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The New Ohio Motor Vehicle Safety Responsibility Act

A Preliminary View

by Nelson G. Karl*

DURING the past session of the Ohio Legislature, a new Motor Vehicle Safety Responsibility Act¹ was passed, effective March 1, 1953, which radically changes the Act² now in effect. The new Act provides that upon the happening of a motor vehicle accident, where property damage or personal injuries amount to more than \$100.00, all persons involved shall submit a written report to the Registrar of Motor Vehicles, in Columbus, Ohio, and, if not covered by liability insurance, shall forward security in the amount demanded by the registrar. If security is not deposited, the penalty is the revocation of both the owner's operator license and the registration of all vehicles owned by him.

The purpose of this Act is to reduce the number of unsatisfied judgments entered against those found liable in motor vehicle accidents. The new Act provides that an operator of a motor vehicle must either carry liability insurance or be in a position to deposit security if and when he is involved in an accident. Under the present Financial Responsibility Act, the registrar revokes an operator's license where there is a failure to satisfy a final judgment. The new Act enables the registrar to revoke this license before a judicial body has made a determination of liability.

The number of motor vehicle accidents in recent years has been great. In 1950, for example, there were more than 800,000 motor vehicle accidents in the United States, in which more than 35,000 persons were killed and over 1,200,000 persons incurred bodily injuries. Property damage amounted to more than \$300,000,000.³ The plight of the accident victim is a matter of social concern, the social problem arising when the negligent motorist

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¹ Ohio General Code Sec. 6298-1 to 6298-93.

² Ohio General Code Sec. 6298 to 6298-26.

³ Accident Facts, P. 43 (1951). Published by the National Safety Council.

is financially irresponsible and does not make compensation for his acts. There are more than 35,000,000 automobiles traveling the United States highways today, and this number is expected to increase. In the State of New York, in 1950, there was a 25% increase over 1949 in the number of property damage accidents and in the number of accidents causing personal injuries.⁴ Reduced to an average daily story of accident consequence, motorists in New York State killed upward of 5 persons every day, injured more than 400 others, and caused about \$200,000 of property damage daily. These statistics indicate how important it is for our legislatures to take steps to aid these accident victims.

I. ANALYSIS OF THE ACT

A. Administration

The Ohio Act provides that the driver of any motor vehicle which is in any way involved in an accident⁵ shall, within 5 days, forward a written report to the registrar of motor vehicles.⁶ The registrar may suspend the operator's license of any person who fails to report this accident until such time as the report is filed,⁷ or may punish this person by a fine not to exceed \$100.⁸ Note that the optional term "may" is used rather than the mandatory term "shall" as used throughout all other sections of the Act. If the registrar chose not to enforce the provision for reporting an accident, he could not be compelled to do so, and the Act could, thereby, be frustrated at its earliest operating point.⁹ It is com-

⁴ N. Y. Safety Responsibility Annual Report (1950).

⁵ Ohio General Code Sec. 6298-13 provides that an "accident" or "motor vehicle accident" means any accident involving a motor vehicle which results in bodily injury to or death of any person, or damage to the property of any one person in excess of \$100. In *Baker v. Fletcher*, 191 Misc. 40, 79 N. Y. S. 2d 580 (1948), it was held that a motorist who opened the door of his automobile in such a manner as to affect the operation of an oncoming truck was involved in the resulting accident within the meaning of the Motor Vehicle Safety Responsibility Act even though there was no contact between his automobile and the truck.

⁶ Ohio General Code Sec. 6298-17.

⁷ Ohio General Code Sec. 6298-21.

⁸ Ohio General Code Sec. 6298-85.

⁹ *Commissioner v. Szumski*, 32 Pa. D. and C. 583 (1938). In this case, the construed statute provides that the Commissioner may suspend an operator's license if a motorist is involved in an accident which results in a fatality. The court held that the statute did not make suspension mandatory.

pulsory upon the person involved in an accident to submit a report, but if he should fail to do so, the registrar may elect not to enforce compliance with this section of the Act.¹⁰

Upon receiving the accident report, if there is an absence of liability insurance, the registrar must determine the amount of security which is sufficient, in his opinion, to satisfy any judicial judgment for damages arising out of the accident.¹¹ This determination is to be based upon the accident reports and other evidence submitted.¹² What the other evidence may be the Act does not state and this aspect may, ultimately, prove the weakest point in the entire Act. It places upon the registrar the burden of determining whether property damage should be evaluated at \$90 so as to fall outside the Act or should be evaluated at \$105 so as to come within the purview of the Act.

