



DEPARTMENT OF TRANSPORTATION

NEWS

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20590

59-DOT-70

REMARKS BY CHARLES D. BAKER, ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, BEFORE THE NATIONAL ASSOCIATION OF INDEPENDENT INSURERS, MIAMI, FLORIDA, NOVEMBER 17, 1970

Ladies and gentlemen, I am here today to discuss a problem -- automobile accident insurance. Now, as with any problem with a variety of parties involved, we have here a number of different perspectives and points of view. I'd like to discuss several of these today.

The public has an important -- and vocal -- point of view. What is it? Simply stated, the public is mad. On the one hand, it's faced with soaring premium rates. Massachusetts, already paying the highest rates in the country, will next year cough up 38 percent more. At the same time, cancellations and nonrenewal notices are in some places becoming the rule rather than the exception. Some of my best

friends are now considered bad risks -- because they live in center cities, their mothers are over 65, they are divorced, or they have (or will have in the future) teen-aged children. There are long delays in payments and many feel that when payments are finally made, they're not nearly equivalent to the actual or imagined loss. And so on. These are just some of the bones of contention. I'm sure you gentlemen can discourse on "the public concern" at greater length than I.

The Department of Transportation is another interested party. Hopefully, we represent the public/national interest. Now this isn't necessarily the same as the public clamor, but we indeed recognize that. Our view of the problem is more than just a result of public opinion polls and comes from, among other things, a comprehensive study of the existing compensation system for motor vehicle accident losses that the Department has conducted during the past several years. The Congressional mandate for this study requires the Secretary to submit (to Congress and the President) a final report "which can contain a detailed statement of the findings, conclusions, and recommendations of the Secretary and may propose such legislation or other action as the Secretary considers necessary to carry out his recommendations." We have finished the research phase of the study and the bulk of our findings and those of our contractors have already been published in a series of reports. Most of you are quite familiar with these. Some of these reports allow us to see -- I think for the first time -- from a national perspective how the present system of motor vehicle accident compensation is serving the driving public. What do we think these reports show? Let me cite a few points.

First, the liability insurance system has limitations in its coverage. Only those who can prove that others were at fault while they were not (or were less at fault) have a legal right to recover their full losses. What does this mean in fact? It means that in more than half the automobile accidents where someone was killed or seriously injured, no benefits were received from the tort liability system. In 10 percent of the cases nothing was received from any system of reparation.

Second, the system looks imbalanced in the way it distributes compensation losses. One would expect that the victim suffering the

large economic losses would also have significant intangible losses. One would not anticipate, however, that this type of victim would have a poorer chance of being fully compensated -- particularly for his economic losses -- than the less seriously injured. Our study indicates that this is, alas, the case. Only half the total compensable economic losses of seriously or fatally injured victims are compensated -- only one third where losses exceed \$25,000! Small economic losses fare much better -- victims suffering under \$500 damage recovered in total through the tort system four-and-one half times their economic loss. People may argue with some of the precise percentages cited here, but unless one is prepared to challenge the conclusions fundamentally, one is forced to the view that compensation is erratic.

Also it seems that the system has a very high cost/benefit ratio. By our calculations, it costs a dollar to produce a dollar in net victim benefit. Put another way, one premium dollar out of every two does not go to the accident victims. Further, it appears that this benefit is poorly timed -- either too late or too early. Despite commendable efforts on the part of the industry to introduce "advance" or partial payment plans, the system looks to be quite slow in providing benefit payments, particularly in terms of when they are needed.

There are indications that rehabilitation also suffers. Slowness of payment discourages early rehabilitative efforts and, in fact, the system at times places a premium on deferment of payment beyond the time when rehabilitation could be most effective. Unfortunately, the payment looks to be slowest where the need is greatest -- when victims suffer permanent impairment and disfigurement. Nor does the system make any real encouragement re minimization of very large personal injury losses by the timely use of comprehensive rehabilitation programs for the seriously injured.

Perhaps to a group such as NAIH it is most appropriate to point out that it is not just the victim who suffers. As it presently operates, the "system" places great strains on the insurance industry itself. For many companies, what once were underwriting profits are turning to underwriting losses, and it's alleged by some that capital may actually be withdrawing from the market. Granted, the threat of capital withdrawal is not a new phenomenon, but actual withdrawal

on a large scale would be. I don't think I have to point out to you people what a serious problem this would present, not simply to the industry but to the nation.

