

GROUNDS FOR OPPOSING THE AUTOMOBILE ACCIDENT COMPENSATION PLAN

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Three particular evils incident to the holocaust of personal injuries caused by the operation of swift-moving motor-vehicles on our streets and highways are now exciting loud demands for remedies, namely: (1) That the victims of wrongful injuries by motorists are often without practical redress, because the wrongdoers are financially irresponsible; (2) that the present law of liability for damages, based upon negligence, is difficult of application to motor-vehicle accidents; and (3) that the administration of such law by courts and juries is expensive, slow and haphazard in its results, and is seriously congesting the courts in many jurisdictions. For each of these evils specific remedies are being tried or proposed. Compulsory insurance of compensation "regardless of fault"—much as under the workmen's compensation laws—is now held out as a panacea for them all. To point out reasons for the belief that such proposed cure-all could not even approximately fulfill the promises held out for it and is also undesirable on account of the specific evils its adoption would produce is the purpose of this article.

As a preliminary it needs to be noted that compulsory insurance alone, without change in the liability law or its administration, is proposed, and has been adopted in Massachusetts and some foreign countries, as a remedy for the evil first above mentioned. To that theoretical remedy there are specific objections and criticisms which apply also to the compensation plan here under criticism; but since they have been indicated in previous articles in this series¹ they will not be repeated here—though they should not be ignored.²

Further it needs to be mentioned that various plans of compulsory automobile *compensation* insurance have been proposed, in legislative bills and otherwise, differing widely among themselves both in major and minor features. To discuss them all in sufficient detail to expose their respective demerits would be impracticable.

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¹ Problems arising under the Massachusetts Act are discussed in Blanchard, *Compulsory Motor Vehicle Insurance in Massachusetts*, *supra* p. 537, and Carpenter, *Compulsory Motor Vehicle Insurance and Court Congestion in Massachusetts*, *supra* p. 554.

² For an outline of the objections to compulsory automobile "liability" insurance, based upon Massachusetts experience, see *Critique of Massachusetts Automobile Liability Insurance*, by Edward C. Stone, United States Manager, Employers' Liability Insurance Corporation, Ltd. (Ass'n of Casualty and Surety Executives, N. Y., 1935).

However, in 1932, a strong Committee of the Columbia University Council for Research in the Social Sciences formulated a plan, complete in all essential details,³ which may be taken to present the best thought of the advocates of compulsory compensation insurance. What follows is an analysis of and an exposition of the objections to this particular plan. It is hoped that it will be sufficient to indicate the demerits of compulsory insurance of "compensation" for automobile accidents in general and under all plans.⁴

The plan formulated by the Columbia University Committee would impose upon the owner of every motor vehicle a liability (the payment of which he would be required to secure by insurance) for "compensation" for every "accidental injury," fatal or non-fatal, to a person, including any passenger in the vehicle other than the owner himself or the operator, "caused by the operation of" such vehicle while it is operated by the owner or by another with his consent, express or implied. In case two cars are involved in an accident the owner of each car would be liable for injuries to the passengers in his own car and for injuries to the owner or operator of the other car. In case more than two cars are involved, the owner of each car would be liable for injuries to the owner or operator of each of the other cars, jointly with the owner of the remaining car or cars.

A fundamental objection to this plan is that it would impose upon the owner of every motor vehicle a liability for injuries to others "regardless of fault." Under the specifications above outlined, a motor vehicle owner would be liable for injuries to strangers, although due entirely to the misconduct of such strangers, utterly regardless of what the latter might be doing. If the driver of an insured car, speeding far on the wrong side of the road, while seeking to escape pursuit by a traffic policeman, should collide with another car, properly operated, and thereby be injured, the owner of such other car would be liable for the injury. Similarly a drunken driver would be entitled to compensation (from the owner of the other car) for any injury resulting from his running down another car; and drunken guests and guests riding knowingly with a drunken driver would be entitled to compensation (from the owner of their car) for all injuries thereby incurred. A car load of people could knowingly go on a ride with an unlicensed driver, connive at reckless violations of rules of the road, engage in such extra-hazardous performances as rum-

³ See REPORT BY THE COMMITTEE TO STUDY COMPENSATION FOR AUTOMOBILE ACCIDENTS TO THE COLUMBIA COUNCIL FOR RESEARCH IN THE SOCIAL SCIENCES (1932). For a criticism of the entire report, covering both its findings and conclusions, see pamphlet by the writer of this article, *Comments on Report by the Committee to Study Compensation for Automobile Accidents* (Ass'n. of Casualty and Surety Executives, N. Y., 1932).

