

COST ALLOCATION  
IN THE NEW ZEALAND  
ACCIDENT COMPENSATION SCHEME

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ABSTRACT

There are several ways in which an accident compensation scheme could be financed if raising sufficient revenue is to be the only objective. Traditionally, such schemes have tried to do a little more by the method chosen to raise finance. In particular, differential levies placed on employers according to risk, have been considered to satisfy equity criteria and to achieve to some extent objectives in the field of accident prevention. Thus when the new New Zealand Accident Compensation Act was implemented, largely traditional means of funding were adopted, partly for pragmatic and institutional reasons, but also because of a belief in the efficacy of financial incentives on safety and the fundamental equity of such techniques.

This thesis examines the theory of cost allocation in the light of the equity and safety objectives, and in particular, the relevance of externality theory to the question of providing safety incentives through methods of financing accident compensation. Theory suggests that unless levies can be made into marginal taxes, i.e. responsive to actual accident experience, their impact on accident prevention is uncertain. Long term, the economic rationale for differential levies resides in the argument that resource allocation will be improved. This argument is examined to show that operation of the New Zealand levy system probably fails to achieve in any significant sense long-term optimal resource allocation.

Rebates and penalties have been suggested to increase the direct safety incentives of differential levies and these should theoretically accomplish conformity to marginal tax theory. Their feasibility, potential, and the likely formidable problems of merit-rating in the New Zealand scheme are examined using a simple statistical methodology, based on measures of accident frequency and the assumption that accidents are random events characterised by the Poisson Distribution. In particular the implications of such a scheme for the Freezing Industry are analysed.

The New Zealand scheme covers all accidents, including non-work accidents, and thus is seen as one which has as its primary objective the minimization of all accident costs (including the costs of accident prevention). The inclusion of non-work accidents suggests that the concentration of financial incentives on work accidents alone is inappropriate and cost allocation theory is used to propose ways in which financial incentives could be extended in principle to non-work activity.

Finally some reconciliation of safety incentives and equity concepts is attempted in order to suggest ways in which the present financing arrangements could be improved and yet at the same time not increase the difficulties of the integration of sickness and accident schemes at some future date.

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CHAPTER I  
INTRODUCTION

When the New Zealand Accident Compensation Act 1972 was implemented on 1 April 1974, it was widely acclaimed as a highly innovative piece of social legislation. After five years of operation the benefits of the scheme appear to be indisputable. The abolition of the fault principle as a basis for compensation for all accidents, no matter where or how they occur, has eliminated the wasteful litigation process. Now compensation available to injured persons is realistically related to actual loss of earnings, while medical, hospital, rehabilitation and other services are provided free. Benefits are available to all persons including non-earners, and coverage is not only for work hours but twenty-four hours of the day, seven days a week.

Unfortunately there has been a highly fragmented approach to the general problems of social welfare in New Zealand during the 1970s. This has resulted in a complex array of separate schemes each designed to meet differing classes of need. Benefits are subject to various tests of eligibility, and are flat rate or earnings related, taxable or non-taxable, selective or universal. Accident Compensation is the only scheme which has earnings-related benefits and is funded by a separate compulsory levy system under the administration of an autonomous commission.<sup>1</sup> Nowhere are

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1. National Superannuation, the other major controversial social insurance scheme implemented in the mid-1970s, has taxable benefits related not to individual but average earnings. It is a non-funded, non-contributory scheme financed entirely by general taxation, and replaces an earlier brief experiment in the early seventies which was a funded scheme based on employee and employer contributions.

the anomalies perpetrated by the present system more apparent than in the differing treatments of disability by accident under the Accident Compensation Act and disability through sickness under Social Security sickness benefit provisions.<sup>1</sup> To remove this and other inequities would require an integrated approach and a rationalization of the entire range of social welfare and income maintenance provisions.<sup>2</sup> This urgent problem is beyond the scope of this thesis. However, as a first step to rationalization, it would seem appropriate to examine the theoretical basis for the separate financing of Accident Compensation to see which features do have merit and are thus worth retaining.