One reflection of this strain is the increasing difficulty some drivers are experiencing buying in the voluntary market. From 1966 to 1969 the number of drivers having to obtain insurance from companies not of their own choosing through assigned risk plans grew from 2.6 to 3.2 million, an increase of 23 percent. The Federal Trade Commission in some work it did as part of the study, estimated that from 8 to 10 percent of all drivers are covered in the "hard to place" insurance market -- and this when aggregate requirements for insurance are increasing if only because of rising medical and auto repair costs.

And our old friend the judiciary is also feeling the strain! In Shakespeare's Henry VI one of the characters suggests, "the first thing we will do is hang all the lawyers!" Alas, this far-sighted fellow was hung himself without benefit of counsel in the next act so I fear we must not ignore the judiciary. At a time when other demands (rising crime, etc.) overburden our legal system, the judiciary handles more than 200,000 auto accident disputes a year -- in terms of judge time alone, more than 17 percent of the country's total judiciary resources!

And there is another "institutional issue." Insurer insolvencies have been concentrated among specialty insurers serving the high risk market. This has presented complex problems for consumers, regulators, and the insurance industry in general. And the very complexity of the problem makes them so resistant to solution that they threaten to lead to greater centralization and a loss of local initiative and freedom in insurance regulation.

So where are we? I think we are in a situation deserving of very thoughtful review. As it now functions, the system is serving the accident victims imperfectly, and thus raises questions for the insuring public and society in general. There are problems -- serious ones -- and they will not go away merely by pretending they are not there.

But what to do? Nationalization? As one philosophically committed to private enterprise -- for what I view as unassailable economic and sociological reasons -- I regard the word with horror! Heavy Federal regulation? Perhaps desirable in the "all else failing" category, but surely not something to be looked upon with pleasure. Nonetheless, there seems to be agreement that "something should be done" and some of the suggestions are worth examining.

Recently, a variety of alternative reforms have been proposed -- by the states, by consumer groups, and by the insurance industry itself. Take the beleaguered State of Massachusetts, for example. Last August the Massachusetts Legislature enacted an insurance reform into law which has met with mixed emotions. Due to become law in January of 1971 -- at last reading -- the bill provides for "first party" coverage regardless of fault for up to \$2,000 in medical and out-of-pocket expense payments, including 75 percent of wages. Beyond this, the traditional tort system will apply. No suit for pain and suffering will be allowed unless medical expenses amount to more than \$500 or injury results in death, dismemberment, disfigurement, or broken bones. Originally, the plan legislated a 15 percent reduction in all auto insurance premiums for 1971, but recently (after a significant number of insurance companies threatened to stop writing policies) the Massachusetts Supreme Court declared this reduction unconstitutional and subsequently property damage rates were raised 38.5 percent. In addition, policies will be subject to indefinite renewal except for fraud, nonpayment of premiums, and conviction for drunken or drug-impaired driving.

Another state -- New York -- has an insurance reform program in the legislative mill. A no fault proposal submitted to the New York Legislature earlier this year never got out of committee, but probably will be reintroduced next session. As you know, the New York plan would compensate victims for all net economic losses suffered in automobile accidents rather than shift costs according to fault. Motorists would be required to buy insurance but only enough to cover those losses not repaid from other sources, for example, Blue Cross or Blue Shield. There is room, however, for voluntary arrangements for coverage beyond that required by law. Like the Massachusetts plan, the New York plan makes some attempt to deal with problem drivers, in this case by imposing special cost burdens on certain categories of "obnoxious" drivers.

The insurance industry itself has proposed a number of reform alternatives. One of these, put forth by the American Insurance Association, is similar to the no fault plan under consideration by New York except that it would internalize costs, placing the burden for payment on the "first party" automobile insurance, with other forms of compensation taking up the slack.

