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COMPULSORY AUTOMOBILE INSURANCE

A Study of the Need for Greater Financial Responsibility on the Part of Motorists with Recommendations for Immediate Legislation

By the

Government Organization and Public Finance Section
of the
CITY CLUB OF PORTLAND

TO THE CITY CLUB OF PORTLAND, OREGON:

Report of Committee on Compulsory Automobile Insurance

Your committee on the above subject was organized on October 8, 1925. Thereafter the committee held approximately bi-weekly meetings until June, 1926, with the exception of a few lapses during the holidays and on account of illness or other interferences. Various portions of the work were taken up and information was secured by sub-committees. The substance of these reports is incorporated herein.

Minutes of all of the meetings of the committee were kept and are in the files of the committee. The committee has also collected a large amount of material on the subject in the form of articles, speeches, minutes of committee meetings, and the like, all of which is maintained in its files. This report contains what we deem to be the essence of all of this matter.

During May, 1926, it was recognized that the committee had gone about as far in research as it was likely to go unless its investigation should be very greatly prolonged in point of time and it seemed desirable to inventory its conclusions. Accordingly on June 2, 1926, an evening meeting was held at which various resolutions were passed, these having been modified at a later meeting held July 23, 1926. The final resolutions are attached hereto and represent the conclusions of the committee boiled down to a very short space. There is attached also to this report the bill referred to in resolution No. 7.

The committee now proceeds with its report which will follow in general the outline of the resolutions.

The newspapers nearly every day on their front pages carry reports of several accidents resulting in personal injuries and sometimes deaths. Everybody from time to time experiences or hears of cases where careless autoists do damage but are uninsured and unable to pay. These circumstances bring about in the public mind an instinctively favorable attitude toward compulsory insurance. The most natural conclusion is that of forcing all autoists to carry insurance so that injured persons may be sure of protection, if entitled to it. This committee entered on its investigation with a good deal of the same instinctive feeling. The committee

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still retains this feeling, which has been in some respects strengthened by their investigation but the complications are such that they cannot recommend compulsory insurance legislation at this time.

Expanding Use of Motor Vehicles

Motor vehicle production has been chasing the alleged "saturation point" for years and perhaps has not quite caught up with it yet. There is controversy over the location of the saturation point in which this committee does not feel called upon to enter. The increase of cars has been rapid. We do not find it necessary to record the entire history of the development of the motor vehicle and the parallel development of the problem which we are considering. We only wish to state the problem as nearly as possible as it has existed in the last few years. The number of automobiles registered in recent years is in accordance with the following table in which we state the figures for the United States and the State of Oregon, side by side for comparison.

	United States	*Oregon*
1920	9.23 Millions	103,790
1921	10.46 Millions	118,198
1922	12.24 Millions	134,125
1923	15.09 Millions	165,962
1924	17.59 Millions	192,615
1925	19.95 Millions	216,553

The ratio of automobiles to population has been rapidly rising. We give the figures for the United States and the State of Oregon and it will be noted that the ratio of automobiles is considerably higher in this state than in the United States as a whole. In fact with the family unit estimated at 4.3 persons there is in this state, making allowances for commercial cars, about an automobile to each family. In preparing the following figures we are using population estimates by the World's Almanac and numbers of automobiles from the Automobile National Chamber of Commerce.

	United States	*Oregon*
1920	1 Auto-11 persons	1 Auto-7.6 persons
1921	1 Auto-10 persons	1 Auto-6.7 persons
1922	1 Auto-8.9 persons	1 Auto-6. persons
1923	1 Auto-7.3 persons	1 Auto-4.9 persons
1924	1 Auto-6.3 persons	1 Auto-4.3 persons
1925	1 Auto-5.69 persons	1 Auto-3.9 persons

That increase of the motor vehicle ratio to population produces crowding on streets and highways and consequently more accidents, is a natural conclusion. That the proportionate number of accidents to population is greater in Oregon where there is a car to each 3.9 people than in the United States generally where there is a car to each 5.69 persons is another probable deduction. Both statements would appear to be right.

Accidents and Deaths

In the field of accident frequency we are on doubtful ground. In fact there are no accident statistics worthy of quotation as statistics.

But the Department of Commerce in a bulletin released December 10, 1925, published some useful figures on deaths. These are from 34 states scattered all over the Union. They purport to show deaths resulting from automobile and truck accidents, excluding motorcycles and excluding accidents in which street cars and heavier vehicles figured. We do not quote the totals because they are incomplete. However, the Department has given the ratios of such deaths to 100,000 of population for the 34 states. We have applied these ratios to the total estimated population of the United States. This gives us a fair estimate of automobile deaths for the whole country. Oregon is one of the 34 states and we place its figures in parallel, adding its ratios from our own computation.

	Ratio for 34 States, Deaths to 100,000 Pop.	*Total Deaths, United States*
1920	10.3	10,961
1921	11.5	12,400
1922	12.5	13,652
1923	15.1	16,709
1924	16	17,932

	Ratio for Oregon, Deaths to 100,000 Pop.	*Total Deaths, Oregon*
1920	11	87
1921	12.9	103
1922	13.9	113
1923	14.6	120
1924	19	159

These figures tell us little about accidents resulting in personal injuries which are of equal importance with deaths in our problem and figure far more heavily in the totals. While we are not disposed to sponsor wild guesses we do wish to have in mind some kind of figure which we can regard as a personal injury estimate, and we presume our readers have a like desire.

The New York Motor Vehicle Department estimates that 26 persons are injured in automobile accidents to every one who is killed. The State of Massachusetts says that the ratio is 30 injured to one killed. The National Bureau of Casualty and Surety Underwriters says the figure is 45. Your committee does not know and has no means of guessing which of these is right, if any. But in order to arrive at a very rough estimate of the number of personal injuries we are inclined to multiply the death figures in the preceeding table by 30. The result is illuminating if not accurate, and is as follows:

	Estimated Personal Injuries in U.S.	*Estimated Personal Injuries in Oregon*
1920	328,830	2,610
1921	372,000	3,090
1922	409,560	3,390
1923	501,270	3,600
1924	537,960	4,770

After all we do not need accuracy in this field to make partial progress. We all know there are large numbers of automobile accidents resulting in personal injuries. That we cannot count them does not lead us to deny them.

Estimates for 1925

A little speculation on this point will do no harm provided that it is understood as such. The importance of the problem with which we are dealing is most impressive, especially when it is viewed from a nation-wide angle. We follow H. P. Stellwager, manager of the Automobile Department of the National Bureau of Casualty and Surety Underwriters who writes in the February 1926 number of *Safety Engineering:*

He say that auto deaths in 1924 were 17,600, an increase of 5.4% over the year before. (Our figure is 17,932, with an increase of 7.6% and we are unable to follow Mr. Stellwager in his ratios of increase. However, the differences are relatively unimportant because the totals themselves are only estimates.) These 17,600 deaths, he continues, increased by application of the same ratio, should also be augmented by railway crossing deaths, 1688 for 1925, according to Interstate Commerce Commission figures, and by about 800 due to street cars. The ratio of 30 between deaths and personal injuries is next used, and he considers that 100 accidents result in property damage to one resulting in death. The total damaging automobile accidents for 1925, he figures to be:

Deaths	21,300
Personal Injuries	600,000
Property Damage	2,000,000

The total money damage, he estimates by methods in which we need not follow him, at $453,000,000, of which about $315,000,000 relates to deaths and personal injuries only.

We doubt if he has overstated the matter. Compare the following from the report of the First National Conference on Street and Highway Safety:

> The growing toll of street and highway accidents has become a great national problem, reaching in 1923 a total of 22,600 deaths, 678,000 serious personal injuries and $600,000,000 economic loss; an increase of 80 per cent in the past seven years. About 85 per cent of these accidents were incident to automobile traffic.

Where Does This Loss Fall?

With such a staggering automobile accident bill falling on the nation each year it is naturally of interest to learn if possible who is paying it. Your committee has no statistical answer to this question. It can only offer some suggestions based on its own reflections and discussions.

A portion of the loss falls upon the autoists. About seventeen per cent of them are carrying liability insurance. The sum of their premiums is divided among injured persons and families, investigators, expert witnesses, lawyers, court costs, miscellaneous expenses of litigation, overhead and administrative expense, commissions, reserves, and profits. Some automobile owners who do not carry insurance are financially responsible and pay a portion of the total bill. The public bears a large slice in the form of taxation for the administration of justice, and in the form of free wards, clinics, medicine, medical attention, nursing, and direct charity. Doctors who donate their services to these cases naturally charge the fees against their paying patients and secure from the public the livelihood they deserve. Business houses extend salary favors to injured persons and the cost is passed on to the public.

