

America Adopts the Automobile,

1895-1910

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No issue affecting the automobile stirred more controversy at the time or has since been more misunderstood than early attempts to regulate the motor vehicle. Regulation pitted the motorists against the general public, who, appalled by speeding and reports of accidents in the daily press, demanded that government take action. Contrary to popular myth, however, early motor vehicle legislation appears in retrospect to have been extremely reasonable. All things considered, little prejudice against the automobile is evident in either early legislative enactments or their enforcement.

At first the few laws regulating the ownership and use of horse-drawn vehicles were merely extended to motor vehicles as well, but, from 1900 on, the passage of special motor vehicle legislation became increasingly necessary. The movement toward regulation of the motor vehicle began at the municipal level about the turn of the century. Local automobile ordinances were passed, which almost invariably required registration, including the display of an identifying numbered tag on the vehicle, so that an automobilist guilty of speeding or reckless driving could be more easily apprehended. After 1903, state laws requiring the registration of motor vehicles rapidly came to replace and supersede this unwieldy and inconvenient system of municipal prerogative.

#### Automobile Registration

Table 6.1 shows the years in which motor vehicle registration was initiated in the various states and the type of registration required.<sup>1</sup> These data reveal that the first state to require all motor vehicles to be registered was New York in 1901 and that a movement toward compulsory state motor vehicle registration first became evident in 1903, when eight states followed New York's lead. Seventeen additional states

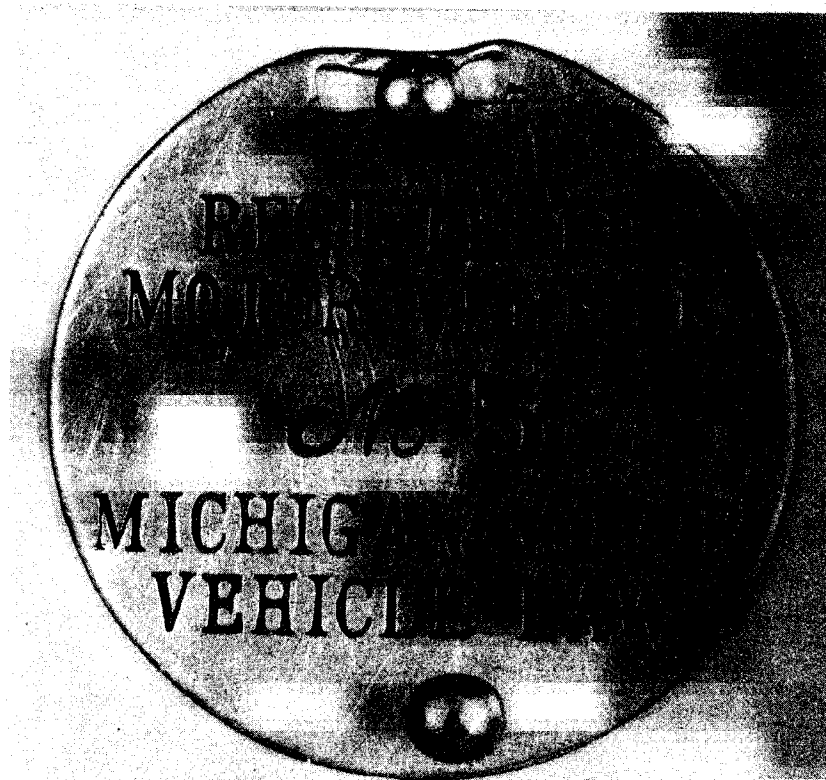
<sup>1</sup>For a general history of the registration fee, see also James W. Martin, "The Motor Vehicle Registration License," *Bulletin of the National Tax Association*, 12:193-208 (April 1927).

Table 6.1 Year of First State Motor Vehicle Registrations, 1901-1921

State	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921
Alabama			P	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-
Arizona												A	-	-	-	-	-	-	-	-	-
Arkansas											A	-	-	-	-	-	-	-	-	-	-
California					P	-	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-
Colorado													A	-	-	-	-	-	-	-	-
Connecticut			P	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-
Delaware					P	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Florida					P	-	-	-	-	-	CA	-	-	-	-	-	-	SA	-	-	-
Georgia										A	-	-	-	-	-	-	-	-	-	-	-
Idaho													A	-	-	-	-	-	-	-	-
Illinois							P	-	A	-	-	-	-	-	-	-	-	-	-	-	-
Indiana					P	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-
Iowa				P	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-
Kansas													A	-	-	-	-	-	-	-	-
Kentucky										A	-	-	-	-	-	-	-	-	-	-	-
Louisiana															A	-	-	-	-	-	-
Maine					P	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-
Maryland				P	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-
Massachusetts			P	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-
Michigan					P	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-
Minnesota			P	-	-	A	-	-	-	-	-	T	-	-	-	-	-	-	-	-	A
Mississippi												A	-	-	-	-	-	-	-	-	-
Missouri			P	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-
Montana													P	-	A	-	-	-	-	-	-
Nebraska					P	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Nevada													A	-	-	-	-	-	-	-	-
New Hampshire					A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
New Jersey			P	-	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
New Mexico												A	-	-	-	-	-	-	-	-	-
New York	P	-	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-
North Carolina							P	-	A	-	-	-	-	-	-	-	-	-	-	-	-
North Dakota											A	-	-	-	-	-	-	-	-	-	-
Ohio						P	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-
Oklahoma											A	-	-	-	-	-	-	-	-	-	-
Oregon					P	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-
Pennsylvania			LP	-	-	SA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Rhode Island				P	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-	-	-
South Carolina						CP	-	-	-	-	-	-	-	-	-	-	A	-	-	-	-
South Dakota					P	-	-	-	-	-	-	-	A	-	-	-	-	-	-	-	-
Tennessee						P	-	-	-	-	-	-	-	-	A	-	-	-	-	-	-
Texas							CP	-	-	-	-	-	-	-	-	-	A	-	-	-	-
Utah									P	-	-	-	-	-	A	-	-	-	-	-	-
Vermont				P	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-	-
Virginia						P	-	-	-	A	-	-	-	-	-	-	-	-	-	-	-
Washington					A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
West Virginia					A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Wisconsin					P	-	-	-	-	-	A	-	-	-	-	-	-	-	-	-	-
Wyoming													A	-	-	-	-	-	-	-	-
District of Columbia			P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	-

Source: U.S., Department of Commerce, *Highway Statistics, Summary to 1955* (Washington D.C.: Government Printing Office, 1957), p. 16.  
A: Annual C: County L: Local P: Perennial S: State T: Triennial

Plate 24. 1905 Michigan license  
plate, the first one issued in Detroit.  
Courtesy Smithsonian Institution.



had passed motor vehicle registration laws by 1905, and all except three of the twenty-six states that required registration in 1905 allowed motor vehicles to be registered in perpetuity — that is, registration did not have to be renewed each year. As of 1910, thirty-six states required motor vehicle registration — twenty-one annual and fifteen perennial. All states had a motor vehicle registration law by 1915, but not until 1921 did all states require annual registration.

