

### Foreign Corporations—Automobile Associations.

A foreign automobile association is not entitled to do business in Montana where by the terms of its contracts with its customers it agrees to defend persons against future violations of the law in terms broad enough to cover intended violations and where the contracts tend to encourage litigation and minimize the necessity of observing the laws and ordinances relating to automobile traffic and by which contracts the corporation would have to engage in the practice of law in Montana to fulfill its obligation.

George P. Porter, Esq.,  
Commissioner of Insurance,  
Helena, Montana.

April 6, 1929.

My dear Mr. Porter:

You have submitted a copy of "Application for Services Contract" used by the Great American Automobile Association, Inc., of Phoenix, Arizona, in which is stated the terms of the contract between the corporation and the persons to whom it is sold. You ask if the business of this concern constitutes insurance business as you are advised it is desired to sell these contracts in Montana.

The application says: "This is not an application for insurance," but like many other documents that bear in print their own interpretation as to what they are not, instead of what they are, the contents of the contract reveal the fact that the state is more impressed with what it is than with what it is not.

In the words of the application, the corporation agrees, in consid-

eration of the sum of \$34 50 paid to it, that it will, for a period of two years, do the following things:

"When you are charged with alleged violation of traffic regulations or other city ordinances, or state laws, arising from the use of your automobile, by yourself or members of your family, you need not take the time away from your business or place of employment to respond to the summons; merely report the case to our legal department at once and they will represent you in the courts.

"Should you be charged with a serious offense, such as manslaughter, as the result of an accident, involving the operation of your automobile, by yourself or members of your family, this association, through its legal department, will prepare the defense, assist in obtaining witnesses and represent you in the courts.

"Your club membership makes it possible to secure a \$10,-000 Authorization Bail Bond in the event you should be charged with manslaughter, as the result of an accident, involving the operation of your automobile, by yourself or a member of your family.

"The association agrees that it will indemnify its members against expenses for legal services and collecting for damages caused to his automobile by collision with another vehicle, providing, however, that the attorney selected by said member shall be first approved in writing by the association.

"The association agrees that it will indemnify its members for legal advice in charges of misdemeanors arising out of the operation of member's automobile and in his personal or business affairs, providing, however, that the attorney selected by said member shall be first approved in writing by the association.

"The association gives full road emergency service to members in any part of the United States, Canada, Mexico and Cuba. Call the nearest available garage. This includes any mechanical trouble, and to lady drivers, changes of tires, such as punctures, gas and oil transportation from the nearest service station. This service is limited to one hour.

"The Great American Automobile Association, Inc., renders free towing service to members throughout the United States, Canada, Mexico and Cuba. When you are in trouble call the nearest garage and mail the association the receipted bill immediately. This service limited to one hour and the charges for same shall not exceed more than \$5.00 per hour, or \$.50 per mile, not to exceed 10 miles.

"A liberal discount on tires, tubes and accessories can be had through our purchasing department.

"Members are assisted in procuring transfers, operators' license, chauffeur's license, etc. This courtesy is also extended to visiting motorists. During the license issuing period of each

year we obtain the new license, thus avoiding much annoyance and loss of time.

“The association will furnish information to any part of the United States. A complete set of road maps will be furnished to members.

“The association offers a standing reward of One Hundred Dollars for the arrest and conviction of anyone stealing a member’s automobile. This offer holds good anywhere in the United States.

“Whenever any one of a multitude of claims or controversies arise, relative to the use or maintenance of your automobile, you always know that your association membership entitles you to have legal representation on all occasions, to protect your interests.

“Upon request, we will aid our members in procuring the most attractive loan in the event financial assistance is desired upon a member’s automobile, or upon a new or used automobile that may be the subject of contemplated purchase.”

The services to be performed by the company under its agreement range from the simple though often neglected matter of procuring a license for the automobile to the gallant service of patching a punctured tire for the lady driver out on the highways of the state (men are excluded from this service), and obtaining witnesses, preparing defense and representing the member in court when and if he is charged with manslaughter. If he is charged with a violation of the traffic laws, and he is a busy man, he need not let his offense give him any concern; he need not respond to the process of the court, but the company’s legal department will take care of that for him.

If he has a collision he will be indemnified against expenses for legal services and collecting damages, provided the company approves the member’s selection of an attorney. The member will also be indemnified for legal charges for advice concerning charges of misdemeanors arising out of the operation of his automobile, and also in his personal and business affairs, provided the company approves the member’s selection of an attorney. The company also agrees that the members, through its purchasing department, can secure liberal discount on tires, tubes and accessories, and that in case the member needs financial assistance, the company will aid him in procuring the most attractive loan upon his automobile. The holding of one of these contracts makes it possible for the holder to secure a \$10,000 “Authorization Bail Bond” and for good measure he will be entitled to a \$10,000 accident policy, according to a rubber stamp that is placed on the application.

In my opinion, many of the provisions of this contract are contrary to Montana’s laws, and in regard to said provisions the contract is void. It tends to encourage litigation; it agrees to defend persons against future violations of the law in terms broad enough to cover intended violations; it tends to minimize the necessity of observing the laws and ordinances relating to automobile traffic; the annoyance of being per-

sonally bothered with the consequences of a violation of the traffic laws is eliminated in favor of the important business on hand with the assurance that the company's lawyers will look after the unimportant business of the state or city with the violator in court; all of which is contrary to the public policy of the State of Montana, rendering such contracts void.

Furthermore, in my opinion, the company, by its contract, agrees to perform services which would constitute the practice of law in Montana, which is contrary to the law. In this state only natural persons may practice law, and then only after having been duly licensed by the state to do so. The company may not contract for services which it cannot perform.

At this time, when people are demanding more rigid enforcement of the traffic laws, and the legislatures are endeavoring to enact laws that will secure greater safety to drivers of automobiles, as well as to pedestrians, it is more in keeping with the spirit of the times to promote and foster the observance of traffic regulations rather than to minimize their importance.

For the reasons above stated, it is my opinion that this company is not entitled to engage in business in Montana under its present form of contract.

Very truly yours,

L. A. FOOT,  
Attorney General.

By L. V. Ketter, First Assistant.