Finally, and most important of all, a large amount of the bill is born directly by the injured persons, and their families. In consequential damages their losses are perhaps even heavier. They suffer when the injured person is negligent, when he is unable to prove the driver is negligent, when both are or neither is shown to be negligent, when the driver or

owner is at fault but is irresponsible and uninsured, and where the injured person does not find out who hit him.

If we have stated the distribution of the automobile personal injury loss with even indifferent accuracy we have written what we belive to be a strong indictment of present laws, practices, and methods. The distribution is not just. We do not begrudge the fees of doctors, and nurses, and hospitals. To a proper extent the fees of lawyers and investigators are in order, for such a large number of disputes requires much service of this sort. Nor can insurance companies be expected to carry risks without overhead, reserves, expenses and profits.

But there is no reason why the public should bear part of the burden and the share falling upon injured persons is plainly too high. On no theory should they be required to pay where the autoist is uninsured and without funds, and it is questionable whether the contributory negligence rule does not work an unfair hardship on the injured persons and their families and dependents.

These considerations form a part of the basis of the instinctive favoritism for compulsory insurance of which we have spoken, and which we entertain to some extent.

Financial Responsibility Low

A newspaper paragrapher said, the difference between a rich man and a poor man in this country is that the poor man washes his own car. Another would have it that the distinction lies in the make of the auto and the length of the vacation.

Your committee asked itself the question, is not the autoist paying his just share of the personal injury bill? And it seriously sought an answer.

The committee combines a good deal of varied experience. It seemed to us that the autoist will foot a personal injury bill when he is shown to be in the wrong provided he has the money or is insured. It makes no particular difference whether he is a person or a corporation. He will nearly always compromise a dispute if he has anything about which to compromise. But if he has nothing above his exemptions and is not insured it is a waste of time to prove him in the wrong and a compromise is useless. After all, it is not a question of his honesty or good intention, but rather of his ability or capacity to pay and his insurance.

Insurance Limited

The 1925 report of the Insurance Department of Oregon shows automobile liability premiums collected in the state for 1924 of $679,482. A member of our committee consulted representatives of the three companies leading in volume of premium income of this class in the state as to the estimated average cost per car of such insurance. Estimates varied slightly, being from $19.00 to $23.00. Dividing the total premium income by an estimated average of $20.00 indicates 33,974 automobiles insured out of 192,615 registered for that year, or 17.6 per cent.

This percentage is not out of line with figures outside of the state. Insurance Commissioner Monk of Massachusetts estimated in a recent speech that 16 per cent of motor vehicles in that state were insured. The percentage of insured cars in the United States is estimated generally from 14 per cent to 18 per cent. But this percentage runs higher in the cities where it is said the average ranges from 25 per cent to 47 per cent. It is correspondingly lower in the country.

Less Than 25% of Motorists Able To Pay

We have been at some pains to determine the financial responsiblity of the average motorist. We have labored to ascertain what proportion of automobile owners are able, over exemptions, to respond to a personal injury judgment of, say $1,000.00.

Exemptions are liberal in this as in a majority of states, running through clothing, tools, hogs, and cattle to homesteads up to $3,000.00 in value. The dollar today is only about seventy per cent of the value of the pre-war dollar. Living is high. Savings grow slowly. Demands on income are more numerous than ever before. Many seeming assets such as phonographs, radios, washing machines, automobiles and the like have strings tied to them in the shape of installment contracts. Used goods under the hammer are worth only a fraction of their original cost.

For these reasons it is our judgment that as a rule persons with incomes of less than $3,000.00 per year or $250.00 per month are not likely to be found able, after taking advantage of all legal exemptions, to respond to a judgment of $1,000.00.

In 1923 there were 16,922 Federal income tax returns filed in Oregon showing incomes of $3,000.00 or more. There were about 5,134 corporations showing incomes the year before, all of whom are assumed to have owned an average of at least one automobile and to be responsible for at least $1,000.00. As of January 1, 1925, there were 14,227 other business firms in the state. 4,395 of these went out of business during the year. Others are assumed to have commenced during the same period. But it is assumed that 14,227 of these less 4,395 or 9,832,

owned automobiles and were responsible up to $1,000.00.

The recapitulation following shows our estimate of the number of automobile owners of the state at this time who were in our judgment financially responsible, over exemptions, for $1,000.00.

Individuals with incomes over $3,000.00	16,922
Corporations	5,134
Other business firms	9,832
Total	31,888

In 1923 the number of motor vehicles registered in the state was 165,962 of which 12,987 were trucks, leaving 152,975 pleasure cars. Our judgment is that the trucks are nearly all owned by responsible parties and insured, so we eliminate them. We also eliminate consideration of another group, estimated at 2,975 automobiles, to represent fleets and to account for well-to-do individuals owning more than one car.

This leaves us 140,000 automobiles of which we estimate that 31,888 or 22.1 per cent are owned by owners able to respond above exemptions to a judgment of $1,000.00.

In offering these figures we realize as clearly as any reader that we are working among uncertainties. But the financial condition of the average motorist is an important phase of the subject. Exact figures do not exist so far as we know. We merely present the best we can devise.

Let us consider the relation of owners carrying liability insurance. We may perhaps assume that in 1923 17.6 per cent of 165,962 cars or 29,209 were covered by liability insurance. Were they the cars of the more fortunate or the less fortunate owners, financially?

The answer is easy. Men carry insurance to protect what they have, not solely to benefit somebody else. One who has nothing but an equity in a used car and a few household goods exempt from execution need not insure. But a man with a five thousand dollar home nearly paid for and $3,000.00 in bonds, if he drives a car, necessarily carries liability insurance because he wants first of all to protect his estate.

On the foregoing analysis we dealt with estimates. Nothing is exact. Yet it is interesting to note how closely the number of insured cars, namely, 29,209, check with the number of persons, corporations, and business houses whom we estimated as able to respond to a one thousand dollar judgment over exemptions, namely 31,888. It would seem as though nearly all of the persons and firms in Oregon in 1923, who drove automobiles, and had incomes sufficient to enable them to build up fairly substantial estates, carried insurance. And there is no indication that persons having no estates to insure carried insurance anyway.

We have made some investigations and estimates in the national as well as the local field. In doing so we used the income tax records and concluded that, roughly speaking, a $3,000.00 income marked the dividing line between substantial accumulation and absence of the same. Our estimates on a national scale check closely with those of Oregon.

For the year 1923, the latest year for which income tax returns were completely tabulated, of 1,000 persons taken at random from the total population, these observations may be made:

931 made no income tax returns, indicating that they had incomes of less than $1,000.00, or that their incomes were joined in the returns of a husband or wife, or that their gross business amounted to less than $5,000; and the other

69 made returns.

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47 of the 69 showed incomes of less than $3,000.00, and

22 of the 69 showed incomes of more than $3,000.00.

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130 of the thousand had automobiles.

We have computed similar sets of figures for 1922 and 1921. The figures are a little different but the ratios are about the same. In those years there were fewer automobiles and less money than in 1923.

In 1921, 90 of the 1,000 had cars and 61 made returns of which 15 showed incomes of more than $3,000.00.

In 1922, 100 had cars and 62 made returns of which 17 were in the $3,000.00 bracket.

Presumably the ratios were a good deal the same in 1924 and 1925,—more automobiles and more returns. Incomes are increasing. So are motor vehicles. But the number of the latter is increasing more rapidly than the amounts of the former. In our judgment the measure of financial responsibility is not improving rapidly if at all.

We believe it is safe to use the 1923 figures as set out above as a basis of consideration, that is, these figures, when reduced to ratios, appear to be sufficiently representative. We return therefore to the 1923 figures.

A considerable portion of the 130 automobiles are under mortgages. However, we do not think the bearing of this fact is important. Eighty per cent of automobile transfers are on time. Business houses and well-to-do individuals avail themselves of the excellent financing services now offered. Buying a car on time

may indicate inability to pay cash but does not prove it.

It is fair to assume that the 130 cars were in the hands of the persons best able to afford them. Some of the 22 may have eschewed temporary pleasures for the sake of future gains and, if so, their quota was taken up by less frugal individuals of the lower brackets. But in the main the cars were probably distributed according to wealth. All of the 69 had them, together with 61 of the 931.

As already incidated it is our judgment that only 22 of the 1,000 persons and perhaps three or four others could respond to a judgment of $1,000.00. But we do not mean to say that only 22-130 of all automobile owners or 16.9 per cent are responsible to that extent. Other factors must be considered and the ratio is a little higher.