Chapter Two describes the historical background and evolution of the current Accident Compensation legislation with particular emphasis on the level of benefits and the techniques chosen to finance the scheme. An ideal charging scheme should not only produce adequate revenue, but should satisfy equity criteria and achieve total accident cost minimization, including the costs of accident prevention. In Chapter Three the theory of the correct allocation

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1. For example, an earner incapacitated by accident receives 80% of his previous weekly earnings up to \$240 per week (taxable but not subject to a means test). In addition all rehabilitation and medical expenses are provided free. If however incapacity is due to sickness he receives a flat rate basic weekly payment of \$77 subject to eligibility and means tests if married, or \$46 if single.
  2. The New Zealand Planning Council have recently made such a plea and suggest some possible approaches in their document, The N.Z. Planning Council, Income Maintenance and Taxation: Some Options for Reform, June 1978.

of accident costs to fulfil these criteria is discussed using the framework of externality economics. Environmental economics, a modern branch of externality theory, appears particularly adaptable to the problems of accidents and a simple pollution, accident analogy is proposed which suggests that accidents should be handled by an accident-tax approach. There are, however, fundamental differences between accidents and pollution as externalities which render the theory of accidents much more complex. In particular the implications of the insurability of accident costs, the indeterminacy of true social costs, and the complexity of correct cost allocation are discussed.

Insurance possibilities change accident taxes into lump sum premiums, which if unadjustable, have no direct impact on safety incentives. To make levies more like marginal taxes, that is, more responsive to actual accident experience, rebates and penalties have been proposed. Chapter Four examines the theory of rebates and penalties and discusses the implications of overseas experience for a merit rating scheme in New Zealand. This has particular significance in light of recent amending legislation which gives the Accident Commission broad discretionary powers in this area. As yet there is no objective, individually tailored rate modification formula as exists in many overseas schemes, and in Chapter Four some of the probability theory which should underlie such a formula is made explicit. A simple statistically-based criterion is developed for rebates and penalties by assuming that the occurrences of accidents as rare, discrete, random events, are characterised by the

Poisson probability distribution. Some typical New Zealand data on firm size and accident frequency is used to illustrate when a firm's experience could be considered significantly different from the industry average and how a rate-modification factor could be determined.

In Chapter Five, the overall levy system is analysed and the shortcomings of the present, largely traditional funding methods discussed. Unfortunately there has been an almost complete lack of published, detailed statistical data from the Commission, and where specific information was unobtainable, estimates and approximations have been used.

The Freezing Industry is of topical interest and is presented as a case-study in Chapter Six. Here a breakdown of expenditure and levy data on an industry-wide and firm basis would have provided a more precise analysis. This, however, was unobtainable from the Commission and the study draws on limited data from other sources. In spite of certain informational difficulties, this case study does illustrate some of the major problems experienced by firms under the present financing arrangements. Within the limitations of the data, the statistical criterion developed in Chapter Four is used to calculate the approximate size of rebate or penalty each of the firms in the industry could expect from their accident experience of 1976-7. The results are sensitive to the assumptions made, particularly the method chosen to compare one firm with another and highlight the likely arbitrary nature of any practical merit-rating scheme.

Finally, in Chapter VII, some conclusions are reached on the suitability of the present funding methods and some suggestions made which should improve the ability of the scheme to satisfy equity and safety incentive criteria and yet not impede future extension of the scheme to include sickness.

## CHAPTER II

### BACKGROUND TO THE ACT AND THE RISE OF THE LEVY SYSTEM

#### 2.1 THE HISTORICAL BACKGROUND TO THE NEW ZEALAND ACCIDENT COMPENSATION ACT 1972

By the early sixties the existing avenues for recompense open to persons injured by accident had become inadequate and anachronistic. Under the heritage of an English common law system, an injured person could claim damages if he could establish negligence against the defendant. Any contributory negligence reduced the damages awarded proportionately. The fault principle as a basis for deciding who received compensation and how much, produced increasingly arbitrary and inequitable results. Many seriously injured persons received nothing, sometimes through lack of adequate witnesses, while others, with minor injuries, received large settlements. The expensiveness of litigation, the delays and suspense, the inherent disincentives to rehabilitation until settlement, together with the lottery-like awards of common law action became subject to increasing criticism.<sup>1</sup>

