he is doing, he is paying for the majority of the benefits in the Tierney Bill....what the no-fault carrier can offer that person is a reduced package which would supplement his present health care coverage. That health package would, obviously be sold to the consumer at a vastly reduced price.

Another advantage which the consumer gains by having the health care carrier responsible for claims payment is the use of a system which has been stripped of unnecessary red tape so that his claims are paid by the most rapid method.

Through the use of this system, he has the best means of achieving the payment of claims within the time limits established by the no-fault legislation and each of the bills has a time limit within which bills must be paid. He is also assured of having services provided wherever he may be when involved in an auto accident; as health insurance carriers have relationships with health insurance providers all over the county; in fact, all over the world.

In addition to the time-saving aspect of the claims payment system, the consumer benefits from the efficiency of administration and its concomitant cost savings. This means that the consumer has more of his dollar returned in benefits....and we don't have to go too far to find out that health care carriers have a significantly lesser administrative cost than do liability carriers.

Presently, for instance, Maine Blue Cross and Blue Shield returns 93 cents in benefits for every dollar paid by the consumer. I would invite you to compare that with the figures that Representative Tierney distributed a moment ago.

In summary,

1. No-fault benefits are predominantly health care benefits not automobile benefits.
2. Health care carriers are, we feel, best equipped to handle the payment of health care benefits.
3. The consumer will best be served by a system which is accepted fast in payment, economical in administration and has some control over health care costs.

SENATOR COX: Are there any questions? Representative Deshaies?

REPRESENTATIVE DESHAIES: This 93% of return that you allude to...

Mr. Cathcart....I'm not clear on that. Presently, is Blue Cross chartered through the automobile reparations system?

MR. CATHCART: Well, it depends on what you mean by the 'automobile reparations system'. Blue Cross is chartered to provide non-profit medical or hospital plans. Now, there would be some benefits in this bill which would not come under Blue Cross and Blue Shield Charter. O.K. Where's your replacement?

Now, Blue Cross cannot speak for any other health care insurer, but to speak just of Blue Cross for a moment....Blue Cross and Blue Shield have an administrative agreement with localized mutual insurance companyBlue Alliance Insurance Company will write....has agreed to write the benefits under this package that Maine Blue Cross and Blue Shield could not write.

Q. Blue Alliance?they are chartered, in other words,what I'm thinking of is subrogation and various other benefits that would be recoverable....say Blue Cross per se would pass this on to Blue Alliance....that part of the claim, in other words?

A. I need clarification....which part of the claim?

Q. Well, I need clarification....Blue Cross would pay the actual medical, hospital benefits?

A. That's right.

Q. But if the claim is pursued further...loss wages...various other pecuniary damages...subrogation?who handles this, Blue Cross?

A. No. Anything other than hospital or medical service would be handled by Blue Alliance.

Q. Well, tell me more about Blue Alliance....I'm rather interested in Blue Alliance. What kind of loss ratio do they havewith this particularisn't this a stock company?

A. No. Blue Alliance is a mutual company.

Q. It's a mutual company?

A. Yes.

Q. Well, I have some interesting figures here on Blue Alliance. Would you.....they have been given to me within the past few days and this is taken from your 1972 financial statement; your group, accident and health loss ratio was 46%.

This is pure loss. It does not include apparently, operating expenses or anything else.

Your other A & H....that is the individual A & H ratio is 44.2%. Now, this is considerably different from this 93% recovery that you people keep alluding to. How would this affect the over-all package?if Blue Alliance handles subrogation?

A. The main product which Blue Alliance sells at the present time is major medical insurance. O.K.? and Blue Alliance has only been operating this in a large way in the last couple of years. Now, major medical claims have approximately a two year time lag; first of all, this is an educational problem. People have to be educated as to how to claim benefits. Partly, it's just problem....

REPRESENTATIVE DESHALES: I'm sorry....what's that again?

MR. CATHCART:....the policy holder has to be educated as to how and when

to claim benefits. This is a time lag in offering any new major medical insurance to a group.

The other problem is thatI've lost my train of thought here.....the other problem is that the time lag in submitting claims, O.K.? ...one has the benefit period of a year once he has accumulated an out-of-pocket expense of \$100.00 within 90 days...we have some time lag there.

Another answer to your question is: that together, between Blue Cross and Blue Shield and Blue Alliance, even at the present time and even taking into consideration all the factors that account for a very low loss ratio (and I agree with you --- I'm not arguing that at all-- it's a very low ratio) I think in a couple of years you'll see, though, that when the time lag catches up with us, you will have a very high loss ratio, as we should.

But, even at the present time, taking all that into account, we would be still well below the 80%....well above the 80% I should say.

Q. Do you have any actuarial figures to substantiate that? That's a pretty broad statement you're making here. Blue Alliance is at 46% for group; 44.2% for the individual...overall of roughly of 45%, you say now, that they are going into subrogation and they'll be paying at least 80%??....do you have anything to back this up?

A. No. What I'm saying is that Blue Cross and Blue Shield and Blue Alliance together would be well above the 80%, even now.

Q. I understand what you are saying....do you have anything to back it up? Any actuarial study to back these figures up?

A. No. But I can provide that to the Committee, if you would like.

Q. Yes.

A. I didn't bring the figures with me....

Q. Are they available?

A. Yes. I am sure they are.

SENATOR COX: Representative Donaghy?

REPRESENTATIVE DONAGHY: You said you were 6 feet 5?

MR. CATHCART: Yes.

...laughter....

Q. How many premium dollars do you anticipate that the Blue's will lose when people drop their other Blue Cross coverage...because they already have it under another plan, and there is no point in having it twice? You've paid a premium on it twice; you've paid it on your automobile insurance so you're not going to pay it on your.....

A. I would hope that no one would drop their health care service because their health care coverage covers them for a considerable more broad spectrum than just automobile accidents.

Q. Isn't this just an assumption?

A. Yes. But I think it's a reasonable one. Yes. It is an assumption.

Q. ...Because they might have some other coverage with other carriers. and they would want to continue with those carriers.

A. Oh, maybe I don't understand your question.

Q. Well, you say that Blue Cross is well equipped to take care of this because they are already taking care of ...what is...400,000 peoplemost people don't worry about health care except through accidents...so, where are your accidents, where do they occur.?

A. Well I would think percentage-wise the population bought health insurance mainly to protect themselves mainly against automobile accidents as opposed to all the other reasons for hospitalization and physician care...you're right, that's an assumption.

Q. What about the premium taxes...does Blue Cross and Blue Shield pay premium tax?

A. No it does not.

Q. How would the General Fund be filled up again on this one.....

MR. CATHCART: Do you mean, how is the tax loss to be replaced?

REPRESENTATIVE DONAGHY: Yes.

MR. CATHCART: First of all, this bill would make automobile insurance compulsory for every car in the State...which now is not the case. Secondly, it would add a medical payments portion, including that portion for which we would be subject...the Blue Alliance portion for which Blue Alliance would be subject in tax. Too, all of the insurance policies that now have no medical payments in it at all, so besides adding insurance for the uninsured, it would also be adding medical payments who don't have medical payments in their policy now. I can't give you a figure as to whether that comes out even less, or more; but it would be some sort of compensation.

Q. To protect the consumer, would the Blues' be subject to the same audits and so forth?

A. I think we should be, yes. We are currently subject to more of this than others in the Insurance Industry.

Q. That would add to the cost of our running the Insurance Department?

A. Yes, it would, that's right.

SENATOR COX: Any further questions? Representative O'Brien?

REPRESENTATIVE O'BRIEN: Actually, Tom, what I would be doing is adding to my present Blue Cross and Blue Shield policy?

MR. CATHCART: That's correct.

Q. Would my premiums have to go up?

A. You would pay an insurance premium for a benefit that currently is not in your Blue Cross, Blue Shield policy...but you would not be "socked" for two reasons. (1) for the portion of attorney bill which would cover your medical expenses (as under the other bills you would be "socked". --one to cover hospitalization and medical bills and the other to cover wage replacement and so forth.

Q. What you're saying is that if you take all the parts of the premium of our no-fault insurance bill and add that to our group of the insurance that we are presently now carrying...then the Tierney Bill will show no rate increases to the general public; but it will pay a rate increase on our health insurance group policy? Over-all there will still be a rate increase...if you put both packages together?

A. You would be paying ...charged for what isn't in your current Blue Cross and Blue Shield...there would not be a rate increase on the part that's Blue Cross and Blue Shield because what's happening under the present system is you're (under any of the other bills) is that you're getting paid twice.

Q. I think the point I'm trying to make isthat someone gets up before the Committee and saying 'with this no-fault bill, there will be no increase in premium rate.'

I don't want that to happen.I....you know who Mr. Pousey was?
put \$1.00 in the basket and take out \$2.00. I don't want this
 public stand that there will be no rate increases with this bill
 when actually, there will be an increase.maybe not to my present
 car carrier, but I'll be paying more for my present insurance when
 this bill passes.

A. No. You wouldn't be paying more for your Blue Cross and Blue
 Shield.

Q. But the additional coverage I'm going to get from Blue Cross
 and Blue Shield, I will be paying for?

A. Yes. That's correct.

SENATOR COX: Let's pursue this just a little bit further.

....yes REPRESENTATIVE DESHAIES?

REPRESENTATIVE DESHAIES: He's raised some very interesting questions
 here. Will the doctors negotiate with the hospital...whereby they
 only pay a percentage of the doctor's submitted bill..or a percentage
 of the hospital bill....

MR. CATHCART: On hospitals, we pay on a lower cost-of-charges basis.
 This is a very complex formula and that's oversimplifying...but to
 make it simple...it's low-cost-of-charges...so that if costs are
 lower than charges we are paying on a cost basis. That usually
 works out to around 1% for reduction under charges and sometimes
 costs are higher than charges. O.K. but we work it out in general
 to 1% -- sometimes as high as 2%.

Q. My information, apparently, is incorrect. I was told this by
 hospitals...that at the end of the year they divide up whatever is left

but on the overall, they pay approximately 90% of the hospital bill.

A. I'd like to talk to that hospital.

Q. It's the Westbrook Hospital ...they would be very happy to discuss that with you.

If that isn't the case, how long do you suppose that arrangement would continue whereby the hospital could grant Blue Cross a reduction in their bill....the doctors a reduction in their bill...if this is... should go overall....how long do you suppose the hospitals and the doctors could continue to agree to this rate reduction agreement? That's a question I don't believe anyone has asked...or if asked what is the answer?

A. I guess I'm missing the point. Why would they not, under the no-fault system?

Q. I am asking you why should they?

A. First of all, they are presently being compensated by health insurance coverage now andon a cost basis....and they would continue to be compensated the way they are now....

Q.if there is a reduction?

A.well, that depends on what you mean by reduction. We're paying them what it costs to do business, instead of paying their actual charges if it turns out that their charges are above, it's the cost of doing business.

Q. O.K.

SENATOR COX: Any further questions?

None. Thank you Mr. Cathcart.

REPRESENTATIVE TIERNEY: I will continue my presentation....

Representative Deshaies, I continue to marvel that you didn't read my bill, and yet you came so well prepared....

....laughter....

SENATOR COX: Jim, do you have several proponents....because it's probably time to switch over to some of the opposition.....

REPRESENTATIVE TIERNEY: I do have a number of proponents...

SENATOR COX: We've gone an hour and a half....I think it would be a good time to switch over to opposition.

REPRESENTATIVE TIERNEY: O.K. I hope my people don't leave.

SENATOR COX: Does anyone wish to speak in opposition to L.D. 1882?

.....Jim, will you proceed, please?

REPRESENTATIVE TIERNEY: As a member of the Committee,I, too, perhaps should "pass"

...laughter....

In most of the debate, we've heard questions about what the insurance people and lawyers feel about it; how do the people feel about this? I've asked a few people to come out now and they are concerned about no-fault and I would like to have their feelings known to you.