Local automobile clubs at first contested the legality of city ordinances requiring registration, but their opposition soon evaporated. Chicago was one of the first large cities to require motor vehicle registration, and the Chicago Automobile Club voiced a strong protest against the requirement that numbered license plates be displayed, even though the city initially allowed motorists to select their own numbers and charged a fee of only \$3. Under the leadership of John Farson, the new club president, about eighty members of the Chicago club waged an ultimately unsuccessful attack against the “numbering ordinance.” Many Chicago motorists were arrested for failure to comply with this law until a final decision was handed down against the Farson group by the courts in 1905. Farson, however, never had the complete support of his club, and by 1904 he was representing only a small minority of the members. Some of the affidavits taken in support of the city’s case were procured from prominent Chicago club members who thought the city ought to regulate the motor vehicle. Then, during Farson’s absence from a meeting on October 17, 1907, the Chicago Automobile Club voted unanimously to abandon its fight and comply with the city numbering ordinance. Some 200 members registered their cars the following day, and several even offered to allow the police to use their cars to help apprehend speeders and violators of the city’s numbering ordinance.

Patterns of protest to local registration laws, invariably based on grounds that now seem absurd, were similar in other large cities. Henry Ford and Horace Dodge, for

example, lost a 1904 suit that they brought on behalf of Detroit's motorists to test the constitutionality of that city's registration ordinance. They claimed that the \$1 fee constituted double taxation of personal property and that the ordinance was unjust "class legislation" because owners of horse-drawn vehicles were neither forced to carry identification tags nor deprived of the right to allow children under sixteen years of age to drive their vehicles. Similarly, the Milwaukee Automobile Club, under the leadership of its president Father J. F. Szukalski, an outspoken priest, threatened to test the constitutionality of the Milwaukee registration ordinance before the Wisconsin Supreme Court on the grounds of "class legislation." But within a few months the Milwaukee motorists "submitted as quietly as you please to the mandates of the great grandstand players of the common council and every machine that may be seen on the streets of the city now has its tag, which stands out behind as the car puts on speed like the tail of an overgrown beaver. . . . according to the Milwaukeean's way of thinking [about the numbering ordinance], it doesn't do the city any harm; it doesn't do the motorist any harm, and it doesn't do anybody else any harm, so 'what's the use of fighting?'"<sup>2</sup>

Undoubtedly, the most important reasons for motorists' objections to numbering ordinances remained covert. Motorists generally feared that the facilitation of identification of their vehicles would increase chances of arrest, fine, imprisonment, and the payment of damage claims. Also, registration helped tax assessors identify and locate automobile owners who were evading the payment of personal property taxes on their cars. To cite but one example, it was estimated that in Denver one-third of the automobiles in the city had gone untaxed prior to the adoption of a registration ordinance.<sup>3</sup> Since such motives could not be expressed legitimately, motorists were forced

<sup>2</sup>"But What's the Use," *Motor Age*, 6:11 (November 3, 1904).

<sup>3</sup>*Horseless Age*, 11:564 (May 6, 1903).

to cloak their cases in the respectable mantle of the constitutionality of so-called class legislation and the supposed discriminatory taxation of a few dollars' fee. The courts unequivocally rejected this ridiculous line of reasoning with monotonous regularity. As a result, the threatened legal crusade against registration quickly waned. Probably the last such effort worth noting was a halfhearted attempt, undertaken after a year's hesitation, by the National Association of Automobile Manufacturers to test the constitutionality of state motor vehicle registration laws in 1905. By then, however, most motorists had become convinced that "the continual wrangling with authorities was a much greater annoyance than carrying numbers."<sup>4</sup>

Rather than fight registration laws, the automobile clubs began to channel their energies into eliminating the major faults of the existing system of solely local automobile ordinances. Some clubs took the initiative to frame bearable local ordinances themselves. The Cincinnati Automobile Club, for example, drafted and sponsored the Cincinnati automobile ordinance to forestall the more drastic legislation the club feared might be passed by city officials if the club failed to act. Even more important, the automobile clubs began to agitate for state rather than municipal control of registration, for uniform state laws, and for interstate reciprocity provisions. The solution suggested by *Horseless Age* to the Chicago numbering ordinance debacle came to be widely accepted as the proper one by motorists: "Automobilists would do well to take the initiative in the formation of a state association and then work for a reasonable state law, depriving local authorities of the right to regulate the use of automobiles in their own territory."<sup>5</sup>

The prerogative of municipal governments to extract fees from and regulate motorists was by no means completely negated by the state motor vehicle laws that were

<sup>4</sup>"Numbering and Interstate Recognition of License Numbers," *ibid.*, 14:463-464 (November 9, 1904).

<sup>5</sup>"Chicago Ordinance Tangle," *ibid.*, 13:423 (April 20, 1904).

passed, but the threatened growth of a complex and abusive municipal system of motor vehicle laws was effectively checked by superseding state legislation. State motor vehicle registration made sense from the standpoint of both the automobilist and the authorities. Separate registration in each city or county in which an automobile was operated imposed an inconvenience and a prohibitive financial burden on the motorist. A welter of license plates flapping from the rear end of a fleeing automobile made identification of the car, the main reason for registration to begin with, almost impossible. A single state license plate, respected anywhere the motorist traveled, was clearly more desirable. The most exasperating situation existed in Missouri, where state law provided for separate registration in each county in which a motor vehicle was driven. As late as 1906, the motorist who wished to drive legally in every county of Missouri had to pay \$295.50 in registration fees; the cost of registration fees alone for a trip from St. Louis to Kansas City was \$25, versus only \$15 for regular round-trip railroad fare. Due to the agitation of Missouri motorists, the law was finally modified after June 14, 1907, to require a single \$5 state registration that expired when either the vehicle was sold or the owner's county of residence changed.

Automobilists ideally wanted regulation of the motor vehicle by the federal government, including a single federal license that would be valid in all states and uniform speed limits throughout the country. With the avowed purpose of forestalling local and state automobile laws, the National Association of Automobile Manufacturers petitioned both the Senate and the House of Representatives as early as 1902 to frame and enact legislation providing for a national automobile license under the power of Congress to regulate interstate commerce. Automobile interests were agreed by 1905 that "recognition of the automobile has become so complete in all sections that it calls for some sort of national regulation, if any regulation is to be had. It is too big an affair for dinky legislatures, county boards or town trustees and supervisors to handle



with judgment and fairness to the public and the motorist. It is up to the federal government to take a hand and place the matter where it belongs."<sup>6</sup> The American Automobile Association and the National Association of Automobile Manufacturers therefore jointly undertook a campaign to secure a federal motor vehicle law.