NOTE. For the text of the committee's outline of its plan, see *A Note on the Automobile Compensation Plan*, *supra*, p. 579. Ed.

⁴ For other criticisms of this and other plans of compulsory automobile compensation insurance, see Austin J. Lilly, General Counsel, Maryland Casualty Company, *A Brief Statement of Certain Points in Opposition to Compulsory Compensation Insurance for Motor Vehicle Accidents*, (1930) 16 A. B. A. J. 756; Michelbacher, *Report of the Committee to Study Automobile Accidents* (Book Review) (1932) 18 PROC. CASUALTY ACTUARIAL SOC., Pt. II, p. 470; and Melvin, *Compulsory Compensation Automobile Insurance* (1934) 6 N. Y. ST. BAR ASS'N BULL. 268.

running, etc., and yet all be insured against risks of collision with other cars, and all except the owner and driver be insured against all other risks.

And similarly as to pedestrians: If a sot should stagger against the side of a slowly moving car and subsequently die from delirium tremens, "lit-up" by the shock, his widow would be entitled to a pension from the owner of the motor vehicle involved. If a thug or hold-up man, in an effort to make his "get-away," should dash into the street, regardless of the traffic, and be permanently disabled by colliding with a carefully driven car, the owner of such car would be liable to him for a pension for long years or for life, probably payable without intermission during any term the injured man might serve in prison. Likewise injuries to a "jay-walker," resulting merely from a stumble or fall in an effort to dodge a passing vehicle, without actual collision, might (by analogy to workmen's compensation) be held to be compensable, at the expense of a stranger or strangers absolutely free from fault.

It is emphatically insisted that this goes much too far; that it would create a régime of individual irresponsibility which would be demoralizing and the opposite of conducive to accident prevention, that it would induce a multitude of fraudulent abuses and impositions, and that it would subject the great body of careful and competent motorists to a grossly unjust and oppressive charge. That it would be satisfactory to the public generally (no small proportion of whom are careful and competent motorists) is simply inconceivable.

It has been contended that there are precedents for the imposition upon motorists of a liability "regardless of fault" in some of the European laws. But such contention is erroneous. Under some European laws the owner or operator of a motor vehicle may be liable "without fault," but under none is he liable "regardless of fault" on the part of the person injured, whether passenger or pedestrian.

Then it is contended that the workmen's compensation laws are closely analogous precedents for such an imposition of a liability regardless of fault as here proposed. In fact, however, the differences far outweigh the analogies. Under the workmen's compensation laws the employer is liable "regardless of fault" only to his own employees and while they are acting within the scope of their employments, subject to his orders, whereas, under this plan a motorist would be liable to strangers whatever they might be doing. To illustrate:

Suppose an employee, to whom the care and custody of an insured car has been confided, takes it out of the garage at night, against his employer's orders, goes on a "joy-ride," through his own fault collides with and smashes up another car and is injured in the collision. Under such circumstances, under the workmen's compensation law, the employer would not be liable to the employee, whereas, under this proposed plan of compensation, the wronged stranger would.

It may be objected to these criticisms that the injustices under this plan would not fall upon unoffending motor vehicle owners individually, as above indicated, but, through the operation of insurance, would be spread out among motorists generally. To an extent, that is true. Yet the burden of the cost of the insurance would fall

unduly on the unoffending motorists. The plan, with the coverage proposed, would not approach to that degree of average justice which characterizes workmen's compensation. Rather it would amount to a wholesale shifting of the major responsibility for the economic consequences of wrongdoing on the highways from the wrongdoers to the unoffending. The insurance would merely disguise and mitigate the consequences of this underlying vice.