One person who wanted to be here and could not was Mr. Jack Libby. It was only yesterday that he realized that no-fault was being heard; Mr. Libby is the President of the Maine Council of older people, Senior Citizens--but he couldn't be here today.

MR. LAWRENCE: Members of the Committee, my name is James H. Lawrence.

My office is Christian Science Committee on Publication for the State of Maine. In both 1882 and 1879, we wish to make a brief amendment and I'll pass this to you, but it would come under Section 2956, Benefits. It would read as follows:

1A. Non-medical benefits. Any non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing.

This amendment is proposed to provide for those citizens who do not rely upon medical means, but on religious means for their welfare and I represent this group in the State of Maine.

SENATOR COX: Any questions of Mr. Lawrence?

Thank you.

MR. DARLING: My reason for being here today is to correct the exclusion of motorcycles from Maine's no-fault insurance laws until ample studies are made to insure reasonable insurance premiums for motorcyclists.

We're not opposed to no-fault insurance and no-fault laws in particular, unless these laws result in pricing motorcycles insurance out of reach of the average citizen.

Because of the high percentage of motorcycle accidents that result in bodily injury, it has been estimated by the Mid-West Insurance Company that motorcycle insurance premiums, under no-fault, would have to be 456.9% higher than automobiles. When you consider that a motorcycle is used less than 6 months per year, and that the insurance rates are now lower than car insurance, you can see the drastic results.

Motorcyclists, motorcycle dealers, supply houses, repair shops would all suffer economic hardships. I'm not going to go into the hardships right now; one of my comrades is going to, but I would like to read to you a statement from the National Association of Independent Insurers with respect to the inclusion of motorcycles under no-fault.

The National Association of Independent Insurers N.A.I.I., is a voluntary trade association for some 545 property and casualty companies of all types. Companies affiliated with the N.A.I.I. write more than half of the insured automobiles in the United States including motorcycles. A number of their companies specialize exclusively in the writing of motorcycle insurance and this is what they have to say:

"We are concerned about the impact which no-fault would have on motorcycle insurance. It is our considered opinion that the inclusion of motorcycles in any no-fault program, even a limited program, must have a very adverse effect on the cost of motorcycle insurance.

Much more so than the insurance covering other types of vehicles. The effect can be so adverse, in our estimation, as to result in the loss of the insurance market for motorcycles and put motorcycle ownership out of the reach of most persons, or, in fact, to encourage operation of motorcycles without insurance.

For these reasons the N.A.I.I. believe that motorcycles should be excluded from no-fault legislation.

Now, according to Accident Facts, 1971 edition, total motorcycle registrations in the United States: was 2 million 514 thousand, slightly more than 2% of the total registration of all vehicles.

Motorcycles, obviously, represented a small portion of this total vehicle picture... This panorama which must be attributed to more than 85 million passenger automobiles in the United States today. Now, there may be compelling reasons why no-fault may be made applicable to private automobiles; certainly, they contribute to the bigger and more important area of the automobile accident reparations problem, if not the entire problem itself.

The reasons for the inclusion of motorcycles, under no-fault, are less compelling in view of the use of which most motorcycles of course are put; the insurance temperament of the motorcyclist and the physical dissimilarities of motorcycles compared to motor vehicles; they result in exposure of different sorts.

Today the private automobile is used, essentially, by the owner for his own family, transportation. Most of the public is absolutely dependent on the automobile for transportation to conduct its daily business and the automobile is in constant use for this purpose throughout the year.

Most motorcyclists, on the other hand, use the motorcycle mostly for pleasure riding or sports purposes on and off the public ways and usually this is sharply curtailed in the winter months... Most always the private automobile ...or up to the present...have protected themselves and their occupants and automobiles through the purchase of medical insurance coverage under the automobile liability insurance policy.

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Premiums have been held to well within their ability to pay. Motorcyclists, on the other hand, have traditionally declined to purchase this medical insurance for themselves and their passenger principally because these payments, therefore, have not been within their ability or the willingness to pay. And also because they have recognized the extraordinary hazards involved in motorcycle riding and are willing to assume the risk themselves, much as other sports participants do.

Moreover, the passenger hazard has not been such a bad effect in a motorcycle operation as it has been in the automobile and there has been, therefore, less percentage of motorcyclists who have purchased medical coverage to protect passengers than has been true of owners of the automobile.

Now, the physical characteristics of motorcycles as compared with other motor vehicles are obvious and there is no need constantly to enlarge on them other than to note that because of their fundamental design, motorcycles represent far more risk of harm to the operator or the rider than to any other person. Pedestrians may be injured by motorcycles, it is true; but motorcycle accidents involving pedestrians are isolated; instances hardly productive of the severity of injury which an automobile can inflict. Even more real is the injury of the driver and occupants of an automobile involved in a collision with a motorcycle. The motorcyclist in such event invariably comes out second best.

No-fault, which does not exclude motorcycles, consequently, would cause the motorcyclist to be required to purchase insurance and, essentially, to remedy the ills, having particular application for the most part to the automobile, only.

You would equate the motorcycle with the automobile despite its obvious differences between the two not only as to the physical characteristics but also to the hazards to which each is exposed. It would totally disregard the accommodations made under the present tort system in order to establish an insurance market for motorcycles at a reasonable premium rate. The accommodations would, at least have provided some measure of protection to the public if not to the motorcyclist himself.

There is another aspect for the market which also enters into the picture. Insurance rating for motorcycles is a completely distinctive method from rating automobiles. There are no separate youth classifications, no discounts for good students, and no merit rating. Instead the rating is based entirely on age and marital status of the operator and the size of the motorcycle. The system is calculated, essentially, to produce economical, feasible rates for the motorcycle. No-fault, accompanied by Legislative sphere to reduce premium because of the tort exemption and other factors, would not, in our estimation, appropriately measure the motorcycle exposure cheaply because of the absence of statistical experience which would enable the companies to identify the cost of the benefits to be provided.

The system is calculated, essentially to produce an economical feasible rate for motorcycles. No-fault, accompanied by legislative sphere to reduce premiums because of the tort exemption and other benefits would not, in our estimation, appropriately measure the cost.

Now, of the states that have enacted no-fault laws to date: when this was written, which was about a year ago, Delaware was the only one who directly thought it wise to cover motorcycles.

under this law and was a circumstance which virtually dried up the motorcycle industry in the State when the law went into effect in January, 1972.

Since the writing of this letter, other states have had no-fault inclusion in law for motorcycles, but states that have excluded motorcycles in no-fault are: California, Massachusetts, Connecticut, Florida, New Jersey, South Dakota and Minnesota.

While under the present circumstances N.A.I.I. is opposed to the inclusion of motorcycles in no-fault laws, we are not ruling out the possibility of a variable program of no-fault can be worked out.

To this end the N.A.I.I. and motorcycle committee have agreed to initiate a study designed to develop essential statistics providing insight into these exact motorcycle costs.

Pending the result of this study we reaffirm that most of our convictions that motorcycles should be fully exempt from no-fault laws.

.....respectfully submitted, THE NATIONAL ASSOCIATION OF INDEPENDENT INSURERS.

Now, the motorcycle industry council, in orderan organization of which our motorcycle dealers are a member, represents about 96% of the manufacturers and distributors of motorcycles as well as members of the allied trades and eighteen hundred dealers throughout the United States. The M.I.C. position on no-fault is: Resolve: that the staff of the M.I.C. proposes to the United States Department of Transportation and specifically to the insurance carriers in the insurance market that they each undertake studies of the applicability of no-fault

to the insurance of motorcycles. It is further resolved that until the above studies are accomplished, and the M.I.C. can determine whether or not no-fault is feasible to motorcycles, the M.I.C. at this time requests exclusion of motorcycles from pending no-fault legislation.

Now, I beg your indulgence for just another moment.

I have a copy of a letter; it's correspondence between Mr. J. Richard Barnes; he's the commissioner of insurance in the State of Colorado and Mr. Fred Hagen; he's the president of Mid West Insurance Company...Mid-West Mutual is the oldest type of insurer in the United State and one of the biggest.

He explains how motorcycles insurance is rated and this may be of interest.

"Dear Mr. Barnes: It happens that I am also the Chairman of the Motorcycle Committee of the N.A.I.I. specialty carriers of motorcycle insurance. Needless to say, we have been given a great deal of thought to no-fault as it pertains to motorcycles. Unfortunately, there is no insurance data available that would be useful in promulgating a rate for no-fault insurance. Insurers have just never sold coverage of this kind to motorcyclists before. Some information has been made available to us such as special studies by some state departments of public safety concerning motorcycle accidents. Our Company has studied these reports. Our Committee has authorized a study by Drake University here in Des Moines designed to extract all pertinent data from these studies pertaining to motorcycle rating. We are

quote continuing....

hopeful that the "Drake" study will be completed by mid-November of the first of December.

I will try to give you an idea of the kind of information I personally think can be obtained from motorcycle studies. They deal with the comparison between motorcycles and automobiles, so it may be possible to start out with the automobile rate and work up to a motorcycle rate. Studies compared frequency of accidents between autos and cycles. By frequency, we mean the relationship of a number of accidents according to the total registration on the two types of vehicles.

From a New York study of cycles and automobiles, we learned that the relationship was six point 3 higher (6.3%) higher for motorcycles than it is for automobiles; that is, cycles have 6.3 more accidents per registration than automobiles. Unfortunately, there are many unreported accidents, particularly off-the-road accidents. A California study indicates that only about 1/3 of the accidents are reported. These studies then look into the percentage of injuries to match that. That is, when a motorcycle and automobile are involved in a given number of accidents, personal, bodily injuries result. The New York study indicated 78% more injuries with cycles than in automobiles. There are really two frequency items that we are reporting here.

Then there is the third item and that is the severity of injury that has occurred. The New York study classifies the injury in (3) classes---A, B and C.

quote continuing.....

The injury labeled "A" was the most severe. The accident labeled "B" was described "other visible injuries such as bruises, swelling, pain from movement". The injury labeled "C" was described as "complaint of pain without visible signs". Now, with the motorcycle injuries, the severity of Class "A" the most serious accident constitutes 53.8% of the whole; Class "B", the medium one, 39.1% and the injuries from Class "C" 7.1%.

When we turn to the automobile, we find the distribution completely reversed. The automobile injuries were only 15% of "A"--severe; the medium injuries "B" were 7%; the minor injuries "C" were 59.3%.

In other words, you can see the complete inversion. Unfortunately the studies do not go into the cost of treating injuries. Here at Mid-West Mutual, in an attempt to reach a formula for comparing cycles and autos, we had our Claims Department assign a dollar value to the various types of injuries described in this report. We put all of these three items together, for example, to a ratio of accidents to registration; to ratio of injuries in accidents; and the ratio of severities as between cycles and autos. We came up with a final figure that the premium would be \$456.9% higher for cycles than for autos. With this formula we have disregarded the fact that many accidents are not reported, possibly as many as 2/3.

quote continuing.....

You can see that motorcycle premiums might have to be over 1000% higher than automobile premiums. It is from studies such as these that motorcycle insurance underwriters must conclude there will probably be no possible economical way to include motorcycles in no-fault insurance.

We are, however, continuing our effortswe are considering authorizing Drake University to make a study of the cost of actual motorcycle accidents in given areas on an experimental basis. We are not fully convinced that at this point that the Commission requesting the study through questionnaires will be fruitful; in part because of many unreported accidents and in particular the difficulty in obtaining all the dollar value of injuries. We are still concerned with this measure.

In the meantime, various states and federal government seem to be taking judicial notice of the fact that there is probably no feasible way to provide motorcycles with no-fault benefits. All the states except Delaware have excluded cycles. Delaware probably enacted further legislation and duly recovered from cycles so that for all intents and purposes they are excluded." (end quote)

One important note is that the Senate Commerce Committee in its minutes has stated that states might well exclude cycles from no-fault law." I should also mention that presently motorcycle insurance is considerably lower than auto insurance. It is for this reason that cycles do not do as much damage to other vehicles when they hit the people in those vehicles. Most claims, in a majority of cases, where autos and cycles

collide, the driver of the auto is the one who is responsible for the accident. So when we speak of no-fault being 1000% of the auto rating, it is an even higher percentage than the current motorcycle rate."