Primary responsibility for this was assumed by Charles T. Terry, a professor of law at Columbia University who acted as both legal council for the NAAM and chairman of the AAA legislative committee. Beginning in 1905 in the Fifty-ninth Congress, several federal automobile bills were introduced, but these bills died in committee because legislators doubted the necessity for and the constitutionality of such an extension of the power of the federal government. A national legislative convention held in Washington, D.C., in February 1910 marked the high point of efforts to secure federal motor vehicle legislation, but by then the need for a single, national license had been fairly well obviated by the general adoption of interstate reciprocity provisions and a trend toward increased uniformity in the motor vehicle laws of the various states.

Automobile interests also came to acknowledge that registration had some definite advantages. *Horseless Age* commented in 1905, for example, that "it is a question whether at the present early period of development of the automobile the numbering and licensing laws are not a blessing in disguise." The periodical believed that carrying numbered identification tags had tended to restrain reckless drivers and thereby had helped to reduce accidents and lessen public opposition to motorists in general. Moreover, since registration had not deterred anyone from buying an automobile, "these laws are not in any way injurious to the industry."<sup>7</sup> Many motorists, because the general practice in most states was to use funds from registration fees for road

<sup>6</sup>"National Law Badly Needed," *Motor Age*, 8:8 (July 20, 1905).

<sup>7</sup>"The Constitutionality of Licensing," *Horseless Age*, 15:320 (March 15, 1905).

construction and maintenance, came to favor higher and annual registration fees as one means of securing better roads.

### Licensing of Operators

Governmental certification of the competence of automobile operators was well established in Europe by the turn of the century, but the practice was then still virtually nonexistent in the United States. Although New York State theoretically required drivers of steam cars to be licensed engineers, lax enforcement made this law a farce. The police commissioners of New York City, for example, referred the matter to the superintendent of the Street Department, who reported that "he did not believe there was any practical necessity for requiring the employment of a regularly licensed engineer." So the commissioners dodged the issue by adopting a recommendation that "after the petitioner [for permission to operate a steam car] has learned to operate the machine he might himself become licensed, the only expense involved being a fee of \$3."<sup>8</sup>

Chicago framed the first meaningful ordinance in the United States that required the examination and licensing of all automobile operators. Several automobile accidents attributable to the incompetence of drivers prompted the mayor in 1899 to direct the Law Department of the city to frame an ordinance similar to that in effect in France. By 1900 a series of eighteen questions relating to the mechanism of the type of car to be driven, the responsibilities involved in operating a motor vehicle on city streets, and the applicant's past driving record had been prepared for use in the examination of automobile operators in Chicago. This examination was given by an appointed board of examiners and had to be retaken every year. The applicant also had to be in good physical condition. The initial fee was \$3 and annual renewal

<sup>8</sup> "License Required to Operate Steam Vehicles," *ibid.*, 5:8 (November 1, 1899).

cost \$1. A license could be revoked if it was demonstrated after a hearing that a driver had violated local traffic regulations or was otherwise unfit to operate a motor vehicle.

Automobile interests were well ahead of municipal and state governments by 1902 in recognizing that the compulsory examination of all automobile operators would be desirable. *Horseless Age* reported the attitude toward operators' licenses in November 1902: "The general sentiment of the leading automobile organizations and of the public press seems to be favorable to it. A license law will prevent novices from driving to the common danger on public streets before they have acquired the requisite skill in manipulation of their vehicles, and perhaps, still more important, will place automobile drivers under greater responsibility."<sup>9</sup> Officials of both the American Automobile Association and the Automobile Club of America publicly advocated at this time that the states should certify the basic competence of all automobile operators by requiring them to pass examinations before being allowed on the road.

But few cities or states responded immediately with adequate legislation. Most local ordinances, where any existed, were ridiculously lenient regarding the qualifications of drivers. For example, the 1904 Milwaukee automobile ordinance merely required that automobile drivers be at least eighteen years of age and have the use of both arms. After the 1902 Kansas City, Missouri, automobile ordinance had been in effect almost a year, only two or three applicants for operators' licenses had actually been examined. Bills providing for the certification of operators' abilities had been introduced in several state legislatures by 1903, but no meaningful legislation (that is, provision for examination of competence) was passed at the state level until 1906. Among the more progressive states in automobile legislation, New York required that only professional chauffeurs take out a license and carry a badge, and their competence to drive

<sup>9</sup>"Automobile Legislation," *ibid.*, 10:491-492 (November 5, 1902). See also *ibid.*, pp. 494-495, for the specific views of automobile club officials.

was not examined. Until 1906 New Jersey simply demanded that an automobile owner file with the secretary of state a declaration verified by a notary that he was competent to drive the automobile he desired to register.

Several states began to make more adequate provision for licensing automobile drivers after 1906. One of the first to do so was New Jersey, which began to tighten requirements a bit with the creation of a new Department of Motor Vehicle Regulation and Registration. While motor vehicles could still be registered by mail, a New Jersey operator's license now had to be obtained in person from a state examiner, and the applicant had to make an affidavit on the extent of his driving experience, physical condition, and knowledge of the state's motor vehicle laws. Massachusetts initiated even stricter requirements in 1907: an actual road test to demonstrate competence became mandatory, as well as a written examination on the state's motor vehicle regulations. Two examiners, one at the State House in Boston, the other visiting in rotation eight additional cities throughout the state, examined applicants by appointment. *Motor Age* noted that "this strict examination is commended by the motorists as a whole, who see in it a step in the right direction, in that it will tend to sift out the inexperienced and help in the movement to bring about sane motoring."<sup>10</sup>

Focusing primarily on the qualifications of the professional chauffeur, both associations of chauffeurs in New York City and Philadelphia and prominent members of the Automobile Club of America began to urge more rigid examination procedures for operators' licenses about 1905. The position of the upper-class automobile owner was expressed well by Dave H. Morris, the current president of the ACA, in *Harper's Weekly*: "I would recommend . . . the creation of a state commission of three members to be appointed by the governor, whose duty it would be to issue licenses and institute an examination into the capabilities of chauffeurs. The owners of automobiles,

<sup>10</sup>"Strict in Bay State," *Motor Age*, 12:10-11 (August 1, 1907).

particularly those who have wives and children, are entirely dependent upon the skill, caution and general efficiency of their chauffeurs, and it is my view that, with such trust reposed in them, they should be compelled to pass a comprehensive and adequate state examination."<sup>11</sup> Professional chauffeurs, who had become increasingly concerned about competition for jobs, agreed. Joseph Dunn, vice-president of the Philadelphia branch of the Chauffeurs' Association of America, explained: "Nowadays any boy who has worked a day or two in a garage . . . considers himself qualified to handle an automobile. For the safety of the public and the protection of our own interests, we propose to put a stop to this practice."<sup>12</sup>

At least by 1908 the opinion of motorists overwhelmingly favored that all operators of motor vehicles be licensed and required to pass an examination to determine their competence. *Automobile* reported in April 1909: "Upon the question of licensing all operators there is now a striking unanimity that has gained ground rapidly in the past twelvemonth, owing probably to the great increase of automobiles on the road. The inconsiderate must be punished and the incompetent must not be permitted to drive."<sup>13</sup>

Despite the motorists' own desire to have their competence examined and certified, state governments still remained reluctant to take adequate action at the end of the first decade of the twentieth century. As of 1909, only twelve states and the District of Columbia required all automobile drivers to obtain licenses. Except for Missouri, these were all eastern states — Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, and West Virginia. In seven other states, only professional chauffeurs had to obtain operators' licenses — California, Florida, Illinois, Michigan, Minnesota, New York,

<sup>11</sup> Dave H. Morris, "The Automobilist and the Law," *Harper's Weekly*, 50:47 (January 13, 1906).