A more strictly practical objection to this plan is that under it the conditions to the right to compensation would be about as uncertain, difficult to apply correctly and administer fairly and litigation breeding as are the conditions to the right to damages under the existing liability law—faults which this plan is held out to avoid. The following analysis of the specifications of coverage under this plan, above outlined; support this proposition.

Take, first, the phrase "caused by the operation of." Presumably that phrase would exclude injuries incurred in the maintenance and repair of motor vehicles and in the loading and unloading of motor trucks. But how about falls in entering or alighting from a stationary vehicle, fingers of passengers jammed in doors or windows and other injuries of like character? Then there arises the question whether injuries resulting from collision with a stationary vehicle (*e.g.*, when properly parked by the curb) would be construed to be "caused by the operation of" such vehicle. If so construed it would have the obnoxious result of making the unoffending owner of a parked car liable for compensation for injuries to the driver of another car who should run it down; whereas, if construed not to be so caused, this plan would work iniquitously, for, if passengers seated in a parked car should be injured when run into by another, insured car, driven by its owner, they would be absolutely without redress, since there would be no one liable to them for "compensation" and his insurance would exclude all other liability on the part of the driver causing the injuries.

Then, it is to be noted that all "accidental injuries" would be covered, without restriction to accidents "by collision" or "of violence." Construed as are workmen's compensation laws, this would mean that, save as to owners and operators, such injuries to persons riding in automobiles as result from insects, cinders or grit in the eyes would be covered, as also would injuries due to fright or shock from merely seeing or narrowly avoiding an accident, including the aggravation or acceleration thereby of preëxisting diseases and infirmities. That would make motorists liable for many injuries for which now, generally, there is no liability, even where the motorist is at fault, and would give rise to much litigation over doubtful claims.

Further, according to the specifications of coverage above outlined, the owner would be liable for and the required insurance would have to cover compensation for injuries to all occupants of his car, except himself and the operator. The propriety of thus excluding the owner and operator from the coverage is not questioned. But the exclusion of the "operator" would create a fertile cause for litigation. Who would be the excluded "operator" where the owner confides the operation of his

car to one person and that person permits another to drive it? And in unwitnessed accidents, where all the occupants of a car are thrown from their seats, it would often be impossible to ascertain truly which one of the lot was the operator. On the other hand, the expediency of requiring that the insurance "*shall*" cover all occupants of the car, other than the owner and operator, is highly questionable. Under the insurance laws of nearly all the Canadian Provinces, coverage of injuries to members of the owner's family is prohibited, and, under the Massachusetts compulsory automobile insurance law, as well as the Canadian laws just cited, liabilities for injuries to "guest-occupants" of the insured's car need not be covered—on account of the prevalence of collusive claims for such injuries. By its coverage in this respect, this plan would offer wide opportunities for successful but false attribution of injuries to automobile accidents. Then take the case where a chauffeur, using a car with the owner's consent, takes on guests of his own, against the owner's orders, would the owner be obligated to insure them against injuries, regardless of their faults? That would be going to an unconscionable extreme in the way of vicarious liability. These objections, it is true, could readily be avoided by amendments to the plan; but such amendments would necessitate exclusion from the protection of the proposed insurance of quite a large proportion of those injured in automobile accidents; and such excluded cases, when added to others to be noted later, would go far toward nullifying the claim for this plan that it would assure some compensation to approximately all victims of automobile accidents.

Again, according to such specifications, there would be no owner's liability and consequently no insurance of compensation for injuries caused by a motor vehicle when operated without the owner's consent. Thereby not only would the victims of accidents caused by stolen cars be unprotected, but also, in many jurisdictions, the victims of cars operated in violation of the owner's confidence where the owner has confided his car to another for safekeeping only or for use only for a special purpose or on a special occasion. Consequently there would be many cases where the compulsory insurance would not assure redress and also a large volume of litigation over the question of fact: Was the car being operated with the owner's consent?