Liability insurance does not change the ratio of responsibility to any great extent. Let us assume that 17 per cent of the 130 cars or 22.4 cars belong to insured owners. Which owners are insured—those who have nothing or those who have property to protect? There is only one answer. The insured cars belong to the owners who have property to protect.

We believe it is not a coincidence that the number of insured cars (22.4) is so close to the number of incomes of $3,000.00. and over (22). This circumstance strengthens our confidence in our judgment that the $3,000.00 is a proper dividing line. We remind the reader that the Oregon figures showed a striking similarity between the numbers of insured cars and owners estimated to be responsible.

However, in the rural districts are generally to be found responsible automobile owners who do not insure. These tend to swell the ratio of responsibility. Also in the cities there are multiple car owners,—usually responsible business houses. These fleets are generally, but not always, insured. They tend to swell the insurance averages of the cities, and also the measure of responsibility.

Accordingly we do not accept 22-130 or 16.9 per cent as the percentage of motor vehicle owners from whom, by reason of financial responsibility, or insurance, or both, damages can be collected to the extent of $1,000.00. We are inclined to place this percentage higher but not above 20 per cent, or at the most 25 per cent.

It was a shock to us to work out these estimates. Let us recapitulate them. In Oregon only 22.1 per cent of the owners of motor vehicles are financially responsible with respect to paying for a serious personal injury. In the United States generally not more than 20 to 25 per cent are so responsible. We have tried to be fair and to avoid either over-statement or understatement.

During our consideration of compulsory automobile insurance the Insurance Section of the Commonwealth Club of San Francisco has been engaged on the same subject. They met the same problem which has confronted us, namely, the responsibility of the average motorist.

We have not space to review their two computations. By both they estimate that 49 per cent of the California motor vehicles are registered by persons unable to respond to damages in the sum of $1,000.00. This varies somewhat, though perhaps not importantly, from the 75 to 80 per cent found by us.

The estimates of the Commonwealth Club were made by Prof. A. H. Mowbray, and they received, as we understand it, the general approval of the Section. In spite of our great respect for Mr. Mowbray and the Club we are unable to agree with some of the assumptions on which their estimates are based.

They assume that approximately one-half of the insured California cars are in the hands of owners not responsible to the extent of $1,000.00. We agree that some of the insured owners are in this classification but do not believe the ratio is as high as one-half. In fact we believe that the percentage of cars insured by owners with little or no property is very small.

The Commonwealth Club Section assumes that persons showing incomes of more than $2,000.00, instead of $3,000.00 as estimated by us, are probably responsible to the extent of $1,000.00. $2,000.00 per year means $166.66 per month, and we doubt if this sum permits building a sufficient estate to bring about that degree of responsibility.

Also the Commonwealth Club does not appear to have taken account of exemptions which lower financial responsibility in a very substantial manner.

Taking it by and large, we believe that our estimates are closer than those of the Commonwealth Club. Our figures show 20 to 25 per cent of automobile owners responsible up to $1,000.00. Theirs show 51 per cent responsible to this extent.

After all, the difference is not great and we do not believe it matters much in the statement of the problem. If half of the motorists on the highways are irresponsible and uninsured we are disposed to assume that a situation exists calling for relief by legislation. *A fortiori* this is so if three-quarters of them are thus deficient.

Extent of Average Personal Injury

It should not be assumed that the average personal injury costs $1,000.00. In fact, it is

very much under that figure. Mr. Stellwager, to whom we have already referred, tabulates 70,500 automobile liability claims for personal injuries settled by liability companies during 1920 and 1921 thus, of these:

14.8% were for amounts of $500.00 and over.
11.8% were for amounts of $600.00 and over.
10.3% were for amounts of $700.00 and over.
8.6% were for amounts of $800.00 and over.
7.8% were for amounts of $900.00 and over.
7.2% were for amounts of $1000.00 and over.

Assuming these 70,500 claims represent the average of personal injury losses from automobiles accidents, it appears that only 7.2 per cent of them are for an amount sufficient to reach our test figure of $1,000.00. However, we must deal with the subject broadly and have thought it proper to center our consideration on serious personal injuries and deaths since these are of greater public importance than minor injuries.

There is much to be said for the idea that sufficient financial responsibility should be behind every motor vehicle to compensate for not only minor but serious personal injuries caused by it.

In our judgment 20 to 25 per cent of motorists are responsible up to $1,000.00. This does not mean that the other 75 to 80 per cent are responsible for less amounts. As to some, practically all financial responsibility is absent. We regret to record the impression which we nevertheless hold that with the average motorist financial responsibility is considerably lower than $1,000.

The Problem

We have stated the problem as we see it. Accidents are numerous and increasing in numbers. Personal injury losses are gigantic and are distributed far from justly. While we are dealing primarily with Oregon we find this state to represent the nation in miniature. Conditions are similar but a little more acute in Oregon. There appear to be more automobiles, automobile deaths, and personal injuries per unit of population, in Oregon than in the nation. Incidently, there seem to be fewer accidents and deaths per unit of automobiles, here than in the nation, as appears by the next tables.

Three Remedies Offered

After all, nobody questions the existence of the problem although men differ as to the degree in which it exists, and the method by which it is to be solved. We have gone to considerable pains to state it, not to prove it exists, but to describe it as accurately as possible.

Three broadly different plans are offered as correctives. The first is to improve and perfect safety measures, reduce losses to a minimum, and let them continue to fall as they are now falling. The second is to force all autoists to carry insurance on a compensation or a liability plan, with the state or with private companies to protect victims of accidents. The third is to demand security for the payment of damages from only those who give concrete evidence of being dangerous to others using the highways, and if they fail to furnish such security, to force them from the roads. It will be noticed that the first plan in its main part will supplement the second or the third but that the latter two are mutually exclusive and will not work together.

Improvements of Safety Measures

We believe that our committee assignment can be said by a liberal construction to include the last two measures but doubt if it includes the first. However we have been forced to give some attention to safety measures. Without going into detail we may say that as a committee we are unamimously and heartily in favor of the enactment and enforcement of all reasonable and proper safety measures. We believe that accidents can thereby be diminished, if not in actual numbers, at least in comparison with automobiles and perhaps with population. As an example of the reduction of the comparative number of accidents we have prepared the following figures:

	Deaths per 10,000 Cars in Oregon	*Deaths per 10,000 Cars in United States*
1921.....	8.3	11.87
1922.....	8.7	11.8
1923.....	8.4	11.1
1924.....	8.8	11.07
1925.....	8.2	10.19

The national figures in particular show a hopefully downward trend in the ratio of deaths to automobiles. It is noticeable that Oregon, with a high density of autos and a high auto death rate per population, is low in its ratio of deaths to automobiles.

In February, 1925, the Educational Section of the National Safety Council published a similar table through the National Bureau of Casualty and Surety Underwriters. Their figures do not just coincide with ours, so we reproduce theirs for comparison. Theirs go back farther. They are nation-wide in scope.

1915.....24.0—Deaths per 10,000 cars.
1916.....20.8—Deaths per 10,000 cars.
1917.....18.2—Deaths per 10,000 cars.
1918.....15.5—Deaths per 10,000 cars.

1919.....13.3—Deaths per 10,000 cars.
1920.....12. —Deaths per 10,000 cars.
1921.....11.9—Deaths per 10,000 cars.
1922.....11.6—Deaths per 10,000 cars.
1923.....11.3—Deaths per 10,000 cars.

The ratio of deaths to automobiles has been more than cut in half since 1915, due to education and law enforcement. Safety statutes have gone on the books. Prohibition has reduced speed and recklessness. Autos are becoming more a matter of daily routine and less a matter of occasional joy rides. The Hoover Conferences have suggested numerous methods of reform in the interests of safety. In the future we may possibly expect gradual decreases in the ratios.

The opponents of compulsory insurance claim the whole problem can be solved by improvement and better enforcement of safety measures. They say, "Let the motto be 'Safety First' and not 'Pay as You Kill.' Typhoid fever is preventable but cannot be prevented by indemnifying its victims. Compensation proposes to mitigate the effect of accidents instead of mitigating the cause."

The proponents on the other hand assert harmony with safety measures but contend that these alone will never entirely prevent accidents or even reduce them to an inconsiderable number.

Our judgment is that prevention of accidents is one problem and compensation of their victims is another and the two should not be confused. In this respect we hold with Henry Swift Ives, of Chicago, a redoubtable opponent, who says, "Compensation and prevention indeed have little or nothing in common and in my opinion should never be considered together in any sound discussion of highway regulation."