Very truly yours, Fred Hagen, Mid-West Mutual

MR. DARLING: I would just like to sum up here that it is for the foregoing reasons that we urge that motorcycles be excluded from the definition of motor vehicle purposes of compulsory medical and income loss insurance on a direct no-fault basis. It seems adequate to retain the liability system for these vehicles and seems the only type of insurance that can be economically afforded to reasonably answer the needs of the public.

Therefore, consequently, it is urged that all legislation shall ...which requires direct insurance for its economic loss, medical benefits, wage loss, etc. and also imposing insurance as security requirements, on the operation of motor vehicles should contain certain appropriate exclusion, or distinctive treatment in recognition of the economic fact pertaining to motorcycle operation.

Thank you.

SENATOR COX: Do you have a copy of your statement?

MR. DARLING: Yes, I do. I can provide them. I believe I sent it to everyone here, but I have more. (reporter's note: no copy supplied).

SENATOR COX: Are there any questions?

REPRESENTATIVE JACKSON: Just one comment. After hearing this, I am very glad that I sold my motorcycle.

...laughter....

REPRESENTATIVE DESHAIES: Mr. Darling...I'm not sure about this....
do you have any average of the B.I.?

MR. DARLING: I think it stated in Mr. Hagen's letter that most of the time that there is an accident involving a motorcycle, it's the car operator fault. It's the car's insured who's paying the bill?

Q. That takes me to my next question. Apparently, you'd like to see motorcycles retain the tort aspect, for that reason.

A. We're not opposed to no-fault. The only thing we want to be sure about is that if no-fault is enacted that we have reasonable rates for motorcycles. Now in most of the states, they have been excluded.

Q. Wouldn't they be treated differently? They are treated differently now, as far as the rate structure is concerned. It seems to me that what you are afraid of is that motorcycles will be treated the same as autos as far as the rate structure is concerned, is that it?

A. No. They don't make any consideration for the physical differences between the car and cycle....the type of accidents that they have.

Q. You're talking about rates?

A. As far as rates, motorcycle rates would go higher.

Q. O.K. that answers my question.

A. It's been estimated....I can't get a figure from anybody...not from the Deputy Insurance Commissioner or not from any insurance people as to what the applicable rate would be.

Q. Does your committee feel that the rates on motorcycles are, even though they are treated differently now, that the premiums would increase?

A. Right. There's only one state where this has happened so far and that was Delaware; when the law went into effect it just about put every motorcycle dealer out of business for a period of a month or two until amendments were passed that more or less excluded motorcycles.

Q. On the average motorcycle policy, do they phrase "meets", "tallys" and so forth?

A. Usually, yes.

Q. O.K. ---then it's really the rate that you're opposed to?

A. Right. We're not opposed to no-fault; if we could have no-fault at a reasonable price we'd like to have it, but we are concerned that we won't be able to get it at a price that will be economically feasible for the average motorcyclist --one he can afford.

Q. You say that Delaware has had an increase in premiums for motorcyclists?

A. Well, what happened was that when the law went into effect, first, there were only two insurance carriers in the country that would write the insurance and it was at very high rates because no one has the statistical rate on motorcycle accidents; they had never written this type of insurance before.

Q.those particular companies, but statistics are available.

A.not as to what the losses would be under no-fault; nobody has this information. What happened there (Delaware) was nobody was going to take a chance on what was going to happen and the rates went sky high.

Q. Your main concern then is that the premium rates will increase?

A. Right.

SENATOR COX: Any further questions?

There are none; thank you, Mr. Darling.

MR. CAMPBELL: Mr. Chairman, I am Joseph Campbell, a Lawyer here in Augusta. I have been attending hearings on No-fault and I have been observing the presentation on motorcycles because I felt that you should probably want to exhaust the conception idea of whether it would be covered by no-fault insurance or not and this may not be the time to take exception to the Bill; but where Mr. Darling has made this presentation, I would like to be registered for my association which is the American Reciprocal Insurance Association.

I would say, first, that I concur in his position. This is not a philosophical thing, whether motorcycles should or should not be protected by no-fault; it's simply a matter of economics and the experience that we have now would indicate to me that motorcycles and motorcyclists wouldn't be able to get the insurance.

Without repeating what Mr. Darling said, I'd like to point out that New York exempted, by definition; so did Connecticut, New Jersey and Illinois on the conception that it was unconstitutional. Massachusetts has exempted them by regulation. A day or so ago there was a law passed by the Legislature of Nevada and I understand that the Governor has not yet signed it, and that, too, exempts motorcyclists.

The experience in Delaware was just exactly, as I understand it, as Mr. Darling has just told us. So, with my company ---- when it filed a rate ... and the semi annual trade in that they proposed for motor-

cyclists was \$600.00. I don't know how that compared with the rate beforehand, but it costs \$60.00 in maintainance to get a semi annual policy on motorcycles and at that rate, it's 10 times -- or 1000%. On the day that the law became effective in Delaware, there was no company that was in the industry that was willing to renew insurance at the rate which they then were quoting. The companies filed rates in such unbelievable amounts that the Commissioner there was unwilling to approve any of them and after approaching them formally (and threatening to move them out if they didn't write it) he came to the conclusion that the better course of valor would be to withdraw from this situation; so now, by allowing motorcyclists to buy the "tort" type of insurance, not no-fault; but the regular kind that they had before, excluding the no-fault provision, and then allowing the individual motorist for paying an additional premium to determine whether he wants some part of the no-fault benefit -- to illustrate, if he is willing to take the regular insurance and also add the no-fault benefit which is a \$100.00 deductible, he can get that for \$200.00 for a six month policy.

So you see, it is, as we say, a matter of economics; I'm not here to say that it could be done; but it wouldn't be reasonable to protect the motorcyclist and the passenger just as well as the car driver. In Delaware, the assigned risk rate on motorcyclists is now \$700.00; so you have ample evidence in one state where you have it and where it just doesn't work.

I would point out to you that the bill which Professor Keaton

presented here -- he recommended -- he recognizes this and although there isn't a flat exemption of motorcycles in there, there is a provision there which provides 15, I think --- or either a \$1500. or a \$1,000 deductible, and based on that sizeable deductible amount, the rates, then, might be within the reach of the motorcyclists.

I don't know what bill you folks are going to decide on; I've been trying to figure it out as we've gone along here. I have had some preference in my own mind for Mr. Trask's bill which I think is 1420. Now, without supporting it or anything else, I would say that the easy way to accomplish the exemption of motorcycles, if you direct your attention to 1420 would be two changes: in subsection 5 there is a definition of motorvehicles and it says motorvehicles shall mean any self-propelled vehicle not operating exclusively on tracks including motorcycles ---that's the way it reads now.

Instead of that, you say but not including motorcycles as defined in section---Title 29--- and I think that in all fairness one other amendment should be made and that would be in the definition of "pedestrian" because in the Trask Bill anyway, "pedestrian" means any person who is not an occupant of a motor vehicle. I think it would be more fair to allow the benefits to be extended, on the theory that anybody who waslet's put it this way....anybody who was riding a motorcycle and not an automobile would be a "pedestrian". That definition is susceptible to reconstruction; so I would think that the definition of "pedestrian" should be anyone who is not an occupant of a motor vehicle OR motorcycle.

I will be watching these bills; as you can well imagine, and I'll be listening to that particular section, so that if you've forgotten to

to change that, I'd certainly come forward and call it to your attention because I think if you're not going to require the motorist to be insured, well, his passengers should come in, and he shouldn't come in the back door by being classified as being a pedestrian. I think you can see the point that I am trying to make here.

Any questions?

SENATOR COX: Are there any questions?

None? Thank you, sir.

MR. CAROLAN: My name is Jim Carolan. I live in Scarborough, Maine and I am a motorcycle dealer. I am also the Treasurer of the Maine Motorcycle Association and affiliated with the M.I.C. in Washington.

I'd like to take about a minute of your time here and try to tell you the economics of the motorcycle industry here in Maine. There are 75 full-time dealers in the State and they employ approximately 500 people. As close as we can estimate, as far as taking up a complete survey, that represents about five million dollars in sales. As far as the opposition to no-fault insurance, I agree with Mr. Darling and this last gentleman who just spoke on it; --- I'm not against no-fault insurance; it's just the economics of it. As far as we can figure out, the cost of motorcycle insurance presently is about 5% of the cost of motorcycles. If the bill is passed, it will probably increase the cost to about 40% - or 50% of the cost of the motorcycle. This would put a dampening on sales about 50%---which would put about 90% of the dealers out of business.

SENATOR COX: Any questions?Representative Deshaies.

REPRESENTATIVE DESHAIES: Mr. Carolan, perhaps this, more directly, should be addressed to the Insurance Department---but you say that the present premium in Maine is approximately 5% of the value of the unit.?

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MR. CAROLAN: Right. The approximate value of a unit is \$800.00; the insurance on it for a six month period would be between \$35.00 and \$55.00.

REPRESENTATIVE DESHALES:for six months....

MR. CAROLAN: ...for six months. And most of the motorcyclists will insure from April 1st to November 1st.

Q. I understand and you think it may go as high as 50%?

A. It would go to \$400.

Q. Has your organization checked with the Insurance Department?

A. Mr. Darling

Q. Here in Maine?

A. I am in the same organization as John Darling. He had checked across the country with the M.I.C. Council in Washington and he had come up with the(that's the American Motorcycle Chapter) and they had said that the rate would increase ~~400~~\$400.00 --- or 90%.

Q. Has the Insurance Department here in Maine offered you any projection?

A. We can't get any informationJohn has tried....

Q. Excuse me, may I ask the Insurance Representative.....have you information regarding what we are talking about?

MR. TRAHEY : The Insurance Department has no figures on that as yet, sir. We are, at the moment, studying this and preparing a report. I did want to point that up sir in my report.

SENATOR COX: No further questions? Thank you sir.

MR. BRIGGS: May I speak for a moment only. I am Ted Briggs, I also work for the Insurance Department at this moment. I did want to point out that my insurance, on my motorcycle ----I am not up here on behalf

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of the Insurance Department---but I did want to point out that my insurance on my motorcycle---I'm insured through the assigned risk plan and I saved something like \$29.00 last year and I did have medical coverage and I think I paid \$2.00. They caught up with me last Friday and cancelled the medical benefit portion of it; but I wasn't too worried, because it was my understanding that I have coverage under my Blue Cross and loss of earnings insurance, which according to the gentleman from Blue Cross---91% of the people have anyway.

So, I really question whether this is a problem here in Maine. I honestly don't know and Mr. Darling did call me yesterday morning and asked about the rates on motorcycles with regard to no-fault benefits. I told him I did not know, because I did not know which type of bill would pass; I still don't know and therefore, I still am unable to answer his question.

I did want to point out that through the assigned risk plan, and maybe they are going to change their rates pretty soon, but right now, it's not that expensive depending upon age, and type of machine. It can go very high with the big machines if you're getting into physical damage; I'm just talking about liability.

SENATOR COX: Any questions?Representative Donaghy has a question.

REPRESENTATIVE DONAGHY: Is there any reason to believe that any carrier could augment thiscould offer any different plan than Mid-West that Mr. Darling spoke about?

MR. BIGGS: Mid-West is a specialist in motorcycle insurance, I gather, and they base a lot of their rates here in Maine upon their experience

in California and other year-round types of States. We haven't come to grips with the motorcycle problem here with regard to insurance. The major companies are not offering it; the reasons are their own; there is a great deal of problem in this area--so it's not a settled issued here.