<sup>12</sup> "C.A.A. in Philadelphia," *Automobile*, 12:230 (February 4, 1905).

<sup>13</sup> "The Licensing of All Operators," *ibid.*, 20:552 (April 1, 1909).

and Ohio. The application forms for operators' licenses in these nineteen states as a rule asked for little more information than the applicant's name, address, age, and the type of automobile he claimed to be competent to drive. This might have to be notarized, but in the vast majority of these states a license to drive an automobile could still be obtained by mail. In the twelve states requiring that all operators be licensed, a combined total of 89,495 licenses were issued between January 1 and October 4, 1909, but only twelve applicants were rejected for incompetency or other reasons during this period — two in Rhode Island and ten in Vermont.<sup>14</sup>

#### Restrictions on Use

The only notable restriction on the use of streets and highways by motorists was that motor vehicles were at first excluded from parks in most large cities. But this prohibition was in some cases never enforced and in all cases short lived. For example, although automobiles had been excluded from Fairmount Park in Philadelphia, the park police generally did not stop motorists who used the drives. Then in October 1900 the rule banning motorists from Fairmount Park was rescinded, and automobiles were allowed on all drives except West River and Wissahickon Drives, which were set apart for horses. Similarly, Baltimore prohibited all automobiles from Druid Hill Park, but early in 1900 the policy was changed to allow electric cars the use of the park drives. Owners of steam and gasoline automobiles objected to this discrimination and began to agitate for relief through the courts in 1901. Finally, in the spring of 1902 the governor of Maryland signed a bill that prevented the Baltimore park commissioners from prohibiting automobiles from public parks or limiting their speed to less than 6 mph.

<sup>14</sup> The forms used for operators' licenses in the various states were reprinted in "Licenses and Licensing," *Motor*, 13:37-40, 110, 118 (October 1909). The figures given here for the total licenses issued and the number of applicants rejected are from this same periodical, 13:53 (November 1909).

The most talked-about case of park exclusion involved the prohibition of automobiles from Central Park in New York City. By mid-1899, automobiles were allowed in all of the New York City parks except Central Park. Two of the three park commissioners favored admitting automobiles to Central Park too; the third disapproved, so a hearing was held in November 1895. Fifteen persons spoke in favor of the automobile, while ten persons voiced opinions against admission. Among those speaking to allow automobilists the use of Central Park were George F. Chamberlain, vice-president of the Automobile Club of America, and Lawrence N. Fuller, "one of the best-known horsemen in the city." The group opposed to admission was composed of "a livery stable keeper, a number of private persons who are accustomed to drive in the Park, and an attorney for the hackmen who ply their trade therein." The park commissioners reserved decision at the meeting, but several weeks later approval was given to admit motor vehicles to Central Park in limited numbers "until the horses are accustomed to them and the Board considers it safe to remove all disability from the motor carriage." Until then, permits were to be "restricted to those who, in the judgment of the Board, are cautious and competent drivers of motor vehicles." *Horseless Age* advised New York automobilists to be content with the limitations established by the park authorities: "Their complete conversion is only a matter of a little time, and their present attitude of conservatism is dictated by a sense of duty to the public, and is not altogether indefensible."<sup>15</sup>

### Legislating Speed

By far the most serious confrontation between motorists and the authorities and the general public occurred over attempts to regulate speed. Motorists claimed that the

<sup>15</sup>"Hearing before the Park Board," *Horseless Age*, 5:10 (November 15, 1899), and "Park Rules Relaxed," *ibid.*, 5:7 (November 22, 1899).

same rule that had governed the speed of horse-drawn vehicles — that speed on the open road be “reasonable and proper” with respect to road and traffic conditions — ought to apply unchanged to motor vehicles, and they denounced any additional restrictions on speed as unwarranted “special legislation.” W. Wallace Grant, president of the Long Island Automobile Club, put this bluntly in 1902: “Except in unfamiliar localities the automobilist is always the best judge of his own safe speed. The law should give him the utmost freedom in selecting this speed, and should charge him with corresponding responsibility in case of accident.” This position appeared sound to Grant “because the range of speeds attainable with propriety by the automobile is so far in excess of that physically possible to the horse, it follows that no arbitrary schedule of speed limits can possibly be framed which will fit the conditions of highway traffic.” To those who were more interested in preventing accidents than in assigning responsibility for them after the fact and who complained that the excessive speeds possible for the motor vehicle were precisely what necessitated legal limits, there was a ready answer: James M. Padget, president of the Topeka Automobile Club, gave the motorist’s typical reassurance that “an automobile going at a rate of 20 miles per hour is no more dangerous to life than a horse going at the rate of 10 miles per hour.”<sup>16</sup>

However, “special legislation” involving maximum miles-per-hour clauses became increasingly necessary. The top speeds of horse-drawn vehicles ranged from about 8 to 15 miles per hour, and vehicles traveling below these speeds composed the bulk of traffic on both city streets and country roads. The low average and top speeds of horse-drawn vehicles made an established maximum miles-per-hour limit for them superfluous; all that was required for safety with horse-drawn traffic was a general injunction that speed be “reasonable and proper.” But motor vehicles were capable

<sup>16</sup>“Views of Clubs and Officials,” *ibid.*, 10:496 (November 5, 1902).



of sustained speeds several times in excess of the top speeds of horse-drawn vehicles — speeds that were hazardous on poor roads where slower horse-drawn traffic was predominant. And it was obvious that many motorists were either unwilling or unable to adjust their speeds to existing road and traffic conditions, the only possible criterion of reason and propriety. *Outlook*, a popular periodical especially concerned about speeding and reckless driving by automobilists, expressed the concern of the public well in 1908: "It is difficult to persuade the public, who find in almost every morning's paper a report of one or more automobile accidents of a serious nature, that it is as safe to drive an engine twenty to forty miles an hour over a highway as to drive a pair of horses eight or ten miles an hour. It is certain that the present law is not adequate for the protection of persons traveling on the highway from reckless drivers of automobiles. The automobile has become almost a necessity; it certainly is a permanent method of locomotion to which society must adapt itself, and from the careless use of which society must protect itself."<sup>17</sup>

Public opinion, although overwhelmingly favorable to the new mode of transportation, became aroused very early against speeding and reckless driving. The automobile trade journals were well aware that agitation for restrictions on the speed of motor vehicles stemmed from a legitimate concern for the public safety caused by the motorist's frequent disregard for the rights of other users of the streets and highways. For example, *Motor Age* reported at the end of 1899: "Chicago generally hailed the advent of the horseless carriage with a good deal of rejoicing. The people wanted it. But we doubt if they want it driven over them or over their rights in the public streets, and the warmth of their welcome is going to be a good deal cooled unless automobile owners exercise more care."<sup>18</sup> By 1901 it was apparent that this fear had been war-

<sup>17</sup>"Concerning Automobiling," *Outlook*, 89:632 (July 25, 1908).

