

SOME ASPECTS OF THE COMPULSORY AUTOMOBILE INSURANCE MOVEMENT

BY

MORRIS PIKE

In his address at our last meeting our President touched, in passing, on the current efforts to enact compulsory automobile liability insurance laws. The growing importance of this form of legislation has led the writer to attempt to develop the reference in the hope that those who are not in close contact with this phase of the insurance field might, however slightly, profit thereby.

It will be instructive to review first, the circumstances that have led to the demand for compulsory automobile insurance.

The use of the motor vehicle in the nation's daily life has been increasing in a remarkable way of late. Statistics compiled by the Bureau of Public Roads of the United States Department of Agriculture show the following number of registered automobiles for the years 1916-1921:

1916.....	3,512,996
1917.....	4,983,340
1918.....	6,146,617
1919.....	7,558,848
1920.....	9,211,295
1921.....	10,448,632

According to the same agency the 1921 registration consisted of

9,432,844.....	Passenger cars
965,241.....	Commercial cars
50,547.....	Taxis and busses
10,448,632	

Based upon their usage, automobiles can be divided into two general classes—public and private. The former are employed by their owners in the transportation, for hire, of persons or property, while the latter are free from this element of considera-

tion. It is only recently that the public use of the automobile has become popular, aided greatly by the attempts to supplement existing traction lines with motor vehicle common carriers. Shipping freight by automobile has also encroached somewhat upon the domain of rail and water traffic, especially for short distances.

As our late colleague Dr. Crum has shown in his pamphlet on "Automobile Fatalities," the marked extension of the use of the automobile has been accompanied by a correspondingly increasing toll of human life. Using the data at his disposal for the registration area of the United States, Dr. Crum computed the automobile fatality rate per million of this population. Applying these ratios to the entire population, he obtained the following exhibit:

ESTIMATED NUMBER OF FATALITIES FROM AUTOMOBILE
ACCIDENTS IN THE CONTINENTAL U. S.

Year	Population	Number of Fatalities	Rate Per Million of Population
1906	85,837,372	374	4.36
1907	87,455,366	598	6.84
1908	89,073,360	749	8.41
1909	90,691,354	1127	12.43
1910	92,309,348	1681	18.21
1911	93,678,764	2040	21.78
1912	95,091,039	2769	29.12
1913	96,503,315	3796	39.34
1914	97,915,591	4194	42.83
1915	99,327,867	5864	59.04
1916	100,740,143	7305	72.51
1917	102,152,419	9052	88.61
1918	103,564,695	9517	91.89
1919	104,976,971	9827	93.61

For 1920 and 1921 others have estimated the fatalities at 11,000 and 12,500 respectively indicating rates of 104 and 117 per million of the corresponding population.

Not all cities have suffered alike from accidents caused by motor vehicles. Significant variations, attributable in the main, to peculiarities of local traffic conditions and regulations, are depicted by the statistics for the following fifteen selected cities:*

*The 1919 figures were taken from Dr. Crum's pamphlet; the 1920 and 1921 figures from a bulletin of the National Bureau of Casualty and Surety Underwriters.

	Number of Fatalities			Rate per Million of Population		
	1919	1920	1921	1919	1920	1921
	Boston.....	129	90	104	173.4	119.7
Buffalo.....	73	103	79	145.3	201.5	152.0
Chicago.....	321	450	541	120.0	164.9	194.6
Denver.....	42	38	40	165.3	147.0	152.0
Detroit.....	138	173	134	142.7	169.5	125.2
Los Angeles.....	90	158	178	159.3	267.8	291.0
Newark.....	80	74	64	194.9	177.2	150.6
New York City.....	767	763	849	137.5	134.6	147.6
Providence.....	46	35	39	194.2	146.8	162.7
St. Louis.....	97	102	112	126.2	131.3	142.5
San Francisco.....	89	92	92	177.3	179.3	176.9
Springfield, Mass.....	24	19	23	188.2	144.3	169.5
Trenton.....	16	14	29	135.4	116.2	236.2
Washington, D. C.....	64	43	55	148.1	97.1	121.1
Yonkers.....	18	11	16	181.5	108.6	154.8

Accurate nation-wide statistics of the number of non-fatal automobile accidents do not appear to have been kept. For New York City, the material compiled by the local police department indicates a ratio of approximately 25 non-fatal injuries to every fatal one. Even if only a fraction of this proportion obtains for the entire country, the attending loss looms appreciably large. And when to the total number of these personal losses is added the number of accidents involving damage to the property of others, a picture is had of the extent to which the automobile has become a source of public danger.