Your own group has advocated a somewhat different approach to the problem -- as Charley Chrisman calls it, "responsible reform" -- which would retain the tort liability system and seek to improve its operation through evolutionary change. Moreover, you have correctly emphasized the true source of lower accident costs, that is prevention of loss through safer and more durable vehicles and better driver behavior. Now it is mighty hard to argue that accident prevention is not of paramount importance and your efforts with DOT in such lines as our emerging alcohol countermeasures program warrant both our applause and our appreciation. Did you know, for example, that our studies are indicating that 40 percent of the nation's fatal accidents involve a driver who has a blood alcohol content of .15 percent? And that means, for a fellow my size, about 8 to 10 drinks in a 3 or 4 hour period. In short, that means a fellow who is really stiff. So who can argue against any help we can get in this area? Surely not me.

But where is DOT in all this? I mentioned earlier that as part of the overall study we are conducting we are required by law to come up at the very least with a series of recommended reforms for submission to Congress. We are now involved in analyzing our findings, assessing our conclusions, and examining various alternatives; and you and various other groups are providing major inputs. Our final views are not set, but I think some directions are starting to emerge.

Accident prevention remains of top priority. In fact, increased emphasis can be expected. In compensation, when accidents do occur, the overriding goal of any change should be a system that is efficient, offers flexibility and choice, is balanced, gives maximum incentive to aggregate loss reduction -- and does a better job than the existing system (change for the sake of change is a sure loser). Specifically, I think our insurance system should attempt to cover the bulk of economic losses associated with medical expenses and property losses,

and at levels designed to prevent or effectively mitigate any serious economic dislocation for the individual victim or his dependents. And in this context I would urge that any reform place much greater emphasis on the rehabilitation of those who are injured, with payments made in such a way that the injured receive compensation when they need it and in a way that encourages systematic rehabilitation.

Now, a number of "experts," including some of those in the insurance industry itself, propose greater reliance on the "first party" technique. I'm frank to say that I think this approach warrants a close look to determine its practicality and feasibility. But I also recognize that it has ramifications not to be ignored. I am sure it is clear that I cannot conceive of an approach which does not rely on private enterprise. And I think regulation is where it should be, with the states -- although changes of one sort or another could require some measure of greater Federal cooperation with State governments.

I think these observations reflect my overall view that some changes are both inevitable and desirable. Our accident "prevention" programs must be improved and expanded, but so also must our insurance compensation system. And it is up to all of us to evolve the "right answers" in this very complicated arena. Thank you.

#####



DEPARTMENT OF TRANSPORTATION

NEWS

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20590

60-DOT-70

REMARKS BY ASSISTANT SECRETARY FOR POLICY AND
INTERNATIONAL AFFAIRS CHARLES D. BAKER BEFORE
THE NATIONAL AVIATION TRADES ASSOCIATION, HOLLY-
WOOD, FLORIDA, DECEMBER 7, 1970

Secretary Volpe likes to tell a story about a recent experience he had on a commercial flight. Thinking it would be polite to introduce himself to the crew, he asked a stewardess to take him forward to the cockpit. "Sir," said the sweet young thing, "I'm sorry, but nobody, not even the head of the FAA, gets to see the pilot!" An outspoken trucking executive recently observed that the Department of Transportation was "weird." These incidents suggest that the identity of DOT is at times obscure. Some people think us part of the FAA, and some others (probably some of you here) think we should be! Clearly, lots of people don't know exactly who and what we are. A lamentable situation indeed and one which I think I ought to clarify.

What is the Department of Transportation? We are the newest of the Cabinet-level agencies, established by an Act of Congress on April 1, 1967. The new Department consolidates a number of transportation-oriented organizations. Some of these were previously part of other departments (Coast Guard came from Treasury and the Bureau of Public Roads from Commerce), some, like the National Transportation Safety

Board and the Federal Railroad Administration, are new organizations, and others, like FAA, were originally independent agencies.

These were brought together into a line/staff type of organization. The line or operating administrations like FAA and UMTA are devoted to the operations of the programs dealing with various modes and the staff offices, like mine, are concerned with the development of policy and/or the coordination of such programs as R&D. That in a nutshell is what we are.