But we cannot believe that the most effective prevention is likely to eliminate the need for some kind of financial protection of victims. The accident bill is high and increasing, but apparently on a scale which has decreased in the past in proportion to automobiles and may continue in the future to decrease in respect thereto. Motor vehicle increases in the future will probably be on a diminsihing scale but prevention should improve on an ascending scale. It is a nice question when, if ever, the accident bill will begin to decrease, and to what bottom limit it may go. But we can hardly conceive of the $315,000,000 bill of 1925 decreasing by any considerable number of millions unless there should be an unforseen and radical change in transportation methods.

A. J. Snow, Psychological Director of the Yellow Cab Company of Chicago, has made some interesting experiments as to the causes of accidents, accounts of which he has published in the August, 1925, number of the *Journal of Automotive Engineers*, and the February, 1926, number of *Safety Engineering*. His conclusion is that accidents due fully or in part to the fault of the car are due generally to one or more mental or physical defects of the driver. He adds:

"Only a relatively small reduction in accidents can be accomplished by education and traffic regulations."

In short, your committee considers the detailed study of preventive measures beyond the scope of its investigations. It favors these measures and believes that Professor Snow has overstated the matter in the above quotation, but it does not think that preventive measures alone can eliminate the need for compensation of victims.

There remain to be considered by your committee the second and third suggested remedies. We now address ourselves to compulsory insurance:

Compulsory Insurance

Compulsory automobile liability insurance had its beginning as far as we know, in Switzerland where it has been effectively used for a number of years and is said to be popular. The Swiss problem is different from ours, mainly in that the ratio there of autos to population is much smaller. Only the well-to-do drive cars and apparently do not object to carrying insurance. In fact where the law gives the motorist a choice as to how much risk he will cover a good proportion take the higher amounts. Compensation laws are also in force in Denmark.

Massachusetts is the first of our states to adopt compulsory insurance. Under this law which becomes effective January 1, 1927, every owner must, prior to licensing his car deposit with the Insurance Commissioner evidence of financial responsibility for personal injuries up to $5,000.00 in the form of a certificate of the issuance to him of a liability policy, a bond, or cash or securities. The Motor Vehicle Commission is to fix rates of premium on bonds and policies after public hearings, the decisions to be appealable to the Courts. The act contains provisions for shifting from one form of security to another but the motorist must maintain his security or give up his license. Companies undertaking this business have not only the privilege of writing it, but also the duty. The Board of Appeal, through hearings, appealable to the courts, is to pass on any refusal by a company to write a policy or any cancellation of one. It can thus prevent unfair discriminations. While an insurance company cannot be

compelled to accept a particular risk, the Commission has substantially the power, through revocation of license to transact business or injunction, to compel it to accept any proper risk. It is compulsory liability insurance, not compensation.

Note that the act does not say who is liable in the event of an accident or what the damage shall be. Therefore common law rules prevail. If the driver is negligent and the injured person is not, the driver and his employer, partner, head of his family, joint adventurer, owner or other person by whose consent he is operating the car is liable. If both are negligent or if the driver is not negligent, the injured person cannot recover. The amount of damage in event of recovery is the cost of cure, loss of time, and an allowance for pain and suffering. These rules are in force in practically the same form in all states.

The Honorable Robert S. Marx, recently Judge of the Court of Common Pleas, Cincinnatti, Ohio, is sponsor for another form of compulsory insurance which is true compensation. The Marx plan, which is not now adopted anywhere, is to require each motorist prior to getting his license to contribute an amount to be fixed by law to a fund maintained by the state or by private insurance companies or by both. In the event of an accident the fund is to finance the cure and recompense of the injured person. The state or the company taking the risk is to furnish doctors, nurses and hospitalization and is to pay him at the rate of $4.00 per day for adults and $2.00 per day for children, while he is away from regular duties. Where injury results in death the amount paid is to be $6,500.00. However, the first $100.00 or $200.00 of the cost of any injury is to be born by the motorist causing it as a deterrent against negligence.

The Massachusetts and Marx plans furnish the groundwork for the theory of compulsory security. They are alike in that they both require every motorist to furnish security. They are different in that the Massachusetts plan furnishes security only, while the Marx plan wipes away the common law rules of negligence, contributory negligence and damage and furnishes both security and compensation.

Of course it should not be assumed without study that the Marx plan is better because it gives more. The great fight against the Marx plan is that it gives too much to be sound financially. At that, there is much to be said to commend this plan over the Massachusetts plan.

In the Massachusetts and Marx plans are illustrated two different forms of compulsory insurance, liability and compensation. Many variations of these plans have been suggested. We may have occasion to mention some of these variations but in the main we will devote ourselves to the more fundamental distinctions. One of the latter ralates to whether the insurance is to be written by the state or by the old line insurance companies, or by both in competition. In Massachusetts the business is to be written by private companies. Under the Marx plan the insurance might be handled either way. In discussing compulsory insurance measures we desire to touch upon these basic forms, but we shall avoid lengthy consideration of less important details.

Workmen's Compensation

Compulsory automobile liability or compensation insurance is often compared with workmen's compensation. The two are essentially different. The automobile owner does not bear much analogy to the employer; nor does the victim of an automobile accident resemble an employee injured in an industrial accident.

The owner of a motor vehicle is not under contractual relations with his victim. He has no control over the physical status of the place of the accident, as an employer has. He derives no profit from the presence of his victim. He does not produce, by operating his car, a product in whose cost casualty expense is absorbed by the public.

From these contrasts it is arguable that the fact that workmen's compensation may be beneficial is no reason why the same may be true of compulsory automobile insurance.

Yet there is one important analogy between automobile owners and employers, namely, they both set in motion dangerous machinery resulting in accidents to others. Also there is an important difference, namely, employers are generally responsible financially, and auto owners are generally judgment proof as to fairly substantial amounts.

Workmen's compensation laws were adopted largely because of the injustice to workmen involved in the doctrines of fellow servant, assumption of risk, and contributory negligence. Automobile compulsory liability insurance will be adopted, if at all, from a recognition of the financial irresponsibility of the average motorist. It may be extended to compensation if the public becomes convinced that the contributory negligence rule operates unfairly to the victim.

Compensation versus Liability

There is much in what Judge Marx says for scrapping the contributory negligence rule. If the driver is grossly negligent and the victim

slightly so, there is no recovery unless the jury obeys the human impulse and disregards the facts and its public duty. Judge Marx said to the Ohio Bar Association, July 17, 1925:

"In some of these cases the injured are to blame; in some the automobilist; in others, both are to blame in varying degrees. In many cases it is impossible to place the blame and frequently there is no negligence in a legal sense but injury or death occurs by reason of weather conditions, latent defects or the inevitable risks of traffic. But from the social side, all of these cases mean that the burden of death or injury must be borne by the crippled or the dependent victims of the accident for whom the law at present offers little or no relief. It will not do to say that that is an individual problem with which the state has no concern."

When this is coupled with the fact that the driver is usually in a better place than the injured person to observe what takes place and to get a list of witnesses after the accident, it will be realized that the injured person always has a hard uphill fight on his hands in order to recover. He must prove the driver in the wrong and he must be able at least to meet evidence for the other side as to his own conduct. His difficulties react no less severely on his dependents than on himself.

Under a system of compulsory insurance with settlements on the basis of compensation regardless of negligence an injured person would be entitled to recovery by reason of his injury alone. He could pay his doctor's bills decently and the suffering of his dependents would be greatly minimized. Incidently hundreds of controversies over negligence could be eliminated from the courts of this state.

Your committee has considered these matters and is generally in accord with the ideas expressed under this head. It feels that the present rules of liability work too great a hardship on injured persons, and their dependents and families, and on the public. The problem is social and economic in scope and goes beyond the legal rights and liabilities of the autoist and the injured person.

The Massachusetts law recognizes only half the problem,—the need for security. It does not take into account the injustice worked by the contributory negligence rule upon the dependents and families of injured persons and on the public.

For this reason, and because of these conclusions hereinafter stated, your committee cannot recommend at this time the adoption of the Massachusetts law in the state of Oregon.

Property Damage and Personal Injury

It is perhaps going out of our way to mention this subject, in view of the fact that we do not urge adoption of compulsory insurance in this state at this time. However, we have given the matter consideration and will briefly express our views.

We do not think this state should attempt to legislate compulsory insurance for property damage. The problem is social and human as well as being economic. Property damage does not affect the human side. Moreover, compulsory insurance for property damage would produce a deluge of small but exaggerated property damage claims that would throw the rates to prohibitive heights.