In determining the amount of security sufficient to satisfy a judgment for bodily injuries, there are many components of the judgment which must be estimated—ultimate total of medical expenses, length of period of disability, degree of disability, monetary value of pain and suffering, special damages, loss of earnings, and the existing trend in jury verdicts of the particular locality. Yet, the sections of the Act offer the registrar little guidance in making this estimation.

The State of Wisconsin has inaugurated a specific procedure to aid the evaluator in the determination of the amount of security to be deposited. The individual who suffers property damage is sent to his garageman who certifies the extent of the property damage. To this is added the approximate court costs and the interest should a law suit result. In the case of personal injury, a medical affidavit is prepared by the attending physician. Where there is possible permanent injury, the State recognizes that a physician would be reluctant to anticipate a conclusion, so he is asked to make a brief diagnosis. This diagnosis is first referred to a panel of physicians in the State Board of Health who have further working arrangements with the Medical Society of Wisconsin to refer the diagnosis, in turn, to specialists who then proceed

¹⁰ N. Y. Safety Responsibility Annual Report (1950). The failure of operators or owners to make a prompt, complete and accurate report of an accident as required by law is the greatest administrative problem and complicates the entire processing procedure.

¹¹ Ohio General Code Sec. 6298-24.

¹² *Ibid.*

to predict the extent of permanent injury.¹³ Although this procedure may seem to be a rather unwieldy method for determining a mere preliminary fact, the Act in Ohio, by comparison, does not guide the registrar sufficiently and places him in the position of a jury when he attempts to evaluate the amount of deposit sufficient to satisfy a judgment.

It seems reasonable that, in many instances, the security demanded will prove insufficient. Occasionally, a victim is unaware of the seriousness of his injuries, and, frequently, an injury does not heal properly, or perhaps complications set in. The Act provides that the registrar may reduce the amount of security ordered, if, in his judgment, this amount is excessive¹⁴ but, curiously enough, no provision is made for increasing this amount where the original evaluation is inadequate.¹⁵

These phases of the Act create an administrative problem, and the responsibility falls upon the registrar to administer the Act in such manner as not to circumvent or encumber the Act or thereby impede its anticipated purpose. He is offered much discretion and latitude, and the ultimate success or failure of the Act may lie with him.¹⁶

B. Constitutionality

Once the evaluation of the amount of deposit is made, security must be deposited within 10 days after notice has been sent by the registrar. Upon failure to deposit this security, presupposing no liability insurance policy is in existence, the registrar must suspend the license of such person and the registrations of all vehicles owned by this person.¹⁷ This procedure raises at least four possible arguments that the new Act is unconstitutional.

¹³ Private Communication from J. L. Steensland, Attorney and Administrator of the Wisconsin Safety Responsibility Act, January 4, 1952.

¹⁴ Ohio General Code Sec. 6298-36.

¹⁵ Private Communication from A. J. Klautt, Director, Safety Responsibility Division, State of North Dakota, January 10, 1952. If the security furnished is insufficient, the administrator in this state may increase the amount of security to be deposited.

¹⁶ 8 Ohio Jur. 151, Sec. 52. If the constitution of the state commands a public officer to do a particular thing, without directing the manner in which it shall be done, it necessarily follows that the officer has the implied authority to determine, in the exercise of a fair and impartial official discretion, the manner and method of doing the thing commanded.

¹⁷ Ohio General Code Sec. 6298-36.

