

Pour la défense de l'assurance automobile obligatoire

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Résumé de l'article

Dans notre numéro de juillet 1938, nous avons fait paraître une étude de M. Henri-Paul Lemay sous le titre de « Assurance-automobile obligatoire », M. Lemay s'est déclaré défavorable à l'assurance obligatoire et il lui a opposé les bienfaits du régime adopté par la province d'Ontario et par un certain nombre d'états américains, où on n'intervient qu'après l'accident. C'est alors seulement qu'on exige soit une police d'assurance-automobile, soit une police cautionnement, soit la preuve que l'automobiliste possède des biens suffisants pour faire face à une responsabilité éventuelle. C'est, si l'on veut, l'assurance-automobile facultative.

Si on admet que ce régime donne d'assez bons résultats, il ne permet pas toujours d'indemniser pleinement la victime, affirmait M. E. W. Sawyer, il y a quelque temps, à une réunion de la section des assurances de l'American Bar Association, tenue à Cleveland. On trouvera ci-après des extraits de son discours que nous reproduisons de *The Economist and Money and Risks*, afin que nos lecteurs entendent l'autre son de cloche. On leur a dit que l'assurance obligatoire a donné de mauvais résultats. Il les intéressera sans doute de voir exprimer une opinion contraire, qui demande l'application généralisée de l'assurance obligatoire afin d'assurer l'indemnisation de toutes les victimes d'accidents d'automobile. Ainsi, on aura un dossier plus complet. – A.

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“Although financial responsibility laws have wholly failed to solve the problem of the uncompensated automobile injury, experience with these laws is valuable because it proves that full compensation rather than persuasion through fear is the correct approach. Students

very generally agree, I think, despite a wide divergence of view with respect to the type of insurance required, that full compulsion is essential in any satisfactory plan.

"Compulsory insurance in some form is now effective in nearly every state. Its general use for public automobiles and motor carriers indicates the trend of public opinion. A recent poll by the Institute of Public Opinion shows that nation-wide 84% of the people favor full compulsory insurance.

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Poll Favored Compulsion

"The term 'compulsory insurance' has been used so freely in connection with the Massachusetts law that we sometimes forget that the law is a financial responsibility act and is so captioned. It was enacted for the sole purpose of establishing the financial responsibility of automobile operators. It has admirably accomplished that purpose.

"Defects in the law have been obvious almost from the beginning. Efforts to remove those defects have been resisted by the most, but not all, of the insurance companies, which have consistently sought repeal of the law. Not only has this group of insurance companies sought its repeal but they have misrepresented its purpose, its relative cost and its effect, in order to build a sentiment in Massachusetts for repeal and a conviction in other states that it is a failure.

"If one were to listen to this propaganda he would be told that the purpose of the law was to reduce accidents and that the number of accidents has increased; that compulsory insurance creates carelessness in operation of automobiles; that the increase in cost of insurance in Massachusetts is due to the compulsory law; that the people of Massachusetts are dissatisfied with their law; and that the law is a failure. * * *

Company Opposition

"Why are these insurance companies opposed to insurance which sells itself, you will ask. Three reasons are usually advanced: (1) The companies are deprived of their right to select business; (2) Compulsory insurance will lead to state insurance; and (3) The rates made by the insurance department are inadequate

“The first two reasons are unimportant. The right to select business is ordinarily desirable, but rates based upon experience under the law necessarily provide increased premium volume because of the bad accident records of the relative few whom the companies would prefer not to insure. Therefore, there is no appreciable effect from this source on the loss ratio of a company which insures its proper proportion of undesirable risks. There is infinitely greater danger of state insurance from uncompensated injuries than from compulsory insurance. Turning the clock backward after the people have for ten years been able to collect damages for their injuries would be as cordial an invitation for state insurance as one can readily conceive.

“The third reason, inadequate premium rates, is the explanation of the position of these companies. If they were free to make their own rates, there would be no serious objection to compulsory insurance. They fear inability to make a profit on rates made by a state official. And because the power to make rates is a part of the compulsory law, they must do away with the law.

Facts About Law

“Now what are the facts? The law was enacted solely as a financial responsibility measure. It has succeeded to a degree unknown in any other state. It is not a safety law and should not be judged on that basis. There is no evidence that the law has increased careless operation of automobiles. Whether the law has increased of fatalities is worse than that of some states, better than that of others, and better than that of the country as a whole. Claim frequency has increased, but cost due to this result has not been great. There is no evidence to show that the increase in cost of insurance in Massachusetts since 1927 is definitely attributable to the act. The increase has been equalled and exceeded in other states.

“Do the people of Massachusetts regard the law as a failure? There is no indication that they do. The public has never been interested in agitation for repeal, and only mildly interested in increased cost. The insurance companies and a few politicians have been vociferous at the annual rate hearings, but the public has not appeared. If the representatives of the people in the General Court vote the will of their constituents the people favor retention of the law. Year after year the General Court has rejected proposals to repeal the law. This year the vote against repeal was 206 to 20 in the House and 32 to 6 in the Senate.

"From random discussions with voters one receives an impression that the following groups favor retention of the law: (1) Nearly every voter who does not own an automobile will vote to retain the protection which he, as pedestrian, now has. (2) Nearly every parent of small children will vote to retain the law because he believes it helps keep off the road automobiles of the type which constitute a menace to children. (3) Nearly every automobile owner who would insure to protect himself will vote to compel others to do likewise.

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"Those who favor repeal seem to be for the most part of two classes: (1) Those who believe their business interests would be best served through repeal. (2) Automobile owners who now insure solely because the law compels them so to do.

"If the people were permitted to vote squarely upon retention or rejection of the compulsory law, there is no doubt that the decision would be overwhelmingly in favor of its retention."

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