Insurance To Protect Insured Not Public

The mere protection of the property of the public is hardly enough justification for losing sight of the historical reason for insurance.

Insurance was not devised and has not grown up in response to any demand for the general protection of the members of society. Its primary purpose is the protection of the estate of the insured. We insure our household goods against fire because they are a part of our wealth and we wish to avoid as far as possible chance of loss of our wealth through catastrophe.

Workmen's compensation laws are a departure from the original purposes of insurance. They are passed to protect from loss not the person insured, i. e., the employer, but a certain class, i. e., the employees, and with them the public. Compulsory automobile insurance is not designed or urged to protect the estate of the motorist. Its purpose is to protect the public and the victim and his family by placing the latter in funds with which to pay the expenses of the accident. It is as much of a departure from the original purposes of insurance as workmen's compensation.

The reason why we consent to a turning aside from the real purposes of insurance in the case of workmen's compensation is the humanitarian principle involved therein. The committee believes that only a similar principle will justify a similar turning aside in respect to compulsory automobile insurance.

Compulsory Insurance and Careless Drivers

One of the objections to compulsory automobile insurance which is most insistently urged is that it will tend to produce careless driving. We have given much thought and careful consideration to this claim and have tried to reach the merit of it.

It is expressed vigorously by all writers in opposition to the idea of compulsory insurance. We have already quoted Mr. Ives' expressive phrase that the motto should not be "Pay as

You Kill." It is said that when the motorist has paid his premium he will feel that he has done his duty and is beyond attack, and that his payment is a license to do damage. Herbert L. Towle, writing in the Atlantic Monthly for July, 1925, puts it differently:

"But it is feared in this country—with seemingly much reason—that the assetless, selfish owner who makes most of the trouble will abuse the privilege of insurance. He will have two conflicting thoughts in the back of his mind: the law may "get" him, but his insurance will protect him. And these two thoughts will subtly contend for mastery while his driving habits are being formed."

We do not find ourselves to a great extent in sympathy with the point of view which urges that the motorist will regard his insurance policy as a license to hurt somebody and will therefore carelessly do so. We believe that care in driving has little to do with whether or not the driver carries insurance but involves mainly other faculties and habits of the driver. A person lacking in mental alertness or a duly generous consideration of the rights of others is apt to drive carelessly, whether he carries liability insurance or not. One having these qualities will be a better driver even if he is insured.

We doubt if the existence or non-existence of insurance is ever in such a forward position in a driver's mind as to be an actual, operative cause of a collision or of a negligent attitude leading to a collision.

In the State of Connecticut under Motor Vehicle Commissioner Robbins B. Stoeckel, an effort is being made to collect and publish facts of interest in connection with the entire motor vehicle problem. Publication is made in a monthly bulletin issued by the Department. Bulletin Number 28, dated February 18, 1926, contains interesting statistics as to the causes of nearly thirty thousand accidents as drawn from court records, police reports and the like, and compiled by the department.

Some sixteen thousand accidents charged to recklessness of motorists are said to have been due to such causes as inattention, failure to grant right of way, skidding, driving on wrong side, backing, inexperience, failure to signal, following too closely, speed, intoxication, cutting in, runaway car, confusion, cutting corners, passing on wrong side, passing on curve, passing standing trolley car, passing on hill, improper parking, trying to beat train.

It is to be assumed that some of these faults were committed by insured drivers. Some of them may have been aggravated by a reckless feeling that the estate of the driver had been rendered safe by insurance. But we cannot believe that the existence of insurance could have been a particularly effective cause of any of these accidents in view of the many other elements entering into all of them. In fact we doubt if liability insurance was a positively effective cause of any of them.

If consciousness of the protection of one's estate by insurance leads to careless driving, does not consciousness of having nothing the sheriff can touch lead in the same direction? We see no essential difference between the two mental states. If financial irresponsibility or insurance protection is an incentive to carelessness there is another patent impetus to the same, namely, knowledge of the driver that his employer, who is liable for his negligence is financially responsible, and that the driver is not likely to be sued for any personal injury due to his carelessness.

If all these conditions tend to bring about reckless driving, and from the point of view of practical psychology it is hard to distinguish one mental state from another, then nearly all drivers are, under present laws and methods, substantially without restraint toward careful driving. But we doubt if financial irresponsibility, or insurance, or knowledge of responsibility of another, have much to do with care in driving.

We have quoted above from Professor Snow of the Yellow Cab Company of Chicago. By his tests of drivers of the company and his analysis of their accidents he is seeking the causes of accidents and methods of prevention. He seeks for their causes in mental and physical defects and attitudes of drivers. His tests of chauffeurs are for physical defects, intelligence, emotional stability or reaction to emergency, and carelessness. His general conclusion (which he probably could not back with complete data) is that eighteen per cent of the drivers cause forty six per cent of the accidents, and with these drivers the defect is of such a character as would be disclosed by one of his tests. He describes two groups of chauffeurs employed by this company. One group passed his examinations. Another failed but was employed through necessity. The second group, during a fixed period following, had accidents at five times the rate of that of the first group.

Now drivers of this company have the constant knowledge that the company is" good for" any damage they may do, and that they are practically free from any personal claim. They have the ease of mind of a person who is fully covered by liability insurance. Yet Professor Snow ascribes their accidents to other causes entirely and finds that different groups of them of different mental qualifications have different numbers of accidents.

We cannot consider very persuasive the claim that compulsory insurance would materially lessen the amount of care exercised by the ordinary driver. We believe, however, that compulsory insurance laws should include or supplement vigorous provisions for cancellation of drivers' and even motor vehicle licenses in the event of gross fault. Judge Marx's suggestion that the motorist pay part of the damage is also worthy of consideration.

Compulsory insurance laws would probably have a desirable educational effect. States or companies insuring large numbers of risks would find it profitable to distribute literature from time to time among policy holders, tending to warn them against the common causes of accidents.

State versus Private Companies

If compulsory insurance laws are adopted, whether of the compensation or liability type, should the state carry the entire risk, should it compete with the private companies, or should it refuse to enter the field and turn the business over entirely to the companies? Your committee has given much consideration to this controversial subject.

While there is some difference of opinion among us, the majority are in favor of keeping the state entirely out of this business, and if compulsory insurance is adopted, wish the risks to be carried by the private companies.

In support of state insurance it is urged that the treatment and cure of persons injured in automobile as in industrial accidents is a state function. The object of the private company is to make as large a profit as possible. To do this it must settle as cheaply as possible. It is under no incentive to give good care to the injured persons because they are not its clients or customers. Its desire is to get them off its books with as little outlay as possible. The good of the public is concerned, however, by giving these injured persons good instead of cheap treatment in order that they may become rehabilitated and returned to their economic and social places. To protect the needs of the public the state must step in and handle and supervise the treatment and rehabilitation of the automobile victims.

But the majority of our committee is fearful of socialism in any form and skeptical of the ability of the state to do any business well or economically.

As has been stated, our committee prefers compensation to liability insurance. To this extent the entire committee is in harmony. It considers that the compensation provided by law should be clearly set out to avoid, as far as possible, a basis for disputes. It believes that each injury should call for a certain payment and that payments, as far as possible, should be made in a lump sum or in installments. While it is impossible to list every possible injury it is considered possible to list a large number and find the proper compensation for those not listed by comparison with those listed.

The majority is opposed to employment of doctors, nurses, and hospitals by the insurance companies. It believes the injured persons and their friends and families should do this as in cases of ordinary illness. It feels that provisions should be made to eliminate, as far as possible, disputes over the amount of compensation and induce speedy settlements.

Further reasons of the majority for favoring private companies are elaborated in a later section of this report under the title "Conflicts of Laws."

Premium Rates and Policy Conditions

As a further safeguard of the rights of the public in the fixing of premium rates the majority suggests the following procedure, patterned largely after the Massachusetts Law.

Any company desiring to participate in this business should first file with the Insurance Commissioner its acceptance of the provisions of the act. Policies should be uncancellable and should be written by any company participating in the business to whom the proposed insured applies tendering the premium. The amount of premium should be regulated by the state commission which administers the act after public hearing at which interested persons and companies may appear. The act should permit an alternative surety bond as provided by the Massachusetts act and probably an additional alternative in the deposit of cash or securities. The obligation of the companies to write a policy for any applicant should be coupled with provisions requiring persons shown to be dangerous drivers to file a liability bond as a prerequisite to issuance of a policy and the law should also contain provisions for cancellation of drivers' licenses for misconduct and gross carelessness.

The committee is impressed with the general fairness of the provisions in this respect embodied in the Massachusetts act and would be disposed to follow them.

