

THE CANADIAN STOLEN AUTOMOBILE SITUATION.

The automobile industry has expanded in such an extraordinary manner during the past two decades that it is not surprising that, in some respects at least, our legislation is twenty years behind its time. The motor car has introduced a new element in present-day conditions from an economical, social, moral and practically every point of view. On account of its rapidity of locomotion, it has proved an easy prey for criminals, and an invaluable asset in their nefarious trade.

The paucity of available data makes it very hard to establish the exact number of thefts which occur in Canada and the United States. Some figures are available which will give some idea of the situation. For instance, the thefts reported by the Conference of the National Automobile Underwriters amount to 49,940 cars for the year 1924, with no records for the states of Arizona, Idaho, Montana, Nevada, New Mexico, Oregon and Utah.

In Canada, no statistics are available. However, we understand that 736 cars were reported stolen to the Montreal police, of which some 300 were recovered, and the balance are still outstanding. Of the amount of cars stolen in the United States which are brought into Canada there can be no figures available. The writer, however, in approximately a few months' practice was in touch with some 30 or 35 cars of this description. One individual, whom the writer interviewed personally, had a list of some 35 American cars which he could locate at any time, but whose owners could not be found. The original numbers of these cars were changed and identification was almost impossible.

These few personal experiences are quoted merely to emphasize the gravity of a situation which cannot be overstated.

It would be interesting at the same time to quote the number of convictions for the theft of motor cars, but the writer has not available data on this point. It is safe to say, however, that there is not one conviction for fifty thefts.

We therefore have to consider losses involving annually millions of dollars and, at the same time, impunity of the guilty parties. There is no situation more compromising for the stability of a State than when its laws are treated with contempt and when the malefactors enrich themselves through their crimes. In other words, the theft of

automobiles is to-day a paying proposition, and it will never cease to become a social menace until this feature is entirely eradicated.

I.—THE METHODS.

There are two different aspects to consider here, the first being the actual perpetration of the theft, and the second being the disposal of the stolen goods.

Since time immemorial, as the methods employed by criminals or by the guardians of peace and order were made known to one another, it has always been a contest of wits between the two wherein success and failure followed each other almost methodically.

Thus, no matter what ingenuity is exercised to prevent the theft of a car either by means of locks or otherwise, it will be impossible to prevent some man, sooner or later, from finding a way to succeed in stealing a car. The law therefore cannot in any way prevent the perpetration of the theft, but can in a great measure eliminate the theft by rendering it more difficult from some points of view, and by making it difficult to dispose of the car.

Thus, the laxity of our provincial laws regarding the issuance of licenses makes it easy for a thief to have a stock of license plates for various makes of cars, with imaginary numbers, in fictitious names with driving licenses to correspond. It requires only a few minutes to effect the change, and the car can then be driven upon the open highway without question. It is then an easy matter to sell the car to one of the well-known organizations dealing in stolen cars who pay cash on delivery. We understand that a short time ago the current price for a Ford or one of the cheaper makes of cars was \$100.00, and for any expensive type of car, \$300.00. As the theft of a car and its disposal need only take a few hours, it is easy to imagine how lucrative the profession must be.

As soon as the car is in possession of the dealer in stolen automobiles, a rapid transformation takes place. Within an hour or so, the engine number and the serial number are changed. It is easy for anybody, willing to pay for the information, to find out what car numbers of a certain make are being shipped outside of Canada and the United States, and it is thus possible to prevent duplications in the records of the various provinces and yet give a number to the car which is apparently correct. As a matter of fact, however, we are instructed that duplications do not matter, as in the Province of Quebec, in the year 1924, four licenses were issued to cars of the same make bearing the same serial or engine number.

This first precaution taken, the car is then 'overhauled' and the

numbers of the various parts are changed or the parts themselves are exchanged between cars of a similar make, thus making it practically impossible to identify the car from the assembly record. A front axle, which the factory will report as having been originally in a sedan, will be found in a touring car of the same make, and *vice versa*. The car is then painted a different colour and accessories are added or removed, and within a week the owner of the car would not recognize it. The dealers in stolen cars usually are garage owners who advertise the sale of second-hand cars, and it is an easy matter for them to dispose of a car at a very profitable figure, securing usually within 10 per cent. of the market price of a second-hand car.