Workers who could not prove negligence were eligible to

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1. For a full discussion of the failures of the Tort system see N.Z. Royal Commission of Inquiry, Compensation for Personal Injury in New Zealand; Report, Wellington, Govt. Print., 1967, pp.42-77. Also T.G. Ison, The Forensic Lottery, Great Britain, The Trinity Press, 1967.

claim under the Workers' Compensation Act from their employers. However, this avenue provided only limited weekly recompense for most, and could only be claimed for work-related accidents. The benefits were income-related and set at 80% of average weekly earnings, but the ceiling imposed on such payments was low. In addition, there was a maximum period of six years for which weekly compensation was payable so that persons with more serious disabilities received no compensation after this period under the Act, despite need. For those injured in non-work accidents, where negligence action failed, the only remaining avenue was social security. This system provided flat-rate, means-tested benefits at a subsistence level.

In 1962, the late Sir Richard Wild, the then Solicitor-General, convened a committee on Absolute Liability. This provided the first airing ground for the problems of liability based on fault in motor vehicle accidents. Although no dramatic recommendations came from this committee, it was recognised that there were good arguments for the abolition of the common law action for damages for industrial injuries and road injuries in favour of a broad accident cover scheme.

After several years of further discussion, a Royal Commission was appointed, chaired by Mr Justice Woodhouse. The report, presented in 1967, was radical and based on five guiding principles:

- (a) Community responsibility.
- (b) Comprehensive entitlement.



- (c) Complete rehabilitation.
- (d) Real compensation.
- (e) Administrative efficiency.<sup>1</sup>

Woodhouse envisaged a unified and comprehensive system for meeting losses arising from personal injury no matter where or how the injury might occur. The adversary system and the Workers' Compensation scheme were to be abolished and the philosophy of individual responsibility to disappear in favour of national responsibility. The level of compensation was to be such as to encourage effort and to recompense longer-term disability adequately. Thus short-term disability was to be compensated at a lower level, up to \$25 for the first four weeks. Periodic payments would continue thereafter for life if necessary at 80% of tax-paid income, adjusted to keep pace with changes in the cost of living.

In 1969 a commentary on the Report was prepared by Government to set out the form, together with variants or alternatives of the scheme which Woodhouse suggested.<sup>2</sup> Then a select committee, chaired by the Hon. G.F. Gair, M.P., was appointed to hear submissions from interested parties, and to make recommendations as to the final legislation.<sup>3</sup> The recommendation of the Select Committee was that the Royal Commission's proposals be partially implemented by two no-fault, funded schemes, one for earners and the other for

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1. Royal Commission of Inquiry, Compensation for Personal Injury, p.39.
  2. N.Z. House of Representatives, Personal Injury, A Commentary on the Report of the Royal Commission of Inquiry into Compensation for Personal Injury in New Zealand, Wellington, Govt. Print., 1969.
  3. N.Z. House of Representatives, Report of the Select Committee on Compensation for Personal Injury in New Zealand. Wellington, Govt. Print., 1970.

victims of motor accidents.

After several more months of committee and drafting work, the complex legislative document itself appeared in September 1972. The Labour Government subsequently amended the Act in 1973 so that non-earners were also covered under a supplementary scheme. The process of grafting on of amendments has resulted in a piece of legislation of considerable obscurity, which is now seen in many quarters as in urgent need of complete redrafting.<sup>1</sup>

The final provisions of the Act depart significantly from the original Woodhouse proposals, both in the level of benefits and the financial underpinnings. Benefits are more generous than those proposed by Woodhouse, and the emphasis has been shifted, so that the principle of concentrating on longer-term disability has been diluted by the very favourable treatment given to short-term and minor disability.

## 2.2 BENEFITS UNDER THE ACT

The provisions dealing with compensation are set out in Part VI of the Act. In summary, they allow for broad coverage of medical and hospital expenses and other associated expenses as well as earnings-related compensation. From Table 1.1 it can be seen from total expenditure for the year ended March 1978, of \$103 million, \$44 million was paid in

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1. For a detailed description of the legislative history of the Act and the significance of subsequent amendments, see a recent contribution by G. Palmer, 'Accident Compensation in New Zealand: The First Two Years'. The Social Welfare State Today, ed. G. Palmer. Trentham, Wright and Carman Ltd., 1977, pp.165-529.