REPRESENTATIVE DONAGHY: Yes, but where they are able to buy it for six months...wouldn't that level it off more than the year-round type of State?

MR. BRIGGS: Yes, very definitely. The medical coverage payment is the big problem here and that is extensive;which has to be expensive along with your specialty companies with your so-called "stock" or "stock and mutual" writers of the automobile; they're not offering coverage for the motorcycle.

SENATOR COX: Any further questions? I want to thank you, Mr. Briggs.

Representative Hobbins is next.

REPRESENTATIVE HOBBS: Thank you. Mr. Chairman and Members of the Business Committee--my name is Barry Hobbins; I am State Representative from Saco, Maine. I am proud (though sometimes dubious) about being the youngest Legislator. I apologize from diverting from the present thoughts; but I would just like to convey a few thoughts....

SENATOR COX: Are you speaking as a Proponent?...

REPRESENTATIVE HOBBS: Yes I am. I stand before the Committee this afternoon to concur with the Sponsor in regard to L.D. 1882. I am very fortunate that Representative Tierney is my seat-mate in the Legislature As you know, seat-mates usually become very acquainted and oftentimes confide in one another. Through discussing the no-fault with my seat-mate,

as well as discussing the no-fault issues with many individuals of the Legislature, I have concluded that this is more ---can be more effective and by far a better no-fault bill. I would like, at this time, as a student at the University of Maine, to read you a letter from the President of the Student Senate of the University of Maine in Orono, and currently President of the Inter-Council of the Student Government, Miss Patricia Riley. She could not be here today herself, however, she conveyed this, this morning by telephone.

Her remarks are as follows:

"Having spoken with many students here at the University of Maine, Orono, I wish to convey my support for L.D. 1332. It both insures the young and elderly drivers by insuring equitable compensation. It appears to be ...pardon me---It appears to be well researched and moderate proposal. We extend our support to the Committee."

And she signs it simply, yours, Patricia Riley, President, Student Council.

In concluding, I concur also with Miss Riley. I thank you, and strongly encourage you to support this Bill.

SENATOR COX: Are there any further questions? ...Representative Donaghy.

REPRESENTATIVE DONAGHY: What research has the University of Maine put into this?

REPRESENTATIVE HOBBS: What research has the Student Council put into this, you mean?....Well I know that Representative Tierney has talked about the bill to them...Miss Riley and three or four members who represent the students, and they have done a comprehensive study on this, I know that for a fact,

I am sorry that some of these people couldn't make it today--but quite frankly they are down to Bar Harbor having a good day for themselves. It's "Maine Day" today.

REPRESENTATIVE DONAGHY: This is the first day that we have had any consumers here, or any testimony from the consumer standpointI was just wondering...

SENATOR COX: Any further questions? No further questions, thank you.

MR. CLARK: Mr. Chairman, Members of the Committee---my name is Ralph Clark, Attorney from Gardiner. If I were fortunate enough to be back at the University of Maine I think I, too, would be down to Bar Harbor.

I am a motorcyclist; have enjoyed it. I have had snowmobiles and have had a good time with them, but I enjoy this machine more. I have had all the family on it and I have been insured, I guess seven-days-and-sunday, with Blue Cross, Blue Shield and a good many other things. I have just purchased my "bike". From my insurance dealer, in Gardiner, a bodily injury liability----this only covers liability---if I get hurt, I am going to depend on my other resources and policies, but my bodily injury liability is \$25,000 for each person \$50,000 for each accident; property damage is \$10,000; (for each accident). The other insurance here that is mandatory is \$20,000 for each person and \$40,000 for each accident. Passenger liability is included in this policy; I believe I pay \$25.00 for it and I believe \$3.00 for some kind of carrier-----a six month ...\$6.00 for a year, and \$3.00 for a six month period.

I ride Saturdays, generally; play a little golf Sunday afternoon, but I ride with a gentleman from Mountain Cadillac, Bill Rogers, who is

a fellow my age ---39 --- 29 --- whatever you want. He owns a fleet of heavy duty over-the-road construction equipment; a gentleman who is the Director of Education at the Maine State Museum and an insurance adjustor, former State Policeman. None of us have had an accident yet. We try to act prudent; I guess maybe that test is that we haven't (reporter's note: had an accident).

Frankly, I couldn't quite "gibe" the word philosophical here with Representative Tierney's presentation because also being a little active in banking, I sit on some financing with two dealers of motorcycles and snowmobiles in Gardiner and very frankly, if motorcycles aren't being included in this -- and the same repercussions happen that developed in Delaware and not cured -- I know from my personal information that two or three dealers would be in trouble right off quick. They are forced to buy heavily in inventory and one of the fellows that was offered a Zazuki Dealership here was offered it with the provision that he would build a \$50,000 building with so many square feet and stock it with approximately \$39 - \$50,000 worth of motorcycles. Frankly, speaking personally, I'd like to see motorcycles excluded for the reason that you have stated and the reasons that I'm giving you today -- and the only other comment is at least in the circles where I ride, I've talked with a lot of fellows and most of them are insured and I think we cover ourselves in a fairly good manner, as far as the medical part is concerned, for that is costly; as has been explained.

SENATOR COX: Are there any questions of Mr. Clark? ...thank you, sir.

MR. EAGERS: Thank you, Senator. My name is Ralph Eagers and I am President of the Maine Teachers' Association. You may wonder why the Maine Teachers' Association is here but I think that perhaps it's for the very reason that we alluded to a few minutes ago when Representative Donaghy asked --or spoke about there not being consumers here before.

I am not prepared, really, to speak in depth to Representative Tierney's Bill; it is to us, however, the bill which is the best in terms of being consumer-oriented. That's the very reason that I am here. The Executive Committee of the Maine Teacher's Association has read this bill, looked into it, has asked that its financial committee review it further and in depth and our Broker of Record is here today also to hear the merits of this bill. We agree with it in concept; if there are inadequacies, and I think Representative Tierney has said that it's his bill and it can be amended. Our concern is that it provides for bodily injury; in other words, it's concerned with the consumer and not with the insurance companies, or lawyers, per se.

Since we deal in insurances, group-wise for our membership, we're concerned with that benefit as well because we feel that if there is an opportunity for a premium break, that we should give it to our members because we may, in fact, already have the same type of coverage.

We would encourage that you look at this bill seriously and again, for our part, it's the best of the bills we have seen come out. I would like to comment, if I may, Senator, that if Representative Deshaies is not an insurance man, he should be----because I've been most impressed with his questioning. (laughter)

SENATOR KATZ: This involves a lot of money to 11,000 members....

MR. EAGERS: ...absolutely.

Q. You have attempted to do something which this Committee has a responsibility for...that's to analyze the provisions of the individual bill -- have you done it in depth?

A. Not to the depth that we'd have liked. That's something that we are really going to havethe task before us....and the reason that I'm here today is because, fortunately for us Representative Tierney came to us and presented his bill. We have, obviously, got to take all of these bills and really do some scratching with them but generally speaking, at this point, it appears to us to be the ever best bill; and benefits the consumer.

Q. Are you going to put these bills side by side andis there staff or talent to make a really in-depth study or comparison of the provisions, one at a time?

A. Well, I have Mr. Daley who is our Broker of Record and he handles the ---is the expertise on insurances for us --- and I can ask Bill if he wishes to speak to that....we do have access to the expertise, we feel.

Q. I really don't want to hear it right at the moment, but if MTA is going to pay out good money to get some evaluation, I'd like to share in the knowlege that they get.

A. We'll see that you do, Senator.

SENATOR COX: Representative Obrien. ?

REPRESENTATIVE OBRIEN: One quick question---You want to put the Maine Teachers' Association on record as stating that the State of Maine needs some form of no-fault?

MR. EAGERS: Well, this is the question that we raised ...and we raised this question to our Broker of Record---we started a little research not only here in Maine, but throughout the Country and as much as we can ascertain, no-fault is coming whether we like that concept or not. I don't know that I can say, personally, that I am against it. I think it's a good thing. I'm speaking personally, now. I think I would go on record saying that the Maine Teachers are for this and if it's coming this way, this is the best of the bills that we have seen.

Q. But this is the only bill you have seen?

A. We have, obviously, had access to other bills, but in terms in the depth and substance, I'd have to be honest and say 'yes'---Representative Tierney has gone down through it --to the grass roots---with us....so we have better knowledge of this one. But generally, it seems to be the best bill for the consumer as far as we can see.

SENATOR COX: Representative Deshaies:....?

REPRESENTATIVE DESHAIES: Mr. Eagers, are you in any way...or is your Broker of Record...in any way affiliated with the Horace *Mann*? Insurance Company?

MR. EAGERS: Yes sir. ---I knew that question would come from you, sir.

SENATOR COX: Representative Donaghy...?

REPRESENTATIVE DONAGHY: In saying that Representative Tierney went over the bill-----did he bring out the point that he did here today that we have no trouble with courtliability here in Maine; that there are only two cases carried over that he could find --- and this is one of the prime reasons of having no-fault insurance---because of the courts being bogged down? ... The second point is did he bring out the point that our insurance commissioner has told us that we will probably have to

to pay more for no-fault than we do under our present plans, especially if it becomes a compulsory thing?

A. Yes. -- as to the second point, he indicated to us that this is so. As to the first point, I can't remember whether he mentioned it or not. He may have and I just don't remember.

SENATOR COX: Representative Jackson ...?

REPRESENTATIVE Jackson: I am not quite clear on this. Have the Maine Teachers addressed themselves to the question of whether we need no-fault or not?

MR. EAGERS: The Exec----not the representative assembly---nor has this gone out to the general membership---the Executive Committee of the Maine Teachers' Association indicated that in principle, this is what they are supporting. Again, as I indicated in the very beginning I can't speak "in depth" on this because I am not an insurance writer I would never attempt to do the job of the insurance people; but again, and I have repeated it time and time again---it seems the best in terms of consumer --for the consumer that we can find.

Q. When your information is pulled together, will you be approaching your total membership?

A. I would assume so, although the Executive Committee makes that kind of decision through the Finance and Security Commission--Committee.

SENATOR COX: Further questions?None? ...Thank you.

Any further proponents?

MR. BAROUCHE: Senator Cox, Members of the Committee---my name is Sam Barouche; I am the Executive Director of COMBAT--Maine Consumer

Protection Division. No-fault is one of the most serious problems or one of the most trouble issues that my membership has asked me to address myself to and as a result of that, I have made as comprehensive a study as possible of the several proposals that are before you. I state unequivocally that I believe Representative Tierney's proposal, L.D. 1382 provides the best proposal for Maine consumers. I don't think it's necessary for me to elaborate the many points that he so ably made; I think that I'll just highlight several that were particularly savory to me and our staff in evaluating it.

The first was that the \$10,000 benefits, of which no legal fees can be charged to would represent about 98 point something of all the potential costs of injuries that one would have to worry about. Secondly, the stipulation that there will be no duplication of benefits would mean that many people do have Blue Cross or Blue Shield or other types of hospital insurance; you would effect some sort of saving.

The third feature which I think is one of the most important, and one I stress in my efforts with my people was that this is the only bill that really tries, in some way, to regulate the insurance industry. Whether or not the 80% figure is rational or realistic one is something that I, quite frankly, am in no position to really determine accurately. I would have to say that this is a very important feature whether it's 80% or something less than this, I think certainly it is a subject of some discussion, but we do very much favor this bill because of this concept.

Again, it does include investment income as part of the cost of determining price of premium, so for these reasons as well as the

many other ones that Representative Tierney so ably pointed out, COMBAT very much goes on record in support of L.D. 1882. I would be pleased to answer any questions.

SENATOR COX: Any questions of Mr. Barouche ...? Senator Katz?

SENATOR KATZ: What's the nature of the specific evaluation that you did....the side-by-side evaluation?