1. *No Showing of Liability is Necessary.*

The present Motor Vehicle Safety Responsibility Act, in effect in Ohio, provides for the revocation of the operator's license only after liability has been determined by the courts and a judgment has been entered thereon. Under the new Act, the operator's license can be revoked before there is a determination of liability.¹⁸

To illustrate with a hypothetical situation: Jones, who is driving without liability insurance, stops for a traffic signal. Carter, traveling at a speed of 70 miles per hour on slippery pavement, cannot stop his vehicle in time to avoid striking Jones' automobile. Force of the collision throws Carter against his windshield; he incurs a fracture of the skull and is in a coma for 6 days. The registrar, upon receiving the accident report, notifies Jones that he must post security in the amount of \$5000. Obviously, Carter is solely responsible for his injury by virtue of his own acts. Yet, under the Act, if Jones fails to deposit this security, his operator's license and vehicle registration must be revoked. The Act makes no provision for a prior showing of negligence before placing a motorist within the scope of the Act.¹⁹ It is a well established rule that the legislature is prohibited from conferring upon tribunals, other than courts, powers which are strictly and conclusively judicial.²⁰ Is the new Act, for this reason, unconstitutional? A Kentucky case would seem to indicate not, on the theory that no judicial function is intended to be exercised, the taking of the license does not depend on fault, the Act does not operate on the basis of negligence, and it does not pre-determine liability but is solely for the protection of the public.²¹ It "merely" enforces a showing of financial responsibility until a judicial proceeding has taken place. Jones falls within the Act because he was unfortunate enough to be hit and the taking of his operator's license is mandatory upon the registrar unless and until Jones can give evidence of "financial responsibility."²²

¹⁸ *Baker v. Fletcher*, 191 Misc. 40, 79 N. Y. S. 2d 580 (1948).

¹⁹ In *Ballow v. Reeves*, 238 S. W. 2d 141 (Ky. 1951), the court held that a motor vehicle financial responsibility law is not unreasonable because it fails to require a showing of negligence prior to suspension of a license.

²⁰ Ohio Const. Art. II, Sec. 32. Also see 8 Ohio Jur. 260, Sec. 155.

²¹ *Ballow v. Reeves*, *supra*.

²² Ohio General Code Sec. 6298-46 states the proof of financial responsibility means proof of ability to respond in damages for liability in the amount of

2. *No Preliminary Hearing is Necessary.*

The Act makes no provision for a preliminary hearing immediately prior to the suspension of the license, although, it does provide for hearings requested by a person aggrieved by the acts or orders of the registrar, and such acts are subject to review as provided in the administrative procedure act.²³ Is the Act for this reason unconstitutional? In *La Forest v. District of Columbia*²⁴ the court held that a statute empowering the commissioners to revoke a motorist's operating license, with or without a hearing, for any cause which the commissioner deemed sufficient, and providing for a judicial review, was not unconstitutional as vesting legislative and unregulative discretion in administrative officers. In *Escopedo v. State Department of Motor Vehicles*²⁵ the Supreme Court of California held that it was not violative of due process to revoke a motorist's operator license without a prior hearing since requiring a prior hearing would substantially burden and delay, if not defeat, operation of the statute. The court went on to point out that a statute enacted for the public good is consonant with due process of law.²⁶ This seems to be a very questionable doctrine; notice and an opportunity to be heard are essential elements of due process of law. The phrase "due process of law" suggests that a course of law should be instituted which will enable one whose property is about to be taken to have notice of a time and place for hearing and a reasonable opportunity to be heard in his own behalf.²⁷ The court in *Doyle v. Kahl, Commissioner*²⁸ held that a statute empowering the commissioner to suspend the license of an operator of a motor vehicle without a preliminary hearing was unconstitutional in that it authorized a taking of property without due course of law. It should be noted that the court in this instance used the words "the taking of property." This raises a pertinent question: Is a license to operate a motor vehicle a property right whereby a taking without a prior hearing would be violative of due process of law?

\$5000 because of bodily injury to or death of one person and in the amount of \$10,000 because of bodily injury or death to more than one person.

²³ Ohio General Code Sec. 6298-14, Sec. 6298-15.

²⁴ 92 F. 2d 547, 302 U. S. 760, 58 Sup. Ct. 367 (1937).

²⁵ 35 Cal. 2d 870, 222 Pac. 2d 1 (1950).

²⁶ *Doyle v. Kahl, Commissioner*, 46 N. W. 2d 52 (Iowa 1951).

²⁷ 8 Ohio Jur. 708, Sec. 591.