PREVENTATIVE MEASURES

In an effort to curb the destructive tendencies of the motor vehicle, communities have been gradually turning their attention to the regulation of conditions governing its operation. The fear, has long existed that hasty legislation would unduly decrease the efficiency of the automobile as a business or pleasure vehicle and so affect its sale. An industry which in 1921 gave employment to about two and a half million people, added over 126 million dollars to local and state treasuries for taxes and fees, and exported 104 million dollars worth of finished goods, is undoubtedly entitled to all possible encouragement instead of ill-advised restrictions. Nevertheless, it has come to be recognized that a measure of helpful legislation will in the long run promote the

use of the automobile. Not only the general public but the painstaking automobilists, too, must be protected from those careless drivers who have earned the nicknames of "road hog," "fliverboob" and (the much-to-be-dreaded) "speed maniac."

The proposals that have been advanced by safety experts who have grappled with the problem center around (a) the licensing of operators; (b) the registration of motor vehicles and (c) adequate traffic regulations.

(a) Most important, perhaps, is the question of who shall be permitted to sit at the wheel. A minimum age requirement for operators has come to be generally recognized as necessary for keeping out the immature. As adopted by the several states, however, this minimum age varies from 14 to 21 years—some have no such restriction at all—with the casual driver usually qualifying at a lower age than the professional chauffeur. A uniform requirement of 18 years for all operators is to be recommended.

The candidate for a license to operate an automobile should also undergo a rigid physical examination in order to establish the good condition of his senses that is needed for driving in our crowded sections. His moral record ought to be investigated and if found not absolutely clear, a license could well be refused him. The present situation of bootleggers, highwaymen and other criminals employing the automobile in the conduct of their depredations calls for speedy correction. A thorough test of the candidate's driving ability and of his acquaintanceship with the construction of the car can be added to the list of prerequisites.

Keeping in mind the limitations of an examination as a means of determining the probable future actions of the operator, special attention ought to be given to weeding out those who later prove themselves undesirable. Thus, it is entirely logical to require at periodic intervals renewal physical and moral examinations as well as driving exhibitions in order to derive the complete and timely benefits of such supervision.

Repeated careless or illegal operations of the car should be made to result in the suspension or even complete revocation of the license. On this phase of the question favorable attention is merited by section 290-a of the New York State Motor Vehicle Law, which permits a suspension or revocation of the license for the following chief causes: 1. "For a third or subsequent violation of the

speed provisions of this article, or ordinance or regulation made by competent local authority, within one year;" 2. "Because of some physical or mental disability of the holder, or the disability of the holder by reason of intoxication or the use of drugs;" 3. "Because of the conviction of the holder at any time for a felony;" 4. "For habitual or persistent violation of any of the provisions of this article, or of the general highway traffic law, or of any lawful ordinance, rule or regulation made by local authorities in relation to traffic;" 5. "For gross negligence in the operation of a motor vehicle or operating a motor vehicle in a manner showing a reckless disregard for life or property of others;" 6. "Knowingly permitting or suffering any motor vehicle under the direction or control of the holder to be used in aid or furtherance of the commission of any crime;" 7. "For preventing lawful identification of any motor vehicle under the holder's direction or control, or evading lawful arrest or prosecution while operating such motor vehicle;" 8. "For wilfully evading lawful prosecution in another state or jurisdiction for an offense committed therein against the motor vehicle or traffic laws thereof."

