

THE FINANCIAL RESPONSIBILITY LAW

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To solve or substantially diminish the proportions of the problem of the uncompensated automobile accident has been the objective of many pieces of legislation proposed during the past twenty years. Upon the basis of the extent to which their adoption would require changes in the common law, the proposals fall into three classifications. The largest class, and the least revolutionary, is composed of the so-called "financial responsibility" laws whose principal provisions will be hereinafter discussed.

The type of proposal earliest advanced¹ recommends more sweeping reforms than either of the other two classes. Its framers, admittedly impressed by the workmen's compensation legislation widely adopted in the early twentieth century, took much, both of the substance and form, of such beneficent laws, in fashioning their own suggested measures. The premise that the conventional substantive rules of law, as well as the standard remedies provided, detract from, almost to the extent of nullifying, the effectiveness of the common law solution to the problem, is the foundation of proposals of this variety. Following a logical development, this idea results in elaborate plans for a simpler method under which procedure is to be revised, legal theories of fault abandoned, and payment of damages made certain by requirements for liability insurance. Such proposals have nowhere been enacted into law, although frequently studied and commented upon² and sometimes seriously

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¹ In 1916 Mr. Arthur A. Ballantine, in *A Compensation Plan for Railway Accident Claims*, 29 HARV. L. REV. 705, suggested the extension of the method applied in the Workmen's Compensation Acts into other fields, with particular emphasis upon its desirability in the adjustment of claims on account of personal injuries against railroad and street railway corporations. Within a few years thereafter adaptations of this proposal to fit the problem of automobile accident compensation made their appearance. Rollins, *A Proposal to Extend the Compensation Principle to Accidents in the Streets* (1919) 4 MASS. L. Q. 392; Carman, *Is a Motor Vehicle Accident Compensation Act Advisable?* (1919) 4 MINN. L. REV. 1.

² Hon. Robert S. Marx made public a detailed proposal to wipe out the requirement of negligence and impose absolute liability along the lines of the Workmen's Compensation Laws. This plan became more or less identified with his name and received the widest possible publicity in, among other general and legal periodicals: Chaplin, *Compensation for Street Accidents* (Aug. 15, 1925) 54 SURVEY 526; Marx, *Compulsory Automobile Insurance* (1927) 11 A. B. A. J. 731; Marx, *Compulsory Automobile Insurance* (1927) 1 U. OF CINN. L. REV. 445; *Compensation for Motor Accidents* (Sept. 21, 1927) 52 NEW REPUBLIC 112; Marx, *Compulsory Compensation Insurance* (1925) 25 COL. L. REV. 164; Elsbree and Roberts, *Compulsory Insurance Against Motor Vehicle Accidents* (1928) 76 U. OF PA. L. REV. 690; Loman, *Compulsory*

considered by legislatures.³

Adherents of the second variety of compensation plans express no dissatisfaction with the established requirement of negligence, and therefore propose less violence to the common law system. They direct their efforts toward providing for the certainty of collecting the damages awarded under conventional procedure, by requiring security to cover every person operating motor vehicles for his liability for injury or damage growing out of such operation. This proposal is, in brief, the compulsory insurance plan, which has been adopted in but one state and there only with respect to bodily injuries and deaths arising from automobile accidents.⁴

The financial responsibility laws constitute the third class of statutes contrived to furnish some measure of relief, in a pecuniary sense, to motor vehicle accident victims. These measures recognize, as do the compulsory insurance proposals, that it is eminently desirable for every person who may be found legally responsible for damages arising from an automobile accident, to be in a position to pay such damages. They provide a method intended to approximate the beneficial results seemingly guaranteed by comprehensive compulsory insurance, by requiring proof of ability to respond in damages, not from all motor vehicle operators, but only from those who may be likely to cause harm, having demonstrated, through certain dangerous acts, a possible tendency to be negligent. That certain drivers form a comparatively small class, more prone than the others to be involved in accidents, is a proposition which seems to find definite support in studies made under the auspices of the National Research Council.⁵ It is apparent that *all* motor vehicle accident claims will not be paid as a result of such a provision, because some persons who have not been required to establish their financial responsibility and who have not the means to satisfy such claims will be adjudicated liable for such damages. Recognizing this obvious fact, the proponents of this method, in its most recent

Automobile Insurance (1927) 130 ANNALS 163. Further consideration, on a more scientific basis than any earlier study, was given to the plan by the Committee to Study Compensation for Automobile Accidents, which reported to the Columbia University Council for Research in the Social Sciences on February 1, 1932. The report forms the subject of an interesting symposium (Smith, Lilly, Dowling, *Compensation for Automobile Accidents: A Symposium* (1932) 32 COL. L. REV. 785, 803, 813) and has been commented upon in other periodicals. Bromley, *After the Automobile Accident* (March, 1932) 164 HARPER'S 477; Hall, *Plan Providing Sure Compensation for Persons Injured in Automobile Accidents* (1932) 7 CALIF. ST. B. J. 38; Andrews, *Providing Compensation for Persons Injured in Automobile Accidents*, *ibid.* 112; Sweet, *Proposed Commission Plan for Handling Controversies Arising Out of Automobile Accidents*, *ibid.* 142; Ballantine, *Compensation for Automobile Accidents* (1932) 18 A. B. A. J. 221.