MR. BAROUCHE: We sat down with our staff and some volunteer attorneys and looked at each one of these bills that came before us. We have, you might say, been doing our homework. I don't want to misrepresent the kind of sources we had available; we didn't do any actuarial work, no one put into it, I think, more than 15 or 20 hours---what I'm saying here is that on the basis of a determination that we could make, with various skills and on the basis of all the homework---this was our best indication;---L.D. 1882---was, in fact, the best for the Maine consumer. That does take into affect, or take into account that there is a need (or possibility) of potentially higher rates.

I'm not quite certain that, in fact, that will have to be an actuality---because that's something that has to be determined.

Q. Can you tell me whether the work that you did was in the nature of a "bull" session....or a formalized procedure putting the thing side-by-side in writing?

A. I would be less than honest if I said we sat down and analytically went over it---each bill, by the numbers--- that would not be accurate.

SENATOR COX: Representative Obrien?

REPRESENTATIVE OBRIEN: I know that you represent a consumer group--- I honestly don't see how you can put this consumer group on record

of this particular insurance program---or any program---before we know what the costs are going to be.

My second point is, that coming from Portland and talking with my constituents---as soon as I mention compulsory insurance---they're death on it.

These are the same consumers, I assume that we are talking about and my reaction is---and I have made it no secret---no one has convinced me yet in any of our testimony that Maine is ready or needs a no-fault insurance program.

MR. BAROUCHE: I think that you have raised a good point, sir. I would like to address myself directly to that. In the first place, I think one of the most important arguments for no-fault insurance is the fact that you're going to get more for your money in most cases than under the current system now. I am sure that you have heard all the arguments. The evidence (from my view) is the view that people look at this --those who have---overwhelmingly is the fact that no-fault insurance ...under this plan you can get benefits in 15 days according to this bill...well, it's just a leap over the current situation, that's all.

Secondly, I hesitate to use the word negative advertising or sculdugery or something like that, but I think that there has been a lot of misinformation handed out, by perhaps some people, who don't want to see no-fault come around -- but when you use the word compulsory, mandatory, state-sanction----I think that peoples' antennae go up and you get a lot of negative statements that aren't necessarily true. One of my important functions, I think, is to communicate to all members, all 1300 in fact, that less money than State compulsion does not necessarily mean that this is not a good consumer bill----I think what

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is
we're concerned with/getting a good consumer bill. I think your point is very well taken, but I think part of my job is toward more, perhaps, education of your constituents.

Q.. Well, I don't want to "spite" your comments either. But may I say that my reaction to what is being said is not that "they" don't want it---but what about the rate increase?

A. If there is a rate increase, I think the whole premise of the no-fault that, you know, although you might pay a little bit more, the chances of being able to get the kind of coverage you need is substantially greater than they are right now.

SENATOR COX; Representative Deshaies; you have a question?

REPRESENTATIVE DESHAIES: I'd like to get back to this evaluation that you made...that you performed on various bills...and this staff that you had go over these bills....who does this staff consist of?

MR. BAROUCHE: We have a paid staff of exactly two people; myself and a secretary investigator. The staff I referred to are, in this case, general counsel--people from attorney offices who do some work for us to give us advice and this was one of those cases where I didn't feel as though I had the ability of determining the facts.....

Q. You have answered my question. They were not consumers; they were attorneys?

A. Yes, that's correct. (most of them were attorneys)

Q. That's one and the same. ...they were attorneys. I'd like to go back to what Representative Obrien was speaking of....and maybe this is unfair to ask of you...but I am concerned about...well, let's take a retired couple; they don't have an automobile; they're living on social security and may or may not have Blue Cross. Assuming they do, what's going to happen to them, their premium---now I ask this

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question for the very same reason that I carried the ball for them on the Floor of the House in the chiropractor bill. What's going to happen to their premium?

A. That's a tough question; I don't have the kind of answer that I think you would like to have. So I'll try to answer the best way that I can. ...Perhaps one of the things that makes sense to me is that this bill (and some of the other ones as well) provides that if, in fact, there is other coverage for the same kind of bodily injury, among other things, that this would be taken into consideration in setting the rate.

Q. I mean--the overall premium--Blue Cross?

A. Well, I think you are over-simplifying--putting it from pile "A" into pile "B". I think what you are arguing with me is that the composite of A and B is going to be higher than it is now. I have no way of knowing whether that's going to be true or not. I can't answer that.

SENATOR COX: Any further questions?Any further proponents?

MR. SMITH: Mr. Chairman, I appear before the Committee today and appeared before the Committee the other day in behalf of the Bar Association. I am Charles Smith and I am President of that Association. There is one thing that I would like to say about the Bill (and of some of the other bills, too); the contents of them--that is, it provides for subrogation and I'm not sure (and I'm speaking individually, now) I'm not sure that that is such a good provision to subrogate the insurance companies to the right of the individual because then, the insurance company can control the suit. In other words, I might be injured; I might not be at fault; I might want to sue or, as an individual, I

might not want to do any of these things. Under this Bill, as well as under some of the others, regardless of how I feel about the matter, I can be forced by the insurance company --after six months on notice.

I would put forth a suggestion: instead of having subrogation that we have the company, or the insurer that provides the insurance, have a lien right of any tort recovery that may be made to the extent of the no-fault benefits. This is, I think, a better way to handle it. I would think it much better to have the lien right than to have the subrogation--it would work out to the same thing but each individual could control whatever he wanted to do.

SENATOR COX: Are there any questions for Mr. Smith?....

Representative Deshaies; a question?....

REPRESENTATIVE DESHAIES: You would suggest company arbitration rather than subrogation?

MR. SMITH: No. A company arbitration is an entirely different thing. In a company arbitration--interarbitration between companies--I would presume...you have a contract between companies; in other words, you can intercompany arbitration with lien rights or subrogation rights. I prefer a lien right as such and not a subrogation right. In other words, if I choose to sue an individual of an automobile accident, I may do so; and if I recover then the company has a right to get the no-fault benefits they have paid. I think that's fair enough. If they want to do it without attorney fees, that's ...that wouldn't bother me either. What I do say is this; I should not be compelled to go to court, if the company, the insurer wants to collect. They can under

under this bill be subrogated to my right and force me to go to court and sue (or sue on my behalf) and I say that shouldn't be. It should be the other way around.

Q. Aren't they now?

A. Not under the lien right, no. And not under subrogation rights; except in certain cases of personal damage and they usually handle that nowproperty damage is pretty much done by intercompany arbitration, right.

SENATOR COX: Any further questions?

Any further proponents?Anyone here who wishes to speak in opposition of L.D. 1332?

MR. SMART: My name is Murray Smart. I am representing the Independent Insurance Agent's Association of Maine. Our good spokesman, Richard Barron is in New Orleans at our National mid-year meeting today or he would be standing here.

I am going to make this very short...a minute. We oppose this Bill and we recommend 1420 as we have done on record. In answer to Senator Katz' question of a couple of people here, we are in the process of drawing up a chart of each no-fault bill (with importance set in point) with the help of the Insurance Department using their actuarial figures that they have secured to date showing when proposed savings, rate increases; be they what they may-----regarding each bill as best we can. If it's unknown and they cannot secure it, we will simply say "unknown" but hopefully, we can give you a picture of each bill proposed on No-Fault to date.

SENATOR COX: Mr. Smart, if you haven't analyzed all these bills, how can you take a stand against this one?

MR. SMART: How can I take a stand against this one?

First of all we do not favor Blue Cross and Blue Shield as the prime carrier on this.

SENATOR COX: Any further questions? None, and thank you sir.

MR. HEGGARTY: Senator, and Members of the Committee---I am a member of the Committee and I'd like to make this as brief as possible. I am sure that you'll agree with me that this has been a long afternoon.

First of all, my name is Joseph P. Hegarty; H-e-g-a-r-t-y Jr. I am New England Counsel for the American Mutual Insurance Alliance. This is a national trade association having approximately 120 members of mutual health and casualty companies; many of which write in the State of Maine.

In addition, I have also been requested by the American Insurance Association, a capitol stock association of insurers and the National Association of Independent Insurers who have been alluded to on previous testimony, to place them on record, together with the Alliance, in opposition to the proposal which you have in front of you and also the bill which has been proposed by Senator Kelley. Both of these bills "sound" in the same direction, as far as substance of the bill is concerned, the only exception being that Senator Kelley's bill which has reference to a commission; this would negotiate a contract to make an exclusive area for operation for one particular carrier in the State of Maine on a so-called "health provision care".

I would just like to make a couple of observations because I think it's important that you delineate the major issues which are really involved in the proposal put forward by Representative Tierney and by

Senator Kelley. Senator Kelley's bill goes further in only one respect: that is, to make it a monopoly for one carrier; Representative Tierney's bill would attempt to make a monopoly for one carrier after the expiration of one year provision.

Really at issue here, and let's set aside for the time being those facts that you have already heard testimony about on previous occasions on the benefit structure, with the exception of the level being at \$10,000; that is basically an add-on provision and you've heard testimony on that as the so-called "Delaware Add-on Bill".

So that's all you really have in front of you. But what has been placed there in addition is the issue of primacy of providing that coverage.

There's nothing in the experience of the Blues' throughout the United States nor in the State of Maine that would give them any particular expertise in the handling of health care anymore than a casualty company. Certainly the casualty company, with their experience in the field of working with compensation and rehabilitation are miles ahead of the Blues' in handling this particular operation. Certainly, in the field of automobile insurance, which involves the rehabilitation of people in many cases, the Claims Departments of these companies look in this area and handle it very carefully.

So I think that what is attempted here is a National position which has already been stated by Blue Cross, in Congressional Hearings in January, that they should be the major, the only provider of services in the medical field throughout the United States. This is their position this is their testimony; I can assure you that they are moving in every

jurisdiction throughout the United States to firm this position up....

The National Hospitalization Association in January through their Finance Counsel rejected completely a proposal by the Blues that they be the primary provider of health care throughout the United States. They rejected it soundly because of the fact, they said, that the Blues would interfere with the efficiency cash-flow of the hospitals now being received through a very efficient casualty and workmens compensation systems already provided to the public.

They hasten to add, however, that the Blues, through their executive committees and through the Blue Alliance could very well start to gether statistics so that in a few years when they have enough credibility, they could come back before the Finance Counsel, the hospitals and then start talking about whether they should be primary.

The final issue was raised in Massachusetts a few months ago and the present indication of that bill is that it will be defeated in Massachusetts for the very reason that arguments were put forward here today.

Then, there is the issue that was raised in New Jersey. The New Jersey Insurance Commissioner handled that very nicely by saying to them

'If you want to respond to the public in which you feel that there's something detrimental to their interests in duplication, don't feel that the public has sufficient knowledge and ability to make a determination as to whether or not they want duplication; then if you want to make it compulsory, then what I suggest is that we make it compulsory and we turn around and make automobile insurance primary. We avoid the duplication by telling you to

put an endorsement on your Blues' contract-group for the individual and making an excess over and above and thereafter, Mr. Blues', you may reduce your rates.

That's how they handled it in New Jersey.

That is one of the prime issues you have here, regardless of the sponsorship of this Bill, the real proponents of this Bill are the Blues in the drive to make themselves primary in the National position of writing health care.

With reference to the peers and utilization committee which was mentioned as an efficient way of handling hospital costs, well, I'd like to point out that these particular committees which have been established in many hospitals throughout the United States is something of a very recent innovation.

As a matter of fact, they are not yet working in a particular position where you can say that they have been effective at all. The Blues' are strictly on a pay-in -- pay-out basis; they receive the billing and in many instances they have agreements with hospitals whereby the comptroller or treasurer has a checkbook. He writes out a particular volume of checks based on previous months' claims and in some cases, perhaps that month on an analogous basis for the previous year. The sum is advanced, as a loan, without any interest paid. That is their method of controlling hospital costs.

As far as payment by the Blues' is concerned, it goes without saying, and the issue has already been raised before the committee in testimony here today, that the payment and hospital costs (or charges) whichever is lower have been raised until there is only a 1% differential.

