

There is another point which I would like to leave with you. Mr. Van Duzer said that the failure to yield right of way was one of the most important causes of accidents here. It seems to me that points to the question of what we mean by right of way. If we analyze the situation we will find that there is just one position aside from that of light controlled intersection in which we have an absolute right of way. In meeting another vehicle on the right hand side of the road we have no shadow of right to be on the opposite side of that road. That situation considering the number of risks causes less accidents than anything else in the entire list. I believe there is no other situation except the light controlled intersection where the law does not give some sort of a qualified right of way to everyone. Thus there is a certain shadow of legal right for two vehicles to be in the *same place at the same time*. I believe that is true of every other situation with the exception of the simple ones noted above. Would it not be possible to draft our right of way regulations so that one of the vehicles would not have any right to be where the other is?

It seems to me that it would be possible to redraft rules of the road with regard to right of way in such a way that in all the important cases one vehicle or another would be absolutely prohibited from encroaching on the right of way.

REVIEW

OF THE

REPORT OF THE COMMITTEE TO STUDY COMPENSATION FOR AUTOMOBILE ACCIDENTS

COLUMBIA UNIVERSITY COUNCIL FOR RESEARCH IN THE SOCIAL SCIENCES¹

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SYNOPSIS

This Committee of the Council for Research in the Social Sciences undertook the study of 8800 accidents, and, in addition, made a study of the operation of compulsory insurance laws now in force. The case studies were made at seven different locations, Philadelphia, New York, San Francisco, Muncie, Indiana, Terre Haute, Indiana, Boston and New Haven. Enough studies were made of partial disability, total disability, and death to give a good indication of the amount of damage recovered by persons injured in accidents.

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THE ACCIDENT PROBLEM IN THE UNITED STATES

For the last five years more than 30,000 persons per year have met death because of automobile accidents. Much of the damage is borne by the person injured or by relatives when the person is killed. It is difficult to ascertain the total loss in property damage, physical pain, and loss of life.

LIABILITY LAWS

Liability laws at the present time are based on the common law principle of fault of the person responsible for the accident. If the person injured is the cause of the accident, he has no right to recover damages under the present law, though in many such cases insurance companies have paid damages, since they have found it cheaper to pay than to settle by litigation. The report points out a number of defects in the system.

- 1 Burden of producing evidence to show fault
- 2 Difficulty in ascertaining the facts
- 3 Impossibility of fixing damages accurately
- 4 Delay, especially in large cities
- 5 Heavy cost, particularly in attorney's fees, which range from 25 to 50 per cent of the judgment
- 6 Financial irresponsibility of the motorist causing the accident
- 7 The burden upon the courts

In the larger cities this last item is very serious in that the dockets are filled with accident cases requiring the parties to the suit to wait two and three years for a decision, and, of course, congesting the regular court docket.

LIABILITY INSURANCE

Up to 1929 there had been considerable growth in liability insurance purchased by motor vehicle users. The proportion of motorists having liability insurance is still less than one-third, the percentage being 27.3 per cent in 1929. The value of the business during that year reached \$255,000,000 in premiums. If an accident occurs with an insured vehicle, the chances are greatly improved for the injured person to get some form of compensation. The results of the study show that for temporary disability 86 per cent of the cases received some kind of compensation, while only 27 per cent of those injured by uninsured cars received compensation. The cases studied showed that 69 per cent received enough to cover doctor's expenses, wages, and property loss when the accident was caused by a car carrying insurance and only 11 per cent received this amount of damage when the cars were not insured. In total disability cases, 96 per cent of the injured received damage payment when the cars were insured, and only 21 per cent received damages when the cars were not injured. When the accident resulted in death, 88

per cent of the cases recovered damages when the cars were insured and only 17 per cent made recoveries when the cars were not insured. This study shows that very little damage is paid when the vehicle is not carrying a liability insurance. It should be further pointed out that when damages are paid, a smaller percentage goes to the injured because of court costs and attorney's fees.

FINANCIAL RESPONSIBILITY LAWS

Seventeen states have adopted laws which have undertaken to increase the financial responsibility of those who cause accidents. The laws are of two general types. The first is based on the principle that the operator will be driven off the road if he fails to assume responsibility for his acts.

These laws deny the operating privilege to persons who have a bad accident record or who have unpaid court damages assessed against them. The effect of such laws is not very extensive. The Committee estimates that less than one per cent of the drivers are affected. In the language of the Committee: "The strict enforcement of a financial responsibility law should increase to some extent the number of insured owners, and should put off the road some negligent operators. The first result is more effectively accomplished by a compulsory liability insurance law, while the elimination of dangerous drivers can, in the opinion of the Committee, be more effectively procured by the use of the ordinary criminal laws and of the commissioner's usual powers to revoke registrations and licenses."

The second type of law requires all motor vehicle operators to carry insurance or show financial responsibility. The type of law is much more effective in getting damages for the injured. If all of the motor vehicle operators are forced to carry insurance, the percentages quoted above will prevail for all injuries rather than for a small percentage of injuries. The great disadvantage of the compulsory insurance law is the increased litigation involved. In Massachusetts motor vehicle litigation has increased nearly 100 per cent since the law was put on the statute books. The cost is approximately the same as for voluntary insurance.

COMPENSATION PLAN

The Committee recommends a type of law based on the principle of compensation if an accident occurs, regardless of fault. The general grounds for such a law are those advanced for workmen's compensation. The Committee points out that a law of this kind would insure compensation to those injured and by setting up a special commission to handle the cases, the courts would receive relief. The cost of such insurance would, of course, be dependent upon the scale of amounts allowed under the compensation plan. The Committee estimates that for the work-

men's compensation scale of Massachusetts the cost to motor vehicle owners would be from 90 to 98 per cent of the cost of compulsory insurance. The Committee further estimates that if the scale of benefits were based on New York's workmen's compensation law, the cost of insurance would be from 48 to 61 per cent higher than the cost of compulsory insurance.

After the study was completed, the Committee drew the following conclusions:

- 1 "The generally prevailing system of providing damage for motor vehicle accidents is inadequate to meet existing conditions."
- 2 "Uninsured owners of motor vehicles as a class pay for only a very small portion of the damage their motor vehicles cause."
- 3 "Financial responsibility laws do little to correct this injustice."
- 4 "The compulsory liability law of Massachusetts is the most advanced step taken in this country to solve the compensation problem."
- 5 "The Committee strongly approves of requiring every owner of a motor vehicle to insure against whatever legal responsibility may be imposed upon him."
- 6 "The Committee believes that the remedy must go further than compulsory liability and that no system based on liability for fault is adequate to meet existing conditions."
- 7 The Committee favors the plan of compensation with limited liability and without regard to fault—*analogous to that of workmen's compensation.*
- 8 The Committee believes that such a compensation plan would be workable, that its cost to motor vehicle owners need not be unreasonable, and that it would not violate the due process clause of the federal constitution.

This summary is presented as information only. The Traffic Committee of the Highway Research Board has not drawn any conclusions and does not approve or disapprove of the findings of the report.