²⁸ *Supra* note 26.

3. *A Property Right is Invaded.*

An early case, *Thompson v. Smith, Chief of Police*,²⁹ held that the right of a citizen to travel upon the highway and to transfer his property thereon, either by horse-drawn carriage or wagon or automobile, is not a mere privilege which a city may permit or prohibit at will, but a common right which he has under his right to life, liberty and the pursuit of happiness. This case has not been generally sustained. In *Commissioner v. Funk*³⁰ the court held that permission to operate a motor vehicle upon public highways was not embraced within the term "civil rights," and that a license to do so was not a contract or a right of property in any legal or constitutional sense. The court stated that although the "privilege" might be a valuable one, it was no more than a permit granted by the State; its enjoyment depended upon compliance with the conditions prescribed by the state and was always subject to such regulations and controls as the state might see fit to impose. This is now the prevalent view.³¹ Licensees of motor vehicles take their licenses and accept the privileges thereof subject to such conditions as the legislature sees fit to impose.³² Any appropriate means adopted by the state to insure competence and care by its licensees to operate motor vehicles and to protect others using the highways is consonant with due process of law.³³ A license to operate a motor vehicle is granted by the state, and the one who accepts this license must accept all reasonable conditions imposed by the state.³⁴

4. *Unequal Protection of the Law.*

Financial responsibility legislation has often been challenged on the ground that it discriminates against the poor and is therefore an unconstitutional denial of equal protection of the law.³⁵

²⁹ 155 Va. 367, 154 S. E. 579, 71 A. L. R. 604 (1930).

³⁰ 323 Pa. 390, 186 Atl. 65 (1936).

³¹ *Packard v. O'Neil*, 45 Idaho 427, 262 Pac. 881, 56 A. L. R. 317 (1927); *Silver v. State*, 108 Conn. 37, 143 Atl. 240, 65 A. L. R. 943 (1928); *DeVries v. Alger*, 329 Mich. 68, 44 N. W. 2d 872 (1950); *Garford Trucking v. Hoffman*, 114 N. J. L. 522, 177 Atl. 882 (1935).

³² 8 Ohio Jur. 526, Sec. 388. A legal license confers no right or estate.

³³ *Ohlson v. Mealey*, 179 Misc. 13, 37 N. Y. S. 2d 123 (1942).

³⁴ *Larr v. Didnan, Secretary of State*, 317 Mich. 121, 26 N. W. 2d 872 (1947). The court in this case held the right to impose such conditions was based not upon the licensee's culpability but upon his status.

³⁵ In *Ex parte Lindley*, 108 Cal. App. 258, 291 Pac. 638 (1930), the court held unconstitutional an act providing for the suspension of an operator's license

There can be no discrimination in favor of the rich or poor; all must stand in equality under the provisions of the constitution, and it is this equality that is the pride and safeguard of all.³⁶ The courts have held, however, that although a rule of law may in certain instances work a hardship,³⁷ it does not violate due process providing it operates without discrimination³⁸ and in like manner against all persons of a class.³⁹ Legislation which applies equally to all in a reasonable designated group is not discriminatory.⁴⁰ Equality under the constitution is that of right and not of enjoyment.⁴¹

5. Summary.

The new Act would seem, therefore, in the light of litigated cases, to be constitutional. It does not operate on the basis of negligence and makes no effort to pre-determine liability. It simply requires a showing of financial responsibility until the conclusion of a proceeding before a tribunal. A motorist's operator license is not a property right, and the state granting the license may impose whatever conditions in the use of the license it sees fit including the suspension of this license without a prior hearing. The right to operate a motor vehicle is a privilege subject to reasonable regulation by the state in the exercise of its police power,⁴² and the payment of the required license fee does not convert this privilege into a property right.⁴³ Police power has

upon failure to pay a judgment, because the act predicated the right to operate an automobile on the financial ability to pay damages rather than on the skill in operation.

³⁶ 8 Ohio Jur. 634, Sec. 492.

³⁷ In *Munz v. Commissioner*, 6 F. Supp. 158, Dist. Ct. S. D., N. Y., (1933), it was argued that the revocation of the license interfered with the right to make a living. This argument was not upheld.