These dealers usually do business under the name of an incorporated company, and it frequently happens that prime movers and proprietors do not even appear on the Board of Directors or among the Shareholders. They openly boast, even to the police, of their connection with the stolen automobile trade, and state that it is impossible to secure a conviction against them, and indeed, they are not far wrong.

What is the position under existing laws?

The owner has no chance whatsoever to locate his car, as the description which he has given of it to the various police organizations does not tally with the appearance of the car. As suspicious cars are discovered in various parts of the United States or Canada, the owner might have to travel several thousand miles at great expense without any serious prospect of securing his lost property.

On the other hand, it frequently happens that the police see a car with the numbers visibly altered and therefore open to suspicion, and that they seize the car. What happens? The thieves, as usual, have chosen a make of car which is widely sold. There are, perhaps, several hundred, or even several thousand, thefts reported of a similar type of car. In addition, a great many of the thefts are not reported to all the police stations or police headquarters, and tabulated, and supposing they were, it would be impossible to write to five hundred people with the request that they should come and identify the car.

In order to obtain any results, about the only practical method is to communicate with the manufacturer of the type of car, giving a list of such original numbers as can be found, and asking for information as to whom it was sold. Then it is necessary to correspond with the various people who have bought and sold the car until the chain of title is completed. This usually takes two weeks or more.

Some idea of the difficulty of identifying these cars may be

gathered from the following instance. An organization in Montreal had on hand several cars which had been found with other stolen cars and which, according to the possessors thereof, were unofficially admitted to have been stolen. The writer's office was consulted in connection with this, in order to relieve this organization of the necessity of paying for the garage space required to store the cars. Every possible effort was made to locate the owners. All available information was broadcasted to all the various police stations, insurance companies, and every organization interested, but without results.

If this is the case, what chance have the police? If they seize a suspicious car, in order to hold it, they must prefer a charge. In order to make a charge, it is necessary to get in touch with the owner. In the meanwhile, the car is seized by civil process, a fictitious title is easily established on account of the impossibility of bringing forward the real owner, and the car is released and has disappeared by the time identification has arrived. In some instances, these cars have been seized by civil process so soon after the arrest by the police, that they are removed and placed in the hands of a judicial guardian before the police have had a chance to examine the numbers and secure the necessary data for identification. May we add that the judicial guardian is usually a man of straw against whom no judgment can be realized, even if he can be afterwards located. Arrest and imprisonment by civil process is a long and cumbersome affair, and the guardian usually has a good excuse, and as a result, the practice is allowed to continue.

To attempt to describe the Canadian automobile theft situation without mentioning the Customs Department would be impossible. Let us make it clear, however, at the outset, that the writer has no intention of finding fault with any official of the Department. Our quarrel is with the laws that render such a situation possible. The Customs Act provides that upon the seizure of smuggled goods, fifty per cent. of the proceeds thereof go to the Crown, twenty-five per cent. to the seizing officer, and twenty-five per cent. to the informer. Automobile thieves are international, and a great many of the stolen cars sold in Canada to-day were originally stolen from the United States. There are several ways of using the Customs Department.

For instance, thieves may smuggle a stolen car into Canada, sell it to an individual, wait thirty days, and then inform the Customs Department of the existence of the car and of the fact that the duty has not been paid. The thief thus makes money both ways, through the purchase price of the car, and through his share of the reward.

Bootlegging is responsible also for a great many of the evils en-

countered. The thieves and bootleggers, who are international, steal cars in the United States, load them with silks which they smuggle into Canada disposing of both the silk and the car. On the return trip to the United States, a car is stolen in Montreal, loaded with intoxicating liquors, and both the car and the cargo are disposed of in the States.

THE POSSIBLE REMEDY.

This must be considered from two points of view, the repression of crime by punishment of the criminal offence, and the prevention of the trade in stolen cars in a legal manner. We will deal with these in turn.

(a) *From a Criminal Point of View.*

Regarding the act of theft, very little can be done. Cases of theft can only be proven when the thief is caught red-handed, Being in possession of stolen goods is a totally different matter, and in this respect the law could be changed to great advantage.