³ The idea has been embodied in many bills introduced in the various legislatures, among which the Straus-Cuvillier Bill, repeatedly presented to New York's legislature, is notable. It has also been the specific subject of legislative inquiry through special interim committees appointed in Maryland (1931), Virginia (1930) and Wisconsin (1933).

⁴ In 1925 Massachusetts adopted a compulsory automobile liability insurance law to take effect January 1, 1927. Mass. Pub. Acts 1925, c. 346.

⁵ Of the studies made by Weiss and Lauer and reported in *Psychological Principles in Automotive Driving*, published in 1930 by Ohio State University, under the auspices of the National Research Council, the authors stated: "The results tend to establish the fact that a small portion of the population are 'prone to accident' even in the upper range of intelligence." Later investigations along the same lines have led to the same conclusion, it is reported by H. M. Johnson, Chairman, Committee on Psychology of the Highway of the National Research Council, in *Collier's*, July 25, 1936.

form, would encourage, but not require, every motor vehicle operator to be financially responsible by withdrawing, unless automobile accident judgments against him are paid within a certain specified time, his right to operate a motor vehicle.

The development of this third type of statute from a mere variation of the earlier proposed compulsory liability insurance plan, to the most widely practiced method of increasing the number of financially responsible motorists, began with the adoption of a relatively simple statute⁶ in Connecticut at the 1925 session of the legislature. In that year compulsory insurance was proposed in half the states, but was rejected wholly in all jurisdictions except Massachusetts and Connecticut. Massachusetts enacted a compulsory insurance requirement to take effect January 1, 1927.⁷ In Connecticut, a compromise with the strict requirements of compulsory insurance was reached in the act above referred to.⁸ By the Connecticut law, effective January 1, 1926, proof of ability to respond in damages was made compulsory, not for all motor vehicle operators, but only for those convicted of reckless driving, operation while intoxicated, or evasion of responsibility, or held responsible for an accident resulting in the death or injury of any person or damage to property to the extent of at least \$100. Proof might also be required of the person in whose name the motor vehicle was registered, if he were not the operator.

The way to satisfying the increasingly insistent demand for compensatory legislation with a minimum of objection, pointed out by the Connecticut act, was followed in 1927 by several other states. Vermont⁹ and Maine¹⁰ enacted statutes, closely following the Connecticut law, but differing in particulars such as the amounts of damages to be provided for, the acceptable methods of proving the ability to pay damages and the acts causing the statutes to become operative.

Rhode Island joined the movement with the adoption of an act¹¹ empowering the State Board of Public Roads to investigate automobile accidents resulting in bodily injuries or property damage to the extent of \$100, and to require, if a violation of the law relating to motor vehicles appeared to have been committed, certain evidence of the owner relating to his ability to respond in damages.

Minnesota adopted provisions¹² empowering the courts to order a defendant convicted of reckless driving or driving while under the influence of intoxicating liquor or narcotics not to operate a motor vehicle for a period not exceeding two years. After filing an indemnity bond in the amount of \$2,500 conditioned for the payment of all damages sustained by any person in consequence of his negligence or unlawful act in operating a motor vehicle during the period fixed, the defendant might again drive.

⁶ Conn. Pub. Acts 1925, c. 183.

⁷ See note 4, *supra*.

⁸ See *Compulsory Insurance and Financial Responsibility Laws for Motorists* by Robbins B. Stoeckel, Commissioner of Motor Vehicles for the State of Connecticut (1926) 35 AM. CITY MAG. 873.

⁹ Vt. Acts and Res. 1927, Act. No. 81, approved March 26, 1927, and effective June 1, 1927.

¹⁰ Me. Acts and Res. 1927, c. 210, approved April 15, 1927, and effective January 1, 1928.

¹¹ R. I. Pub. Laws 1927, c. 1040, approved April 22, 1927, and effective June 21, 1927.

¹² Minn. Pub. Laws 1927, c. 412, approved and effective April 23, 1927.

In the same year, 1927, New Hampshire had adopted an act¹³ aimed at a result different from that sought by the laws which made a showing of ability to respond in damages for accidents in the future compulsory for any particular class of drivers. This law provided in substance that in a civil suit growing out of an automobile accident, upon a preliminary motion, the court might pass upon the question whether the defendant was "probably" liable. If the question were decided against the defendant he was required to furnish proof of his capacity to satisfy such liability or to give up his driving privileges.

The review, in chronological order, of the important stages of the development of the financial responsibility laws brings us now to the work of the National Committee of Seventeen of the American Automobile Association. Appointed to study compulsory liability insurance, this Committee reached the conclusion that the situation for which compulsory insurance had been suggested as a remedy could be better dealt with in another way. In December, 1928, after a series of investigations and conferences the American Automobile Association and its Committee made public a model bill, framed to meet the problem by a method theretofore untried in its entirety. This proposed measure, called the Safety-Responsibility Bill, embodied the following four cardinal principles:

First, it provided for the enactment of the Uniform Motor Vehicle Operators' and Chauffeurs' License Act.

