

are today in the midst of a revival of interest to develop and adopt an alternative method of compensating for loss due to automobile accidents; and what initially 50 years ago began as an idea to adopt workmen's compensation approaches for automobile accidents, has evolved over the years until it might be regarded today as an extension of the concept present in medical payments or physical damage insurance coverages which provide recovery of loss without regard to fault.

THE SASKATCHEWAN PLAN—ALAN C. CURRY

An understanding of the Saskatchewan Plan is greatly facilitated by a brief review of the history of the origin and development of the Plan itself.

Quite a few years ago in Saskatchewan an agrarian movement resulted in the formation of a group called the Cooperative Commonwealth Federation (called the CCF). In 1932 the CCF united with certain labor groups, which supported socialistic principles, to form a new political party and adopted the CCF designation. This revised CCF political party gained the balance of power politically in 1944. One of the principles to which this party subscribed was that the government belonged in the insurance business. In fact, the party felt government should control the essential elements of transportation, power, communications, and finance, including insurance. In 1944, therefore, it set about instituting these principles by acquiring control of many enterprises.

One of the first acts of this new government was to establish a committee to study the problem of compensation for victims of automobile accidents. At the time this committee was appointed Saskatchewan had a limited form of financial responsibility law which was similar to the commonly called "one bite" laws. This statute did little to encourage motorists to be insured, because only 10% to 12% were covered by any form of auto liability insurance.

After nearly two years of study the committee issued a report in which was set forth a number of conclusions and recommendations for action. Among them were the following:

1. Financial responsibility laws and liability insurance have not proved adequate because they have not tended to remove unqualified drivers from the highways, nor reduce the social waste that accompanies automobile accidents.
2. The theory that the right to compensation or indemnity must be dependent upon the present concept of liability, i.e., the rule of

negligence, must be abandoned. In the event of a motor vehicle accident a driver's liability must be absolute.

3. Persons who are "judgment proof" will not voluntarily purchase liability insurance.
4. Public liability insurance, because it contains exclusions, does not cover all situations.
5. Assigned risk plans impede the functioning of financial responsibility laws.
6. Unsatisfied judgment funds present the same weaknesses as liability insurance.
7. It is a sound socialist principle that where the state creates a compulsory market, the state itself should undertake to supply the market.
8. Compulsory insurance, as a state undertaking, will permit an underwriter to impose premium surcharges, where deemed advisable, and thru cooperation with licensing authorities, will keep unqualified drivers off the highways.
9. The economic loss resulting from the disability caused by motor vehicle accidents should properly be recognized as a factor in the cost of operating vehicles on a highway.
10. Financial responsibility laws are adequate for property damage liability losses but not for bodily injuries.

The initial recommendation of the committee was that a plan for compensating the victims of motor vehicle accidents be enacted. This recommendation was enacted into law in the spring of 1946 and became known as the Automobile Accident Insurance Act, 1946.

The initial Act was compulsory and established that it was to be administered through a newly formed government agency, the Saskatchewan Government Insurance Office. It provided that the benefits outlined in the Act were to be financed by requiring each motor vehicle owner to pay, at the time he purchased his motor vehicle license, an owner's fee of \$5.00 plus a premium of \$1.00 per driver. The Act provided for a death benefit of \$2,000 for each primary dependent, lesser amounts for secondary dependents, dismemberment benefits as provided in a fixed schedule, medical services according to a fixed scale, and weekly indemnities on a fixed scale designed to maintain the injured person's income at a subsistence level. These benefits were provided regardless of fault, but were payable only to Saskatchewan residents and applicable only to accidents that occurred in the Province of Saskatchewan.

At the end of the first year the plan accumulated a surplus and the committee explored both reduced rates and increased benefits. The latter course was chosen and, in April, 1947, \$100 deductible collision was added. With the addition, however, premium rates were adjusted so that, instead of charging a flat premium, vehicles were grouped in classes by model and age.

In 1948, bodily injury and property damage were added with limits of 5/10/1. In 1949, \$100 deductible fire and theft were included, and PD was changed to provide a \$100 deductible coverage.

This monopolistic form of compulsory insurance precluded private carriers from participating in the primary insurance market. However, the liability based on fault concept still prevailed and, due to numerous exclusions in the government plan, the modest limitations of coverage, and the fact that many accident situations were not covered, the private carriers conceived the idea of offering an "excess package" providing higher limits of liability, elimination of the deductibles, etc. The Government Office soon adopted a similar program and a type of competitive market developed between private carriers and the Government Office.

