Thus an ordinance requiring a "full report" of automobile accidents was held invalid as requiring self-incrimination.[12] These cases would indicate that a conviction could not constitutionally be secured where the time card is the only evidence. In the other line of cases, statutes requiring a motorist in an accident merely to report his name, address and license number have generally been held valid[13] on the ground that the operation of a car on the public highway is not a right but a privilege which, under the police power, may be granted upon condition.[14]

There are, of course, important differences between problems presented by the private motorist and the truck driver which may justify differences in regulation. The individual motorist may occasionally be involved in an auto accident, a conviction for which could be procured by evidence other than that furnished by his own report. Further, the statutory requirement of a report is not designed to be preventive of violation of the law. In respect to a truck driver, on the other hand, it is manifestly impossible to enforce the prohibitions of the New York statute in question otherwise than by requiring reports and permitting convictions based thereon. In addition, it is the excessively long periods truck drivers operate which, unless prohibited, occasion accidents. The statute requiring the filing of a report was designed to prevent this. In this situation a court might feel that considerations of policy against self-incrimination were overweighed by the broad public policy behind the legislative enactment and it might sustain a conviction on the basis of the evidence obtained from the time card alone. This view seems to be supported even by the statement in the instant case that "the obvious purpose of this law was to safeguard travelers upon the highways."[15]

V. M.

EVIDENCE—ADMISSIBILITY OF MOTION PICTURES—[Missouri].—Plaintiff, while working in a clay mine, was injured by a premature explosion of dynamite manufactured by the defendant company. To controvert plaintiff's allegation of defendant's negligence in mixing the explosive and non-explosive elements of the dynamite, defendant offered in evidence motion pictures of the manufacturing process. Although the case was reversed and remanded, the court upheld the refusal of the lower court to admit the motion pictures on the grounds that the film contained irrelevant and prejudicial matter. However, the court stated that motion pictures are admissible in evidence

12. Rembrandt v. Cleveland (1927) 28 Ohio App. 4, 161 N. E. 364.

13. Lashley v. State (1938) 236 Ala. 1, 180 So. 717, (1938) 28 Ala. App. 86, 180 So. 720; People v. Diller (1914) 24 Cal. App. 799, 142 Pac. 797; In re Jones (Fla. 1938) 178 So. 424; Ex parte Kneedler (1912) 243 Mo. 632, 147 S. W. 983, Ann. Cas. 1913C 923, 40 L. R. A. (N. S.) 622; State v. Sterrin (1916) 78 N. H. 220, 98 Atl. 483; People v. Rosenheimer (1913) 209 N. Y. 115, 102 N. E. 530, 46 L. R. A. (N. S.) 977; Commonwealth v. Showers (1937) 32 Pa. Dis. & Cty. Rep. 264.

14. See note 13, supra, and 8 Blashfield, *Cyclopedia of Automobile Law and Practice* (Perm. ed. 1935) 134, 135, sec. 5399.

15. (N. Y. 1939) 24 N. E. (2d) 105, 107.

subject to the discretion of the court and the rules of evidence governing the admission of still pictures.[1]

This is the first Missouri decision on the admissibility of motion pictures.[2] Although few appellate courts have considered the matter,[3] lower courts in several states[4] have permitted litigants to exhibit motion pictures to juries. This type of evidence has been offered most frequently in personal injury actions to depict the physical condition of the plaintiff after the accident.[5] Sometimes, as in the instant case, motion pictures have been submitted to display a manufacturing process or mechanical operation.[6] In a single case, a talking motion picture of the confession of one accused of larceny was allowed in evidence.[7]

The admission of motion pictures is governed by the discretion of the trial court.[8] As in the case of still pictures, the court must decide whether the films are relevant,[9] accurate,[10] objective and non-prejudicial,[11] and

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1. Morris v. E. I. Dupont de Nemours & Co. (Mo. 1940) Unreported.

2. In Snyder v. American Car & Foundry Co. (1929) 322 Mo. 147, 14 S. W. (2d) 603, motion pictures were admitted to show that plaintiff was not injured as claimed. However, the court on appeal did not have before it the issue of motion pictures as evidence.

3. Cal., D. C., Md., Mich., Neb., N. Y., Pa., Tex., Fed.

4. Approved by the appellate court: Cal., Fla., Mich., Neb., N. Y., Pa. No appellate court ruling: Conn., Ill., Minn., Mo., Ohio. See Note (1932) 27 Ill. L. Rev. 424; 2 Wigmore, *Evidence* (2d ed. 1923) 107, sec. 798; Wigmore, *Evidence* (Supp. 1934) 338, sec. 798a.

5. In the following cases, in which defendant offered motion pictures to show that plaintiff had not been injured as claimed, films were held to be admissible: Heiman v. Market St. Ry. (1937) 21 Cal. App. (2d) 311, 69 P. (2d) 178; Denison v. Omaha & C. B. St. Ry. (1938) 135 Neb. 307, 280 N. W. 905; Boyarsky v. Zimmerman Corp. (1934) 240 App. Div. 361, 270 N. Y. S. 134; Smalley v. New York Cent. Ry. (1935) 2 U. S. L. Week 578, commented on in (1935) 20 ST. LOUIS LAW REVIEW 280. In Rogers v. Detroit (1939) 289 Mich. 86, 286 N. W. 167, the court upheld the admission of motion pictures offered by plaintiff's counsel to demonstrate the physical condition of plaintiff, who was too ill to attend the trial. In Gulf Life Ins. Co. v. Stossel (1938) 131 Fla. 127, 179 So. 163 (movies admitted), and Massachusetts Bonding & Ins. Co. v. Worthy (Tex. Civ. App. 1928) 9 S. W. (2d) 388 (movies excluded for failure to authenticate), the defendant insurance companies submitted motion pictures to show that plaintiffs were not injured or disabled.