Second, it provided for mandatory suspension of the driving permits of all persons found guilty of serious violation of motor vehicle laws. In addition to whatever penalties the state laws provided for these offenders, the Safety-Responsibility Law definitely barred them from the road until they had established satisfactory proof of their financial responsibility against future injuries to persons or property.

Third, it provided for the suspension of the driving rights of all persons against whom a final judgment establishing the driver's negligence had been legally rendered and who had failed to meet the judgment. This suspension was to remain in effect until the judgment had been satisfied and until a future guarantee of financial responsibility had been established.

Fourth, it provided for the insertion in the drivers' license law of a proviso forbidding the issuance of a permit to any person whose right to drive was at that time suspended in any other state because of failure to respond in damages or because of other serious violations of motor vehicle laws.

The draft of the Safety-Responsibility Bill first submitted in 1928 was amended in 1930, 1932 and 1935, and further amendment is suggested and may perhaps be made during the present year. None of the refinements adopted or likely to be incorporated in the American Automobile Association Bill have changed or will change any of the principles which formed the framework of the first draft. In the light of experience, rearrangement, elaboration and clarification of the provisions have been made and are to be expected, but without affecting the important elements of the proposal.

¹³ N. H. Pub. Laws 1927, c. 54, approved March 16, 1927, and effective June 1, 1927.

In 1934, May 25, the National Conference on Street and Highway Safety adopted as "Act IV" of the Uniform Vehicle Code, a model for financial responsibility legislation (hereinafter called the "Uniform Act") which is based upon and in substance includes the greater part of the provisions of the American Automobile Association Safety-Responsibility Bill (1932) with changes in form and arrangement, many of which have been incorporated in the 1935 revision of the latter bill. A few material differences in the two bills exist, and may be observed by an examination of the table later set forth herein.

Since the first publication of the American Automobile Association Bill, a number of jurisdictions have adopted measures of the general character of financial responsibility laws, and states which earlier had enacted such legislation have amended their statutes. The results of such legislative efforts are statutes, in force in a total of 38 jurisdictions of the United States and Canada, which may be broadly classified as financial responsibility laws in spite of considerable lack of uniformity among them and appreciable variation from the models for such legislation.

When analyzed to determine their similarity to or difference from the main provisions of the two model bills, the enacted financial responsibility laws fall into six categories, with a remainder of one act, unique and unsusceptible of classification with any other statute.

The two model bills have these three outstanding features: (1) the requirement for proof of financial responsibility following conviction of violating certain motor vehicle laws; (2) the requirement for proof of financial responsibility following the non-payment of motor vehicle accident judgments; and (3) the suspension of rights to operate automobiles until the satisfaction of such a judgment. The majority of the enacted statutes embody all three of these features in one form or another, and comprise the first category consisting of the statutes of the jurisdictions of:

California	Minnesota ¹⁴	Wisconsin
Colorado	Nebraska	Alberta
Delaware	New Jersey	British Columbia
District of Columbia	New York	Manitoba
Hawaii	Ohio	New Brunswick
Indiana	Oregon	Nova Scotia
Kentucky	Pennsylvania	Ontario
Maryland	Vermont	Saskatchewan
Michigan	West Virginia	

The other classes of statutes are made up of those which contain less than the three features of the model bills. The second type has only one of these features, that requiring proof in the event of certain convictions. Laws of this character are in force in

Connecticut	North Dakota	Rhode Island
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¹⁴ The requirement of the satisfaction of judgment is imposed only upon non-residents. See Minn. Pub. Laws 1933, c. 351, §3.

The third variety of law requires either (but not both) satisfaction of judgment or proof of ability to respond in damages for future accidents following a judgment, but does not operate in the case of conviction. North Carolina and Virginia fall within this category.

The statutes of Arizona and Prince Edward Island comprise the fourth class. They contain no provision requiring proof after conviction, but require both the satisfaction of judgment and proof of financial responsibility for future accidents following non-payment of a judgment.

The Iowa and Massachusetts laws, constituting the fifth class, require only the satisfaction of judgments within certain limits, without any provision for proof of ability to respond in damages. Massachusetts' law operates with respect to judgments for property damage only; it supplements the compulsory insurance law under which insurance against liability only for bodily injury and death must be secured as a condition precedent to registration of a motor vehicle.

The sixth category is made up of the laws of South Dakota and Maine which require proof of financial responsibility following convictions, but not after civil judgments. Judgments, however, must be paid or driving privileges will be suspended under these statutes.

The New Hampshire law, the only one of its kind, provides in substance for the filing of proof of financial responsibility for *past* accidents as a condition to the continuation of the right to operate of the persons probably liable for the accident.

It is not intended by this classification to indicate that the provisions of the statutes within any particular group are in all respects the same. The principal features of, or, perhaps more accurately, the theories behind, each of the laws in the same classification, may be the same, but the details provided for carrying those theories into practice vary widely in the different statutes. Some indication of the various methods which have been adopted, or, in the case of the model bills, recommended, to carry out the purposes for which financial responsibility laws are intended, is made in the following table, in which after the name designating each statute, proposed or enacted, is set down a series of numbers, each of which refers to a note explaining the type of provision indicated by such number.