Conflicts of Laws

The motor vehicle obliterates state lines. As Mr. Ives says, it is a moving hazard. Thousands upon thousands cross the continent each year to the Pacific Coast. East, West, North, and South—they form a continuous caravan.

Any state compulsory insurance law must take into account two classes of machines,—foreign

cars coming into the state and cars registered in the state travelling outside of it.

The first is the hardest to handle. Shall Oregon force travellers coming within its borders immediately or within twelve, twenty-four, or forty-eight hours to comply with its liability or compensation law? Tourists will eschew that state until the states north and south of it have similar laws. Then they will skim the edge of disregard. If the Oregon law does not enforce its provisions on outsiders it is demanding a higher degree of protection from its citizens than from its visitors.

Look at the other angle. Suppose a citizen of one state drives his car to a neighboring state. Should his insurance stop at the state line or should it follow the car?

Judge Marx, in such of his writings as we have seen, does not throw any particular light on these matters. Massachusetts calls for securities from its citizens which cover wherever they drive. But it bends the knee to the tourist and traveller and permits him to drive anywhere in that state without offering to its people (forced themselves to give large protection) any protection at all.

Compulsory liability insurance lends itself readily to extraterritorial operation for it merely demands a policy or bond for the benefit of whom it may concern. The law of the place of accident would probably govern together with the procedure of the place of suit. The bond or policy could be made available anywhere either directly or by a subsequent suit against the bonding or insurance company in Massachusetts.

Compensation does not offer such flexibility. Illinois has no right to say what shall be the measure of liability and damage for an accident in Indiana even though a citizen of Illinois, insured under Illinois law, is involved. Yet a state fund in Illinois might be called upon to defend suits all over the country. The state would be in no position to do this as would a large insurance company. In fact the mobility of the automobile (in the view at least of a majority of this committee) is perhaps a controlling reason why automobile compensation does not lend itself to administration by state funds and state commissions. Workmen's compensation laws seem to be conducted a little better by the states than by the insurance companies or nearly as well, according to whether or not you are something of a socialist. Accidents adjusted under these laws occur within the state and the medical attentions are nearly all given there. But with automobiles, travelling is almost the rule rather than the exception. Imagine forty-eight states each with one or more agencies in each of the others for the settlement of claims and defense of lawsuits!

Let us suppose that John Smith of Iowa drives to the Pacific Coast and return, all states through which he passes being under state fund compensation affecting travellers as well as residents. Clearly he must stop at each border, pay a premium and secure a policy and a license. In Washington he hits an Oregon car and injures an Oregon citizen. He then comes into Oregon. The injured Oregonian, having returned home, sues John Smith in Oregon and files claims against the states of Iowa and Washington. What happens? Of what use to him are all the extra premiums John has paid?

If the private companies handle compensation insurance in all states any large company can issue to John Smith, for one premium, a policy covering in any state in which he may drive under the laws of that state. The company has offices everywhere and can settle a claim or defend a lawsuit anywhere. Endless red tape and duplications are done away with.

In this section of our report we have perhaps asked more questions than we can answer. But they are legitimate questions some of which the courts will be compelled to answer if compulsory insurance becomes common. Also they illustrate a few of the apparent difficulties of the subject.

The committee is of the impression that the difficulties suggested under this heading are not insurmountable. They are, however, troublesome.

We could not advise the state of Oregon, as a pioneer in compulsory insurance legislation, to attempt to apply its law to foreign cars being operated in the state although the foreign autoists should be made financially responsible as well as local autoists. If all states had such legislation we believe that all should apply it to tourists.

We do not think compulsory insurance of the compensation type should be framed so as to attempt to follow the car. It should be applied within the borders of the state to cars registered therein.

We beleive further that if any considerable number of states passed compulsory insurance laws it would be necessary to attempt movement toward uniformity and reciprocity between them.

We have not considered it necessary in view of our final conclusions to attempt at this time to frame a compulsory insurance bill that will satisfy all requirements in respect to conflicts of the laws of different states. The problems to be created thereby, should several states pass compulsory insurance laws, will be too numerous for this committee to attempt now to predict. Our report will serve its purpose if it can induce

conviction of the potential existence of these problems.

Frauds

It is clear that any compulsory insurance plan should include measures designed to prevent as far as possible fraud and malingering. These cannot be entirely eliminated in any event. The comparatively small amount of automobile liability insurance now written is productive of them. Frauds will multiply in Massachusetts. They would grow in geometric progression under any system of compulsory compensation insurance which does not include proper safeguards.

A majority of our committee is of opinion that under a state compensation fund frauds would be more of a menace because every person claiming to be injured would belong to a family of voters.

A great deal of criticism has been directed against the Marx Plan on the ground that it would breed frauds. With the contributory negligence rule removed all a victim would have to do to recover would be to file proof of the accident and the extent of his injury. The evidence on his damage would be largely within his own control. Sons and daughters would claim compensation due to the alleged operation of automobiles by parents, and the evidence would all be inside the family. Guests would demand payment for injuries said to have been incurred on account of accidents of cars of their hosts. These two classes of cases, often tinged with fraud, are now becoming an increasing menace to liability underwriters.

"Accidents" would multiply. It is a common experience that claims grow in size when an insurance company or the state is involved. Companies writing workmen's compensation insurance report a steady increase both in accident frequency and malingering. Mr. Ives describes Judge Marx's fund as an immense "pork barrel" to which fradulent claimants would resort in vast numbers and says:

"One need not be possessed of a gifted imagination to picture the happy hunting ground which would be provided for claimants under the Marx wholesale indemnification plan."

Only a small minority will engage in conscious, willful fraud. But nearly all of us are scrappy about what we conceive to be our rights and a little hysterical and unreasonable about our personal ills. Each defect of human nature would tend toward an added premium to be borne by every family operating a car.

Your committee, if designing a measure of compulsory compensation insurance, would devote painstaking care to safeguards against recovery by persons who are fraudulent or grossly negligent. Considerable discussion has been had of proposed safeguards and while the committee has not pursued this subject to the end and have not agreed upon all suggestions, the following ideas may be said to have its substantial acquiesence.

It was felt that certain acts of pedestrains such as crossing a street of a city or town at a point not at a street intersection, or walking with the traffic on a road, should prevent recovery. It was agreed that no person injured while drunk or in commission of a felony should recover compensation. Suggestion was made that both members of the family of the owner or driver and also his guests be denied recovery although the committee did not reach an agreement on this point.

The committee is alive to the necessity of most vigorous provisions in any compulsory insurance act aimed against frauds upon the underwriter. These safeguards should impose criminal and civil penalties on fraudulent claimants and also upon drivers and owners who conspire with them.

Army of Investigators

Under any system of compulsory insurance the employment of a large number of persons to investigate facts and frustate attempted frauds would be necessary. If the state monopolized the risks they would be state employees. If the business was given to the companies each would employ some of them. The army would be large whether the insurance was of the liability or compensation type.

Our impressions in favor of compulsory insurance of the compensation type are not shaken by this fact. We have read many recommendations of the Hoover conferences and others of proposed safety measures. These proposals often include suggestions of the employment of additional officers to keep accurate data on accidents and for various purposes connected with accidents. With compulsory insurance in force a great deal of this service can be performed in the adjustment of losses.

In other words this committee believes that we are on the eve of a considerable increase of expenditure in connection with highway accidents and we may as well spend this money through premiums portions of which are paid to investigators as through taxes for the employment of additional police officers. It will cost the public money to get information about accidents but the information is desirable and necessary. In securing for public use statistical information about accidents this army of investigators would be at the same time engaged in protecting the insurer from frauds.

Cost of Compulsory Insurance

The principal reason why your committee is unable to report in favor of some kind of compulsory compensation insurance is that it is utterly unable to tell what this would cost per average automobile per year.

Judge Marx estimates the expense under his plan at about ten dollars per car per year. In fact he probably has no very definite idea of the cost. We doubt if adequate figures exist by which to estimate it accurately. Insurance men and lawyers discussing his plan place the cost at twenty, thirty, and forty dollars and up, and admit they are guessing. Mr. Ives, who is a capable insurance man says that leading insurance experts have studied the Massachusetts plan and believe its cost will average $30.00 per car, and possibly higher. It goes without saying that the Marx plan will cost more than the Massachusetts plan.

