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BOOK REVIEW

The Automobile Compensation Plan, by Patterson H. French.
Columbia University Press, New York, 1933. Pp. 262. \$3.50.

Any plan of compensation for automobile accidents embodies three principles from which all of its more detailed provisions flow. These are comprehensively stated by the author in the above book, as follows:

"1. The removal of all automobile personal injury cases from the courts and the handling of these by an administrative commission with relatively swift and simple procedure, similar to that which now operates in connection with workmen's compensation.

"2. The abandonment of common law rules of damages, negligence and contributory negligence. The plan places absolute liability upon owners of motor vehicles for all injuries in which their vehicles were involved. Damages are limited definitely and will be measured as accurately as possible according to medical expenses and actual economic loss suffered.

"3. The inauguration of a system of compulsory financial responsibility among automobile owners by requiring them to carry insurance or furnish security or a bond covering all awards which may be made against them."

It is obvious that these same principles underlie workmen's compensation, and Mr. French proposes the same schedule of compensation as provided in the New York Workmen's Compensation Act. In discussing the merits and demerits of the proposed plan as to liability without fault, administration and a fixed schedule of compensation, many of the arguments for and against workmen's compensation are advanced, with this great difference that workmen's compensation was designed to shift the incidence of loss to the industry which caused it and which could absorb the cost as operating expense, whereas owners of pleasure cars will practically be taxed with the cost of the plan. Likewise workmen's compensation operates between employer and employee who are already in relation under an employment agreement, and compensation can be fairly adjusted for workmen as a class, whereas there is no relation between automobile owners and those injured, and claimants for compensation include rich and poor, employed and unemployed, whose losses cannot be standardized.

Bills embodying the plan of compensation for automobile accidents were introduced into the New York legislature in 1921 and 1923, known as the "Straus" bills. The New York City Club prepared a bill on the subject in 1925. The first really comprehensive and scientific study was made by the Committee to Study Compensation for Automobile Accidents under the auspices of the Columbia University Council for Research in the Social Sciences. The report of this committee, called the Ballentine report from the name of its chairman, was made in 1932. Mr. French's excellent book is naturally based on this report to a considerable extent and much of the usefulness of the book to this reviewer was its evaluation of the Ballentine report and of the numerous articles which have discussed the matter in the past few years.

The Ballentine report was based on a study of some 8,849 personal injury cases taken from various parts of the United States, urban and rural. The investigators made a house to house canvass. The publication of the report was a startling revelation of injustice to thousands upon thousands of injured people and families of those killed, who have been unable to collect a dollar of compensation because the motorist is not insured, while others must accept the insurance company's offer or else await the outcome of delayed action in court. The social loss involved in the annual toll of over 30,000 lives and approximately a million personal injuries of every degree of seriousness is a condition which imperatively requires reform and which is the underlying assumption of Mr. French's book. The Ballentine report had made that plain. A new element in our book is the study made of court congestion in New York County and in three upstate counties in New York which demonstrates the increase of business due to personal injury suits arising from automobile accidents, which, according to the conclusions of Mr. French, account for about one-third of the total business of the courts. But the problem of court congestion is an old one and many excellent proposals have been made to relieve it. It would seem that court administration might be improved in numerous ways before such a radical departure as the Automobile Compensation Plan would be justified. Moreover, property damage cases would still have to be handled by the courts and new legal questions would arise due to the very existence of a new administrative tribunal. Probably the saving in congestion would be much less than anticipated.

The Ballentine report indicated that the chance of recovery against an uninsured motorist is about one in four, whereas insured motorists made some payment in 85 per cent of the cases studied. This argument for compulsory insurance is dealt with by the author who points out that any insurance plan based on the present law of damages and negligence cannot afford maximum protection to those injured. But a situation in which 85 per cent recover where there is insurance, as against 25 per cent where there is no insurance, shows that we already have liability without fault in the insurance cases. Certainly, compulsory insurance would mark a great advance in the protection of those who suffer loss as the result of automobile accidents, damages in 85 per cent of all cases being about as good a record as we should hope for. But the insurance companies and their allies, the automobile clubs, stand opposed to compulsory insurance, as it involves state control of rates and even state insurance. They have advocated strenuously the so-called Safety Responsibility Acts, which operate on the theory of locking the stable door after the horse has been stolen and which have been well nigh futile in helping the automobile accident situation. This is particularly true in a state like North Carolina, where there is an emasculated Safety Responsibility Act without a state driver's license law and where enforcement is necessarily ineffective because of the small number of state traffic policemen, who are loaded up with many other duties.

An almost insuperable difficulty against the compensation plan is that no legislature is going to pass a law which will tax the motorist anywhere from \$100 to \$200 a year. Compulsory insurance is a heavy enough tax on the motorist, as the Massachusetts experience shows, but compensation would be twice as costly. But Mr. French has no delusions about the difficulties presented by the compensation plan. He seems to have mentioned all of them, and he has found fairly satisfactory arguments to justify the plan. It is in the matter of details, where arguments pro and con are presented with much skill, that doubts as to the desirability of the compensation plan arise. In the larger aspects of the argument, the book is convincing. Especially fine is the last chapter on "The Place of the Plan in American Administrative Law."

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