EXPLANATIONS OF SYMBOLS APPEARING IN THE TABLE

A.

The numerals in the column headed "A" refer to the various types of provisions in financial responsibility laws which relate to convictions of offenses against motor vehicle laws. The significance of each numeral (from 1 to 16) in this column is explained below by the language immediately following the corresponding numeral.

1—Provisions requiring proof of financial responsibility (hereinafter termed "proof") from persons convicted of offenses designated in such statutes.

	A.					B.				C.	D.	E.	F.				
A. A. Bill.....	2	3,5	7	9,10	11	16	1	8	11	12,13	....	1	5	1	11	1	....
Uniform Act.....	2	3,5	7	9,10	11	16	4	8	11	12,13	....	1	5	1	11	1	....
Arizona.....	2	....	....	....	....	....	4	7	11	12	....	1	5	1	12	7	....
California.....	1	....	8	9	13	....	4	7	10	12	....	1	..	3	....	7	....
Colorado.....	2	3,5	7	9,10	11	16	4	8	11	12,13	....	1	5	1	11	1	....
Connecticut.....	1	4,5	6	9	12	....	....	....	....	....	3,4	2	....	1	....	2	8
Delaware.....	1	....	8	9,10	12	....	2	9	10	12	....	3	....	10	11	2	....
Dist. of Columbia..	1	5	6	9	11	16	4	7	11	12,13	....	1	....	3	11	2	....
Hawaii.....	1	....	8	....	12	....	2	7	10	12	5,7	1	....	3	....	3	....
Indiana.....	2	3,5	7	9,10	11	16	5	8	11	12,13	....	1	5	1	11	1	8
Iowa.....	2	....	....	....	....	....	1	9	10	12	....	....	....	....	....	....	....
Kentucky.....	2	3,5	7	9,10	11	16	1	8	11	12,13	....	1	5	1	11	1	....
Maine.....	1	....	8	9	14	....	1	9	10	12	....	3	....	1	....	2	....
Maryland.....	1	3,5	8	9,10	11	16	5	8	11	12,13	....	1	5	1	13	1	8
Massachusetts.....	2	....	....	....	....	....	6	9	10	12	....	....	....	....	....	....	....
Michigan.....	2	3,5	7	9,10	11	16	5	8	11	12,13	....	1	5	1	11	1	....
Minnesota.....	1	5	7	9,10	11	16	4	7	10	13	....	1	5	1	12	2	8
Nebraska.....	1	3,5	6	9,10	11	16	1	7	11	12,13	....	1	....	2	....	6	....
New Hampshire.....	1	....	....	....	....	....	....	....	....	....	1	1	5	2	....	7	....
New Jersey.....	1	5	7	9	12	16	4	8	11	12	6	1	....	1	13	2	....
New York.....	1	3,5	7	9,10	11	16	4	8	10	12,13	....	1	....	1	....	2	....
North Carolina.....	1	....	....	....	....	....	4	9	10	12	....	1	....	6	13	2	8
North Dakota.....	1	....	8	9	13	....	....	....	....	....	4	....	4	....	5	....	....
Ohio.....	1	3	8	9	11	....	1	9	11	12	....	1	5	1	12	4	....
Oregon.....	2	3,5	7	9,10	11	16	4	8	11	12,13	....	1	5	1	11	1	....
Pennsylvania.....	2	....	8	9	13	....	3	8	10	12	5,7	1	5	2	12	2	8
Rhode Island.....	1	4	6	9,10	12	15	....	....	....	....	2,3	1	....	9	....	4	....
South Dakota.....	1	....	8	9	13	....	1	9	10	12	....	4	....	4	....	5	....
Vermont.....	1	....	8	9	12	....	1	9	10	12	....	1	....	5	....	2	....
Virginia.....	1	....	....	....	....	....	1	7	10	12	....	1	....	5	....	7	....
West Virginia.....	1	3,5	7	9,10	11	16	5	8	11	12,13	....	1	5	8	13	1	8
Wisconsin.....	1	3,5	7	9,10	11	....	1	9	11	12,13	....	1	5	1	13	1	8
Alberta.....	1	5	7	9,10	11	16	4	8	11	12,13	8,9	1	5	6	11	2	8
British Columbia..	1	5	7	9,10	11	16	4	8	11	12,13,14	9	1	5	6	11	2	8
Manitoba.....	1	5	7	9,10	11	16	4	7	11	12,13,14	....	1	5	6	11	2	8
New Brunswick....	1	5	7	9,10	13	....	4	8	11	13	8,9	1	5	7	11	2	8
Nova Scotia.....	1	5	7	9,10	11	16	4	8	11	12,13	8,9	1	5	7	11	2	8
Ontario.....	2	5	7	9,10	11	16	4	8	11	12,13	8,9	1	5	7	11	2	8
Prince Edward Is..	....	....	....	10	....	....	4	7	11	12,13	....	1	5	6	....	7	8
Saskatchewan.....	1	5	7	9,10	11	16	4	8	11	12,13,14	8	1	5	6	11	2	8

2—Provisions requiring proof from persons convicted of offenses requiring revocation of licenses under drivers' license laws.