W. P. Barnum and R. R. Stephenson of the Youngstown, Ohio, bar furnish some interesting speculations as to its cost on a nation-wide scale:

"Seventeen million automobilists in the United States, paying $10.00 each, would establish an annual fund of $170,000,000.00. Nineteen thousand death payments of $6,500.00 each would consume $123,500,000.00 of this amount. Claim is made that workmen's compensation operates on a five per cent. administrative charge, but the proposed bureau will do well to work within a ten per cent. cost, in view of the difficulties to which we call attention hereafter. Subtracting $17,000,000.00 from our balance of $46,500,000.00 we have left $29,500.000.00. Figuring medical, nursing, hospital and burial charges to average $25.00 per casualty, we reduce our amount to $13,750,000.00. This leaves available to each of the 611,000 injured the magnificent sum of $22.50, to take care of lost earnings."

There is a disposition on the part of backers of compulsory automobile insurance to gloss over the expense. The public should not take them too seriously in this. The expense will bear down heavily on the man who is now furnishing the smallest measure of protection to the victim. It may drive a fringe of the poorer people from the highways. The universal utility of the motor car is such that nobody wants such a result to be carried too far. We all want to see for the last time the tail light of the reckless and drunken irresponsible but we want also to preserve the rights of the road to the man of small means.

Critics of the Marx plan deserve full attention. The plan arises from the highest humanitarian motives and it may be nearly as feasible as its sponsor says it is. But lots of pencils should be sharpened before it is adopted.

We are unable to throw more light than this on the cost of compulsory insurance. It if would cost only ten dollars per average car per year we think it would be a splendid solution of the problem. But we cannot believe it would not be much more expensive than this.

Our committee is in no sense equipped to perform the actuarial work necessary to figure the cost of any compulsory insurance plan. In fact, with the exception of one or two of our members, we cannot claim enough familiarity with the business of underwriting liability and compensation risks to appreciate the real difficulties involved in figuring the cost of such a plan. We are compelled to leave this work to others. Our suggestion is that a legislative committee of this state be appointed with power to employ actuaries in an effort to find out whether or not the cost of compensation insurance of all automobiles would be prohibitive.

Since we are conservative citizens, appreciative of the insufficiency of our own information and without funds to employ experts to advise us, we refrain from recommending to the City Club that it take any stand on the subject of compulsory automobile insurance except to urge the further study of this subject. We regret having to reach this somewhat negative conclusion especially in view of the fact that in many ways we believe compulsory insurance is well adapted to the solution of the problem as the same appears to us. However, we see no alternative and accordingly with this recommendation we turn to the third form of corrective legislation.

Selective Bonding

This is a name which we have applied to the third form of remedy referred to in a former section of this report entitled "Three Remedies Offered." The name may not be particularly apropos, but it forms a convenient handle.

The idea behind the selective bonding plan is that where a driver has by misconduct or negligence given evidence that he is dangerous to others on the highway a bond or insurance policy is required of him as a prerequisite to his continued use of the highway. Whereas the compulsory insurance plan demands protection by all motorists the selective bonding plan de-

mands it of only those who appear to be more likely to cause damage to others.

Several bills have been drawn on the selective bonding theory, the most prominent of which went into effect as a law of the State of Connecticut, January 1, 1926. The central idea of this law is as follows:

The Motor Vehicle Commissioner is empowered in his discretion to require of any owner or driver convicted of driving while intoxicated, racing, or running away after an accident, or any person causing a personal injury or death or property damage up to $100.00 to furnish evidence of the issuance to him of a public liability insurance policy or surety bond in the amount of $10,000 for death or personal injury and $1,000 for property damage conditioned to pay such damages as may be assessed against him or deposit with the commissioner cash or securities to this amount for the same purpose. If such owner or driver fails to furnish such evidence of responsibility the registration of any automobile owned by him may be revoked. Ten days notice of cancellation of any policy is required. Any insurance company or surety may, on paying a fee of one dollar, secure from the commissioner the record of any person subject to the act. The commissioner may direct arrest of the owner to enforce an order for return of number plates if a registration is cancelled. After a lapse of three years with no recurrence of an accident and with no right of action or judgment pending, the owner or driver is automatically remitted to his normal status.

Your committee is disposed in favor of this class of legislation. We have doubts whether it can furnish enough relief to solve the entire problem which we have attempted to outline in the first portion of this report. But we consider the problem both serious and pressing and believe that legislation of this kind will give considerable relief.

The Connecticut plan has defects. It retains, for better or for worse, the contributory negligence rule and the present laws and methods of adjusting accidents. Also it permits the driver who is altogether without funds or property to have one free accident. In short it does not purport to be a full solution of the problem.

But it has merits as well. It is non-compulsory and non-paternalistic. It does not call for a great government department for administration. It allows claims for damage to be worked out under nearly normal conditions. The ordinarily careful driver does not feel any burden from its operation. It encourages all drivers to insure without compelling insurance except by those who have actually participated in accidents. Its presence on the statute books, as a potential menace in the event of accident, is an inducement to careful driving.

Its chief utility and operation is in respect to those autoists who are in accidents. In the long run, of course, the least careful drivers will have the largest numbers of accidents. Therefore, with some exceptions the operation of the act will usually fall upon the careless. The exceptions will for the most part be fairly dealt with by the commissioner under his discretion.

It is clear that the act will, in time, effect the elimination from the highways of a certain fringe of financial or moral irresponsibles. This consummation is to be desired by the public. The most dangerous driver is the one who is both careless and without means. The well-to-do driver who is reckless is bad enough, but he can at least pay for the damage he does.

The act should operate to the disadvantage of all careless drivers, whether rich or poor, in that their records will eventually get in the hands of the commissioner from whom they can be secured by parties having an interest in securing them.

We have quoted from Professor A. J. Snow in earlier parts of this report. From his statistical accounts of taxicab accidents he has drawn a conclusion that eighteen per cent of drivers participate in forty-six per cent of accidents. We regard these figures with a good deal of caution as we doubt whether the statistics on which they were based are drawn from wide enough sources to serve as a guide in the state of Oregon. Yet we are inclined from general experience to believe that accidents are due, in some degree at least, to personal defects of drivers.

We have taken Mr. Snow's percentages and have made some computations with them. In 1925 there were approximately 8.2 deaths and 246 serious personal injuries in Oregon for each 10,000 automobiles registered here. Let us assume one driver to each car. Presumably then, forty-six per cent of these injuries, or 113, occurred during the driving of eighteen per cent of the 10,000 drivers or 1,800 of them. This means .0627 accidents per person. On the other hand fifty-four per cent or 133 of the accidents happened in connection with eighty-two per cent or 8,200 of the drivers, or .0162 accidents per driver.

We now have two groups of drivers separated. Among those of the first group accident frequency is nearly four times as great as it is among the second. It appears probable that the application of the Connecticut policy would tend gradually to drive from the highways those members of the high-accident-frequency group who cannot afford to pay for the damage done by them.

Professor Snow's percentages may be wrong as applied to large groups of drivers. He is a pioneer in scientific study of motor vehicle accidents and their causes. We hope to see great strides in this field within a very few years. Your committee can only look at this proposition from the common sense attitude of the uninformed citizen. It is very clear, to us, however, that some drivers are, by reason of temperament, mentality, or what not, more prone to have accidents than others.

And it seems to us that under legislation such as the Connecticut Act these more dangerous drivers will be gradually found out and retired from the highways if they are without assets, or forced to give protection if they can.

Suggested Motor Vehicle Bill

We have drawn and attached to this report, entitled as above, a bill which, we think, could properly be passed by the Oregon legislature. It is not patterned directly after the Connecticut Act because Oregon has no Motor Vehicle Commissioner and we do not feel inclined, in view of the present need for retrenchment rather than expansion, to urge the creation of another salaried state officer surrounded by the usual force. In drawing our bill we have followed the suggestion of a Boston lawyer, Edward C. Stone. His proposed bill follows the same theory as the Connecticut measure but provides for enforcement at the suit of the parties through the courts instead of by a commissioner.

This state, as well as others, is confronted by a situation which we think calls for relief. We have attempted to describe the situation in the first portion of our report. The situation is serious and is growing worse if anything. It is not apt to cure itself or be cured by safety measures alone.

We hardly expect that legislation within the scope of the proposed bill can give full relief. But we are satisfied that such legislation, if passed, will be helpful, and we feel it to be within the possibilities that such legislation may give enough relief as to make unnecessary the passage of a compulsory insurance act.

At any rate we do not think that legislation of the kind suggested will be harmful. If it does not work at all or sufficiently well it can be repealed and little or no harm will have been done.

Study of Motor Vehicle Problems

We urge upon the City Club a further examination of these matters and we recommend that the City Club urge upon the next legislature the appointment of a commission with sufficient powers and funds to make a complete study.