In the ensuing years the compulsory program has been revised many times frequently to change benefit provisions, or the application thereof. Also, the rating system has been altered extensively. Both the opponents and the proponents of this program have been quite vocal. The Saskatchewan residents themselves have not been too sharply divided in their views regarding the insurance plan, as indicated by several somewhat casual surveys that have been made. They leave the impression that the program is a form of political activity to be accepted and endured. At best there is not a unanimity of conviction among them.

A comparison of the cost of this program to what might be called "regular" insurance produces more debate than conclusion. A precise comparison of the costs is difficult to attain because debatable assumptions are involved as to the degree of risk. For example, the 1950 report of the legislative research committee of North Dakota quotes an estimate that 60% of the motor vehicles in the Province are inoperable due to impassable roads from Christmas until sometime in Spring. In that same report it was pointed out that the losses under the compulsory coverage would be greater if it were not excess over the voluntary coverage. The effect of the "excess" provision could be anywhere from \$25,000 to \$400,000 on a volume well under \$2,000,000 of losses. Another deterrent to an accurate comparison of costs is the inability to secure necessary

statistical data from the Government Office (being a Crown corporation its records are not readily available for public inspection).

A development of fairly recent vintage is the change in control of the provincial government. The CCF has been deposed and currently the government is controlled by a political party that favors removing the government from business enterprises of all kinds—including insurance—and returning the insurance business to private carriers. Studies are now in progress to accomplish this transition but substantial problems are involved, not the least of which is *how* to make the transition since all the compulsory coverage expires on March 31 of each year and facilities are needed to absorb over a quarter of a million risks all at one time—April 1.

To bring this matter to a current status, perhaps it would be of interest to sketch briefly the scope of the program as it now exists (the 1963 Act as amended thru 1964). It is as follows:

The Automobile Insurance Act applies to all self-propelled vehicles except for certain specified types, such as trolleys, railroad vehicles, fire engines, road rollers, snow plows, road machinery, conservation department vehicles, excavating vehicles, farm machinery (not trucks and cars), and certain tractors.

When an application for a certificate of registration (or license or permit) is presented, the applicant must also file an application for a Certificate of Insurance accompanied by the necessary premium payment.

A premium charge is made for each owner and each driver. In return, an owner's or an operator's certificate will be issued as the individual case requires. This certificate is the only evidence of insurance the insured has, because the statute serves as the policy form.

Although the licensing and insurance are two separate functions handled by separate facilities, they are closely correlated—such that, for example, if the premiums are unpaid, a license will not be issued. Similarly, if the registration—or the driver's license—is cancelled, the owner's or operator's certificate is suspended.

The insurer (Saskatchewan Government Insurance Office) has the right to assess additional charges at any time it feels that a disproportionate hazard is present. The insured, however, has the right to appeal the assessment of such additional charges by placing \$10 in deposit and filing the necessary documents with the Rates Appeal Board. If, however, the additional premium is not paid, subject to refund, the certificate will not be issued and no license will be issued.

The coverage provided by the Act can be described in three general groups:

- (a) The coverage provided to every person,
- (b) The additional coverage provided by an owner's certificate, and
- (c) The additional coverage provided by an operator's certificate.

(a) With respect to the first category, every person (ordinary resident of Saskatchewan) is insured against loss resulting from bodily injuries sustained as a result of:

- (1) driving, riding or operating a moving motor vehicle in Saskatchewan, or
- (2) collision with or being struck by a moving motor vehicle in Saskatchewan.

This is called the accident insurance coverage, which provides for payments under three primary instances: first, death benefits of \$5,000 to a primary dependent and \$1,000 for each secondary dependent subject to a maximum of \$5,000 for all secondary dependents; second, dismemberment benefits according to a fixed schedule; the maximum payment is \$4,000, but certain supplementary benefits can be paid subject to a maximum of \$2,000 for medical services and funerals, etc.; third, weekly indemnity payments up to \$25 per week for two years for total disability and up to \$12.50 per week (two years) for partial disability.

(b) In addition to this coverage for everyone, the owner's certificate extends the accident insurance to cover:

- (1) the individual named in the owner's certificate, as well as
- (2) any other "ordinary" resident of Saskatchewan,

while either of them is riding in the described vehicle on a public highway outside of Saskatchewan, but still in Canada or the U.S.A.