<sup>18</sup>"Criticisms Worth Heeding," *Motor Age*, 1:245 (December 7, 1899).

ranted: "Despite laws, warnings, and common sense many automobilists — and club members are not excepted — run their machines over the streets and roads at a pace which cannot be considered fair to other users of the thoroughfares or in keeping with common sense. Leading members of clubs take sufficient interest in the welfare of automobilism to devote their time to the passage of laws which will establish their rights and within a week members of the same clubs give cause to the authorities to wish the laws had been made more stringent."<sup>19</sup>

Antispeed organizations had little difficulty in presenting a convincing case that motorists neither respected existing speed ordinances nor adjusted their speeds to the normal flow of traffic. Horace E. Parker, secretary of the New York Committee of Fifty, one of the more vigilant antispeed organizations, made this clear to *Horseless Age* when he presented data obtained with stopwatches in New York City: "Between 2 p.m. and 3 p.m., Fifth Avenue, between Fifty-seventh and Fifty-eighth Streets, 22 automobiles and 255 horse-drawn vehicles passed in one direction. Nearly all automobiles were going at from 10 to 17 miles an hour. Of the horse-drawn vehicles not more than 6 exceeded 9 miles an hour." Although the city speed limit was 8 mph, one automobile had been clocked at 25.71 mph. Parker had made a canvass of registered voters in the area to determine public opinion about raising the city speed limit to 10 mph. Postcards were sent to some 20,000 persons, and he claimed that 95 percent of those who responded were against the increase. *Horseless Age* was also impressed that "Mr. Parker particularly expressed himself, both personally and on behalf of his society, as being by no means antagonistic to automobiles, and strongly urged that he and they realize the present value of motor vehicles, and the perfectly apparent importance these vehicles will have in future locomotion.

<sup>19</sup>"Excessive Speed in Cities," *ibid.*, 4:n.p. (May 30, 1901).

... [The society's sole] motive is to promote such legislation as will effectually stop fast driving."<sup>20</sup>

Special regulations governing the use of motor vehicles were still notably absent in the United States in 1902, and the little legislation that had been passed by then was minimally restrictive. Only four states—Connecticut, Massachusetts, New York, and Rhode Island—had passed any state motor vehicle legislation, and Rhode Island had failed to pass any miles-per-hour clause establishing a maximum speed limit. The maximum speed limit for motor vehicles outside city limits was a reasonable 15 mph in both Connecticut and Massachusetts and a liberal 20 mph in New York. Dependence upon purely local ordinances everywhere else in the United States meant typically that there were no laws whatever governing speed on the open road outside city limits, the very place where travel at an inordinate rate of speed was most possible for the motorist. The municipal ordinances in effect at the time almost never restricted the automobile to lower speeds than the top speeds for horse-drawn vehicles—that is, 6 to 8 mph speed limits within business sections and 10 to 12 mph in other parts of cities were the rule, with occasional provision that speeds not exceed 4 mph when crossing certain intersections, approaching curves, or meeting other vehicles. Even municipal ordinances were entirely absent in 1902 in Florida, Kentucky, Maryland, Montana, New Mexico, North Dakota, South Carolina, Tennessee, Utah, Virginia, and Wyoming, undoubtedly because automobiles were still extremely rare in these states. The first municipal automobile ordinances had just been introduced, but not yet passed, in Davenport, Iowa, and Portland, Oregon, and no automobile legislation was yet in effect in any other Iowa or Oregon city.

Up to 1902 the automobile clubs had usually been able to forestall restrictive legislation embodying miles-per-hour clauses, even where the number of motor vehicles and

<sup>20</sup> "Opinions of Anti-Speed Organizations," *Horseless Age*, 10:497 (November 5, 1902).

the actions of motorists clearly warranted it, by promises that their members would exercise restraint. Where they had failed, the clubs had often managed to get legislation favorable to the motorist adopted, the prime example being the New York State motor vehicle law of April 25, 1901, with its liberal 20-mph maximum speed limit, that had been drafted by the Automobile Club of America. But it began to appear inevitable to many motorists that the free-and-easy situation they had thus far enjoyed must soon come to an end. *Horseless Age* reluctantly commented at the beginning of 1902, for example: "It is with regret we confess that in numerous and flagrant instances their [automobilists'] conduct has been most disappointing to friends of the industry and irritating to the public at large. . . . A condition so intolerable could not be expected to long exist in the United States, where it is quite generally understood that roads are for the common use of all and not the private property of a few rich enthusiasts." The obvious point was that "the antispeed bills . . . are the natural and necessary result of the lawless acts of automobilists themselves. The provisions of the present law have been found inadequate to abate the nuisance."<sup>21</sup> Later that year, even *Horseless Age* came out in favor of the miles-per-hour clause establishing definite speed limits. Commenting on the position still taken by most motorists, that prescribed speed limits were not necessary, the periodical expressed the opinion that "it is too indefinite, that views as to what is safe and proper differ too much with the individual automobilist. . . . The average automobile driver may not be able to closely gauge his speed, but a definite limit of, say, 20 miles an hour certainly means more to him than the speed where danger begins, the danger limit. . . . A speed limit, therefore, is quite desirable even for the open country, as much for the benefit of the automobilists themselves as for the protection of the outside public."<sup>22</sup>

<sup>21</sup>"The Flurry of Anti-Speed Legislation," *ibid.*, 9:65 (January 15, 1902).

<sup>22</sup>"Automobile Legislation," p. 491.