Two things are necessary to obtain a conviction under sections 399 & sqq. of the Criminal Code. The receipt or the possession of the incriminating article by the accused, and secondly the fact that the article has been stolen or obtained by an offence punishable upon indictment. In cases dealing with automobile, the proof of the former is very easy, but the actual proof of the theft is practically impossible in most cases. In order to prove the theft one must be in touch with the owner, and on account of the civil seizures by the interested parties the police do not have the car for a sufficient length of time to secure the identity of the owner and the proof of theft. In addition, they cannot prefer the charge before having obtained the evidence, and they are absolutely powerless.

The best way out would be to shift upon the accused the burden of proof that he is legally in possession of the car in question. It may be argued that it is one of the fundamental principles of criminal law that the accused should be deemed innocent until he is proved guilty, and indeed in theory, it is nice to think that this is the case. Nevertheless, we are each day departing from this rule, the Narcotic Drugs Act and the Customs Act being cases in point.

In addition, upon evidence of alteration in numbers, authority should be given to the police department to retain the car for a certain period to enable them to locate the owner and bring definite proof of the theft. It may be added that most suspicious cars are purchased from individuals whose names and addresses are unknown,

fictitious or imaginary, and it is upon this proof without contradiction that the civil courts have to release the car. Some provision as to the quality and nature of the proof by the accused could be here inserted so that it would be necessary to prove chain of title up to an authorized dealer. If this clause of the law were to come in force one year after its promulgation, no substantial hardship would be created.

Special provisions should be made in connection with incorporated companies in the garage business, or dealing in cars, similar to the licensing system in the Province of Quebec for the sale of beer and light wines. We believe the practice is to issue a license to the individual and not to the company, so that from a penal point of view there is always somebody who is responsible.

(b) *From a Civil Point of View.*

Cars should be registered throughout the Dominion in the same manner as real estate, proof of origin being required for each new car registered. In this connection it might be advantageous, though not necessary, to do away with the annual system of licensing and of changing markers.

The cars would be transferred by endorsement of the certificate of ownership given out by the Department, and all thefts could be reported there. The disposal of an unregistered car would become practically impossible.

Special provisions could be made for the registration of second-hand cars purchased outside of the province, fixing certain statutory delays before the license is issued, and fixing the kind of proof required by the Department. We believe that the State of Maryland has adopted a law somewhat similar, and no doubt an exhaustive study of the operation of this law would prove of great assistance to a committee in charge of such legislation in Canada.

Certain laws called registration of title laws have also been adopted by the following of the United States: Alabama, Florida, Georgia, Indiana, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia and Wyoming. The Governments of Idaho, Montana and South Dakota have also pledged themselves to bring in similar laws at the earliest possible opportunity. It will therefore be readily appreciated that if steps are taken to remedy the existing situation in Canada, we will be recognizing the existence of a need which has been felt by a great many people living under conditions exactly similar to our own.

Officers of the licensing department should always be granted the privilege of inspecting any car. The organization for such a system

would be complicated and costly, but we do not believe that this could be considered an insuperable objection. The registration fee of the cars and the fee on assignment could be adjusted so as to cover all expenditure, and the owner of the motor vehicle would not feel the increased cost as the immediate reduction in insurance premiums would more than make up the difference.

It is not our intention at present to go into the details of such legislation as the time is not yet ripe. There is much that would require practical information which is not now available, but it is submitted that if the above amendments were adopted they would at least prevent the theft and resale of automobiles from being a lucrative occupation.

In conclusion, it would be very difficult for anybody to exaggerate the present situation. The few words which have just been said about it are founded upon the writer's very limited experience in these matters. The remedies which we advocate are advanced with the greatest diffidence, merely in the nature of a suggestion which others more qualified could put into practice with such modifications and variations which would prove beneficial. It may be that the solution to our difficulties would lie in a totally different direction, and if this be the case, the writer will still feel that he has in some small measure contributed to the public good through arousing public interest in the matter, especially among the members of the Bar who should always be the first to originate legislation and to suggest amendments to the existing laws.

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