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Norman Damon

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PROGRESS IN THE ENFORCEMENT AND ADJUDI- CATION OF TRAFFIC LAWS

Norman Damon

(Trouble lies ahead for enforcement officials when wartime restrictions on motor vehicle transportation are removed or lessened and the nation re-enters upon a far-flung use of motor vehicles. It is for this reason that Mr. Damon's article on "Progress in the Enforcement and Adjudication of Traffic Laws," is of exceptional and timely interest. In it he reviews the progresses made, points out extant weaknesses, and indicates possible courses of sound future action. In his interpretations he brings to bear an experience of many years. He is a graduate of the University of Michigan and from 1925 to 1937 was a member of the Washington office of the Automobile Manufacturers' Association. With the founding of the Automotive Safety Foundation in 1937 he was appointed one of its directors and in that capacity was largely instrumental in formulating and coordinating a nationwide traffic safety program. Since his election to a vice presidency of the Foundation in 1942 he has continued to devote much of his time to furthering improvement in the traffic law enforcement process. The article is based upon an address given before the National Safety Congress, Chicago, Illinois, October 3, 1944.—Editor.)

In "Julius Caesar," Shakespeare wrote:

"There is a tide in the affairs of men
Which, taken at the flood, leads on to fortune;
Omitted, all the voyage of their life
Is bound in shallows and in miseries."

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That same kind of turning point is now at hand in the progress of traffic law enforcement. Right now we are face to face with decisions on enforcement policies of tremendous importance for tomorrow.

The crucial character of this particular period has resulted from three years of war. During the war emergency the number of motor vehicles on the road has been steadily reduced; mileage of travel has been drastically curtailed, and the personnel of enforcement agencies has been radically cut down. Because traffic accident fatalities in 1943 reached their lowest level in 20 years, the seriousness of the situation has been minimized. Instead of voicing their apprehension, too many people have been indulging in totally unwarranted sighs of relief.

Today, with much of the momentum gone from the traffic control program, we stand on the threshold of change. Wartime restrictions soon will be relaxed. The number of cars on the road will begin to increase. More gasoline and tires will be available for many machines that are already running on borrowed time. With an upsurge of travel mileage we can expect a corresponding increase in accident exposure. All the ingredients are being collected for a skyrocketing of traffic fatalities.

Traffic law enforcement alone does not have to carry the full responsibility for meeting the challenge. The burden is shared by two other fundamental factors in an effective control program: Engineering and Education. But the enactment of good traffic laws, and their proper enforcement, constitute a basic and indispensable element of highway safety.

In this we need to remember the distinction between what are known as "moving" violations, and parking or other regulations not directly related to accidents. "Moving" violations are involved in an overwhelming percentage of traffic fatalities.

Long before Pearl Harbor, the growth of traffic volume and complexity put added responsibility on enforcement agencies. But with the war, emphasis on the safety program diminished.

Now, in the face of imminent traffic changes ahead, the responsibility is once more clearly outlined. It is not pleasant to think what may happen if traffic is not effectively controlled during the next few years. Let us fervently hope that the decisions made at this turning point will be the right ones, and that so far as law enforcement is concerned, our streets and highways shall not, in Shakespeare's language, be "bound in shallows and in miseries."

What are these decisions that have to be made? What must be done to assure the observance of sound traffic laws, so that motor vehicle travel will be safe and efficient? What major

needs can we foresee, and what action must be taken, now, to meet them?

We can divide the over-all subject into four general classifications:

First, traffic laws and ordinances. They are the foundation for any enforcement program.

Second, police enforcement.

Third, the traffic courts. The efforts of lawmakers, police, and motor vehicle administrators alike stand or fall at the bar of justice.

Fourth, the Public. Although enforcement activities are aimed particularly at a minority of citizens, the effectiveness of the entire program depends in the final analysis on public understanding, acceptance, and support.

I. Traffic Laws and Ordinances

Traffic regulations suffer from our national habit of passing a law and then forgetting that "there is no law without a sheriff."