3—Provisions requiring proof from persons pleading guilty to charges of designated offenses or of offenses requiring revocation under drivers' license laws.

4—Provisions requiring proof upon certain contingencies arising in prosecutions for violations of certain motor vehicle laws.¹⁵

¹⁵ Connecticut requires such proof from persons against whom charges have been nolle prossed upon payment of money or who have received a suspended judgment or sentence. See CONN. GEN. STAT. (1930) §1609. Rhode Island's law demands such proof from persons who have entered pleas of *nolo contendere* to certain specified charges. See R. I. Pub. Laws 1936, c. 2372, effective April 30, 1936, amending R. I. Pub. Laws 1929, c. 7429, §2.

5—Provisions requiring proof from persons who forfeit their bail upon charges of violating certain motor vehicle laws.

6—Provisions requiring proof from persons who, in other states or territories of the United States, have been convicted of certain motor vehicle law violations, or have conducted themselves, after being formally accused of such offenses, in specified ways indicating the likelihood of their guilt.

7—Provisions requiring proof under circumstances similar to those summarized in the preceding paragraph, but extending to both Canada and the United States.

8—Provisions *not* requiring proof from persons convicted in other jurisdictions of motor vehicle law violations.¹⁶

9—Provisions requiring proof from non-residents who are convicted or are otherwise deemed guilty of charges of motor vehicle law violations.¹⁷

10—Provisions requiring notice to be given to the licensing jurisdictions of non-residents who are convicted or are otherwise deemed guilty of charges of motor vehicle law violations in the enacting jurisdiction.

11—Provisions which, following conviction, automatically and immediately suspend privileges in connection with both driving and registration of an automobile, such privileges not to be restored until proof is furnished.

12—Provisions permitting some delay in the furnishing of proof, the privileges relating both to operation and registration not being taken away, following conviction, until the lapse of a period of grace given to comply with the requirement.

13—Provisions suspending only the personal privilege of operating a motor vehicle for failure to furnish proof following conviction.

14—A provision limiting suspension for failure to furnish proof after conviction to motor vehicle registration alone.¹⁸

15—A provision authorizing the requirement of proof from both the person convicted of a motor vehicle law violation and the owner of the automobile involved in such violation.¹⁹

16—Provisions permitting the restoration, to a limited extent, of the operating privilege, suspended by reason of conviction, upon the furnishing by the owner of

¹⁶ The Delaware statute neither includes nor excludes expressly convictions in other jurisdictions. It imposes the burden upon persons "adjudged guilty in any Court." See Del. Pub. Laws 1931, c. 14, §1, as amended by *id.* 1935, c. 34. In the absence of the express requirement in cases of foreign convictions, Delaware is placed in this classification.

¹⁷ Ohio's statute does not expressly make non-residents amenable but they appear to be included without specific mention in the broad language of the statute. See OHIO GEN. CODE (Page, 1926) §6298-1. Under the laws of British Columbia (Motor Vehicle Act, §89), New Brunswick (Motor Vehicle Act, Pt. II, §77), Nova Scotia (Motor Vehicle Act, Pt. 6, §163), Ontario (Highway Traffic Act, Pt. XIII, §73) and Saskatchewan (Vehicles Act, 1935, Pt. VI, §117) a non-resident may be permitted to drive to the boundary of the province, notwithstanding the suspension of his privilege of operating for other purposes.

¹⁸ This is found in the statute of only one state. See ME. REV. STAT. (1930) Tit. II, c. 29, §91, as amended by Me. Pub. Laws 1933, c. 111.

¹⁹ Only one state imposes the burden of proof upon the innocent owner of a motor vehicle. See R. I. Pub. Laws 1936, c. 2372, effective April 30, 1936, amending *id.* 1929, c. 1429, §1.

a motor vehicle of proof applicable to the chauffeur or member of the owner's family whose operating privilege is suspended when operating such vehicle.

B.

The numerals appearing in column "B" refer to provisions in financial responsibility laws relating to judgments and their effects.

1—Provisions operative upon non-payment of a judgment in any amount, growing out of the ownership, maintenance, use or operation of a motor vehicle.²⁰

2—A provision operative upon non-payment of a judgment exceeding \$100.²¹

3—A provision operative upon non-payment of a judgment exceeding \$200.²²

4—Provisions operative upon non-payment of a judgment for bodily injury or death in any amount, or, for property damage, exceeding \$100.

5—Provisions operative upon non-payment of a judgment for bodily injury or death in any amount, or, for property damage, in amounts other than \$100.²³

6—A provision operative only upon non-payment of a property-damage judgment exceeding \$50.²⁴

7—Provisions operative upon non-payment of judgments of other jurisdictions in the same nation.²⁵

8—Provisions operative upon non-payment of judgments of other jurisdictions, whether in the United States or in Canada.²⁶

9—Provisions disregarding judgments of other jurisdictions although operative upon non-payment of domestic judgments.

10—Provisions requiring full payment of judgments before restoration of the privileges suspended.²⁷

²⁰The Ohio law differs materially from the other statutes which operate following non-payment of judgments in providing that such a judgment shall be "caused by such person's individual operation of a motor vehicle." See OHIO GEN. CODE (Page, 1926) §6298-1.