Finally, according to such specifications, the owner's liability, and the insurance required of him, would apply to and cover "personal injuries" only, to the exclusion of "property damage." To such restriction of coverage there are a number of objections. It would necessitate separate proceedings, in different tribunals, on claims for personal injuries and property damage arising out of the same accidents, thereby multiplying litigation. And it would have the inequitable result that where a personally irresponsible owner of a compulsorily insured "flivver," driving recklessly, should run into and wreck an expensive car and himself suffer injury from the collision, the owner of the expensive car would be without redress for the wrong done to him, but nevertheless be liable for the injury to the wrongdoer. Yet there is no alternative to such discrimination, except to extend the liability and insurance under this plan to cover "property damage" (possibly subject to limits)

“regardless of fault”—which would immensely increase the cost of the insurance, and multiply the difficulties and expense of administration and adjudication.

Passing to another point: It is proposed that the “compensation” under this plan shall be scaled, limited and payable periodically as under the workmen’s compensation law of the particular state, the scale to be based upon a percentage of “earnings,” with the substitution of arbitrary amounts for injuries to “non-earners.”

The idea of thus substituting specific “compensation” payments for motor-vehicle injuries in place of the “pot-luck” verdicts of juries in damage suit litigation, has much to commend it to practical minds. But there is what has so far proved to be an insuperable difficulty in devising a formula for such payments that, in actual practice, would be fairly equitable, popularly satisfactory, capable of reasonably certain application and not too much open to abuse. The formula adopted in the plan under criticism might be reasonable in application to such of the injured as are employed at wages; but it would be replete with faults in application to the majority of the injured. To illustrate:

Compensation to wage-workers is payable during “disability for work” resulting from the injury. That formula cannot be applied to injuries to infants, invalids and the superannuated—already incapable of work before the injury. How, then, define or measure the additional “disability” throughout the continuance of which such persons would be entitled to compensation? Where an employed workman is injured, there is an incentive to return to work, in order to regain full wages; such return is almost always readily observable; and the compensation stops when it ought to. But where an unemployed person is injured there is generally no work to return to, the compensation is often pure gain, and there is a strong incentive to prolong seeming disability. And what is there to prevent injured housewives and invalids from resuming their accustomed activities in the privacy of their own homes and yet continuing to draw compensation for alleged disability, fraudulently, for weeks or months. “Profits” as a basis for computing compensation to the self-employed would be more difficult to ascertain than are “wages.” No reasonable formula for measuring compensation for injuries to housewives has yet been invented. And, finally, it is worse than doubtful whether the equality of compensation for young persons, regardless of differences in their capacities and prospects, and for persons with high earnings, regardless of immense differences in their losses, would meet with public approval.

These difficulties and defects in its formula for measuring compensation do not of themselves condemn this plan; but they would make it a doubtful experiment; and they make it certain that, in comparison with workmen’s compensation, this plan would entail much more litigation, be open to a far greater volume of impositions and abuses, be much more expensive to administer and give rise to even more insistent and persistent demands for liberalization of the benefits.

As a remedy for the faults attributed to the present system of court adjudication of claims for redress for automobile accidents, it is proposed in this plan to substitute

a system of summary administration—generally free from restraint by common law rules of evidence or procedure—by a special board created for the purpose, with the assistance of such referees and clerks as may be needed—as under the workmen's compensation laws. Several advantages are claimed for this proposal:

First. An unquestionable advantage is that it would afford some relief to courts and juries from the oppressive burden of vexatious automobile accident litigation. But it would not do so to the extent that might be assumed upon first impression. The following kinds of automobile accident cases would still remain to burden the courts and juries, namely: (1) All claims for "property damage." (2) Claims for personal injuries caused by illegally uninsured cars, "out-of-state cars" permitted to operate without insurance in conformity with the state law, or cars operated without the owner's consent. (3) Claims for injuries to owners and operators of and passengers in automobiles resulting from collisions between automobiles and railway trains, street cars, horse-drawn vehicles or obstructions on or defects in the roads. (4) Actions for damages (some in the federal courts) against residents of the state for injuries from accidents occurring outside the state. (5) Probably some "subrogation suits" by insurance carriers, for reimbursement for compensation paid, against "third parties" liable for negligence. And, on the other hand, such relief to judges and juries as should actually result would be offset by the imposition of a novel and vexatious burden on the public resulting from the multiplied, though simplified, litigation in the new forum to be created. In 1930, under the New York Workmen's Compensation Law, there were 439,000 hearings before referees. Since serious injuries by automobile accidents are about as numerous as those by occupational accidents,⁵ and the issues that would be involved in claims under this plan would, as hereinbefore and hereinafter indicated, be more complex than those involved in workmen's compensation cases, it is probable that the volume of hearings entailed by this plan, requiring attendance of parties, witnesses and doctors, would be so great as to be a public nuisance. It is true that the volume of hearings under New York workmen's compensation practice is needlessly excessive and could be reduced by limiting hearings to controverted cases. But the influences that have brought about such a burdensome administration in New York would be likely to bring about similar results under automobile accident compensation anywhere. And even under better administration the volume of compensation litigation in this novel forum would be oppressive.

Second. Further, it is commonly assumed in favor of this proposed procedure that it would operate promptly, smoothly, and with relatively few controverted cases and such fair adjudications as generally to satisfy reasonable minds. Such assumption is based upon a false analogy between workmen's compensation for occupational injuries and the proposed compensation for automobile injuries, and

⁵ In Massachusetts, for the twelve months ending June 30, 1933, 31,769 "tabulatable injuries" (162 fatal) by industrial accidents were reported, whereas, for the calendar year 1934, there were 921 "fatalities" and 53,055 "injuries" by automobile accidents reported and about 60,000 claims made for injuries by such accidents.

upon a lack of appreciation of the actual results of this practice in the field of workmen's compensation. On the one hand, under automobile compensation, doubtful questions of fact would be relatively far more frequent than under workmen's compensation, and the practical difficulties of ascertaining the facts would be far greater. In a larger proportion of cases there would be no impartial witnesses of the alleged accidents available. There would be more collusion between the insured and claimants—who, in large proportion, would be guests and members of the insured's own families. There would be no employers concerned to certify to earnings and to control the facts as to absence from work. And the claimants would include a far larger proportion of invalids and the aged, with alleged aggravations of preëxisting ailments, difficult to prove, disprove, measure or control. On the other hand, while, under workmen's compensation, this plan of administration does result in prompt awards of redress to the injured, that result is effected largely by presuming claims to be valid, without regard to the weight of evidence, giving claimants the benefit of every doubt. The effect, in practice, has been to extend workmen's compensation for occupational injuries beyond its logical purview and intent, far into the fields of health, old-age, survivors' and unemployment insurance. That may be tolerable as between employers and their employees. But it almost certainly would be intolerable as between motor-vehicle owners and all the unfortunates who might make claims against their automobile compensation insurance. In the minds of those who have closely observed experience in the field of workmen's compensation, there is a strong reaction in favor of a return toward more strictly judicial practices; and the present proposal to extend disregard of evidence, in favor of indiscriminate relief to those who claim to suffer injuries on the highways, at the expense of a class vicariously held to be collectively responsible, is a cause for alarm. Reasonably it is to be feared that the election to resort to such radical and unprecedented means for relief from the existing faults of court procedure, in lieu of seeking means to simplify and improve such procedure, would be a very unfortunate leap out of the frying pan into the fire.⁶

A vital feature of this plan is that this liability for "compensation," if duly insured, would be "exclusive," that is, it would be in lieu of all other liability for compensation or damages for personal injury or death caused by the operation of the insured motor vehicle. This is as it practically must be, since, unless the liability be "exclusive," that is, if the injured should be given the option either to accept compensation or to sue for full damages under the present liability law, the result would be, to increase the existing volume of litigation and to raise the cost of the insurances needed by motorists for protection against the alternative liabilities to manifestly prohibitive levels. Moreover it would be shamefully inequitable to hold motorists liable in full damages for injuries found to be due to their faults and yet mulct them heavily to compensate for injuries attributable to the faults of the