I challenge that 1% differential ; as a matter of fact in the field of workmens compensation, it is recognized that we pay on a per-diem basis. Why? Before there is no uniform system of hospital cost whereby you can allocate the capitalization of the hospitals to the individual bill; whether or not the individual is paying his "fair share"; the welfare---the dependency cases---the Blues' are making a discriminatory payment, at this particular time, to the detriment of those people who can afford to pay cash or who have insurance policies.

I submit, gentlemen, that the big issue here is the primacy of the Blues' over the primacy of automobile insurance and that I sincerely recommend that whether or not you are for the other portion of the bill as far as benefits are concerned is a matter of your own philosophy---as to whether you desire no-fault or you do not desire no-fault. You either believe in it or you don't.

But if you do believe in no-fault, and you decide to position yourself to the particular bill in front of you then I would just say 'either make automobile insurance primary or permit the public to make their own selection at this particular time as they have always done and whether or not they want duplication.' They are paying for it and if they want it, they can continue paying for it. If you don't feel that the public is particularly educated and you want to mandate it--just say, to avoid duplication--to make the automobile primary--let the automobile carry its weight the way that it always has. Another item I'll make and then I will close.

That is the subject of subrogation. We've talked about the return and the ratio of benefits to the premium paid and the figure was mentioned

here was 30% and I'm glad to hear that the Representatives are opposed to this, together with others who followed and hear them say there is no cost study--there is no way of knowing or of understanding whether or not it's 30% -- 60% or what the figure should be.

It is quite obvious here that this is something new that has been injected by way of an academic approach and something that certainly deserves study as far as the benefits and return. But stated another way, it is really nothing more than an attempt to legislate, basically, the rate structure that belongs in any insurance product. That particular authority now rests with the Insurance Commissioner. He has sufficient authority to develop a proper rate structure to see that the benefit is returned to the public, that those benefits are reasonable and adequate, a non-discriminatory rate structure.

If there is a better way to do it, then by all means let's find out; but right now, certainly by mandating a particular percentage is not the way to do it.

Gentlemen, thank you.

SENATOR COX: Are there any questions?

There are none. Thank you Mr. Hegarty.

Anyone wish to speak in opposition?

MR. HARRIS: Chairman, Members of the Committee---my name is Bob Harris. I come from Yarmouth. I'm here speaking as President of the Maine Insurance Council. Many of you who have followed the Legislative

scene and many of you who have been involved in it for some years, recognize that the Agent's associations of this State have been concerned for years about what we consider to be a discriminatory situation relative to commercial carriers, Blue Cross and Blue Shield.

We have, in the past, introduced legislation which has asked for taxation of Blue Cross and Blue Shield; that legislation has historically been defeated. We have asked, in the past, through legislation that the discounts, which are called contractual adjustments by Blue Cross and Blue Shield, be legislatively eliminated. Those bills have been defeated. We have asked Blue Cross-Blue Shield to be regulated under the Maine Insurance Code and until the last session when a compromise was reached, in which some parts of Blue Cross-Blue Shield were, in fact, brought under areas of the Code, there was no regulation there except for their Charter.

Now, we have addressed on several occasions the problems of what happens when historical discrimination has been allowed to exist in the market-place; and I think we have one very significant thing happening here---that when a bill is drafted in this nature that says,that a cost ratio...(and I won't get into that one again --that's all we need here today)...when a cost ratio is plugged into a bill --- then it assumes several things: (1) it assumes is that all of the contracts that your're talking about are going to be identical (if, indeed the contracts are not identical, then the cost ratios don't mean anything) (2) you've got to start with the assumption that where these people came from--what the growth of the companies were---whether or not they were done in the commercial area or whether they were done in semi-subsidized area through non-profit brings them to where they are today. So, if

take the assumption that a company says (and we hear this repeated a number of times) ...that says, Blue Cross, Blue Shield is a much better buy for the consumer because they return on this ratio-kind-of-thing a much higher percentage of premium to them ...then we also have to ask the question "Why"?

Well, historically, we have heard these before-hand answers, but I think in much of the testimony that we have had before, it has been demonstrated that the fact that a company does not have to pay premium taxes; the fact that they have not come under the Insurance Code in the past, and the fact that they have been able to work on this third-party provider of health care, makes Blue Cross, Blue Shield significantly different in many ways --competitively.

I see here, that what we are concerned about is that historical discriminatory situation among us in the market-place is now coming very quietly into a very significant area---about the coverage of health care. We see this as a real problem; while one of the bills may not say that Blue Cross, Blue Shield is mandatory---the only carrier; we all know (if you've been in business for a while) that you can have the person you are selling a product to draft the specifications well enough that you can open it to the public and if the specifications are sufficiently well drawn, you will be the only person, in the final analysis, able to make the sale.

So, we see two things here: What is the specification, so well drawn, (in the final analysis, Blue Cross, Blue Shield will be the only people able to participate) and in part their participation will be

exclusively theirs because of the historical discrimination. We feel that we have never been able to do anything historically about this problem; we would be concerned, I guess, if now all of a sudden if, legislatively, they got another windfall out of it.

If you have any questions I'll be glad to try and answer them.

SENATOR COX: Any questions of Mr. Harris? ...Representative Deshaies.

REPRESENTATIVE DESHAIES: I wrote this down....I'm not quite sure what you mean by thisyou refer to cost ratios....can you explain what you mean?

MR. HARRIS: I wanted to touch on the fact that there could be as many as 600 cost variations...if you're going to have on any insurance contract a cost ratio -- whatever that they mean-- it seems to me that every paragraph and every provision needs to be identical with the other contract in order to make the comparison valid.

SENATOR COX: Any further questions?

None....thank you, Mr. Harris. Anyone else wish to speak?

MR. GAGNON: Mr. Chairman, Members of the Committee, I am Tom Gagnon. I am an employee of Maine Bonding and Casualty and, as you all are aware, Study Commission. I am going to include what I might have commented over all of the no-fault bills in one small speech; although it's been quite hard for me to sit down and keep quiet this morning.

I haven't spoken heretofore on any of the no-fault measures, though as you know I have spent a great deal of time talking and working on no-fault portfolios the past two years. My theory to not speak up until now has not been because of the lack of interest, but because it seemed that the issues had been pretty thoroughly covered. I don't envy you the job of evaluating the merits of the Bill before you; the question

of no-fault itself is complicated and it is made no less so by the many proposals you have before you.

There are, however, a couple of basic points that have been well presented to you by various people during these hearings. First of these I would like to emphasize because there is a general agreement among persons who have testified before you about one thing: The State of Maine does not have a critical automobile insurance problem. In the testimony you have heard from insurance people, if attorneys and others it is fair to say that Maine is typical of the rest of the Nation, no one would be trying to change the tort system.

With only about 4% of our nations' cars in this high risk plan, people are clearly having no problem in buying insurance they want and need. With our automobile rates ranking 38 from the top, there seems to be no major issue of price. With the court schedules unrevised there is no delay in bringing cases to trial. Thus the Maine automobile situation does not demand major surgery. It can, however, benefit from some modification of the world in which it lives. This is certainly true, if it appears probable that a good no-fault law can bring quicker and more equitable payments at a reasonable price. Also of course, there is the constant threat of Federal action on this question. This may mean that if a state has not acted on its own, it will have to comply with more stringent requirements.

The second point that comes forth finally is what those people who appear to be most unbiased to no-fault insurance have had to say about immunity from tort action. Professor Keaton who appeared before you, Senator Magnonsen who are principal proponents of no -fault in

in Washington, the Commissioners of Uniform State Laws and the studies of the Department of Transportation have all agreed that tort recovery must be placed with a tort immunity in the payment of first-party benefits at some level of severity.

Most of these people are either too little or too high. On the other hand, working no-fault in Massachusetts and Florida indicates that an improvement on coverage and lower cost can be achieved through a modified no-fault law; that is, one with a threshold or immunity from liability with a \$500.00 or \$1,000 medical expense.

In the case of the working model, however, we know most about Massachusetts, where an abused-ridden accident system reacted favorably and quickly. Preliminary indications are that Florida with a law similar to Massachusetts is producing beneficial results. More people are buying insurance through the voluntary margin and the public has more incentive with its claims settlements.

But Delaware, with an add-on bill also claims favorable trends under its law. The truth of the matter is that except for Massachusetts, facts are not yet clearly available about the results in any state and won't be for several months. What kind of bill would be best? The real issue is what would be best for the greater number of people because no one proposal will be adequate for everyone under all conditions. For instance if you believe that a typical accident involves an innocent driver who's run head-on by a drunk, you will surely ask for the present system -- high demand liability limits and contend that a no-fault threshold is needless. If, however, you recognize that a typical accident involves a couple of

average citizens, neither of whom is found in violation of motor vehicle laws, nor under the influence of drugs or alcohol, you may see the problem as something else. This month's Readers' Digest quotes a sign in an Army maintenance shop, "If it works, don't fix it."

This perhaps illustrates the situation in Maine; with no criticism in our present automobile situation and uncertainty about the impact of various laws, wisdom seems to indicate that a conservative attitude and a moderate approach should be used.

The response should be proportionate to the problem. If the court system were to be swept away to the extent the bill proposes, it would create a major new public institution. It also might turn out to be much more expensive since little is known about the effect of a streamline no-fault measure in other states.

In addition, to recall a comment made by Mr. Woodman in his presentation of L.D. 1420 -- if any new law is going to involve such charges as mandatory or compulsory insurance, or different provisions for paying small medical losses, it is advisable to have few other changes at this time. If the public has to report accidents to more than one insurance company, this will bring confusion and uncertainty. It will also create delay in payment which is just what the no-fault proposal is designed to eliminate. This is not to say, however, that the question of benefits must not be ultimately settled nor that so-called collateral sources rule need not be clarified. I would, however, argue that the question is untimely in view of public changes proposed in the system.

I would like, then, to comment to this extent and that

is to express the hope that this Committee will recognize that in the public good the moderate approach is indicated. I hope that you will recommend patience and the Legislation action to recognize the need for moderation.

(there is a copy of this statement left with the clerk*
no copy to reporter)

MR. JACKSON: Did the committee in doing the study ---in waivering the whole thing -- consider whether Maine needed the no-fault laws.

MR. GAGNON: Yes we did. This was one of the things -- the first decision that we tried to arrive at and having over 12 years in casualty claims, I can say that Maine, honestly, is far from the top in drastic need of change. However, from all of the information that we received, it seems quite evident that we would favor the possibility of --- a very strong possibility -- of having Federal intervention and none of us agreed that we felt a total Federal program would be beneficial to any of us.

MR. JACKSON: When you mention these two things you also mention speed of payment and the speed of payment, I would imagine would be worked out without ever getting into the "engraving" of the no-fault. You mentioned a couple of times, "federal law" and personally I am somewhat unimpressed by the fear of enacting legislation because of the fear of what the Federal Government might do. I think we should consider our own needs rather than what the Federal Government will do; I got the impression from your talk that you're sort of on the

edge about whether you feel we really need the full concept of no-fault and wonder, how much is your own opinion and how much is the result of the study committee.

MR. GAGNON: Well, again, we went into this in depth. In my own opinion we are in a dire need in the State of Maine; I think we all agree to this. But I won't think we can sit back and say, 'well, we aren't going to let the Federal Government force us into doing something that we don't really have to do. I think we have to seriously consider what they might do and what some areas of Government have said they will do if the states don't correct the present system.

MR. JACKSON: Did the Study Committee, again, consider what the Federal Government may do -- or is it an unknown? Did they consider and say, 'let's update present Maine law' or 'what are the Federal requirements'?

MR. GAGNON: Without knowing exactly what the Federal requirements might be, it's hard to sayI don't think we would be far off with a Bill such as 1420; naturally I'm biased on that, I've worked on it for a year and a half already. In my own opinion, and I can only base this on my opinion (again, this is mine; not the Committee's) that the Commission Bill is the only one that I can see which won't mandate an increase in insurance premium. This was one of our formal thoughts also--I wouldn't dare say with the present situation in our State how much of a reduction we might experience. This is the mess that they got into in Massachusetts; it got to be a political football and we were determined that we were not going to do this.