The owner's certificate also provides comprehensive insurance, which is an all peril type of coverage. It covers the named person against direct and accidental damage to the described vehicle from any peril while in Canada or the U.S.A. Tires, wear and tear, and theft by a lessee or mortgagor, etc., are typical exclusions. Provision is made for general average and salvage charges for which the insured is legally liable. Although the statute does not specify a deductible, it does provide for a deductible to be used. Currently a \$200 physical damage deductible applies to most private passenger cars. The deductible can be lowered to \$100, \$50, or \$25 through the purchase of optional coverages.

The owner's certificate also provides bodily injury and property damage liability insurance. This includes coverage to the named individual or a permissive user for his liability subject to a single limit of \$35,000, plus the customary additional expenses. The more or less common exclusions are applied and the \$35,000 single limit is split initially to assure that \$30,000 is available for bodily injury and \$5,000 for property damage. Optional additional limits up to \$300,000 are available. There is no property damage deductible.

(c) Since all Saskatchewan residents have accident coverage while in a car or being hit by a car in Saskatchewan, the operator's certificate extends the accident insurance to cover the named person while driving outside of Saskatchewan but still in Canada or the U.S.A. as long as the vehicle is described on a Saskatchewan owner's certificate.

The operator's certificate also extends the liability coverage to the named individual for liability while driving in Canada or the U.S.A. This covers driving in Saskatchewan and elsewhere.

The extension of the liability coverage includes a sort of uninsured motorist coverage in the event of a hit-and-run accident, or damage caused by an operator of a stolen vehicle. The limit in this case, also, is \$35,000 but is reduced by any payments under the accident insurance coverage.

This outline of the plan is admittedly quite brief and does not include any of the myriad of details or peculiarities. To mention just one of the peculiarities, the operator coverages apply only when the named individual is driving a non-owned auto and that auto is also covered under an owner's certificate, or else he has reason to believe it is covered under one. A lot of uncommon exclusions and exceptions are necessary under a plan of this sort, but basically this is the plan as we have been able to decipher it.

We understand that a typical compulsory package premium for a 1964 Ford would approximate \$56.00 annually throughout the province. The voluntary package cost varies by territory, and in Regina a typical \$50 deductible physical damage and \$200,000 liability package would cost approximately \$30 unless the risk uses the automobile in business, or has had an accident in the past 3 years, in which case the charge would be \$40. These charges are approximately \$5 higher than those which apply to rural areas. Accidents and traffic violations are tabulated on a point system. More than five points generate a surcharge of \$20 and more than eight points generate a \$50 surcharge. In the event that more than twelve points accrue, the license is suspended for six months. The operator's certificate currently costs \$3 annually.

We understand also that Temple University, through the Ford Foundation, studied this system and plans to issue a report in August, 1966.

FAMILY COMPENSATION COVERAGE- ROBERT W. GRIFFITH*

Introduction

Proposals for the substitution of automobile compensation plans for automobile tort liability principles have been suggested periodically dating back to the Columbia University study in the early 1930s. The various studies and proposals have arisen primarily from the academic fraternity although there has been a sprinkling of generalized suggestions arising from judicial circles. Within the insurance industry, it can be reasoned that the development of the medical payments coverage, as well as death and disability written in connection with the automobile policy, represents a direct recognition of the need to provide a means for compensation for auto injuries regardless of fault. The uninsured motorist coverage, although designed for other reasons, also acts to provide a means of recovery for auto accident injuries not previously covered.

The Family Compensation coverage was developed by the Nationwide Insurance Companies and activated in Maryland and Delaware in 1956. Although the coverage was primarily designed to provide benefits to the policyholder, members of his family, and guests in his car, it did contain the unusual provision that the same schedule of benefits was available to third party pedestrians and occupants of third party cars without regard to fault. This third party aspect of the coverage was developed in recognition of the trend in automobile liability insurance toward third party claim settlements in which the negligence concept seemed to play less and less an important role in the final settlement. In the courts, in the state legislatures, and in company practices, it appeared that auto liability insurance was regarded increasingly as protection to the public rather than to the policyholder. Auto liability seemed to be evolving more and more into a social type of coverage.

At the same time, defects in the negligence system were causing auto insurers more and more concern. Faulty administration cropped up in three areas:

1. Excessive verdicts in otherwise meritorious cases.

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