An idea of the extent to which law-breaking motorists have been engaging the attention of the police is presented by the following record of arrests and convictions in New York City:

Offenses	Arrests					Convictions*				
	1917	1918	1919	1920	1921	1917	1918	1919	1920	1921
Violation of traffic regulations.....	18,453	14,997	30,018	40,662	43,152	17,859	14,349	27,890	39,944	42,254
Speeding automobile.....	9,875	9,927	17,693	24,596	25,650	9,659	9,645	17,538	24,243	25,594
No lights.....	4,396	3,475	7,846	13,259	12,519	4,359	3,429	7,862	13,395	12,153
Operating without license.....	1,526	1,892	906	4,786	6,243	1,285	1,697	720	4,447	5,215
Motor vehicle law violation.....	1,192	2,249	5,091	7,912	4,638	1,102	2,118	4,789	7,241	4,433
Smoking automobile.....	1,357	1,264	2,726	3,373	2,544	1,330	1,280	2,543	3,391	2,476
Passing close to a stopped car.....	1,239	947	1,654	2,173	1,834	1,186	907	1,462	2,140	1,707
Reckless driving.....	1,139	1,093	1,120	1,424	1,439	760	712	787	964	966
Unnecessary noise.....	359	88	130	406	586	313	65	88	399	564
Operating vehicle while intoxicated..	175	152	173	334	276	93	88	75	153	156
Dazzling lights.....	311	101	216	425	236	303	101	186	447	210
Speeding around corner.....	54	59	73	462	225	46	54	62	435	220
Running away after accident.....	219	194	236	309	179	43	26	27	50	55
	40,295	36,438	67,882	100,121	99,521	38,338	34,471	64,029	97,249	96,003

*Convictions, include dispositions of arrests made in previous years.

Indeed, so great had the congestion become in the New York City traffic courts that the local authorities recently adopted the plan of allowing drivers of motor and horse-drawn vehicles five infractions of minor ordinances before summoning them into court. Offenses like driving on the wrong side of the street, parking too near a fire-hydrant, lack of lights, misusing a one way street, etc., are now being cared for by the warning card system, except where there has been involved, besides, substantial injury to person or property or the same has been narrowly averted, in which case a summons may be issued or an arrest made.

In Massachusetts, a state commission that was appointed in 1921 to investigate "the expediency and necessity of requiring the owners of motor vehicles to carry liability insurance" had before it this impressive data:

Year	Autos Registered	Motor-cycles Registered	Number of Persons Killed	Number of Persons Injured	Licenses Suspended	Licenses Revoked	Drivers' Rights Suspended
1908	18,066	1,922	13	486	51	44	
1909	23,971	2,394	54	989	132	68	
1910	31,360	3,358	77	963	198	90	
1911	38,907	3,658	110	1,248	254	95	
1912	50,132	5,034	142	1,962	325	190	
1913	62,660	7,127	188	2,923	365	198	
1914	77,246	8,161	229	4,010	521	231	34
1915	102,633	9,520	294	6,197	615	303	181
1916	136,809	10,713	315	9,131	641	514	232
1917	174,274	11,065	438	7,282	794	717	300
1918	193,497	12,862	499	8,598	957	811	398
1919	247,183	13,698	582	16,287	1,013	856	264
1920	304,631	15,143	481	21,182	1,270	1,172	346
1921	360,732	12,058	536	11,487	1,940	1,119	629

The killed and injured were further classified as follows:

Killed	1914	1915	1916	1917	1918	1919	1920	1921
Pedestrians.....	150	188	219	260	304	379	316	335
Occupants of autos...	56	84	68	128	136	160	114	157
Motorcycle riders.....	18	15	15	33	28	25	28	28
Bicycle riders.....	3	3	7	11	19	17	12	14
Occupants of carriages	2	4	5	5	4	1	1	..
Street car passengers..	1	1	8	..	10	2
Injured								
Pedestrians.....	2303	3110	4710	4001	3871	5719	7731	6524
Occupants of autos...	879	1521	2363	1831	3560	8712	11055	3744
Motorcycle riders....	337	636	895	682	504	677	870	424
Bicycle riders.....	256	497	613	524	428	622	868	594
Occupants of carriages	217	421	521	223	192	541	344	173
Street car passengers..	18	12	29	21	43	10	218	28

(The remarkable decrease in the number of non-fatal injuries for 1921 is probably due to better police protection and increased vigilance on the part of the authorities with respect to the suspension and revocation of licenses and rights.)