The automobile clubs were favored in their sustained efforts to prevent reactionary legislation from being passed by the cyclical nature of the public concern over speeding and reckless driving, which reached its high point every year at the climax of the touring season, then dropped to its low in late winter. Serious accidents and minor annoyances accumulated through the summer months, with the result that by the opening of state legislative sessions in the fall a large volume of complaints from indignant citizens demanded that drastic bills be introduced to curb "scorchers." By the time these measures actually had to be voted upon, however, the public's temper had cooled. Meanwhile, the automobile clubs lobbied energetically. The clubs had adequate funds earmarked for the influencing of legislation, employed extremely able representatives, and could count on the influence of their prominent members. Their tactics usually included demonstration rides for the lawmakers, intended to prove that automobiles traveling at high speeds were really quite safe compared with much slower horse-drawn vehicles. As a result the automobile legislation passed was rarely punitive. The severity of the initial bills and the fact that any law had been passed at all satisfied the public that something was being done, while the watered-down legislation actually enacted met with the approval of the automobile clubs.

By 1906 most states had adopted motor vehicle legislation that provided for reasonable maximum speed limits, given the road and traffic conditions of the day, on the open highway (that is, outside incorporated municipalities). Fifteen states then had speed limits of 20 mph, and five states allowed maximum speeds of 24 or 25 mph. Nine states limited speed on the open highway to 15 mph, while only three states had severely restrictive laws — Alabama (8 mph), Maryland (12 mph), and Missouri (9 mph). The remaining three states with automobile laws had no established maximum speed limits: Rhode Island and West Virginia left the setting of speed limits to local authorities, and Florida merely set a 4-mph state speed limit on curves, bridges, fill,

and intersections. The 4-mph limit for such places was commonly prescribed by state laws at the time. The 1906 state laws also generally provided for lower maximum speed limits within incorporated municipalities, which ranged from 8 to 15 mph, depending on the particular state and whether the road was in a closely built-up or outlying section of the municipality.

Liberal as the state speed laws generally were in 1906, the 1905–1906 period marked the zenith of restrictive legislation against the speed of motor vehicles. Before this, few speed laws had been in effect, and later, with the rapid diffusion of the motor vehicle, speed laws became progressively more lenient. Among the thirty-four states that had passed state motor vehicle legislation by late 1909, eleven had maximum speed limits of 25 mph on the open highway; fourteen had 20-mph limits, and two of the latter, New Hampshire and Pennsylvania, had passed new laws raising the 20-mph limit that were to go into effect on December 31, 1909; Texas had an 18-mph limit; and five other states had 15-mph limits. Restrictive speed limits of 8 and 12 mph were still retained by Alabama and Maryland, respectively, and Florida merely kept its law requiring a 4-mph limit under specified circumstances. The public had become accustomed to the motor vehicle, and automobile ownership was becoming more widespread, with the result that public demands for severe legislation against speed had lessened appreciably. As *Outing Magazine* summed up the legislative picture late in the summer of 1909, "In the early statutes some antagonism to the automobile perhaps showed itself, but that has all passed away."<sup>23</sup>

#### Enforcement of Legislation

The effectiveness of motor vehicle legislation lay in its enforcement, and all indications are that enforcement was inadequate, much less severe. Policemen on foot,

<sup>23</sup>T. O. Abbott, "The Lawmaker and the Automobile," *Outing Magazine*, 54:614 (August 1909).

horseback, or bicycles were outmatched by the speeding motorists they pursued, and even after automobile squads were introduced in some large cities the police remained technologically disadvantaged compared with violators of the speed laws. *Automobile* noted in 1905, for example: "Because of the increasing number of high speed automobiles in St. Louis, the police automobile squad is almost unable to catch and arrest offenders against the speed ordinance, and the city authorities will probably replace the police department cars with machines of greater power and speed as soon as an appropriation can be made. About the only chance the police now have to arrest the driver of a machine who exceeds the speed limit is to catch a glimpse of the license number of the fleeing car and take the offender into custody at his home later."<sup>24</sup>

The refusal of the motorist to stop on command or to appear before the authorities when identified in a complaint were also grave problems for the police, and lenient police methods were apt to be met with contempt by motorists. The Pittsburgh police found in 1908, for instance, that automobilists identified as speeders or reckless drivers would not respond to warning letters asking them to appear at the station at their convenience "rather than have the strong arm of the law to bring them in." The motorists took "these letters of warning as a joke, and many of them have had the letters framed and hung them up in their offices as so-called diplomas."<sup>25</sup>

Motorists did their best to avoid apprehension by the authorities. As noted earlier, registration laws, the real key to the effective enforcement of laws governing the use of motor vehicles, were at first widely disregarded by motorists in many localities. A road-block examination conducted by the Boston police on July 20, 1904, for example, established that only 126 of the 234 motorists stopped had complied with the Massachusetts state registration and license requirements. It was believed that for the

<sup>24</sup>"St. Louis Auto Police," *Automobile*, 12:688 (June 8, 1905).

<sup>25</sup>"Police Courtesy Abused," *Motor Age*, 13:30 (March 5, 1908).

Boston area "the results are to be considered typical of what would be found by a complete canvass."<sup>26</sup> The most notorious form of evasion was undoubtedly the widespread early practice in Chicago of carrying "bogus license numbers to be used when speeding," which were "judiciously changed at frequent intervals, in order that no one number might become fixed in the minds of the police. . . . Goggles with face masks became quite popular, and all motorists with a love for fast driving came to look uniformly alike when the high gear was in mesh."<sup>27</sup>

To overcome such obstacles to law enforcement, the "speed trap" was devised shortly after the turn of the century and employed in New England, the environs of Chicago, and on Long Island. Generally, a quarter-mile stretch of highway, often a shorter distance, was marked off in an area where speeding had become a problem. Officers equipped with stopwatches were stationed at both terminal points; when a vehicle crossed one terminal point, a signal was passed to the other by hand or by an electric buzzer to begin timing the car's speed. If the automobile exceeded the legal limit, an attempt was made to halt it, arrest the driver, and bring him to trial, immediately in most cases, before a local magistrate. Since many automobilists failed voluntarily to obey the command to stop, it became common practice for the authorities to stretch a rope across the road. The mayors of the towns along Chicago's North Shore found that even this was not sufficient: wire cables had to be substituted for hemp ropes because "the more determined offenders . . . fitted scythelike cutters in front of their machines, which made short work of such ropes." One mayor found that throwing cordwood or logs in the path of speeders was the ideal solution.<sup>28</sup>

Automobilists deeply resented the speed trap. They considered it an expression

<sup>26</sup> "Police Make a Haul," *Motor World*, 8:655 (July 28, 1904).

<sup>27</sup> "Decay of Speed Laws and Ordinances," *Automobile*, 9:499 (November 14, 1904).