TABLE 1.1

Accident Compensation Commission

SUMMARY OF INCOME AND EXPENDITURE

	1977				1978			
	Earners' Fund	Motor Vehicle Fund	Supplementary Fund	Total	Earners' Fund	Motor Vehicle Fund	Supplementary Fund	Total
<i>Income</i>								
Gross levy revenue	\$ 79,457,887	\$ 22,248,201	\$ ...	\$ 101,706,088	\$ 71,897,204	\$ 21,530,409	\$ ...	\$ 93,427,613
Investment income	9,067,770	6,113,496	...	15,181,266	5,677,347	3,776,012	...	9,453,359
Other	...	...	10,902,016	10,902,016	...	...	7,504,796	7,504,796
<b>Total income</b>	<b>88,525,657</b>	<b>28,361,697</b>	<b>10,902,016</b>	<b>127,789,370</b>	<b>77,574,551</b>	<b>25,306,421</b>	<b>7,504,796</b>	<b>110,385,768</b>
<i>Expenditure</i>								
Earnings related compensation, or loss of potential earnings, payable to injured persons	39,031,179	5,223,677	48,544	44,303,400	35,503,779	4,160,991	5,121	39,669,891
Earnings related compensation or remarks grants, payable to dependants	3,392,502	1,724,249	...	5,116,751	2,442,960	1,130,842	...	3,573,802
Funeral expenses and dependants allowance	610,348	684,640	209,938	1,504,926	714,225	467,426	95,782	1,277,433
Non-economic loss	11,836,838	3,899,091	2,374,027	18,109,956	6,148,402	2,160,435	1,063,406	9,372,243
Medical treatment	6,594,108	647,050	5,558,678	12,799,836	6,176,715	402,735	4,578,851	11,158,301
Hospital treatment	1,608,518	198,018	496,090	2,302,626	1,314,002	157,943	443,858	1,915,803
Dental treatment	1,267,179	213,263	640,150	2,120,592	1,085,730	180,035	423,296	1,689,061
Conveyance for medical attention	909,602	173,524	407,566	1,490,692	605,705	133,867	164,131	903,703
Rehabilitation—aids, training and grants	113,676	93,946	12,713	220,335	79,276	80,030	8,715	168,021
Other expenditure	412,591	383,507	416,404	1,212,502	407,679	346,939	333,001	1,087,619
<b>Total compensation and medical expenditure</b>	<b>65,776,541</b>	<b>13,240,965</b>	<b>10,164,110</b>	<b>89,181,616</b>	<b>54,478,473</b>	<b>9,221,243</b>	<b>7,116,161</b>	<b>70,815,877</b>
Revenue collecting agency fee	2,491,237	1,024,161	...	3,515,398	2,267,375	1,019,777	...	3,287,152
General fund transfer	7,043,840	2,321,081	737,906	10,102,827	5,086,596	1,763,672	388,635	7,238,903
<b>Total expenditure</b>	<b>\$75,311,618</b>	<b>\$16,586,207</b>	<b>\$10,902,016</b>	<b>\$102,799,841</b>	<b>\$61,832,444</b>	<b>\$12,004,692</b>	<b>\$7,504,796</b>	<b>\$81,341,932</b>

SOURCE: REPORT OF ACCIDENT COMPENSATION COMMISSION, 31 March 1978.

earnings-related compensation to injured persons, \$45 million was paid as compensation to dependents, medical, hospital and dental expenses, transportation, rehabilitation and compensation for non-economic losses. The later item, non-economic losses, refers to lump-sum assessments made under section 120 for loss of enjoyment of life, pain and suffering.<sup>1</sup> These cases are discretionary and can pose difficult questions for the Commission in terms of setting precedents, and providing cases for review decisions. Such settlements are not made until at least two years have elapsed so that a particular medical condition has a chance to stabilise. For this reason, only latterly has this item been significant in the accounts. The figure for 1978 is \$18 million. The remaining 13.6 million dollars is accounted for by administration expense, expenditure on accident prevention, and payment to agencies who act as revenue collectors for the Commission.