⁶ As to the alternative of simplifying and improving court procedure, see MASS. JUD. COUNCIL, FOURTH REPORT, 1928. For a discussion of recent measures to combat court congestion in Massachusetts, see Carpenter, *Compulsory Motor Vehicle Insurance and Court Congestion in Massachusetts*, *supra*, p. 554.

injured. But such exclusive compensation, with limits as proposed in this plan (although such limits are so high as to threaten an intolerable cost), would result in a denial of adequate redress for many grievous and flagrant wrongs. Where a successful business executive, artist or professional man is killed or permanently incapacitated, the compensation might amount to less than 10 or 20 per cent of the economic loss. It is questionable whether, in this respect, the plan would meet with public approval. Certainly it would result in perpetual political agitations for progressive "liberalization" of the benefits.

In the Report of the Columbia University Committee, in which this plan was presented, it is contended in its favor that the plan "would make it reasonably certain that all persons with appreciable injuries would receive some compensation." That contention has a strong popular appeal. But it is highly exaggerated. This plan would guarantee no compensation or redress to the victims of uninsured "out-of-state cars" (that is, cars registered in other states and permitted to operate without compliance with the local insurance law), of "bootleg-cars" (that is, cars uninsured in violation of law), of cars being used without the owners' consent, of unidentified "hit-and-run cars," of cars insured by insolvent insurance carriers, and (in many jurisdictions) of cars owned by the state and its subdivisions while operated for governmental purposes, or to owners and operators injured in single car accidents. Moreover, if some objections to the insurance coverage proposed under this plan, hereinbefore noted, are to be avoided by amendments, other large classes must be excluded.

Such gaps in the promised protection are no small matter. Even in well-policed Massachusetts, "bootleg cars" are estimated to be numbered by thousands. And touring cars are numbered by hundreds of thousands, not to mention cars that occasionally cross state lines in local traffic. Of the total number of cars involved in the reported accidents in Connecticut in 1932, over 13 per cent were owned "out-of-state"; and in Rhode Island in 1930 over 20 per cent of reported automobile fatalities were caused by "out-of-state cars."

In this connection it is to be noted that the plan is ambiguous as to the liability law to which "out-of-state cars," uninsured in compliance with this plan, would be subject in a state in which the plan should be adopted. If their owners should be treated as in default, and held personally liable for compensation regardless of fault, or for full damages for fault, at the option of the injured person, the lot of the out-of-state motorist would be perilous indeed; whereas if they should be subject to liability for fault only, there would be a big gap in the promised protection of "compensation regardless of fault" for the public of the state. And in either case there would be no protection against financially irresponsible owners of "out-of-state cars," uninsured in any form, and no guarantee of redress to passengers in "out-of-state cars" when injured through the negligent operation of cars duly insured in accordance with this plan. Such unsatisfactory condition would continue until the

plan should be adopted throughout the states generally—a contingency which, it is submitted, is at the least remote.

The authors of this plan claim that the insurance it would require of motor vehicle owners could be provided either (1) by private companies; (2) by private companies and a competitive state-fund; or (3) by a monopolistic state-fund; presumptively as under the workmen's compensation law of the particular state. This proposition ignores the fact that the automobile is a vehicle with a wide range of movement and calls for a nation-wide, uniform system of insurance, effective to cover liabilities under the varying laws of the several states, to the end that the motorists everywhere may readily obtain, and thereby be induced to obtain, insurance that would everywhere protect *both* themselves *and* the public. But state-funds are ill adapted to function outside of their home states; and a requirement of insurance in different carriers in different states would create a condition of confusion and inadvertent defaults manifestly disadvantageous for motorists and the public alike. Practically, therefore, this plan does not permit of the options mentioned but would necessitate either a régime of insurance in competing private companies, functioning throughout the country generally, or a national public insurance fund. To those who are opposed to "state insurance," this is no objection to the plan. But it would preclude resort by the several states to state-fund insurance monopolies as a method of reducing the insurance cost—a method which, in the writer's opinion, is delusory but which commands much popular credence.