6. Pandolfo v. United States (C. C. A. 7, 1922) 286 Fed. 8; De Camp v. United States (App. D. C. 1926) 10 F. (2d) 984; State for Use of Chima v. United Rys. & Elec. Co. (1932) 162 Md. 404, 159 Atl. 916, 83 A. L. R. 1307.

7. Commonwealth v. Roller (1930) 100 Pa. Super. 125.

8. De Camp v. United States (App. D. C. 1926) 10 F. (2d) 984; Heiman v. Market St. Ry. (1937) 21 Cal. App. (2d) 311, 69 P. (2d) 178; State for Use of Chima v. United Rys. & Elec. Co. (1932) 162 Md. 404, 159 Atl. 916, 83 A. L. R. 1307; Rogers v. Detroit (1939) 289 Mich. 86, 286 N. W. 167; Denison v. Omaha & C. B. St. Ry. (1938) 135 Neb. 307, 280 N. W. 905; Boyarsky v. Zimmerman Corp. (1934) 240 App. Div. 361, 270 N. Y. S. 134; Commonwealth v. Roller (1930) 100 Pa. Super. 125; Massachusetts Bonding & Ins. Co. v. Worthy (Tex. Civ. App. 1928) 9 S. W. (2d) 388.

9. Gulf Life Ins. Co. v. Stossel (1938) 131 Fla. 127, 179 So. 163; Gibson v. Gunn (1923) 206 App. Div. 464, 202 N. Y. S. 19.

10. Pandolfo v. United States (C. C. A. 7, 1922) 286 Fed. 8; Heiman v. Market St. Ry. (1937) 21 Cal. App. (2d) 311, 69 P. (2d) 178; Gulf Life

sufficiently authenticated by the photographer or an eyewitness of the events recorded.[12] But motion pictures supply additional opportunities for the exercise of judicial discretion. A court may exclude motion pictures on the grounds that their projection would be inconvenient,[13] or that they would provide merely a spectacular repetition of matters already in evidence.[14] The court may also require expert testimony to the effect that the films will be projected at the exact speed at which they were taken.[15]

The cases suggest a question of procedure: Should a lower court view motion pictures before passing on their admissibility? The instant case implies, logically, that when the party offering the evidence discloses facts which make the films inadmissible, the court can exercise its discretion without looking at the pictures. However, it would seem desirable that a court inspect proffered films before admitting or rejecting them when counsel fails to reveal disqualifying information. Irrevocable harm might be done if the court, in reliance on information furnished by the attorney offering the films, should permit the jury to see inadmissible pictures. An instruction to disregard could hardly eradicate from the minds of the jurors the vivid impression created by moving, pictorial representations.

T. B.

FEDERAL JURISDICTION — INTERPLEADER — DIVERSITY OF CITIZENSHIP — [United States].—To determine conflicting rights to stock and dividends, a Washington corporation interpleaded citizens of Washington and of Idaho in a federal district court in Washington. The property involved was deposited with the court. For jurisdiction the Federal Interpleader Act[1] requires "* * * two or more adverse claimants, citizens of different states * * *." The question of jurisdiction was first raised by the Supreme Court on its own initiative. *Held*, that the real controversy was between the ad-

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Ins. Co. v. Stossel (1938) 131 Fla. 127, 179 So. 163; State for Use of Chima v. United Rys. & Elec. Co. (1932) 162 Md. 404, 159 Atl. 916, 83 A. L. R. 1307; Rogers v. Detroit (1939) 289 Mich. 86, 286 N. W. 167; Commonwealth v. Roller (1930) 100 Pa. Super. 125.

11. Morris v. E. I. DuPont de Nemours & Co. (Mo. 1940) Unreported; Pandolfo v. United States (C. C. A. 7, 1922) 286 Fed. 8.

12. Heiman v. Market St. Ry. (1937) 21 Cal. App. (2d) 311, 69 P. (2d) 178; De Camp v. United States (App. D. C. 1926) 10 F. (2d) 984; Gulf Life Ins. Co. v. Stossel (1938) 131 Fla. 127, 179 So. 163; Rogers v. Detroit (1939) 289 Mich. 86, 286 N. W. 167; Commonwealth v. Roller (1930) 100 Pa. Super. 125.

13. State for Use of Chima v. United Rys. & Elec. Co. (1932) 162 Md. 404, 159 Atl. 916, 83 A. L. R. 1307; Boyarsky v. Zimmerman Corp. (1934) 240 App. Div. 361, 270 N. Y. S. 134.

14. Boyarsky v. Zimmerman Corp. (1934) 240 App. Div. 361, 270 N. Y. S. 134. See De Camp v. United States (App. D. C. 1926) 10 F. (2d) 984.

15. See State for Use of Chima v. United Rys. & Elec. Co. (1932) 162 Md. 404, 159 Atl. 916, 83 A. L. R. 1307; Commonwealth v. Roller (1930) 100 Pa. Super. 125.

1. Act of January 20, 1936, 49 Stat. 1096, (1939 Supp.) 28 U. S. C. A. sec. 41(26).