<sup>28</sup> "The Automobile War on the North Shore, Chicago," *Horseless Age*, 10:123 (July 30, 1902).



of irrational "motorphobia" intended primarily to provide a rich new source of revenue for rural Dogberrys who indiscriminately convicted the innocent as well as the guilty. Motorists complained that the ropes and other obstacles used to stop violators constituted a hazardous and illegal blocking of the public roads and that stopwatch evidence should be given less credence in court than the driver's own assessment of his speed (which was in most cases based entirely on his biased impression and at best upon one of the erratic speedometers of the day that generally underestimated true speed). The automobilists claimed that many drivers pleaded guilty on the spot and paid stiff fines only because of the inconvenience of returning for a hearing. They further argued that tourists could not always know beforehand where the boundaries of municipalities began or what the local speed limits were.<sup>29</sup>

Cases cited in the automobile trade journals illustrate that motorists' complaints had some merit; in some instances there were flagrant abuses of the legal rights of automobile drivers. But it was erroneous to generalize, as the motorists often did, either from exceptions or from abuses common enough in some localities, and conclude that the speed trap in its normal functioning in most places constituted an unjust, corrupt, and unnecessary practice. The methods advocated and adopted by automobile interests to thwart the effectiveness of the speed trap certainly showed neither a proper respect for the law nor any awareness that speeders needed to be curbed in the interest of automobilists themselves as well as for the safety of the general public. Whenever possible, the automobile clubs placed warning signs or stationed representatives wearing club colors at conspicuous points on the road to inform drivers about the location of speed traps. Some automobile trade journals openly advocated a system of signals among drivers to accomplish the same end.

<sup>29</sup> Good summaries of the respective points of view of the motorist and the constable can be found in Alfred E. Ommen, "The Motorist and the Police," *Motor*, 10:45-48 (May 1908), and Seth Bird, "The Motorist and the Country Constable," *ibid.*, p. 76.

*Automobile* suggested that the ideal answer to the speed trap was to put blackboards in local garages "in a prominent place for observation by outgoing cars giving in chalk-marks the location and character of well-known local traps and other seasonable warnings. . . . It might almost be said that garage keepers owe such a service as this to their customers and the touring fraternity at large."<sup>30</sup> These actions did not encourage local authorities or the public at large to believe the contention of the automobile clubs and journals that most motorists were law-abiding citizens who were anxious to see the miscreants in their own ranks apprehended.

### Action Against Speeders

The emergence of vigilante groups to aid local authorities is evidence of how far the enforcement of speed laws lagged behind public sentiment in many communities. The vigilante antispeed organization was a common phenomenon shortly after the turn of the century; but with the spread of the automobile and the institutionalization of sanctions against its misuse, the role of private citizens' groups in combating speed had declined appreciably by 1910. The most mild means of support for authorities was the posting of rewards by private organizations for evidence leading to the conviction of speeders and reckless drivers. At the other extreme, indignant citizens took illegal measures to stop "scorchers" on roads near their homes.

The early battle between motorists and the residents of Long Island provides a good illustration of the types of action taken by private citizens. New York motorists from the outset of the diffusion of the automobile had taken excessive liberties on Long Island's comparatively fine roads. After several years of great patience, the Island's residents were finally roused to take action. The Long Island Highway Protective Society was therefore incorporated in September 1901 under the auspices of the

<sup>30</sup> "Autotrap Warning Best Given by Garage Keepers," *Automobile*, 15:318 (September 6, 1906).

leading citizens of Oyster Bay to aid in the apprehension of speeders and reckless drivers. In general, the society's methods were quite reasonable attempts to obtain tougher laws and help authorities to identify and apprehend violators, but some embittered, unidentified residents declared war on all automobilists. As *Horseless Age* reported the situation, "Not considering for the moment the rather extravagant proposition of riddling the pneumatics of fugitive scorchers with bullets, . . . glass and other tire puncturing instruments have of late been distributed over these [Long Island] roads in great quantities, presumably by parties who consider their interests affected by speed excesses." The periodical made certain to add that "it should be borne in mind that the animus of this Long Island hostility can scarcely be regarded as anachronistic or due to a backwoods mode of thought, fanatic opposition to progress, as some have contended, but it is rather a feeling of retaliation for aggression actually committed."<sup>31</sup> The situation in other communities where such acts occurred appears to have been analogous.

Prior provocation notwithstanding, motorists were rightly incensed by the illegal actions taken by some individuals to curb speeders. The motorists' common fault, however, was that they were most often unable or unwilling to discriminate sufficiently between proper and illegal forms of protest against their excesses. Consequently, they failed to support the necessary sanctions exercised by constituted authorities over their activity. Without such support, the legitimate enforcement of reasonable restraints was undercut, making violent reaction appear a viable and necessary alternative to some threatened citizens.

Rather than admit there was a general problem requiring action by the authorities, the automobile clubs insisted that speeding and reckless driving were engaged in by only a very small minority of motorists — mainly by hired chauffeurs — and the

<sup>31</sup> "Retaliatory Measures," *Horseless Age*, 5:326 (July 10, 1901).

clubs tried to keep the enforcement of speed laws in their own hands as much as possible. Club officials made pledges to legislators that automobilists would obey reasonable laws and urged members to uphold these promises. Club members who broke the law were to be disciplined by the club itself, and this was considered to be a sufficient deterrent. The Automobile Club of America, for example, consistently reiterated that any member accused of speeding or reckless driving would be given a fair hearing by the club. If found guilty, he was to be warned and suspended; a second offense was to be punished by expulsion from the club. The philosophy behind the expulsion of a club member for traffic violations as an effective sanction was revealed in a letter sent by the Minneapolis Automobile Club to its members: "It would brand him as a reckless operator, and if trouble or accident of any kind should thereafter occur for which he should in any way be responsible, the fact that he had been expelled from the club for reckless driving would strongly prejudice his case, either before a court or in the mind of anyone wishing to place the responsibility for the accident or trouble upon him."<sup>32</sup> Only on rare occasions did the clubs offer their services to the police to help in apprehending violators of the law.

The argument for self-discipline put forth by the automobile clubs proved unworkable in practice. Although the Chicago Automobile Club claimed that most of that city's speeders were nonmembers, the Oak Park police found that most vehicles seen exceeding the speed limit carried the club's emblem. Richard Sylvester, superintendent of police in Washington, D.C., typically found too that "some members of automobile clubs early forget their promises to aid and encourage lawful running, and do not cooperate with the authorities as they agreed."<sup>33</sup> This was an understatement.

<sup>32</sup> "Club Warning to Members," *Automobile*, 8:20 (May 9, 1903).

<sup>33</sup> Richard Sylvester, "The Selfishness of City Speeding," *Harper's Weekly*, 51:384 (March 16, 1907).

An early assessment of club policy given by *Horseless Age* basically continued to hold true: "So far as the moral or deterrent influence of the automobile clubs is concerned, we have yet to hear of a single case of reprimand or expulsion of any member, while examples of law breaking so habitual and defiant as to have become a public scandal have been reported against them."<sup>34</sup> Indeed, it was October 1904 before the Automobile Club of America suspended its first member for speeding. Since this case involved an illegal race that had been given wide publicity, club action here was necessary to make a recent club resolution declaring hired chauffeurs mainly responsible for speeding seem more than an insincere dodge. Chief of Police O'Neill of the Chicago force gave the obvious answer to automobile club pretensions at self-discipline in a letter to John Farson, president of the Chicago Automobile Club. Responding that he was not satisfied with the club's promise to discipline its own members, Chief O'Neill said, "Enforcing the laws is the business of the police department and must be done according to law and not in accordance with social rules formulated by clubs and organizations."<sup>35</sup> Even had the clubs been able to control their own members, restrictive membership policies and the rapid more general adoption of the motor vehicle would clearly have made dependence upon club sanctions against violators of the law insufficient in short order.

