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## MOTORING SAFETY

STORY No. 1

The slaughtering and maiming due to motor accidents have become so great that legislation dealing with them and with their financial results has been enacted in all countries where the automobile has become an important factor in transportation. This legislation and proposed legislation has had two main ends in view:

- (a) To reduce the number of accidents and therefore the number of deaths and injuries;
- (b) To provide financially for the innocent, direct or indirect victims of the accidents, who in many cases now become objects of public or private charity.

This story deals with types of compulsory insurance, compulsory compensation, and safety-responsibility legislation as found in certain of the United States. No attempt is made to go into legal details. Only the main features are presented.

### The Seriousness of the Present Situation.

It is unnecessary to stress the necessity of controlling the motor accident rate. The Bureau has previously published comparative statistics for the United States, Canada, Great Britain and France. The fact that in many cases the destruction is increasing faster in proportion than the population and in some cases, even than the number of motor vehicles, is generally admitted.

The seriousness of the financial effects of death and even major injuries in motor accidents on the families and dependents of the victims is not so generally recognized. The importance of this aspect is well stated in the following extract from articles of Herbert L. Townley in the Philadelphia Public Ledger: "Although there are few statistics on the subject,

it is notorious that in many accidents the driver at fault has neither property nor insurance, and cannot make good the injury he has caused. So numerous are the deaths and injuries thus wrought that there is a strong and growing demand that the victims of such accidents shall not be left to bear their disaster unaided. This demand appeals to the most elementary sense of justice."

To the questions of how to reduce the number of accidents and how to indemnify, so far as possible, the innocent and dependent victims, several practical and theoretical answers have been given. It is, of course, impossible here even to outline the various laws which have been enacted and the various proposals as to legislation which have been made. Pamphlets have been written on single proposals. Some of the usual types of legislation are listed below with some of the claims for and defects alleged against each. In listing these statements for and against, the Bureau assumes no responsibility for their validity or the opposite. The reader is asked to form his own judgments.

1. **Compulsory Liability Insurance.**—By this method no one can register a car, that is, get an owner's license, unless he has taken out insurance to a stated amount for his liability to the public. This is found in one only of the United States, i.e., Massachusetts, and is sometimes called the Massachusetts plan. Naturally such a new type of legislation would undergo progressive amendment, and such has been the case in Massachusetts. The details, therefore, will not be here discussed.

#### Some Claims For

- (a) It reduces danger of accident, because it will remove from the road many vehicles so dilapidated that they constitute both a physical and moral hazard. The registration figures for Massachusetts show a small reduction in the total.
- (b) It guarantees reasonable damages to innocent victims of accidents caused in Massachusetts by owners of cars owned and registered in Massachusetts.

#### Some Defects Alleged

- (a) It increases, or will in the end increase, the burden upon the careful and responsible, in order to take care of the destruction caused by the careless, criminal and irresponsible, as it must be put on a general—not a preferred—basis. As the cost increases, rates will go up. Some companies, it is said, have withdrawn from the Massachusetts field.
- (b) It introduces political control of insurance rates. An increase in rates proposed by the State Commissioner has been held up, and the Commissioner has resigned.
- (c) If a law setting up compulsory liability insurance establishes a flat rate, it works an injustice to such sections of the driving public as farmers. If it establishes rates based on experience, it will cause prohibitive rates in urban areas.
- (d) It will increase the number of accidents by removing the incentive to carefulness which comes from personal responsibility. In Massachusetts, statistics do not show that accidents have decreased.
- (e) The number of fictitious or trivial claims with simply a nuisance value will increase. The fourth report of the Judicial Council of Massachusetts states that, "For the five months period, October to February, 1927-28, there were 4,201 more cases entered in the Superior Court than in the same period, October to February,

1926-27. Of this increase, 4,093, or 97.4 per cent., were motor vehicle cases."

If such claims are paid by the companies without litigation, the cost must in the end be paid by the insurers. If protested, the number of "nuisance cases", i.e., cases whose chance of success is their "nuisance value" will be cut down, but the additional cost of litigation will come largely on the taxpayer.