As for the basis of determining relevant earnings for compensation, the Commission has discretionary power to decide what constitutes the earner's normal, average weekly earnings. The maximum relevant earnings on which compensation is assessed has been \$300.<sup>2</sup> For the major classes of recipients, the benefits are as follows :

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1. A maximum of \$7,000 is payable under section 119 for actual permanent loss or impairment of bodily function and a further \$10,000 under section 120 for pain and suffering, loss of enjoyment of life. For quantum of awards made in specific cases see A.C.C. Report vol.3, no.4, Sept., 1978, pp.1-3 and no.5, Nov.1978, pp.1-4.
  2. From April 1, 1979, this maximum will become \$360; see the A.C.C. Annual Report, 1978, p.10.

Earners: The employer is liable to pay 100% of lost wages exclusive of overtime for the first week of incapacity, if the accident is a 'work' accident.<sup>1</sup> Thereafter, the Commission pays 80% of lost wages, subject to the maximum mentioned above. Injuries to the self-employed and injuries to an employee outside his employment do not qualify for any first week compensation, but after the first week, earnings-related compensation is payable by the Commission.

When injury results in permanent incapacity, the Commission is required to assess the nature and extent of such disability and determine the amount of long-term earnings-related compensation payable under section 114.<sup>2</sup> Other sections of the Act allow for provisions to be made for low earners and potential earners. In addition to earnings-related compensation, the victim may also be eligible for a lump-sum assessment.

Non-earners: In general, no periodic payment is made, except in cases such as when loss of potential earnings is allowed. Lump sum assessments are made and constituted approximately one quarter of all expenditure from the Supplementary Fund, 1978. The other major category of expenditure for this group is medical expenses.

The Self-employed: The Commission have experienced difficulty in some cases in establishing a fair measure of earnings-loss for the self-employed. If the injured person's income is not affected by his non-participation in the business, no earnings-related compensation is payable. The Commission has no discretion to adjust figures, where tax incentive deductions have artificially reduced assessable income. However, a minimum annual levy is set at \$36, which allows a minimum basis for compensation. The payment of a levy by the self-employed is not then a contractual arrangement whereby compensation is automatically paid when incapacity occurs. This and other problems, such as the criterion upon which such medical events as heart attacks can be classified as injuries for the self-employed, have made the position of this group rather ambiguous.

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1. For definitions of what constitutes a 'work' accident, see the Act, Part III, sections 84-90.
  2. An award made under this section cannot be revised downwards if the disabled person's earning capacity improves. This provision has been made so that the incentive to rehabilitate will not be affected. Assessments made under this section require that the claimants' medical condition has stabilised, and all efforts have been made towards rehabilitation.

### 2.3 SOURCES OF FINANCE

There are three main schemes operating under the Act, all separately funded and self-contained.

The Earners' Scheme: Income is derived from differential levies placed on employers according to the degree of risk in the industrial activity and based on wages paid. Levies are not paid on individual wages in excess of \$15,600 which corresponds to the maximum wages on which compensation is assessed.<sup>1</sup> The self-employed also contribute to this fund at the flat rate of 1% up to \$15,600 irrespective of occupation.

The Earners' Fund is used to pay all earnings-related compensation, lump-sum assessments, medical expenses and other related expenses for all accidents, work or non-work to earners. An exception is made for motor vehicle accidents which are not identified as work accidents. These are met under the motor vehicle scheme.

The Motor Vehicle Scheme: Contributions to this scheme come from levies on motor-vehicle owners and take the place of third party insurance premiums. Each class of motor vehicle has a different levy.

The Supplementary Scheme: This is funded by an appropriation from Parliament and meets all payments to persons who do not have cover under the other two schemes.

Transfers are made from each of these three funds to the General Fund from which is met all administration expense and expenditure on accident prevention.

The Earners' and Motor Vehicle Schemes are 'funded', i.e. sufficient money must be invested in any one year to cover all future payments for accidents which occurred in that year. The Commission has experienced two major problems with the funded approach. Firstly, it is difficult to make accurate

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1. The Accident Compensation (Prescribed Amounts) Order 1978 increased this maximum to \$18,720 as from 1 April 1979.

actuarial calculations because of lack of statistics pertaining to impaired life mortality rates. Secondly, the provisions of the Act allow adjustment of earnings-related compensation to accommodate inflation and higher levels of earnings. The size of the fund required depends then on the real rate of interest. Inflation has been at very high levels during the past four years, but the Commission have been only able to invest in secure, relatively low-interest investments. The Chairman, Mr K. Sandford, has expressed serious doubt that the balance in the Earners' Fund will be sufficient to meet future liabilities.<sup>1</sup> This raises the prospect of several alternatives; the levies could be raised, the level of benefits and other expenditure reduced, or the shortfall made up in the future when and if the deficiency occurs.