Why go to all this trouble? Why not just continue the way things were? I think the basic impetus behind the change was the feeling that we just had to get some perspective on the transportation system as a whole. For instance in the planning area, we have a number of separate efforts. FAA, FHWA, and UMTA all conduct separate "needs" studies for their own planning purposes, but these are by definition modally oriented and somewhat limited. The FAA spends a lot of time worrying about future demand for airports and ATC equipment, but necessarily less time on how these relate to other forms of transportation. How, for example, do the needs of general aviation relate to, say, population distribution and other forms of transportation?

The various modes do not exist in a vacuum. Commercially, they often compete with each other -- rail and barge for long-haul heavy freight; truck, rail, and air for high-value freight; and air, rail, and auto for intercity passengers. Or sometimes they complement each other as do taxi, bus, and the private auto with aviation. Airport access is a sterling example of the kind of problem that can only be considered in a multi-modal context. Almost all air trips involve at least two modes since there are

very few air travelers (even among those who have their own planes) who travel merely from one airport to another. Since almost all airport access systems -- whether they be highway, rapid transit, or otherwise -- are part of a larger urban transportation system which must serve a variety of needs, airport access is really an urban and not an air transportation problem and solutions to it cannot be developed in any other context.

Proceedings before the regulatory agencies -- the CAB, the FMC, and the ICC -- also require a bird's eye view. There are policy considerations involved which either transcend the purely modal or involve several forms of transportation. The CAB recently deliberated on the question of government subsidy for STOL and VTOL development. Our concern in this exercise was the economic feasibility of such service and whether or not there were more viable alternatives.

Should the airlines or railroads be allowed to own trucking companies or should the air-taxis be granted Federal subsidies? Answers to these and other similar questions can't possibly be determined without reference to the transportation system as a whole.

The recent trend toward user charges to pay for government investment in transportation programs reflects a policy decision not confined to one specific form of transportation. The government has long leaned in the direction that when a transportation program is to benefit a specific user group and when there is a reasonable correlation between benefitting and paying, that government investment (in transportation) should be paid for by the principal users or beneficiaries of the system

rather than by the tax payer at large. But it is a long jump from that general view to a specific user charge program as everyone in this room well knows. Who benefits and how much? What is basic and what is incremental? Our DOT study in this area vis a vis aviation user charges is complex and worth a lot of effort. We are giving it high priority.

A supraview also enables us to see and do something about imbalances in the transportation system. Over the past two decades most Federal investment in transportation has been in highways -- very good for the highways but of less help to the flying public or the subway riders. Looking at the system as a whole we could see that other modes were in desperate need of increased Federal assistance, and during the past session of Congress we attempted to rectify this situation. We asked for and received greatly increased expenditures for airports and airways, public transit, and rail passenger service was the subject of special new legislation. The results of these programs will mean more and better airports. That's good for you. Easier traffic to and from airports -- that's good for you too. Some of the overly dense areas have new surface alternatives (rail) available. That's good for you also.

But let's get more specific. How do DOT planning and policy relate to aviation planning and policy? The best approach I can think of is to look at some of the planning and policy activities we are actively involved in. First, the 1972 Needs Study. As I mentioned before there is not now any comprehensive transportation planning and worse no comprehensive review of needs! Rather the planning activity is undertaken by a variety of bodies at the Federal, State, and local levels as well as by various

parties in the private sector -- the railroads, the automobile manufacturers, the air carriers, etc. Indeed, for some segments of the industry such as local terminals there is little or no information available at all.

The Department is now involved in a massive information gathering effort to bring together information from all sources on transportation demand through 1990, using the planning/data agencies in existence for highways and airports (and airways) and instituting new information development techniques where necessary. For the first time we will bring all these data together in one place -- DOT -- in a consistent format and analyze them to determine, to the extent possible, what transportation resources are required over the next two decades. Thus in 1972 the Secretary, the President, and the Congress will have a total transportation picture for the first time ever.

A similar exercise albeit on a more limited scale has been conducted over the past five years to analyze and evaluate first the passenger and now the freight transportation needs of the Northeast Corridor through the next decade. This is already providing much useful data for aviation and intercity transportation planning by a number of agencies.