- (f) The plan does not provide for accidents when they are due to drivers coming from outside the legal jurisdiction of the State or Province or drivers operating stolen cars.
- (g) It deals with the owner rather than the driver, and the driver is the real crux of the situation.
- (h) The plan does not provide for the victims of accidents where liability cannot be proved.
- (i) Many cars, it is claimed by some, are being operated in Massachusetts illegally and are detected only accidentally. Liability to accident by their cars is naturally greater than in the case of other cars.
- (j) The only way this can be operated, so as to secure complete coverage, is by compelling companies to take every risk offered. In practice they will be compelled to take risks that are unsound. The Massachusetts experiment shows this. In the report of the California Joint Legislation Committee, Governor Fuller, of Massachusetts, is quoted as saying: "The situation that prevails is a complicated one, because of the fact that the compulsory insurance law has lent itself to all kinds of bribery, chicanery and misrepresentation. Large numbers of people have made fraudulent claims under the law and have been aided and abetted in this contemptible practice by doctor and lawyer alike." The Governor is also quoted as saying that, "The fraudulent claims that have been permitted under the working of the compulsory insurance law call for a change in the law so that these abuses can be eliminated. Otherwise the people of Massachusetts will demand a State Fund." Some critics of the law doubt that the creation of such a State Fund would lead to a reduction in the number of fraudulent claims.
- (k) It makes no provision for accidents on private premises or outside the jurisdiction of the State.

2. **Compulsory Compensation Insurance Liability.**—This is an attempt to effect full "coverage" by compelling owners to insure against all damages to themselves or others, payable on a fixed scale from a fund, in all cases, irrespective of where the faults lie. This is sometimes called the Marx plan, because proposed by Judge Marx, of Cincinnati.

#### Some Claims For

- (a) It provides for all victims of motor accidents so that no dependent need to appeal for charity, private or public.
- (b) It will, in practice, rule many unsafe cars off the highways, and so reduce the number of accidents.

#### Some Defects Alleged

- (a) It removes incentive to careful driving more completely than the Massachusetts plan and would therefore lead to more accidents and greater damage.

- (b) Although proposed in many state legislatures, it has not been able to stand up against criticism, and no state has passed such a law.
- (c) It does not deal with accidents caused by non-resident drivers.
- (d) It would increase the cost of insurance to prohibitive levels.
- (e) No private company could afford the risk of operating in a state where such a law was in force.
- (f) It would give no protection against cars from other states or provinces.

3. **The establishment of a State Fund administered by a State Board similar to a Workmen's Compensation Board, and settling each case on its merits.**

#### Some Claims For

- (a) It would eliminate much litigation and, by setting aside usual legal technicalities and procedure, would establish substantial justice, while reducing costs and expediting settlement.

#### Some Defects Alleged

- (a) The plan is based on a false premise. The Workmen's Compensation Board is successful because the relation of employer and employee exists between those concerned. Those interested in motor accidents are legion and very rarely have had any previous relations with one another. The machinery would fall of its own weight.
- (b) The amount of litigation might be reduced, but the number of cases would be increased, not only by the number of the cases which would otherwise be regarded as hopeless on account of the financial condition of those responsible for the accidents, but by large numbers of fraudulent and semi-fraudulent cases which the governmental board might be expected to pay, the Board not having the same check on highway accidents as on industrial accidents in factories, where many witnesses are present and where conditions are largely controlled by the owner of the machinery through the installation of safety devices and the selection of employees.
- (c) It would be too much to expect that rates would be established by a governmental board which would be based on statistical experience.
- (d) The public might not, and probably would not, be willing to have a safety-responsibility law.

4. **A preliminary inquiry, after an accident involving litigation as to probable responsibility and the demand of sufficient security for probable damages until he has supplied such security or until the issue is settled in his favour, which security may be a liability policy or a liability bond. Failure to provide such security leads to immediate suspension of registration and driver's permit. If a non-resident is concerned, he may not again operate or have operated for him a car within the jurisdiction until he has complied with the law. This is known as the New Hampshire plan, because first adopted in New Hampshire.**

#### Some Claims For

- (a) It catches the worst cases and provides drastic penalties.
- (b) It attempts to deal with non-residents.
- (c) It does not lead to increased costs on drivers in general.
- (d) It goes as far as public opinion at present warrants.