Q. I would hate to see us put in a position where we are going to put through a piece of legislation merely because we are afraid of what the Federal Government might do.

A. I feel that any proposal that you have before you---if you are concerned about costs, at least you have nothing to worry about in 1420. When you get into the add-on provision, I have a great bit of doubt in my own mind; this is based on working with it for so long, that they can effectively come out with anything better than premium increases.

SENATOR COX: Any further questions?Representative Deshaies.

REPRESENTATIVE DESHAIES: Mr. Gagnon, do you represent Maine Bonding here today, or do you represent yourself?

MR. GAGNON: No. I represent Maine Bonding.

SENATOR COX:Representative Clark?

REPRESENTATIVE CLARK: Mr. Gagnon, you say that you did an in-depth study---how in-depth?

MR. GAGNON: The Study Committee?we worked almost a year and a half on it. We held, faithfully, two meetings a month on this---these were all publicized hearings; we had people in from every source that we could gather, people who had existing knowledge of what happened in other states...agents, attorneys, many attorneys were in...we heard all of their testimony and we didn't come up with a final decision until after ...last December. We did then because we felt we had to: had to report to this Legislature.

REPRESENTATIVE CLARK: Maine Bonding held these hearings?

MR. GAGNON: Oh no, the Study Committee.

(Mr. Gagnon steps down)

MR. RUSS: Chairman, Members of the Committee, I am Robert Russ, Union Mutual Life Insurance Company and I promise to be brief because Mr. Hegarty and Mr. Harris have covered the points that I had planned to cover.

We, too, feel that this Bill and Senator Kelley's Bill---and I would like to speak to both of them---do develop a monopoly for the Blue Cross. Those of us who are in the health industry have been following Blue Cross throughout the Country and as Mr. Hegarty said they are trying to do this in every state. And you can see through the charts and so forth, the Blues' hand---and I appreciate that Representative Tierney has done a good lot of work and I compliment him on his presentation---it was excellent.

We feel that it would become a monopoly and I think that the Committee should consider whether or not they believe in competition and whether it should be a monopoly; we think it would become one from at least (3) areas---it has been hinted very well previously that the Blues' do not pay the same taxes that we do; they do not pay a premium tax on their subscription dollars; they do not pay a real estate tax in the community in which they live, although they, arbitrarily, as I understand it, did contribute money to the City of Portland as an offset as to what they might have been taxed.

I am going to disagree with the Blue Cross representative who indicated with hospitals---they got about a 1% discount from the hospitals because I have it on rather good information that it varies from hospital to hospital and it can be as low as 1% or as high as 11%.

We, as an insurance company, pay what the hospital says we owe them.

They bill us for the full charge for a patient, who is one of our insured, ...if you are an uninsured person, you go to the hospital and you don't get a discount...you pay the full price. So, in truth we are paying for some of the Blue Cross subscribers.

There is a statement in Representative Tierney's bill that investment income will be taken into consideration and this, again leads me to believe that the Blues' have a hand in it because the Blues', if you look at the last statement filed with the Insurance Commission, you'll find that they have practically no investment; their money is in cash in banks throughout the country--or the state on which they earn no interest, except in a few savings banks.

So, they have very little investment income. That would give them an edge as far as investment income is concerned. They do have the Blue Alliance, which is an insurance company and this was necessary because of a court case where it was indicated,...found,...that the Blue Cross' charter did not permit them to get into the indemnity type contracts. So they formed their own insurance company.

Their 45% loss ratio falls very close with those of us who write individual health insurances...and our loss ratio happens to be 50%. So they are pretty much in line with that. Sure, they have individuals insured under Blue Alliance. I don't know how much expertise Blue Alliance has; in loss of time or weekly benefits...I don't think they write that. We have quite a bit of experience in that and they would be burdened with this and I am not sure that they have experience in that particular field.

Loss ratios have been discussed here and I checked in the Insurance Department and couldn't find any loss ratios published by the Maine

Insurance Department for experience in Maine on automobile, medical benefit payment insurance. Now perhaps some of the proponents can say where they got these figures of from 50 to 60%.

In closing, I would like to make just one comment to Representative Tierney on the Statement of Fact when he says,

"Thus, some insurance companies delay payment of claims in order to increase their investment income."

...that's a pretty strong statement and I just don't know whether he has any definite proof that some companies delay payment of claims in order to increase their investment income.

We, as a company, are interested in paying our policy holders their just dues and frequently try to do everything we can to make those payments. It is true we do make money on investment income and I honestly think that the Blues' should invest some of the money that they have in banks, so that they can get a return for their subscribers.

Thank you.

SENATOR COX: Are there any questions?Representative Deshaies?

REPRESENTATIVE DESHAIES: Mr. Russ...you say the Blue Cross does not pay a premium tax...I think everyone understands that; it's an accepted fact. As I understand it the State, through the licensing of approximately 600 different companies receive approximately 5½ billion dollars annually in premium taxes. Assuming the Blues' who do not pay a premium tax should take over the automobile reparations system, would anyone have any idea of the projected loss to the State..in premium tax?

MR. RUSS: I don't have any; maybe the Insurance Department would. It would a loss, of course. I don't know what the medical expense premium dollars amount to; but you could figure that if we knew that, the loss of revenue to the State---then someone would have to make up that loss of revenue and you, again, come back to the consumer. It's the consumer that's going to have to pay. It's just like every consumer has to pay the hospitals to meet their expenses.. When the Blue Cross doesn't pay the full dollar benefit

SENATOR COX: Any further questions?

None. Thank you. Anyone else wish to speak?

REPRESENTATIVE McTEAGUE: Mr. Chairman, I am Pat McTeague from Brunswick. I just wanted to talk about a couple of minor points ...narrow points....which say that I favor the philosophy of Representative's Tierney's Bill and the similar philosophy of Senator Kelley's Bill.

I'd like to make a few points in particular with regard to the comments made by Mr. Hegarty, because I think this is crucial to whatever type Blue Cross Legis.....excuse me.....whatever type no-fault legislation is involved. (kindly laughter exchanged)

I will not try and talk, Mr. Chairman, about the emotional questions; the thresholds, the profits or anything like that...but simply about the efficiency of the vehicle, which I think the Legislature has the responsibility to provide to the public. Because in all of these bills, all the bills before us..even though we don't want to follow the Massachusetts system as I understand it means going into the Registry of Motor Vehicles and showing a little card before you get your license tags...we

do put the citizens of Maine under an obligation to buy insurance under any of these bills. This is new and this is different and I think because we order the citizens to buy the insurance, that we in the Legislature have a greater interest and greater duty to provide consumer protection than we do in regard to the purchase of forms of insurance which are entirely voluntary. This is compulsory so we do have a higher duty.

I think our first duty is to try and erect a system which avoids duplication. I have to admit that in that field that I can recall in the last session that differences of opinion ... that I have had differences of opinion with Dick Hewes, who is now our Speaker. Dick has always been a great fellow to say, 'duplication costs money and it's unjustified'.

I've always come back with the stock argument that, 'well, if you pay two premiums, you get a double return'.

I think that's all right with life insurance; you can buy all you want. But here we're talking about compulsory insurance; basically medical and wage replacement insurance, this duplication costs money and it is not justified.

Secondly, on the figures on cost-benefit ratios, if I can use that not yet properly defined term....in response to Bob Russ' on the figures used for the efficiency (or lack of it) on casualty companies in writing automobile med-paying insurance (which is pretty much like no-fault insurance, because I guess 75% of no-fault coverage is in the medical and hospital area rather than in the wage replacement or survivor benefits area)....in 1970...that was the last year in which the Maine Insurance Commission reported specifically as a specific line in their summaries,

on the cost-benefit ratios, as I call it; or on the premiums earned and written and the losses incurred and losses paid) on automobile med-pay.

I have personally reviewed all of the reports prior to that year back to 1961. I can tell you that two years ago that we had reports on the ratio between premiums earned and losses incurred (which I understand from the experts is the proper comparison to make) ...was 37 point something percent. ...I can't remember the fraction.

I can also say that the (reporter's note: "ratio") for prior years was in some cases higher; in some cases lower...but under 40 appeared to be the standard. I can also mention to you that I have checked, not in all states by any means, but in a number of our states, including the State of Maryland, I found that the situation was similar except there, for the last year it was 24 point something.

Even if it is difficult to measure cost-ratio benefit, I think we can say that 24 or 37 or 42 percent is not very good. Now, if a man wants to be a fool -- and it is foolish -- and on his own make an erroneous decision and purchase a policy that doesn't have "very much bang for the buck" I guess that's his business and we have a statement in this country about letting the buyer beware-- and maybe we can let it go -- in a sense, let him spend his money in a wasteful way. But when we, as Legislators, compel them to buy the insurance, then we have an obligation. Then we need to show some feeling, some concern about the cost and whether it's a good deal or not.

I'm a little bit surprised, by the way ...it doesn't matter, but I am surprised that Bob Russ of Union Mutual...because if he would read the

bill, Union Mutual has the opportunity, as do all other companies to write the coverage and that's not out of any generosity or any sense of liking for the company which I or the many of us may have concurred. It's rather that those companies write a lot of health insurance in this State and it's not for them -- but it is for the people who buy health insurance from them and these are the people who are our constituents.

The best way to handle this thing..the most economical way is to "rider" the existing group policies. That can be Blue Cross, it can be Union Mutual, it can be Aetna Casualty Assurety Company. You've heard bills that are mass-merchandising...this is group coverage in the health field, we all know it's more efficient.

The other key is this: if you are going to avoid duplication; if that's a legitimate object, if you're going to try to get as "much bang for the buck" as possible, and if you're going to recognize that a vast number of our citizens...something like 90% was quoted...have a lot of health insurance coverage right now (like everyone of us does) then you should make the decision as to whether automobile insurance should be a "carve-out"...a carve-out from general health coverage or whether we should stick in the health field with health carriers and in the automobile field with automobile carriers. The only bill that gives a guarantee to the consumer who has this underlying coverage like Blue Cross, Blue Shield or Union Mutual or whatever.....it says, 'you don't pay twice....' and Social Security and Medicare is pretty important, too. That's the duty you have before you now. I don't see how the people of Maine are going to understand; the senior citizen

of 67 years old in Brunswick or any other town who has paid social security all his life and has both of the forms of Medicare --optional and standard---why he should pay another insurance premium that says, 'we're not going to pay you if Medicare pays you, but if it's going to require that you get a break in price to get the Medicare.

The key language in this Bill is people who have existing coverage should receive the no-fault coverage at appropriately reduced premiums. The only reason the senior citizen, for example, receives coverage at all is by definition of him not working so he doesn't have any wage loss...social security in a sense is wages (with any prior pension he may have) and he has pretty good medical coverage; he has deductions on Medicare, O.K., you pay those.

He might have a cousin from England or somewhere. In England you have a national health insurance there, but when the Englishman is over here, as I understand it, he is not covered unless he can get back to England and get into the hospital there.

So the old fellow might want to take care of his nephew's bill. Or let's say that he hits a pedestrian that doesn't have insurance. Then it can be quite cheap and quite good....\$10,000 good to these people. The other thing I would like to mention to the Committee is a meeting I attended on No-Fault at the National Liberty Mutual Conference in Miami. The thing that impressed me most was something that I heard in a bar in Miami...I think the gentleman was from A.I.A and I think we were both talking quite candidly...I won't mention the gentleman's name, except to say that he knows his way around many city halls; not only in small states, but in places like Washington. And

he said, (quote) as nearly as possible)

'look, we've talked a lot. I want to tell you what it's all about....we are going to have, in the next ten years a national health insurance in this country; the insurance companies make their money by a deal called "cash flow"...there's nothing wrong with it; in a sense we all make our money one way or another by cash flow; but if national health insurance comes, the Government is not going to allow inefficiency regarding automobile insurance. Everybody is going to have to be covered. We want a cut-off that premium dollar .. everyone does; so to speak. We want to cut out that 11½ billion dollars, we want the cash flow, the dough.' (end quote reference)

It is nonsensical to make the least efficient carriers primary and it is morally wrong to charge people something under compulsion of law which they have already earned and paid for, whether it be through social security, Blue Cross or Union Mutual.