(b) After passing upon the fitness of the driver, attention must next be directed to the condition of his automobile. The vehicle should be officially inspected and tested for mechanical defects before being registered, even at the risk of duplicating the precautions that are usually taken in the factory and repair shop. The use of bumpers, signal lights, non-glaring headlights, mirrors for revealing the roadway behind the car, and chains for reducing skidding can justly be insisted upon. At registration, notation can be made of the vehicle's secret descriptive numbers and a bill of sale or other evidence of a clear title required in order to curb the numerous thefts that have also accompanied the increasing popularity of the motor car.

(c) Finally, communities can assist the safety movement by establishing uniform and specific traffic regulations, the proper enforcement of which will probably entail a substantial increase in the number of their traffic policemen. Special attention should be paid to the opening of one-way streets and to the grading of speed limits according to particular zones within the city.

Recent accident prevention campaigns have stressed the fact that eternal vigilance is the price of safety. This idea must be kept alive, the public—pedestrian, passenger and driver alike—being periodically reminded of the needs for exercising great care

and faithfully observing the local traffic rules. The success of recent intensive safety-first movements in Chicago, Detroit, Rochester and St. Louis is pointed to as indicative of the improvement that is possible in this direction.

THE GROWTH OF COMPULSORY AUTOMOBILE INSURANCE

The reality of the automobile menace has been keenly felt by those seeking to collect damages. After the injured party had finally succeeded in establishing in court the negligent operation of the machine, there still remained the task of collecting the judgment that had been awarded him. Where the defendant was a person of visible means, this enforcement was not a difficult matter. But where, as in numerous cases, the owner was judgment-proof and without liability insurance justice was denied its course. One of the relics of our war-time prosperity is the class of people who persist in maintaining automobiles the surrender of which would figuratively as well as literally, put them on their feet again.

An obvious source of recovery would appear to be the automobile itself. But those who have had to turn to the vehicle as their last resort know only too well how little money it yields. On the average, a motor car's depreciation is complete in three years. Its depreciated value is often still further reduced in the forced sale that ensues for the discharge of the lien. Nor is it usually the high priced machine that is attached for default in the payment of the judgment. Its owner is quite often financially able or, at least, carries sufficient liability insurance. So that the majority of these liens can be expected to be levied against the poorer grades of cars with their diminished values.

The judgment-creditor will also learn that a goodly number of the automobiles sported by apparently wealthy people are already heavily mortgaged. It is quite a common practice for a motor car to be acquired by a small cash payment, the balance to be paid for in due time. Or, short in funds yet loathe to part with his car the owner may have hypothecated it for a temporary loan. Finally, there is the cunning owner, who fearing just such an attachment has recorded against his vehicle a fictitious chattel mortgage of which he already holds a signed release. Thus, the

relief offered to the injured and bereaved by the imposition of a lien against the automobile appears to be rather limited, even where the statutes give preference to attachments of this sort.

On the general question of indemnifying injured persons, the Massachusetts commission that studied the problem in 1921 stated: "The carrying of liability insurance is, of course, a common practice but many cars are operated without this form of protection, and in such cases the injured person is relegated to his rights against the person actually causing the injury. If this person is of sufficient financial responsibility the injured person can, of course, recover, but persons of financial responsibility are exactly the ones who are likely to be covered by liability insurance. It unfortunately appears to be a fact that a not inconsiderable proportion of automobile operators are without sufficient financial responsibility to meet a judgment even of moderate size, and that frequently they own only a small equity in the machine they are operating, the title remaining in a person or corporation which has advanced money for the purchase of the car. That under these circumstances many injured persons are entirely without legal redress is to be expected, and a number of instances have been brought to our attention where that redress has in fact proven entirely inadequate."

Even where an insurance policy was in force at the time of the accident, collection of the judgment was not always possible. Until recently, the majority of these contracts provided for the indemnification of the assured for the claim payments that he was legally required to make. Thus, if the assured were bankrupt and so could not be made to pay the award against him, the carrier likewise became freed from its obligation. It has been alleged, too, that unscrupulous adjustors have gone so far as to buy back their insurance policies after the occurrence of an accident, and so left judgment-proof debtors unable to make restitution for the harm they had done.