²¹See Del. Pub. Laws 1931, c. 14, §2.

²²See Pa. Pub. Acts 1933, Act No. 110, §11.

²³Ind. Pub. Acts 1935, c. 113, §3: "in excess of \$75"; Md. Pub. Laws 1931, c. 498, §187B: "in excess of \$50"; Mich. Pub. Acts 1933, Act No. 203 (as amended) §3: "in excess of \$300"; W. Va. Pub. Laws 1935, c. 61, §3: "in excess of 50."

²⁴MASS GEN. LAWS (1932) c. 90, §22A.

²⁵The United States jurisdictions identified by this number recognize the judgments of other United States jurisdictions for this purpose, but not the judgments of Canadian courts. The Canadian provinces with this type of statutory provision give effect to the judgments of other provinces but not to judgments of courts in the United States.

²⁶The laws of Alberta (Vehicles and Highway Traffic Act, Pt. XII, §92), New Brunswick (Motor Vehicle Act, Pt. II, §78) and Nova Scotia (Motor Vehicle Act, Pt. 6, §164) recognize judgments of other jurisdictions which give similar faith and credit to the judgments of those provinces. The statutes of British Columbia (Motor Vehicle Act, §87), Ontario (Highway Traffic Act, Pt. XIII, §73) and Saskatchewan (Vehicles Act, 1935, Pt. VI, §98) give effect to judgments of all Canadian courts without reservation, but act upon judgments of United States jurisdictions only upon a reciprocal basis.

²⁷California's law permits payments in instalments when the judgment creditor consents thereto. See CAL. VEHICLE CODE, Div. VII, c. 2, §416. Minnesota's statute requires only non-residents to satisfy judgments. See note 14, *supra*. Under Virginia's law (Va. Pub. Acts 1932, c. 272, as amended, §2b) resident debtors may regain driving privileges after one year without paying judgments; non-residents may either pay judgments or furnish proof (*id.* §2c). The Massachusetts act excuses the payment of judgment if the defendant was insured against liability for property damage in an insurance company licensed in Massachusetts. See MASS. GEN. LAWS (1932) c. 90, §22A.

11—Provisions permitting payment of judgments in instalments in lieu of full payment.²⁸

12—Provisions which, for non-payment of judgments, suspend both personal operating privileges and the registration of motor vehicles or the right to have them used.²⁹

13—Provisions for notifying other jurisdictions of non-payment of judgments against their residents.

14—Provisions relieving a person, in a degree, of the necessity for furnishing proof, following non-payment of a judgment, where the owner furnishes proof applicable to all who drive a particular, specified motor vehicle.

C.

The numerals in the column headed "C" refer to provisions of financial responsibility laws relating to proof in cases other than convictions or non-payment of judgments.

1—A provision, adopted by New Hampshire alone,³⁰ which operates only when a finding is made, either by a court, upon motion preliminary to the trial of a civil suit, or by the motor vehicle commissioner, that a person is, "probably" liable for an automobile accident. (The proof required is not for future operation, but for the damages sustained in the accident under inquiry.)

2—A provision, adopted by Rhode Island alone,³¹ requiring proof after the administrative department's finding that a person involved in an accident has violated any of certain provisions of law.

3—A provision, adopted by Connecticut³² and Rhode Island³³ alone, requiring proof for motor vehicles sought to be registered in the names of minors.

4—A provision, adopted by Connecticut alone,³⁴ prohibiting minors from operating uninsured motor vehicles.

5—Provisions requiring proof by persons with certain accident records, irrespective of convictions or judgments.

6—A provision, adopted by New Jersey alone,³⁵ requiring proof from the operator or owner, or both, of a motor vehicle concerned in an accident causing injuries or damages amounting to at least \$100, except where not at fault, in the opinion of the motor vehicle commissioner.

7—Provisions requiring proof whenever a driver's license is suspended under the

²⁸ Colorado's statute gives the judgment debtor the option of paying the judgment, either in full or in instalments, or furnishing proof. See Colo. Pub. Laws 1935, c. 163, §10. Non-payment of judgments are excused under New Jersey's law (N. J. Pub. Laws 1934, c. 126, §1) when the insolvency of the defendant's insurance company intervenes.

²⁹ Under Virginia's law only the personal right to drive of non-resident judgment debtors is affected, while, in the case of residents, both the personal operating privilege and automobile registration is suspended. See Va. Pub. Acts 1932, c. 272, as amended, §§2a, 2c.

³⁰ See N. H. Pub. Laws 1927, c. 54 and *id.* 1929, c. 189.

³¹ See R. I. Pub. Laws 1929, c. 1429, as amended, §1.

³² See CONN. GEN. STAT. (1930) §1561.

³³ See R. I. Pub. Laws 1929, c. 1429, as amended, §3.

³⁴ See CONN. GEN. STAT. (1930) §1590, as amended by Conn. Pub. Laws 1935, c. 148.

³⁵ See N. J. Pub. Laws 1929, c. 116, as amended, §1 (A).

drivers' license law, even though the occasion for suspension may be a relatively trivial offense.