#### 2.4 THE RISE OF THE LEVY SYSTEM

The present system of financing accident compensation has its roots back in the old Workers' Compensation Schemes. Prior to these, the attitude was that the worker should look out for himself and bear the whole burden of any accidental misfortune. A few were lucky enough to successfully claim against their employer under common law.

Bismark was the first politician to recognise the res-

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1. The return averaged 8.28% during 1976-7 and improved to 10.35% in 1977-78. Report of the Accident Compensation Commission for year ended 31 March 1978, p.20. The annual rate of increase of the consumer price index has been above 11% since mid-1974 and was 16.9% in 1976, New Zealand Official Yearbook 1977, p.608.

possibility of employers towards their employees for accidents arising out of their employment and from his influence came Workers' Compensation Acts in Germany and then most Western countries in the late nineteenth century.<sup>1</sup> The New Zealand Workers' Compensation Act 1900, modelled on the British Act, was based on the principle that regardless of fault, employers must share some of the losses of employees who had work-related accidents. The injured party also had recourse through the courts if he could prove negligence. Very early on, the theory of occupational risk emerged which asserted that each industry should bear the costs of its own occupational risks. In this connection, Lloyd George is attributed with the saying 'The cost of the product should bear the blood of the working man'.

Under the New Zealand Workers' Compensation Act 1956 - an Act which consolidated previous legislation - a complicated system of 137 separate occupational classifications existed, upon which employers paid premiums ranging from \$0.05 to \$9.50 per \$100 wages paid.<sup>2</sup> The Act was administered by the Workers' Compensation Board who determined the rates of levies from the claims experience of particular classes of occupations. These were maximum rates, but the Board was empowered to impose penalty levies on firms whose accident records were significantly worse than others in the same class.

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1. For a detailed account of the history of these Acts see H. Somers and A. Somers, Workmen's Compensation, Prevention, Insurance and Rehabilitation of Occupational Disability. New York, John Wiley, 1954.
  2. See J.W. MacDonald, Law Relating to Workers' Compensation, 4th ed., Wellington, Butterworths, 1968.



When Woodhouse examined this system he accepted the idea that because compulsory premiums levied on all employers to pay for compensation and negligence if proven, were built into the cost of the industry and became part of the price paid for the product, that it was in the end the community who pays anyway.<sup>1</sup> Thus the principle of finance through employer contributions was accepted, but the desirability of differential levies was felt to be less clear.

In Britain, twenty years earlier, the differential levy system, and the adjustment of levies to reward or penalise firms whose record differed from the average was abandoned. A report, commissioned in 1941 under Sir William Beveridge<sup>2</sup> favoured a pooling of risks at a fixed flat rate, apart from a special levy on employers engaged in industries scheduled as hazardous.

The principle of broad risk pooling was based on recognition of the interdependence of all industry. This community of interest was seen to apply to employees as well as employers, thus a case was made for employee contributions. It was also believed that a visible contribution from employees would be likely to foster worker involvement in safety administration and put the brake on workers' unreasonable demands.

The government of the day accepted the principle of

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1. He went on to expose the fallacy of having separate, lesser benefits for those injured in non-work accidents or disabled from sickness. After all the community itself was ultimately paying. This view involves a considerable simplification of the way in which taxes on industry can be passed on, see discussion Chapters 3 and 5.
  2. Sir W. Beveridge, Report of the Interdepartmental Committee on Social Insurance and Allied Services Cmd. 6404 H.M.S.O. 1942.

interdependence in total, rejecting Beveridge's suggestion of a special levy on hazardous industries.<sup>1</sup> These special levies would have fallen on certain important industries, e.g. mining and shipping, which face foreign competition and the imposition of extra cost was thus felt to be undesirable. Also, the government were not persuaded that a scheme of merit rating in these industries had in the past induced any extra improvements in safety. It was decided that safety could be more readily promoted by development of safety standards and establishments of joint bodies of workers and employers.