³⁸ *Arizona v. Price*, 63 Pac. 2d 653, 108 A. L. R. 1156 (Ariz. 1937); *Rawson v. Department of Licenses*, 130 Pac. 2d 876 (Wash. 1942).

³⁹ *Surtman v. Secretary of State*, 309 Mich. 270, 15 N. W. 2d 471 (1944).

⁴⁰ *Doyle v. Kahl, Commissioner*, 46 N. W. 2d 52 (Iowa 1951).

⁴¹ *Nulter v. State Road Commissioner*, 119 W. Va. 312, 193 S. E. 549 (1937).

⁴² *Goodwin v. Superior Court of Yavapai County*, 68 Ariz. 108, 201 Pac. 2d 124 (1948). In *Rosenblum v. Griffin*, 89 N. H. 314, 197 Atl. 701, 115 A. L. R. 1367 (1938), the license of the plaintiff was taken away although there was no negligence on his part. The court recognized the objections in taking action before a finding of liability but held the suspension valid as a matter of public safety. The court stated that the plaintiff happened to be unfortunate enough to be hit. The operation of an automobile on a public highway is not a right but a privilege, and, under the statute, there is equality of treatment.

⁴³ *Heart v. Fletcher, Commissioner*, 184 Misc. 659, 53 N. Y. S. 2d 369 (1945).

dimensions equal to the public needs,⁴⁴ and one using his property in such a manner as to injure the rights of others is therefore subject to the police power of the state to regulate and control its use in order to secure the general safety of the public.⁴⁵

II. COMPARATIVE LEGISLATION

A. Existence of the Act in Other States

The new Motor Vehicle Safety Responsibility Act radically amends the existing law in Ohio. This type of act, however, is not new to the United States. In 1941, an act was passed in New York,⁴⁶ effective April 29, 1942, which provided that the Commissioner of Motor Vehicles shall suspend the license and registration certificate of any person operating or owning a motor vehicle involved in an accident unless such person furnishes security in an amount demanded by the commissioner or unless the operator or owner had liability insurance at the time of the accident. This act was the forerunner of the new Act recently passed in Ohio. Its primary purpose was to reduce the number of financially irresponsible motorists and, thereby, reduce the number of unsatisfied judgments resulting from automobile negligence. Missouri followed with a similar act, effective July 1, 1945, and at this writing, 36 states have similar acts.⁴⁷ They differ for the most part, in administrative procedure only.⁴⁸ Ohio is not a trail blazer but is following the pattern set forth by most of the other states.

B. Success of the Act in Other States

One of the better methods to measure the success of financial responsibility legislation in other states is to examine statistics

⁴⁴ 8 Ohio Jur. 334, Sec. 230.

⁴⁵ 8 Ohio Jur. 376, Sec. 263.

⁴⁶ N. Y. Vehicle and Traffic Law, Art. 6-A.

⁴⁷ Ala., Ariz., Ark., Calif., Col., Conn., Del., Fla., Ga., Ida., Ill., Ind., Iowa, Ky., Md., Me., Mich., Minn., Mont., Neb., Nev., N. D., N. H., N. J., N. M., Ohio, Okla., Pa., R. I., Tenn., Tex., Vt., Va., W. Va., Wisc., Wyo.

⁴⁸ *Ohlson v. Mealey*, 179 Misc. 13, 37 N. Y. S. 2d 123 (1942). The statute requiring the commissioner to suspend forthwith the license and registration of a person operating an automobile involved in an accident unless the owner furnishes security is mandatory and hence, where an automobile collided successively with a streetcar and a parked car, the commissioner was required to suspend the petitioner's license and certificate of registration upon her failure to furnish the required security. In Indiana, Maine, New Jersey, New Mexico, Rhode Island, Vermont and Virginia, revocation of the operator's license is at the option of the commissioner.

of the percentage of motorists carrying liability insurance. Before passage of the act in New York, approximately 30% of the motorists carried liability insurance; this number has now increased to 94%.⁴⁹ Included in the remaining 6% are self-insurers and others who are not necessarily financially irresponsible.⁵⁰ Other states, with the act in effect a much shorter period of time, report the same excellent results. In Minnesota the percentage of those motorists covered by liability insurance jumped to 80% within five months after the act was passed, and at this writing, has surpassed 90%.⁵¹ In New Hampshire, the rate increased from 36% to 90%.⁵² Therefore, as can be readily seen, the Safety Responsibility Acts have been quite effective, not in reducing the number of accidents, but in promoting a greater degree of financial responsibility among operators of motor vehicles.