Why the Northeast Corridor? First, because this area contains 20 percent of the nation's population, all or parts of 11 states, and 5 of the country's largest cities. Second, the area is faced with a growing demand for transportation services created by an expanding and ever more interdependent economy. How are we to meet these demands? Build highways ad infinitum? Conventional aircraft, STOL, VTOL, or an altern-

ative, say, rail? Finally, there was a recognition on the part of many of growing ailments with transportation and with the seeming inability of existing policy to cope with present and future needs. Air congestion is a problem greatly affecting general aviation. Clearly, all this relates to planning for and the future of general aviation. The issue isn't really can or should general aviation continue to grow, rather how can we act now to assure that it grows in context with the rest of transportation.

Earlier in the year we published some tentative conclusions from this study which we have refined upon since then. What precisely did we come up with? Well, we found that because of congestion -- both in the air and access and egress -- CTOL is a speculative answer for future short-haul transport. But STOL and VTOL have problems too because they will be economically hard without city center airports -- and city center airports raise political as well as land use economics issues! So where are we? It appears that in the future there may be less reliance on commercial aviation for short-haul transportation in the major corridors where congestion is severe and an increasing reliance on rail. Or perhaps there will be some resolution of the STOL/VTOL issues. In any case it does mean that our intermodal studies in DOT let us -- including FAA -- better understand and face up to the aviation problems that affect you and so many others.

Inextricably tied to the question of planning is that of funding. It is understandable that as we increase our awareness of what is required by way of transportation services and Federal financial commitment we shall

look to new, more flexible ways of applying the resources we have available. There are several ways to do this and one approach which has received a great deal of publicity recently is a single transportation trust fund which would distribute block grants to the states to be used as needed. How would this affect general aviation? Well, we certainly cannot abrogate legislation which specifically provides for general aviation airport development. But perhaps we can advance a greater harmony of aviation, highway, and urban programs at the local level. This is the kind of thing we are looking at!

Environmental concerns are still another problem with which we are becoming increasingly concerned. Historically the FAA has issued engine emission standards and certificated engines on noise although the standards themselves are set by HEW. However, responsibility for ensuring that transportation projects are compatible with the environment in general -- questions of ecology, land use, etc. -- have been placed with the Secretary of Transportation by our enabling legislation. It was this authority that Secretary Volpe invoked when he stopped construction of the new Miami Everglades jetport. The Airport/Airways Act invests the Secretary with a similar authority. Specifically, he is required to consult **with** other environment-related agencies in developing the National Airport System Plan and whenever feasible to incorporate their recommendations in the plan. Further, the Secretary cannot approve any project unless it provides for the protection and enhancement of ~~the~~ environment and all possible steps have been taken to minimize adverse effects of the project on the environment.

In ~~pra~~actice, much of this authority invested in the Office of the Secretary has -- and quite properly so -- been delegated to the FAA Administrator and from him to the regional offices. It's simply physically impossible as well as undesirable for the Secretary to review every airport, highway and transit project, and by and large "the Secretary" becomes involved only when opposition is expressed by agencies or officials where coordination is required or where substantial opposition is expressed by other interested parties.

Well all the forego~~ing~~ are brave words (hopefully) well spoken. What will all this add up to? What will DOT transportation planning mean to aviation planning and you, the general aviation segment of the industry? It should lead to less congestion, for example, because new facilities will be developed, alternative modes of commercial transportation will be fostered, and transportation problems, eg., access, will be considered in an intermodal context which will make facilities more accessible and more efficient. It will mean that development (airports) will be related to such factors as population distribution, land use, and so forth, **and thus** more in consonance with true national needs. Thus we will have a more effective FAA, a more effective DOT, and more effective Federal and local relationships. It seems to me that this all adds up to a brighter future for general aviation. Put another way, the future would be ~~black~~ for all transportation not just aviation absent such **concerted effort** on the part of all involved at all levels of government and all segments of industry.

The understanding and leadership that "Judge Reynolds" provided has meant much to FAA and to DOT overall! And there are few people I know for whom I have such high regard. Fortunately we have John Baker -- now there's a name I like -- to pick up where "the Judge" left off.

The Department of Transportation is concerned with making all transportation what it can be: growing, efficient, and useful to the nation. I think we -- you and I -- all of us -- are on the move. Thank you.

XXXXXXXXXXXXXXXXXXXXX