#### Courts versus the Automobilst

Complaints from motorists about arbitrary police methods and summary trials notwithstanding, in general, the courts enforced the law with impartial fairness tempered by leniency. Automobile clubs advised members to plead "not guilty" and often provided defense attorneys with club funds. The motorist stood a good chance

<sup>34</sup> "Flurry of Anti-Speed Legislation," p. 65.

<sup>35</sup> "More Trouble in Chicago," *Horseless Age*, 14:381 (October 12, 1904).

of winning his case because judges were reluctant to convict without strong objective evidence. Should the motorist be found guilty, a small fine, usually \$10 or \$15 for first offenders, and a reprimand were his penalty. It was generally acknowledged that affluent automobilists considered such fines as mere operating expenses: "The wealthy chauffeur cares nothing for a fine of \$25. In fact, he finds a certain satisfaction in paying it occasionally. . . . A heavier penalty must therefore be exacted if a law of this kind is to be effective. The millionaire must be brought face to face with a punishment that will deter — a term in jail."<sup>36</sup> But the courts remained reluctant to hand out more severe penalties for traffic offenses. As one commentator complained in 1908, "Courts have not been able so far to persuade themselves that 'over-speeding' is an offense serious enough to warrant imprisonment, and confine themselves to fines and 'reprimands.'"<sup>37</sup>

Even in automobile accidents that involved serious injury or manslaughter, the courts were reluctant to be severe. In the rare instances when they were, automobilists expressed shock. *Automobile*, for example, considered the imprisonment in November 1902 of two professional chauffeurs after very serious accidents to have been "foremost among the subjects which have engrossed the automobile world during the past week. . . . the severity was a complete surprise." The periodical believed that one of the men involved, Herbert A. Marple, "was made a scapegoat for the sins of automobilists as a class and for the failure of society in forming a public opinion strong enough to hold reckless driving in check." Marple was the first man to be convicted of manslaughter with an automobile in Connecticut. He received a \$1 fine and a year in the county jail for killing a farmer in an accident. The evidence indicated that the farmer had probably been drinking and might have been driving

<sup>36</sup> "Flurry of Anti-Speed Legislation," p. 65.

<sup>37</sup> Frederick Dwight, "Automobiles: The Other Side of the Shield," *Independent*, 65:1300-1301 (December 3, 1908).

on the wrong side of the road; but the accident had occurred on a foggy night when visibility was only five or six feet, and Marple had obviously been going too fast for the driving conditions and had been negligent. The driver involved in the other accident, W. Byrd Raymond, had collided with a trolley car full of women and children in Yonkers, New York, seriously injuring a number of them, after harassing the motorman of the trolley by playing tag with the vehicle. Raymond was sentenced to six months in jail. The editorial position taken by *Automobile* was: "It is after all not very reprehensible on the part of professional automobile drivers to indulge in stunts with the vehicles entrusted to their care, if it must be admitted that examples of similar reckless behavior by persons in higher social standing come under their daily observation. . . . it may be questioned if it is really conforming to our national dignity to seize upon two obscure automobile servants for this purpose while men of higher station have been permitted to settle similar cases with small fines or out of court."<sup>38</sup>

Probably the first case in which a hit-and-run driver was given exemplary punishment in the United States occurred as late as 1908. While recklessly driving his car under the influence of alcohol, Dr. Walter H. Morris, a Newark, New Jersey, dentist, had killed a man descending from a trolley in downtown Newark, then fled the scene at high speed, demolishing a peddler's wagon. Morris turned himself in to the police a few days later and entered a plea of "non vult," which deprived him of the right to appeal the court's sentence of eighteen months in prison in the criminal suit that followed. He was faced, in addition, with civil suits asking \$105,000 for damages arising from the accident. During the period the case was considered unique in the severity of the punishment imposed.<sup>39</sup>

<sup>38</sup>"Motorists Sent to Jail Without Option of Paying Fine," *Automobile*, 7:10-16 (November 8, 1902), and "Vindictive Court Decision," *ibid.*, p.22.

<sup>39</sup>"Automobilist in Felon's Cell," *Motor World*, 17:845-846 (February 6, 1908).

As a sanction against speed and reckless driving, the prospect of a civil suit for damages was apparently as ineffective as the threat of criminal prosecution. By the turn of the century, *Horseless Age* had received a number of letters from persons who said their fear of incurring damage suits prevented them from buying an automobile. The periodical gave its assurance at the close of 1899 that this fear was unrealistic: "While many have been threatened with such procedure, very few cases have come to trial, and in only one case, so far as the editor knows, has an adverse decision been given, and this was for a small amount and the decision could probably have been reversed on appeal." If the motorist obeyed the ordinary rules of the road and extended normal courtesy, he had nothing to fear: "An occasional threat of prosecution may be looked for, but very seldom will a case actually come into court, and when it seems likely to reach that stage communicate at once with the Automobile Club of America, Waldorf-Astoria, New York, one of whose chief objects is to protect the rights of all users of automobiles."<sup>40</sup>

This pattern characterized damage suits against motorists during the ensuing decade. Decisions reported in the automobile trade journals, which kept a vigilant eye on the courts, were mixed but on the whole equitable.<sup>41</sup> Most of the cases mentioned appear justifiably to have been decided against the motorist on the basis of either his negligence or recklessness or the violation of speed laws, and the damages awarded seem to have been reasonable. The few exceptional instances where outlandish damages were awarded were usually remedied upon appeal. The automobilists won a significant proportion of the damage suits brought against them, and the decisions were almost without exception based upon the specific merits of the case, rarely revealing predisposed bias against the motorist or the motor vehicle.

<sup>40</sup>"Damage Suits," *Horseless Age*, 5:7 (December 27, 1899).

<sup>41</sup>See, for example, "Automobile Suits," *ibid.*, 10:512-513 (November 5, 1902).



Why then did early automobilists complain, as they often did, that the courts were prejudiced against them? A writer in *Outlook* perhaps gave the best answer in 1909: "The belief prevailing in the minds of many that no judge or jury will give an unprejudiced decision when an automobilist is brought up before the law is largely due to the little respect shown thereto by most of the [motoring] fraternity."<sup>42</sup>

<sup>42</sup>Montgomery Rollins, "Sane Motoring — Or Insane?" *Outlook*, 92:281 (May 29, 1909).