Woodhouse found the British argument for non-differential levies appealing. The community of interest concept corresponded to the community responsibility premise of the Royal Commission's Report. The report recommended that instead of differential levies, a flat rate of 1% of wages should be paid by all employers. The self-employed were also to contribute 1%. Motor Vehicle owners and drivers would contribute a flat rate amount and all levies would be pegged. Any additional finance would come from general taxation.<sup>2</sup>

Of the principle of Community Responsibility, the Commission wrote :

This first principle is fundamental. It rests on a double argument. Just as a modern society benefits

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1. U.K. Minister of Reconstruction, Social Insurance. Cmd 6551 H.M.S.O. 1941, pp.9-18. For the subsequent history of British experience of levies see Appendix I.
  2. Royal Commission Report, p.188.

from productive work of its citizens, so should society accept responsibility for those willing to work but prevented from doing so by physical incapacity. And since we all persist in following community activities, which year by year exact a predictable and inevitable price in bodily injury, so should we all share in sustaining those who become the random but statistically necessary victims. The inherent cost of these community purposes should be borne on the basis of equity by the community.<sup>1</sup>

For the Commission, the basis of equity was that the costs of accidents are reflected in the prices of goods which all buy. A change to a general system of taxation would be a continuing advantage to industry at the expense of the general taxpayer.<sup>2</sup>

The Commentary (1969) asked whether this was a consistent recommendation in that matters of community responsibility would normally be funded by general taxation. However, the general arguments of the Commission were accepted as pragmatic, except the argument pertaining to the rejection of differential rates. The Committee was persuaded that there was value in a system which would allow penalties and rebates in the cause of safety promotion and found the point cogent that 'the flat rate levy would amount to a tax on low risk occupations to subsidise the more hazardous.'<sup>3</sup>

In the third major document to appear in the debate, the Report of the Select Committee (1970), the view was

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1. Royal Commission Report, p.40.
  2. Royal Commission Report, p.171.
  3. Commentary, p.89. Throughout, the Ontario experience of merit and penal rating was influential. See Appendix I.

expressed that it was right in principle that premiums be proportional to the risks of accidents in each occupation and that a similar approach be followed as to premiums paid by the self-employed. The recommendation was that premiums be levied at similar rates and classifications as those under the Workers' Compensation Act 1956, but the number of classes reduced to about 15.

This approach is part of normal economic policy whereby the market price of products and services incorporate their true costs without subsidies.<sup>1</sup>

The Select Committee recognised that it was stretching the user-pays principle a little in paying for non-work accidents from the Earners' Fund.<sup>2</sup> However, it theorized that employers should have a direct interest in the rehabilitation of injured workers, no matter where the accident occurs and therefore they hoped the proposal would be acceptable. Besides, it was expected that the abolition of the expensive adversary system, plus economies of administration should mean premiums would be little if any greater than under the old Act. The committee then made an entirely new and far-reaching recommendation which was also to ensure that the premium rates need not be increased; the employer was to be responsible for the first week payments for work accidents.

When the legislation was finally drafted the concept of differential levies was firmly established. The old Workers' Compensation levies were transposed with some

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1. Report of Select Committee, p.17.
  2. Report of Select Committee, p.18.

new classifications added, and some compression of the rates, but roughly the same relative order maintained. The lowest rate was set at \$0.25 and the highest, \$5 per \$100 of wages paid, and the self-employed were to pay a non-risk related flat rate of \$1 per \$100. Provision was made in the Act for penalty rates of levies up to 100% and rebates of up to 50%; however, this section was never used and is now replaced by a new amendment (see Appendix II).

## 2.5 CONCLUSION

The present form of the new Accident Compensation legislation can be seen to have evolved from a decade of intensive debate, proposals and counter-proposals. Most of the original principles enunciated by Woodhouse are still perceptible, but a variety of traditional, institutional, political and pragmatic factors have also been influential. The benefits and coverage are unique by world standards, but the methods chosen to finance the scheme are largely traditional, relying mainly on differential levies as under the Workers' Compensation Scheme and levies on motor vehicle owners as under the old third party insurance provisions.