This study should take up automotive operations and accidents in as many phases as possible. It should include the causes of accidents, mechanical, and psychological. It should embrace the important subjects of safety measures recommended by the Hoover Conferences, also appliances and compulsory insurance. The dearth of statistics is a drawback to accurate thinking on automotive problems and we recommend improved methods for obtaining and assembling accident reports and that these methods be adopted with a view to uniformity with other states.

The state of Oregon should not attempt to proceed alone in these matters. Motor vehicle problems are often nationwide in scope. Whether the Congress of the United States has any effective powers is a question of constitutional law to which this committee has given little attention. At any rate there is every need in automobile fields for legislation of various states as nearly uniform as possible. This state should meet all others half way in an effort to make uniformity and co-operation effective.

We urge that the City Club exert its influence and energies in support of these recommendations.

The committee acknowledges the aid of Messrs. A. C. Barber, formerly Secretary of the Insurance Exchange, J. A. Crittenden, president of the Automobile Dealers' Association and G. G. Jones, manager of the Failing estate, who have attended practically all of the meetings and have taken part in all of the deliberations of the committee. It also acknowledges the aid of Ray T. Conway and John M. Hutson, of the Motor Bus Association, Kern Crandall, an attorney, Irving L. Webster, of the Insurance Exchange, William A . Marshall and R. H. Bowdler, of the State Industrial Accident Commission and James H. Cassell, editor of the Automotive News of the Pacific Northwest, who

have all attended portions of the meetings and have all given valuable help to the committee.

Respectfully submitted,

MacCormac Snow, *Chairman*
C. C. Chapman
Calvin S. White
W. H. McVey
J. W. Shuler
L. A. Liljeqvist
H. H. Herdman

Portland, Oregon,
July 24, 1926

ADDENDA

Re: Commonwealth Club Report

We have referred heretofore to the work of the Insurance Section of the Commonwealth Club, San Francisco, California. While the foregoing report was being put in final form, we received Volume XXI, No. 5, of the Transactions of the Commonwealth Club of California, being the report of this section, together with the report of a minority of the section and the proceedings attendant upon the presentation of these reports to the Commonwealth Club on May 20, 1926.

We congratulate the Commonwealth Club and the Insurance Section upon the splendid quality of work evident in both the majority and minority reports. We have been in touch with the section during our entire activities and have been favored with copies of their minutes and access to the information gathered by them. Our committee desires to express its thanks for their generous co-operation.

A comparison of our conclusions with those of the majority of the Commonwealth Club section shows that we stand almost together, and our confidence in our own conclusions is thus strengthened. We both agree in the realization of our inadequate understanding of compulsory insurance and in recommending to our respective state legislatures further study of that subject. The only point of difference is that our committee has sufficient confidence in the selective bonding plan to suggest it as a possible solution of the problem, and as a trial which will do no harm if it is not entirely successful.

Resolutions passed June 2, 1926, as modified July 23, 1926.

1. *Resolved* that investigations of this committee indicate that automobile accidents in this state and elsewhere are occurring in large and increasing numbers from year to year; that the financial responsibility of the average auto owner is comparatively low and the less responsible owners are generally uninsured; that the personal injury losses from these accidents fall largely on the persons injured thereby and their families; that these losses are high.

2. *Resolved* that the above situation creates a problem social and economic in scope which calls for solution by legislation.

3. *Resolved* that the existence of a similar problem in other states has been recognized by others and remedial legislation has been proposed of three general classes:

(a) Improvement of safety measures and consequent reduction of accidents and loss from personal injuries thereby.

(b) Compulsory automobile insurance affecting substantially all owners and drivers, such insurance to be either of the common law liability type, as for example the Massachusetts plan, or of the compensation type.

(c) Selective bonding or compelling such drivers or owners who by virtue of a serious accident or misconduct on the highway may have indicated themselves to be unsafe, to furnish bonds or insurance policies or in the alternative to leave the highways. This is the Connecticut plan.

4. *Resolved* that touching the safety measures suggested in (a) the committee is in favor of the enactment and enforcement of all such reasonable measures but does not consider the detailed treatment of safety measures within its province, and does not think the problem can be sufficiently solved by safety measures alone.

5. *Resolved* that this committee cannot now recommend that legislation of the Massachusetts type, namely, compulsory insurance by motorists of their legal liability, for the broad reason that the committee is uncertain whether this type of legislation can effectively meet the problem.

6. *Resolved* that the committee feels that in the future the solution of the problem is in compulsory insurance of the compensation type with careful safeguards against fraud and negligence; but the committee cannot now recommend such a measure to the State of Oregon because it has been unable to secure actuarial data as to the cost and operation of the same. Accordingly the committee recommends further study of measures of this kind by suitable state agencies or committees with due regard to action by other states and desirability of uniform legislation.

7. *Resolved* that the committee believes that in the meantime and while such study is pending, a measure based on the Connecticut plan, a modified form of which is hereto attached, could be safely adopted in this state.

8. *Resolved* that the committee recommends (regardless of the passage of a measure such as that suggested above) that the 1927 Legislature of Oregon appoint a legislative commission with full powers to study the subject of compulsory automobile insurance both of the Massachusetts type and of the compensation type.

Suggested Motor Vehicle Bill

Be it enacted, etc.:

1. In any action to recover damages for the death of or bodily injury to any person, resulting from an accident in which a motor vehicle or trailer is involved the plaintiff may at any time file a petition to require the defendant or defendants who may be the owner or driver of such vehicle, or person or persons responsible for the negligence of the driver thereof, to furnish proof of his or their financial responsibility to abide by and satisfy any judgment up to $10,000 which may be obtained against him or them or any of them in such action within thirty days after the rendition thereof.

2. Upon the filing and service of said petition the court may direct the time of hearing of the same. Said hearing shall be before said court without a jury and shall be conducted in a summary manner. If the court shall be of opinion from the evidence adduced at said hearing that the plaintiff has a reasonable chance to secure the verdict of a jury on the question of liability the court may in its discretion direct the defendant or defendants or any of them to furnish the said proof of financial responsibility.

3. Said proof of financial responsibility, in respect to such owner or driver or person or persons responsible for the negligence of such driver, shall consist of (1) evidence of the issuance in respect of the motor vehicle involved in such accident, by an insurance company duly authorized to write a policy of that sort in this state, of an insurance policy protecting against public liability for death and personal injuries within the limit hereinbefore provided; or (2) the bond of a surety company or an individual owning real estate in this state of the fair value of three times the amount of such bond, in excess of debts and property exempt from execution, conditioned for the full satisfaction of such judgment as plaintiff may recover; or (3) the deposit with the clerk of any court of record of cash or collateral, satisfactory to the court, securing the personal bond of the person ordered to prove financial responsibility conditioned for the full satisfaction of such judgment.

4. The form of such proof of financial responsibility shall be as directed by the court provided that if any party required to furnish such evidence shall have previously to the accident secured the issuance in a sufficient amount and in sufficient form of one of the said proofs of responsibility the court shall not require him to furnish another.

5. If any person directed by such court to furnish such proof of responsibility shall fail to do so within the time allowed by the court, said court may make an order directing the revocation or suspension of the license of the motor vehicle involved in said accident, if the same shall be licensed in Oregon, and any other motor vehicle registered in Oregon by any person failing to furnish such proof. If such motor vehicle is registered outside the state of Oregon the court may direct the suspension or revocation of the license of such person to operate any motor vehicle in the State of Oregon. The court may also revoke the driver's or operator's or chauffeur's license of any person in respect to whom such proof may be ordered if such person shall fail to furnish the same.

6. Whenever the court revokes or suspends any license the plate or tag or document evidencing such license shall be surrendered to the state officer issuing same by the person in whose custody such license is and such person as well as the person against whom said order runs shall be responsible for the carrying out of such order. Failure of any person directed to surrender any such license to obey such direction shall, when he is advised of the making of such order, constitute contempt of court and shall be punishable as such and in addition the court may, in his discretion, direct taxed against any such person the costs, disbursements and expenses, of attempting to secure compliance with such order.

7. The clerk of any court making any such order or orders shall certify to the Secretary of State the substance of such order or orders taxing the fees therefor against the parties to said action. The Secretary of State shall keep a file of such certifications duly indexed by the names of the parties and the license numbers involved. Any person applying to the Secretary of State for the record of any person under this act shall, on payment of a fee of $1.00 be furnished under the certificate of said Secretary with a list of such orders affecting such person and if there is no record on file with said Secretary of any such order said Secretary shall so certify.

8. The Supreme Court shall make such rules in respect to this act as it may consider necessary or proper and such rules shall be as nearly uniform throughout the state as that court may deem expedient.

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