8—Provisions, adopted by several Canadian provinces,³⁶ requiring proof from persons involved in accidents resulting in injury or property damage amounting to \$100 or more, when the administrative officer deems such person responsible therefor.

9—Provisions requiring proof in connection with the registration of automobiles for, or the issuance of driver's licenses to, minors or persons over 65 years of age.³⁷

D.

The numerals in column "D" refer to statutory provisions relating to the amounts and territorial extent of coverage required under financial responsibility laws.

1—Provisions requiring proof of ability to pay damages of \$5,000 for bodily injury to or death of one person as a result of any one accident and, subject to said limit as to one person, \$10,000 for bodily injury to or death of all persons as a result of any one accident, and \$1,000 for damage to property of others as a result of any one accident.

2—Provisions requiring proof of ability to pay damages of \$10,000 for all deaths or personal injuries in any one accident and \$1,000 for damage to property.

3—Provisions requiring proof of ability to pay \$5,000 for personal injuries and death and \$1,000 for property damage.

4—Provisions requiring, as proof, a bond for \$2,000 conditioned on the payment of all lawful claims for death, personal injury or damage to property resulting from negligent driving.

5—Provisions requiring that the proof be applicable to claims arising anywhere in the United States or Canada, as well as in the enacting jurisdiction.

E.

The numerals in column "E" refer to statutory provisions relating to types of proof receivable as evidence of ability to respond in damages.

1—Provisions that proof be made by (1) certificate of an insurance company that it has issued a policy of automobile liability insurance; (2) surety bond executed by a surety company; (3) bond with individual sureties and constituting a lien on their real estate; (4) deposit of cash; or (5) deposit of securities.

2—Provisions that proof be made by (1) certificate of an insurance company; (2) surety company's bond; or (3) deposit of cash.

3—Provisions that proof be made by (1) certificate of an insurance company; (2) surety company's bond; (3) bond with individual sureties encumbering their real estate; or (4) deposit of cash.

³⁶The laws of Alberta (Vehicles and Highway Traffic Act, Pt. XII, §95), New Brunswick (Motor Vehicle Act, Pt. II, §80), Nova Scotia (Motor Vehicle Act, Pt. 6, §166), Ontario (Highway Traffic Act, Pt. XIII, §75) and Saskatchewan (Vehicles Act, 1935, Pt. VI, §107) permit the officials administering the financial responsibility laws to exact proof from the persons they deem responsible for accidents even though no convictions or judgments have resulted therefrom.

³⁷The law of New Brunswick requires proof when a minor or person over 65 years of age applies for a driver's license, but not when such persons apply for automobile registration. See N. B. Pub. Acts 1934, c. 20, §79.

4—Provisions that proof be made only by a bond, with either a surety company or individuals as sureties, to be approved by the clerk of the court in which the individual was convicted.

5—Provisions that proof be made by (1) certificate of an insurance company; or (2) surety company's bond.

6—Provisions that proof be made by (1) certificate of an insurance company; (2) surety company's bond; (3) deposit of cash; or (4) deposit of securities.

7—Provisions that proof be made by (1) certificate of an insurance company; (2) surety company's bond; (3) bond with individual sureties; (4) deposit of cash; or (5) deposit of securities.

8—A provision that proof be made by (1) certificate of an insurance company; (2) surety company's bond; or (3) bond with individual sureties encumbering their real estate.³⁸

9—A provision that proof be made by (1) certificate of an insurance company; (2) surety company's bond; or (3) annual financial statement showing the ability of the person required to give proof to meet claims not exceeding \$20,000.³⁹

10—A provision that proof be made by (1) certificate of an insurance company; (2) surety company's bond; (3) bond with individual sureties encumbering their real estate; (4) deposit of cash; (5) deposit of securities; or (6) other proof showing possession of resources sufficient to satisfy liability up to \$6,000.⁴⁰

11—Provisions permitting non-residents to make proof by filing a certificate of issuance of a liability policy by a non-admitted insurance company, upon certain conditions relating to amendments of the policy and to substituted service of process upon the insurance company.

12—Provisions permitting non-residents to make proof by filing a certificate of issuance of a liability policy by a non-admitted insurance company, without any conditions.

13—Provisions permitting non-residents to make proof by filing certificates of issuance of liability policies by non-admitted insurance companies, when the states of their residences extend similar privileges to the citizens of the enacting state.

F.

The numerals in column "F" refer to statutory provisions relating to the duration of the requirement for proof and necessity for notification of expiration of liability insurance policy.

1—Provisions requiring proof to be maintained for three years unless the person furnishing it has been convicted of certain offenses during that period, in which event the proof shall be maintained indefinitely.

2—Provisions under which proof is required for three years and *may* thereafter be released if convictions or judgments have not been rendered, or if motor vehicle accident suits are not pending, against the person required to make proof.

³⁸ See W. Va. Pub. Laws 1935, c. 61, §5.

³⁹ See R. I. Pub. Laws 1929, c. 1429, as amended, §7

⁴⁰ See Del. Pub. Laws 1931, c. 14, §3.

- 3—A provision requiring proof permanently.⁴¹
- 4—Provisions requiring proof only for one year.
- 5—Provisions requiring proof only for two years.
- 6—A provision requiring proof for five years.⁴²
- 7—Provisions requiring proof indefinitely.