III. COMPLETION OF THE CYCLE

A. History of Protective Legislation

Massachusetts recognized the social problem presented by accident victims as early as 1925 when the legislature asked the Supreme Court of Massachusetts its opinion of the constitutionality of a compulsory liability insurance law. The court said that under the general police power to regulate highways, the state had the power to enact compulsory insurance for the protection of persons injured by the operation of motor vehicles.⁵³

⁴⁹ N. Y. Safety Responsibility Annual Report (1950).

⁵⁰ *Ibid.*

⁵¹ 14 U. of Detroit L. J. 4 (1951).

⁵² *Ibid.*

⁵³ In re Opinion of the Justices, 251 Mass. 569, 147 N. E. 681 (1925). The court stated "the power . . . to regulate travel over the public ways of the commonwealth for the general welfare is extensive. It may be exercised in a reasonable manner to conserve the safety of travelers. No one has a right to use streets and other public places as he chooses without regard to the presence of others. It is an underlying concept of streets and highways that they shall at all times be reasonably safe and convenient for public travel and that travelers thereon in the exercise of due care may be secured from preventable danger . . . The legislature has large powers in the regulation of the business of insurance. That business is of a peculiar nature. It affects large numbers of people and is intimately connected with the general welfare . . . The main objective of the bill is to protect careful travelers on the highway injured by negligence in the operation of motor vehicles and to afford them some redress for such injuries . . . The principle which sustains this aspect of the proposed bill is that, when the general welfare of travelers on the highway, in the opinion of the legislature, is threatened by and demands protection against a specific evil, any rational means may be adopted to remedy the evil."

The legislature then proceeded to pass the compulsory insurance law which is in effect in the state today.

In 1925, the New Hampshire senate requested the opinion of the New Hampshire Supreme Court as to the constitutionality of a similar compulsory insurance law.⁵⁴ The court thought certain features of the bill discriminatory rendering constitutionality doubtful,⁵⁵ and the bill failed to pass.⁵⁶

In 1932, Massachusetts passed an act⁵⁷ providing for the suspension of an operator's license for failure to satisfy a final judgment for property damage arising out of a motor vehicle accident. In 1937, Michigan⁵⁸ and Delaware⁵⁹ passed acts providing for the suspension of an operator's license for failure to satisfy a judgment for bodily injuries arising from the use of a motor vehicle. Ultimately, 29 states and the District of Columbia passed similar acts.⁶⁰ The respective courts have dutifully upheld this form of financial responsibility law as a valid exercise of the police power of the state.⁶¹ In 1941, New York passed a financial responsibility act which provided for the suspension of an operator's license upon the failure to show financial responsibility immediately following the accident.⁶²

B. Compulsory Insurance Legislation Compared to Financial Responsibility Legislation

Financial responsibility laws have been instrumental in greatly increasing the percentage of motorists carrying liability

⁵⁴ House Bill No. 4, then pending.

⁵⁵ In re Opinion of the Justices, 81 N. H. 566, 129 Atl. 117 (1925).

⁵⁶ In 1937, an act was passed in New Hampshire requiring proof of financial responsibility as a condition precedent to the registration of a motor vehicle upon which there was a lien or mortgage. In *Rosenblum v. Griffin*, 89 N. H. 314, 197 Atl. 390 (1938), the court held this act unconstitutional because of the arbitrary discrimination in its provision.

⁵⁷ Mass. General Laws, Ch. 90 (1932).

⁵⁸ Mich. General Laws, Sec. 4685-52 and 4685-53, as amended by P. A. 228, Acts 1937.

⁵⁹ Del. General Laws, Sec. 223 (1937).

