7. Failure to Give Notice of Proof — Failure to give notice of claim or furnish proof of claim within the time prescribed in this statutory condition will not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible and in no event later than one year from the date of the accident or the beginning of the disability due to sickness and if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.
8. Insurer to Furnish Forms for Proof of Claim — The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the happening and character of the accident or sickness giving rise to the claim and of the extent of the loss.
9. Right of Examination — The insurer has the right, and the claimant shall afford to the insurer an opportunity, to examine the person of the person insured when and as often as it may reasonably require while the claim hereunder is pending, and also, in the case of the death of the person insured to make an autopsy subject to any law of the province relating to autopsies.
10. Limitation of Actions — An action or proceeding against the insurer for the recovery of a claim under this contract shall not be begun after one year from the date on which the cause of action arose.

DISCUSSION BY J. A. HILLHOUSE

The paper on Inverse Liability Automobile Accident Insurance presented at the May, 1967 meeting of our Society by Mr. J. B. M. Murray is an extremely welcome and a very timely contribution to our *Proceedings*. Seldom can one pick up a newspaper or trade journal today without observing some article leveling adverse criticism towards the current tort liability system. In his presentation as part of a panel discussion on Automobile Compensation Plans at the May, 1966 CAS meeting, Professor Keeton summarized the shortcomings of the present automobile claims system by saying, "It provides too little, too late, unfairly allocated, at wasteful cost, and through means that promote dishonesty and disrespect for law." The degree of consent or opposition toward this statement from various segments of the industry varies quite drastically, although it is generally agreed that some refinement is necessary in the present system of settling third party liability claims.

The material in Mr. Murray's paper is, in my opinion, very well organized and presented in an understandable fashion. Brief introductory statements, setting forth the need for modification in the present system of compensating those who are injured in automobile accidents, precede descriptions of other plans which have been advanced suggesting reformation of the present tort liability system. A new form of automobile accident insurance which the author has titled Inverse Liability is then explained, followed by suggested policy wording including all applicable conditions.

I must say that reviewing this paper was very educational, not only from the knowledge gained as respects the Inverse Liability plan but also from general research on the subject of compensation without fault. It seemed to be a natural tendency to contrast the components of the Inverse Liability plan with the highly publicized Keeton-O'Connell plan. In each case, the primary objective is that of indemnifying the automobile accident victim for economic loss irrespective of fault. The Inverse Liability plan is unique, however, in that it contains a subrogation feature providing that a company having indemnified an insured has recourse against a responsible third party or insurer of the third party. It is an extension of the principle of uninsured motorist coverage except that it is not limited to accidents involving the uninsured person and there is no limitation to the statutory minimum limits inasmuch as the insured may elect whatever limits he desires. The suggested minimum limits are $100,000 with increased amounts available up to $500,000 at an additional premium.

The Inverse Liability approach contemplates preservation of the traditional court and jury system to the extent that an insured may pursue his claim against a responsible third party, in which case any claim under his own policy is forfeited. The plan is devised to be either mandatory or voluntary but the voluntary approach has a distinct disadvantage, for Inverse Liability would be effective only to the extent that it would be purchased by the motoring public. Pain and suffering is not included under the Inverse Liability policy but the author does indicate that it could be offered as an additional coverage. Instead, where pain and suffering constitute a major portion of a claim, an insured may elect to pursue his claim against a responsible third party and forego any compensation under his Inverse Liability policy. The use of deductibles is discussed, and if I interpret the comments correctly, the author does not necessarily recommend a deductible feature under Inverse Liability.

Mr. Murray has submitted a paper incorporating a plan which has required considerable thought and effort in preparing. I have no specific

criticism of the paper itself, but for my enlightenment further details or research regarding the cost of Inverse Liability would have been interesting. I suppose I am ultra-conscious of this aspect because of the wide divergence of views which have been expressed in estimating the cost of the Basic Protection plan. It is difficult for me to be as optimistic as the author that the arrival of a figure for resolving a claim under the Inverse Liability policy will result in an amicable settlement in a vast majoriy of cases.

From a purely personal vewpoint, I have some reservation as to the total or partial abandonment of our present liability system. First, I wonder if the adoption of the compensation without fault concept would have an adverse effect on fatalities and accident frequencies because of the tendencies toward more negligent driving habits by automobile operators? I am disturbed also about the inequity of distributing the costs under the compensation without fault plans. It appears that the more prudent and responsible insureds will be assessed higher premiums to subsidize the more negligent drivers who should pay the higher premiums.

On behalf of the Society, I would like to thank Mr. Murray for his fine paper and commend him for sharing his idea with us. On an issue of such great public importance, I hope other members of the Society will be stimulated and encouraged to also share their thoughts or comments with us. It occurs to me that only by pooling and sharing the ideas of several individuals will we be able to arrive at a feasible modification of the traditional tort liability system and one that is acceptable to society.

DISCUSSION BY JACK MOSELEY

Any paper, article, or discussion on the problems attending automobile liability insurance today deserves and generally gets a fair share of attention. Mr. Murray's paper on Inverse Liability Automobile Accident Insurance is one that deserves a lot of attention.

Mr. Murray begins by discussing some of the difficulties involved in recovering damages under the existing tort law. He then discusses several of the short-comings inherent in the compensation without fault system in use in Saskatchewan, Canada; supplementary accident benefits proposed in Ontario, Canada; and the Basic Protection Plan proposed by Professors Keeton and O'Connell. Notable among these short-comings are: (1) the forfeiture of certain legal rights, (2) inadequacy of automobile benefits in the event of serious injury, (3) the probable failure to actually reduce the cost of automobile insurance, and (4) the necessity of substantial and rudimentary changes in statutes as regards the latter two proposals.