Besides these practices, certain clauses of the standard policies, incorporated in perfectly good faith as a necessary safeguard of the carrier's interests were also proving a means of denying the injured party the compensation that he could not otherwise obtain from the defendant. For instance, under the terms of the contract, the insurer was usually rendered free from liability if the accident occurred while the automobile was being operated:

(1) in a speed contest; (2) by a person under the minimum age established for local drivers; (3) by an unlicensed operator in states where such license is required; (4) by an intoxicated person; (5) in a manner which violated the declaration warranties—employing a private livery car as a taxicab, for example. The provisions governing the giving of claim notice and the limit on the carrier's maximum liability for injuries to all persons involved in any one accident also conspired in the same direction. Public-spirited defendants have been known to borrow money to meet judgments procured against them, becoming thereby in turn entitled to indemnification by the carrier. It was not to be expected that they would go quite as far where, because of the policy exclusions, the insurer was not liable for the judgment.

A situation was thus being created where the numerous automobile accidents were in many cases leaving the injured and the bereaved without the restitution to which the courts had deemed them justly entitled.

The legislative authorities were then called upon to right the wrong by providing a means of enforcing court awards. Commencing in 1916 in New Jersey, the compulsory automobile liability insurance movement has already spread to Arizona, Connecticut, Illinois, Nevada, New Hampshire, New York, Oregon, Washington and Wisconsin. In several states only the more thickly populated centers are covered by these acts as for instance in Illinois, where the state law covers Chicago solely and in New York where only New York City, Buffalo and Rochester are included. Besides these territories, numerous cities have, like Cleveland, Gloucester, Los Angeles, Minneapolis, St. Paul, and Youngstown established similar ordinances of their own accord.

The majority of these acts embrace the operation of all public passenger automobiles. The possibilities of these cars injuring passengers as well as pedestrians, their great exposure to accidents and the fact that, as a class, their owners are below the moral and financial standards of other automobile owners probably led to their being singled out for special treatment. In some states the law's scope is further restricted to jitneys and taxicabs or even to the former exclusively, as in New Hampshire. In Washington, the act extends to the sphere of commercial trucking.

SPECIAL FEATURES OF THE COMPULSORY INSURANCE ACTS

Seeking to make certain the payment of the average awards procured against the owners of the vehicles coming within their purview, these compulsory insurance laws have introduced novel departures from the established underwriting practices. They no longer regard the automobile insurance policy as a contract of mere indemnity but require a direct settlement upon the issuance of the judgment, irrespective of the financial or legal status of the assured. Acts of omission or commission on the part of the assured—failure to give notice, violation of his warranties, etc.—are likewise not permitted to relieve the carrier of its liability. While, by requiring an official notice of cancellation five or more days before the same can become effective, the authorities are able to keep a car covered before and after an accident.

The above features are aptly illustrated by the New York act that was adopted in 1922. The statute took the form of an amendment to the state highway law and its enforcement was placed under the jurisdiction of the State Tax Commission. Its insurance clauses provide that: "Every person, firm, association or corporation engaged in the business of carrying or transporting passengers for hire in any motor vehicle, except street cars and motor vehicles operated under a franchise by a corporation subject to the provisions of the public service commission law over, upon or along any public street in a city of the first class shall deposit and file with the state tax commission for each motor vehicle intended to be so operated, either a personal bond with at least two sureties approved by the state tax commission, a corporate surety bond or a policy of insurance in a solvent and responsible company authorized to do business in the state, approved by the state tax commission, in the sum of two thousand five hundred dollars, conditioned for the payment of any judgment recovered against such person, firm, association or corporation for death or for injury to persons or property caused in the operation or the defective construction of such motor vehicle. Such bond or policy of insurance shall contain a provision for a continuing liability thereunder notwithstanding any recovery thereon." "Either a personal or corporate surety upon a bond filed pursuant to this section or an insurance

company whose policy has been so filed, may file a notice in the office of the state tax commission that upon the expiration of twenty days from such filing such surety will cease to be liable upon such bond, or in the case of such insurance company, that upon the expiration of such time such policy will be cancelled."

The New York statute thus clearly creates the unconditioned obligation to pay any judgment up to \$2,500 that may be obtained against the insured. The latter, however, retains the right to set up as a defense his own lack of negligence or the contributory negligence of the injured party.