⁶⁰ Ala., Ariz., Ark., Calif., Col., Del., D. C., Ill., Kans., Ky., Md., Mass., Mich., Mo., Mont., N. H., N. Y., N. C., N. D., Ohio, Ore., Pa., R. I., S. D., Utah, Vt., Va., Wash., W. Va., and Wisc.

⁶¹ *Reitz v. Mealey*, Commissioner, 313 U. S. 442, 61 Sup. Ct. 841 (1941); *Garford Trucking Inc. v. Hoffman*, 114 N. J. L. 522, 177 Atl. 882 (1935); *Watson v. Department of Motor Vehicles*, 212 Cal. 279, 298 Pac. 481 (1931); *Munz v. Commissioner*, 6 F. Supp. 158 (1933); *Rawson v. Department of Licenses*, 130 Pac. 2d 876 (Wash. 1942).

⁶² N. Y. Vehicle and Traffic Laws, Art. 6-A.

insurance. It has been seen that in the State of New York, only 6% of its motorists are not covered by insurance,⁶³ and of this group, many are financially responsible. Nevertheless, in Massachusetts, with a compulsory insurance law, 100% of the motorists are financially responsible. The law is direct, simple to interpret and to administer, and easily enforced; yet the majority of the states have some form of financial responsibility legislation while Massachusetts alone has compulsory insurance. The chief reason for this is that insurance groups present a strong lobby in opposition to such legislation, partly because they would then have to insure poor risks, and partly because such a law might force a reduction in commissions to agents and brokers, which now aggregate more than \$50 million a year on automobile liability insurance underwriting in New York alone.⁶⁴ They gleefully point out that the insurance rates in Massachusetts are double or triple the rates in other states.

It is probable that those most conscientious, most responsible financially, and best able to compensate serious injury are the very car owners who voluntarily carry automobile liability insurance. Those who do not carry insurance feel no compulsion to do so until they have had their "one good accident." Then, they must buy insurance in order to continue operating a vehicle, and are thereafter financially responsible. But we cannot presuppose that all or most accidents are caused by repeaters; such a proposition is certainly not tenable. The groups who need the insurance the most are the groups who do not have it—minors and others driving antiquated vehicles in poor mechanical condition, those persons living in congested areas who cannot get insurance for one reason or another, and poor risks whom the insurance companies will not insure. If they are poor risks for the insurance companies, they unquestionably are poor risks for the general public.

Curiously enough, financial responsibility legislation is forming a cycle that is almost completed. Massachusetts, the first state to recognize the need, passed a compulsory insurance law. Following this were the acts providing for the revocation of the operator's license upon failure to satisfy a final judgment, and ultimately, acts were passed providing for the suspension of an operator's license upon failure to post security following an acci-

⁶³ N. Y. Safety Responsibility Annual Report (1950).

⁶⁴ 348 CCH Ins. Law. Rep., p. 8 (1952).

dent. In 1951, the State of New York passed acts which required owners of motor vehicles who are minors⁶⁵ and those who operate taxi-cabs⁶⁶ to have liability insurance before being permitted to register a vehicle or to buy license plates for this vehicle. Thus, the gap between financial responsibility legislation and compulsory insurance was considerably narrowed. Two bills providing for compulsory insurance for all⁶⁷ and having Governor Dewey's support⁶⁸ have already been presented to the New York legislature. Maryland,⁶⁹ New Jersey⁷⁰ and Arizona⁷¹ have similar bills before their legislatures. The *New York Times*, in editorial,⁷² states that compulsory insurance is the logical next step in the steadily growing book of laws to protect the public. It appears that we are gradually approaching this step and will eventually complete the cycle begun by Massachusetts in 1925.

⁶⁵ N. Y. Vehicle and Traffic Laws, Sec. 11a (1951).

⁶⁶ N. Y. Vehicle and Traffic Laws, Sec. 17 (1951).

⁶⁷ S. B. 2050 and S. B. 2188. The purpose of these bills is to amend Sec. 11a of the Vehicle and Traffic Laws which applies to minors so that it will apply to all.

⁶⁸ *New York Times*. December 28, 1951, p. 20.

⁶⁹ H. B. 43.

⁷⁰ A. B. 250.

⁷¹ S. B. 61.

⁷² December 28, 1951, p. 20.