Mr. Chairman, if there are any questions, I'll try to answer them.

The question of what is primary and what is secondary is the key.

SENATOR COX: Any questions?Representative O'Brien.

REPRESENTATIVE OBRIEN: Pat, we're going to make this insurance mandatory, if this is the bill that we accept. We have heard testimony to the effect that it should, undoubtedly, result in a premium reduction for the consumer.

REPRESENTATIVE McTEAGUE: Not because of the no-fault issues, Jack; but

because of other features that probably Jim is more familiar with than I am.

Q. But there will be an inherent premium reduction?

A. I think that if the Bill were passed in its present form, for example, just considering investment income--it should (with mass marketing) result in a 15 or 20% figure in reduction; not only on B.I. liability -- but across the board.

Q. Since we make the insurance mandatory---can we make the reduction mandatory?

A. I think that's a very interesting idea for the consideration of the Committee. I think it's something that we should look into. At the very least, if you don't make the premium reduction mandatory, you ought to make the profits which an insurance company can make (not under coverage that they have voluntarily sold)--this sounds like a public utility--you've gotta have it and when you've got to have it like telephone service or electricity....and these are all "need" bills, Jack. You like to drive a car -- then I think that the public has a greater interest in it. It has the right to regulate very strictly.

We tell Bangor Hydro and CMP what they can make -- as a rate of return; because we give them a captive market. And I think right here we are giving the insurance companies a captive market. We ought to regulate it carefully.

SENATOR COX: Any further questions? Representative Donaghy?

REPRESENTATIVE DONAGHY: I'd like to go back to that bar in Miamilaughter.

REPRESENTATIVE DONAGHY (continuing....)

....if things were going so well down there, I can't see why not eliminate all of the middle men anyway and let the Government do the whole of it. They do things so efficiently -- and cheaply -- it seems as though from your testimony that this is the way to handle it....let the Government do it.

.....tie it in with social security, maybe.

REPRESENTATIVE McTEAGUE: I don't mean to say, Representative Donaghy, that this gentleman with whom I was speaking was an advocate of this; but he considers that this is the inevitable course. The very sophisticated people who run our multi-million or billion dollar corporations act in a way to anticipate problems, and I think they do a wonderful job.

SENATOR COX: Any further questions?

Anyone else wish to speak?

I hereby declare the public hearing closed. We will take a five minute recess.

After the recess....

SENATOR COX: Senator Kelley? ..

SENATOR KELLEY: Mr. Chairman, Members of the Committee, I will be brief.

If you have looked at L.D. 1879 you'll see that it is almost identical to the first bill you had, very specifically, the one that you have laid before you. In fact, I think that if you will turn to the second page of the bill from Section 2952 on -- it's nearly identical in the specific provisions and therefore, I won't go through them.

The difference is the first page; this bill would set up a Maine Motor Vehicle Reparations Commission which would seek, in effect this: ...coverage from insurance carriers in the State of Maine. The contracts would be issued by the commission to the carrier or carriers who get this business for a period of up to three years. In essence, the administration of the policies and so forth would be done by the company, or companies which receive the business. Now, you may ask about point number 4 on Page 2 as to the cost of the commission, because I am sure it will arise now if not later. Whoever has the contract or contracts will meet the costs of the commission expenses during the contract period.

You may ask why I have introduced the bill. Some of you who were in the last Legislature, particularly in the second session, may recall that I had the dubious honor of introducing the first no-fault bill in the Legislature. One I drafted last year

and introduced in 1972 at the Special Session. The committee screening the bills decided, because of conflicts at issue, not to consider the bill at that time. Since that time at the convention of the party with which I am affiliated met at the convention last spring and adopted the party platform and this, specifically, was the outline of the bill that was endorsed by the Platform.

So, that's why this bill does differ from the one that I introduced last year. By the way, the one I had last year had a cost ratio of \$300. for medical; \$300. for property loss and I think \$900. on wages; something in that area.

So, that's the conclusion of my presentation; the reason why it is introduced and I think there is no need for going over the specifics again because it is identical to the one Mr. Tierney has.

SENATOR COX: We have a question from Representative Jackson.

REPRESENTATIVE JACKSON: I wondered on that commission-thing--- paying for it, wouldn't this be passed on to the people?

SENATOR KELLEY: In essence, yes. I think if you read the first page or two it's quite apparent that the work of the commission wouldn't involve that much.

SENATOR COX: Further questions?Representative O'Brien.

REPRESENTATIVE OBRIEN: With the exception of this commission, this is exactly the same as Representative Tierney's bill?

SENATOR KELLEY: Almost identical, yes. The only real difference, Jack, is that the commission would seek its support for the work

done from the company or companies, but the coverage would be the same. I don't know if you were here; I explained the reason why it was introduced.

Q. So then pretty much the same thing goes---this would also reduce insurance premiums in the State of Maine?

A. I made reference to the bill I introduced last year .. (it didn't have a chance at that time) .. to see if it wouldn't result in savings and I was convinced (after the session was over and I was looking into it) that the bill I had last year would. After I learned about Representative Tierney's bill (and after looking into it further) it indicated that it would.

Q. I'm sure that you know my position...I've made it very clear at these hearings....that I'm not convinced yet that the consumer is ready for no-fault (or wants no-fault) but as the gentleman from the consumer group pointed out, to go back to my constituents with a guarantee of a reduction in premium (and then if my position changed very drastically).....so, you wouldn't mind if I ask that -- if there is going to be a mandatory reduction of premiums?

A. I think it could very well be existent. I think it needs more analysis.

SENATOR COX: Any further questions?

None?Thank you.Are there any proponents?

REPRESENTATIVE McTEAGUE: Mr. Chairman, Members of the Committee, I am Pat McTeague from Brunswick. In addition to being the only bill that is completely in conformity with the State platform of both political bodies, Senator Kelley's Bill has behind it (in terms of experience) the two most long-lived and most successful bill in North America.

You probably know that the Province of Saskatchewan adopted the first no-fault plan back in 1947. This has generally spread throughout Canada. The Province of Saskatchewan operates their no-fault plan through, what we might call, state funds.

Senator Kelley's bill is not exactly state funded; it allows the actual administration and operation by private enterprise but it uses the collective power of the people of the State acting together to obtain the very best kind of coverage at the very lowest premiums.

The other jurisdiction which has adopted a state-fund type code, not using pragmatic writers to write or service the policies, but operated directly through government is the Commonwealth of Puerto Rico but it, admittedly, has a different social history and different economic standing than we do here in Maine; but they have been terribly successful in working for a very large premium reduction. I think it's calledPuerto Rico (Social?) Auto Reparations Plan.

I think that when we are going into a new area -- again, with a captive type market -- which we make with the consumer with any no-fault plan, that this really emphasizes the obligation that the State, (which has ordered the coverage) to make sure the best deal possible is made.

Thank you.

SENATOR COX: Are there any questions? Representative Donaghy?

REPRESENTATIVE DONAGHY: In the light of Mr. O'Brien's questions of Senator Kelley -- I would like to have asked this of Senator Kelley -- but I can ask you the same thing, ...have the Blues' going to like it (have they been asked how they are going to like it) when they are told how much they are going to be able to charge for a premium on this?

MR. McTEAGUE: This is not a Blue Cross bill, Representative Donaghythis bill is....

REPRESENTATIVE DONAGHY:it has been said here....

MR. McTEAGUE: Blue Cross would be allowed to bid -- to write the coverage and in all (or part) of the State of Maine; so would the other health carriers.

SENATOR COX: Further questions?

None? Thank you.

SENATOR COX: Any further proponents?

If not, does anyone wish to speak in opposition?

MR. RUSS: I think I have taken the position of opposing Representative Tierney's Bill and it will be thought I am opposing Senator Kelley's Bill -- and I am -- I would also like to say that Representative McTeague has indicated something about Saskatchewan and I think that all of you might be interested in knowing that they are considering a bill to take over all insurance companies. If they did that; and then if Maine did that -- you could do away with Bob Russ' Company.
(kindly laughter)

REPRESENTATIVE OBRIEN: I would like to ask one question. ...of Mr. Hogarty. ...I assume that you are here representing the Insurance Commission?

My only question is, again with the insurance premium...do you believe that any one of the bills that we have read so far, that we would be able to write in a reduction of premium?

MR. TRAHEY: It's possible.....

REPRESENTATIVE OBRIEN:(not heard....you say it's.....)

MR. TRAHEY: I said, I think it's possible.

REPRESENTATIVE OBRIEN: Possible?maybe you're converted to that.

MR. TRAHEY: I say, I think it's possible.

REPRESENTATIVE OBRIEN: There again, we're back to the actuarial.

REPRESENTATIVE DESHAIES: Have you made a study of all of the bills that have been presented? (question asked of Mr. Trahey)

MR. TRAHEY: I can't say that I personally have studied all the bills; We have explored some more in depth than others; we haven't gathered together costs, nor have we yet clarified the cost area.

SENATOR COX: Because of that fact ...as he indicated....he'll give us more of that information in Executive Session.

Anyone else wish to speak?

MR. SMITH: Mr. Chairman and Members of the Committee -- this is the last day and I have attended all these hearings and I have spoken at most of them; I appreciate the time you have given me and I now will

be very brief. I realize that members of this Committee come here and they have not been exposed to this problem -- this whole concept and all these various plans -- the pros and cons of them as perhaps most of us are who have spoken before this Committee.

I realize that this presents quite a problem to the Committee to come to a consideration, a firm one. I cannot speak on behalf of the Maine Bar Association regarding Senator Kelley's Bill because quite frankly, we never had it to bring before the Committee -- to be studied, so I would be amiss if I was representing the Bar Association in that regard.

I do want to say that, as I told you initially, we endorsed Senator Marcotte's Bill. I would like to say in reference to this to the main committee, and you can do what you like -- that it might be well if you took some of these bills -- and I think that Senator Marcotte's Bill is an example -- that had no threshold you could try it. Let's say that you tried it for a couple of years; if it isn't working; if it's causing problems (and I can't see why it should in any way) ..and I don't believe it's going to cause any increase in premiums ... but if it does, then you can come back with some sort of threshold bill .. in the next Legislature.

This is just a thought because I think that's the best way to handle it. I would say in reference to that bill, and Senator Marcotte isn't here and he has a compulsory feature in it -- I would say that in his bill -- well, there is no need to have compulsory insurance in it because we have it under our system now and it can be very carefully eliminated. The only thing being though, that if you do buy insurance

it's mandatory that you buy the first-party coverage, just as it is mandatory now that you buy, I guess,...I get it comes with the automobile coverage.

I leave the Committee with these thoughts and I want to thank you for your kind attention to my presentations in this area.

SENATOR COX: Any questions of Mr. Smith?

Thank you sir. Anyone else wish to speak?

MR. SMART: My name is Murray Smart. I am representing the Insurance Independents' Association in Maine. I'd just like to go on record as being opposed to this bill. I will just state what I did previously that we do stand in favor of L.D. 1420 and in all deference to Mr. Smith, I would like to say that 'why don't you give 1420 a couple of years and if it doesn't work out (and if it does have a threshold, maybe you can take the threshold out)'

...So,you fellows have a problem, that's what it boils down to, but I just want to be on record, that's all.

SENATOR COX: Any questions?

If there are none, thank you. Anyone else wish to speak?

If no one wishes to speak, I will now declare this hearing closed.

.....gavel