The provision in the New York act for accepting either a surety bond or a liability insurance policy is also representative of these compulsory insurance laws. It might be well to re-state at this point the fundamental distinction between the two forms of protection. Under the bond, the surety (the obligor)—whether an individual or a corporation—undertakes to answer for the failure of the insured (the principal) to meet the judgments, to the extent of \$2,500 each, that may be obtained by one or more successful plaintiffs (the obligees). The principal is first called upon to meet the awards, failing which, whatever collateral he may have deposited with the surety is then applied toward satisfying the claims, the balance if any, being finally met by the surety. A liability insurance company, on the other hand, undertakes to investigate accidents, to defend the assured against the attending suits and, if unsuccessful, to pay the judgment with no previous recourse to the insured. Because of the usually larger amount of its net obligation, the liability insurance company assumes the greater risk.

INSURANCE LIMITS

Some localities have prescribed insurance limits other than the standard amounts hitherto offered by the liability insurance carriers. Thus, New York and Wisconsin have set up \$2,500, instead of the usual \$5,000, as the policy limit of the insurer's liability to any one person, Wisconsin also fixing \$5,000 as the upper limit in place of the customary \$10,000.

Such modifications as have been made in the property damage limits have all been upward of the existing \$1,000 maximum for

an accident, several states, as Illinois, New York and Wisconsin, fixing the same amounts for both property damage and public liability.

Attempts have already been made by the state legislatures of Illinois and New York to dispense with the upper limit of the carrier's liability. The Illinois officials finally accepted, instead, "10-10" limits for accidents to either persons or property,—the lower limit having been placed at \$10,000 for Illinois. New York, however, has followed the wording of its statute and has insisted upon the policy or bond providing for a continuing liability of \$2,500 for every judgment regardless of the total cost. This class of automobile liability insurance has therefore taken its place along with employers' liability and workmen's compensation insurance as an exception to those sections of the New York Insurance Law which limit the net amount of an individual risk on the carrier's books to 10% of its capital and surplus, if a stock company, or to 10% of its net and contingent assets, if a mutual company.

CONCLUSION

What the future of the compulsory automobile liability insurance movement will be remains to be seen. From present indications it apparently bids fair to follow in the footsteps of workmen's compensation insurance. Attempts have already been made in several states to extend the scope of these acts to all types of cars, to establish state funds for writing the line and even to replace them by automobile compensation acts, similar to the existing workmen's compensation codes. Unsuccessful though they have all been thus far, the spirit that prompted their suggestion is worthy of note as perhaps indicating the trend of the times.

If this resemblance to the workmen's compensation line be sustained, our members' experience in the latter field should enable them to supply helpful advice and guidance that will spare the automobile line unnecessary friction and lost motion.

Probably our most important activities will center around the making of correct automobile rates for the required local coverage. Referring to our contact with the workmen's compensation line, we recall that the pooling of statistics by all types of carriers has

made possible a wide and varied exposure which enjoys the confidence of the field. From the material thus collected gross rates have been constructed by non-partisan organizations employing approved statistical methods. It may be that a similar pooling of the latest experience with automobiles, especially public automobiles, will in time be adopted. With this as a base there can be developed currently correct rates which by the very close fit of their component items will tend to discourage the promiscuous undercutting that it is alleged has at times been practiced in the automobile line.

Our attention will also have to be given to the peculiarities of the various compulsory insurance acts in order that the local premium may be correctly related to the coverage provided in the different states or even smaller political divisions. Perhaps too, a sort of schedule rating of individual localities will be introduced for evaluating the particular attention being paid to the reduction of automobile accidents.

With the extension of compulsory automobile insurance there may come an increased state participation in the settlement of automobile claims and the control and administration of the rates. At the present time little state control is being exercised over the size of the automobile premium or the competitive conditions surrounding its use. Arkansas, Maryland, North Carolina, Oregon, Vermont and Washington require the rates to be merely filed with them to enable the authorities to pass upon charges alleging discrimination. New York and Wisconsin, however, exercise supervision over the reasonableness of the automobile rates employed in their territories, the former also passing upon the adequacy of these charges.

These are only a few of the ways in which the members of our Society may be called upon to co-operate with the public, the carriers and the state authorities in rendering the services that may be expected of us as a result of the compulsory automobile liability insurance movement.