8—Provisions requiring insurance companies to notify administrative officials of the expiration of policies issued as proof.

Only one feature of the financial responsibility laws, that providing for the suspension of driving privileges until the payment of judgments growing out of automobile accidents, has ever been seriously questioned on constitutional grounds. In an advisory opinion,⁴³ rendered for the benefit of the state legislature, the Supreme Court of Massachusetts concluded that such a provision was not in violation of any constitutional principle. Although the force of such an opinion, as a precedent, may be somewhat diminished by the fact that it was neither given nor intended to be binding as a judicial determination of the question, nevertheless, it is not unlikely that the considerations there adverted to should be treated as controlling in disposing of the same question when raised in litigation.

The Supreme Court of California had occasion to consider this point, and the majority of the justices adopted the reasoning employed by the Massachusetts court in declaring the validity of the "non-payment of judgment" feature of the California financial responsibility law.⁴⁴ An earlier decision, *Ex parte Lindley*,⁴⁵ of a California District Court of Appeals, rendered upon a petition for a writ of habeas corpus and therefore not appealable, had resulted in an adverse opinion upon the same point, but the later pronouncement, by the California court of last resort, is likely to be regarded as of greater authority.

Even if the reasoning followed in the *Lindley* case should be deemed more persuasive by other courts called upon to decide the question, it is not unlikely that the statutes which contain the feature providing for the payment of judgments in instalments would successfully meet a test similar to that employed by the California District Court of Appeals. The court there said:

"Many a person could not satisfy a judgment for damages within fifteen days, yet given a longer length of time spent in his vocation might enable him to do so."⁴⁶

The laws which specifically authorize the courts to permit the payment of judgments in instalments appear to be free from the objection specified in those words.

Another provision, found in many of the financial responsibility laws, has been

⁴¹ See HAWAII REV. LAWS (1935) §2696.

⁴² See NEB. COMP. STAT. (1929) Art. 6, c. 60, §60-613.

⁴³ *In re* Opinion of the Justices, 251 Mass. 617, 147 N. E. 680 (1925).

⁴⁴ *Watson v. State Division of Motor Vehicles*, 212 Cal. 279, 298 Pac. 481 (1931). Two of the justices concurred in the disposition of the cause but deemed a consideration of the constitutional question unnecessary to the decision.

⁴⁵ *Ex parte Lindley*, 63 Cal. App. Dec. 195, 291 Pac. 638 (1930). See O'Keefe, *The Indigent Motorist and the Constitution* (1931) 4 So. CALIF. L. REV. 253, and *Note* (1931) 40 YALE L. J. 816.

⁴⁶ 291 Pac. at 639.

considered by the lower federal courts in connection with bankruptcy matters. In *Munz v. Harnett*, the United States District Court for the Southern District of New York pronounced constitutional that section of the New York Financial Responsibility Law which provided that a discharge in bankruptcy should not constitute the discharge of an automobile accident judgment for the purpose of complying with the statutory condition precedent to the restoration of an operator's license.⁴⁷ In another case, *In re Perkins*,⁴⁸ the United States District Court for the Northern District of New York had restrained the judgment creditors from filing with the Commissioner of Motor Vehicles a certified copy of their unsatisfied judgment against the bankrupt and thereby setting the financial responsibility law in operation, upon the ground that to do otherwise would deny to the bankrupt the full effect upon such judgment of the discharge in bankruptcy. The *Harnett* case, in which the State Motor Vehicle Commissioner was a party, however, was decided by a more considered opinion, in which the federal court stated the sentiment felt by all the courts which have favorably passed upon the validity of financial responsibility legislation when it said that such laws

"may well tend to cause operators and owners of automobiles to take pains so as not to have a judgment growing out of negligent driving entered against them"

and

"the means adopted by the Legislature have a reasonable, substantial relation to the end in view, public safety on the highway, which is equivalent to saying that the act is a valid exercise of the police power."

The adoption of financial responsibility laws of one sort or another in thirty-eight jurisdictions of the United States and Canada in an eleven-year period is some evidence that this type of legislation has qualities, lacking in other suggested compensatory measures, which make it acceptable to American legislators. Its consistency with a basic principle of minimizing compulsion and introducing the least possible interference with personal liberty and individual choice may be the characteristic which gives it preference over alternative methods of providing redress for automobile accident injuries. A felicitous combination of a tendency to make more motorists financially capable to respond in damages with a distinct and compelling incentive to drive more safely may be the attribute which brings it into favor.

Although theorizing may lead to the conclusion that the financial responsibility law is not the most perfect of all possible solutions to the problem, the fact is that it is the expedient most readily tried in the past and, by that token, is probably destined for wider application. Further experience in their administration will undoubtedly dictate improvements in these statutes, and, if the trend toward their adoption and enlightened amendment continues, effectiveness in accomplishing their purposes, greater than an appraisal of past results would indicate, should be expected.

⁴⁷ 6 F. Supp. 158 (S. D. N. Y. 1933).

⁴⁸ 3 F. Supp. 697 (N. D. N. Y. 1933).