This leads to the question of cost.

This plan of compensation has a strong popular appeal, since it promises lots of "easy money" to pretty nearly all sufferers from motor vehicle accidents. But a drawback is that the motor vehicle owners, whose money it is proposed to distribute thus lavishly, may rebel at the cost. The cost therefore looms up as a critical question.

Estimates of the cost by competent actuaries have been unobtainable, such experts not daring to estimate it because of the large number of uncertain factors and the lack of any sufficiently analogous experience upon which to base calculations. Experience under compulsory liability insurance in Massachusetts is not analogous, particularly because of the differences in coverage and because under the Massachusetts plan the compulsory insurance is limited in amount to \$5,000 for injury to any one person and to \$10,000 for all injuries resulting from any one accident, whereas the insurance required under this plan would be unlimited or practically so. And experience under workmen's compensation is only remotely analogous, owing to differences, under this plan, in the character of the accidents covered and of the persons affected and in other features hereinbefore noted. Moreover under workmen's compensation the cost of the medical benefits has not yet become stable but generally is still progressively increasing. In Massachusetts, between 1915 and 1930, the cost of the medical benefits under workmen's compensation increased some 450 per cent. In New York, from 1919 to 1928, such cost increased from \$3,414,226 to

\$9,731,081; and now a further increase (relatively to the number of compensable injuries) seems to be impending. The fact that such a progressive increase in the cost of the medical benefits might prevail under this proposed plan makes it hopelessly impossible to estimate even remotely what such cost might eventually amount to. And it would be a major item in the total cost.

Notwithstanding such deterrents, the Report of the Columbia University Committee presents an estimate, based upon some actuarial advice, to the effect that the compulsory insurance, under this plan, of compensation with the New York scale of benefits, would cost only about 1.61 times the cost of compulsory automobile liability insurance under the Massachusetts plan. Prima facie that seems encouraging. But Massachusetts experience indicates that the mere adoption of *compulsory* insurance, where *voluntary* insurance now prevails, would result in an increase in the pure loss-cost of *liability* insurance, fairly moderate in rural districts but possibly running up closely to 100 per cent in congested urban and suburban districts. Manifestly a charge on motorists of 1.61 times *twice* the rates for automobile insurance that now prevail in New York City, for example, would be staggering. Moreover the writer has checked up the Committee's estimate, also with some actuarial advice, and seriously questions the figure 1.61 in such estimate, on the ground that it is based upon inadequate allowances for the cost of the medical benefits and of impositions upon the cash benefits, in excess of those incident to workmen's compensation, to which the plan of compensation would be open.

Lack of space forbids a more detailed discussion of this question of cost. But, in conclusion, it may be asserted with confidence that there are good grounds for the belief that it is beyond human capacity to prognosticate even approximately what the cost of insurance under this plan, if ever adopted, would amount to in a few years, when "claim consciousness" is aroused. And, however that may be, certainly there is no basis for a reasonable assurance that such cost would not so far exceed the estimate above criticised as to be far beyond the means of a large proportion of those who now benefit from the use of motor vehicles.

In addition to the objections to this plan of relief for victims of automobile accidents above briefly set forth or referred to, there are some objections to its constitutionality. These may be passed over since they could be removed by constitutional amendments, if this plan should win general popular approval, whereas if other objections to this plan be sufficient to condemn it in public estimation, specifications of constitutional objections are superfluous.

Enough has been said, it is submitted, to lead to the latter conclusion. It is not denied that some features in this plan may contain germs of ideas from which may be developed practices that would improve present conditions in some respects. But by and large this plan is too widely revolutionary; it goes much too far in many directions; in practice it would fall far short of fulfilling the promises held out for it; and, in lieu of such existing evils as it might alleviate, it would substitute others of greater magnitude.