### Some Defects Alleged

- (a) It "locks the door after the horse is stolen".
  - (b) The provision as to non-residents would have "no teeth" in most cases.
  - (c) It does not provide complete coverage.
5. Granting to the Commissioner of Motor Vehicles the power to require that the owner or operator connected with any of the chief offences, or concerned in, and, in the mind of the Commissioner, at least partly responsible for any accident involving death, injury or damage to a fixed amount, shall prove financial responsibility within certain fixed limits and, failing such proof, the power to suspend or revoke the driver's license or the owner's registration, or both. The power to refuse license or registration on failure to prove financial responsibility may be extended by this type of legislation to all minors between 16 and 21, who may legally be licensed, and habitual offenders against minor provisions of the law. This is sometimes called the Connecticut plan. Similar provisions are found in the legislation of ten of the United States.

### Some Claims For

- (a) This method affords practical protection by inducing or compelling the carrying of insurance by those persons who most should carry it.
- (b) It does not increase the cost of coverage.
- (c) It does not make all motorists suffer for the sins of the few.
- (d) It provides a means not only of assuring compensation to the victims but of cutting down the number of accidents and therefore the total amount of damage and distress. It does this by providing a strong motive for careful driving.
- (e) It catches the driver as well as the owner.

### Some Defects Alleged

- (a) It does not catch dangerous drivers who have been lucky enough to escape conviction.
  - (b) In case of any one owner or operator it does not operate until at least one accident has happened.
  - (c) It does not catch non-residents, except through co-operative reporting, or drivers of stolen cars, etc.
  - (d) It leaves too much to the judgment of an official.
6. The refusal of registration to anyone against whom there is an unpaid judgment of the court for injury or death inflicted by the applicant. This is sometimes called the Pennsylvania plan, although not in force there. This is the substance of the Buckman Bill passed by the Pennsylvania Legislature but vetoed by the Governor.

### Some Claims For

- (a) It creates a strong motive for paying claims.
- (b) It creates a strong incentive for careful driving, as drivers know in advance the results, unpleasant to them, of a serious or fatal accident.

### Some Defects Alleged

- (a) It "locks the door after the horse is stolen".
  - (b) It does not affect non-residents, drivers of stolen cars, etc.
7. The Safety-Responsibility legislation sponsored by the American Automobile Association.

"This is in the main a combination of the Connecticut and Buckman plans". "It directs the Commissioner of Motor Vehicles to require any motor vehicle owner or operator convicted of offences against safety (such as reckless driving, driving when intoxicated, failing to render assistance, etc.) to furnish proof of financial responsibility as against any future accidents, such proof to consist of insurance in the amounts of \$5,000, \$10,000, \$1,000, or, alternately, of a bond or deposit of money or securities in the same amount." This "proof" must run at least three years. The insurance companies are not compelled to accept bad risks. This type of legislation "also provides that, in the event of a judgment in damages or personal injuries in excess of \$100 remaining unsatisfied, the offending owners or operators' road privileges shall be revoked until such judgment is satisfied." The State of New York passed a law of this type on April 16th, 1929, which came into effect on September 1st, 1929. (The quotations are from a summary prepared by Herbert L. Towle.)

### Some Claims For

- (a) It would drive the reckless driver off the roads.
- (b) If all offenders from outside jurisdictions were reported to their home authorities, interstate co-operation could bring about effective control of interstate traffic.
- (c) It would constitute a greater guarantee of accident control and payment of liability claims than any direct compulsory insurance plan.
- (d) It would place the penalties and cost on that part of the driving public which needs control most, without penalizing the whole driving public.
- (e) It would be capable of almost immediate adoption.

### Some Defects Alleged

- (a) It does not provide or guarantee complete coverage of liability, in that it operates only after the first offence and can deal with cases of damage, injury, or death inflicted by drivers from other jurisdictions only by interstate co-operation.

Is it not evident that all such legislation largely fails of its main purpose unless it creates a strong incentive to drive safely?

### Some Future Numbers in This Series.

- 1. What one type of safety-responsibility legislation in one State accomplishes.
- 2. A summary of suggestions for strengthening motoring safety legislation and its administration.
- 3. Motoring Safety Legislation in Ontario.