To be effective in this country, any law must carry the clear sanction of the majority of citizens. Beyond that, traffic laws must also be uniform. Conflicting rules of the road among local, county and state jurisdictions are impracticable in modern traffic.

For 20 years we have been making progress toward uniformity of traffic laws; especially among the states. This progress has been made within the framework of the Uniform Vehicle Code, the Model Ordinance, and the Manual on Uniform Signs, Signals and Markers.

In the field of state legislation, gains in motor vehicle laws have outweighed losses during the last few years. On the plus side of the ledger has been the enactment of progressive financial responsibility laws in such states as Indiana, Ohio, Oregon, Maine, Michigan, Vermont and Virginia, following the enactment of the New Hampshire statute of 1937.

Maryland has codified her traffic laws, continuing progress in that area during the war period.

The use of chemical tests for intoxication has been legalized in Indiana, New York, Maine and Oregon, while in North Carolina, Florida, Massachusetts and Arizona, courts have recognized the use of such tests. These are notable signs of progress. In addition the Indiana State Police have developed and put into use a manual on tests for intoxication.

The enormous demand of war upon highway transportation for the movement of goods and personnel has resulted directly in the suspension by many states of trade barriers, such as variant size and weight regulations. Greater reciprocity among the states on licensing and other administrative controls have

been encouraged. While this action has been taken only on an emergency basis, to meet war conditions, it is reasonable to hope that out of it will come increasing recognition, by the public and by state legislatures, of the benefits which are derived from the free flow of traffic across state boundaries.

Another recent development of significance is the provision by the Federal Congress in the pending highway bill to encourage uniformity of signs, signals and markings on roads constructed under federal-aid grants to the states. This already has been passed by the Senate.

On the debit side of the book we cannot find much to worry about. There has been a tendency to suspend or relax vehicle inspection programs during the war years and to lower the age limits for drivers, particularly of school buses and commercial vehicles. But these relaxations have sprung directly from war shortages and the ground can be regained quickly.

There is great need for a more vigorous and widespread job of interpreting state traffic laws to the public. This need comes to us as an inheritance from pre-war years, and rides with us into the future. We must not rest on the legal support that "ignorance of the law is no excuse," as state and city officials are too often inclined to do, and expect the public to be familiar with lengthy and complicated motor vehicle laws.¹

Michigan is showing what can be done in this direction. There every new applicant for a driver license is provided with a simple, clearly written leaflet, "What Every Driver Must Know."

We still must work toward stiffening of driver license requirements, upgraded to uniform levels. In the case of three states, we still have no driver license laws whatever. There is a great deal more to be done in defining the legal relationship of pedestrians and vehicles. Legislative support must be given to the program for improvement of traffic courts. This we shall discuss later. We still have a long way to go in simplifying administrative procedures covering vehicle inspection, registration and driver licensing. Also in working out more effective use of the "mandatory" provisions of state traffic laws. Without these mandatory provisions, too much latitude is permitted in the disposition of serious cases. On the other hand, if they are too severe they may defeat their own purpose. For example: the law providing a mandatory jail sentence upon first conviction for drunken driving is likely to decrease or discourage arrests and trials on this charge.

Now let us turn from state laws to local ordinances. Here

¹The laws relating to motor vehicles and their operation in one state, for example, are contained in a 316-page pamphlet of fine print. Michigan condensed a 256-page fine print pamphlet on motor vehicle laws into a 23-page booklet of pocket size with illustrations.

we find that while the war period has had less immediate effect on municipal traffic regulations, progress there is much less satisfactory than it is in the state field.

You know as well as I the confusing differences in city ordinances in the same state and even in adjoining communities—let alone in different states—governing turns from car tracks, right and left hand turns with or against traffic signals, parallel and angle parking, and right and left hand passing.

A few exceptions should be noted. Detroit, for example, has contributed materially toward simplification and uniformity of signs, signals and markers. Where six shapes and twelve color combinations formerly provided 406 different parking messages there has been substituted one shape, two colors and a combined total of 76 messages.

Stimulated by requests from the Office of Defense Transportation many cities have reorganized their signal and sign systems in order to adjust them to changed traffic conditions.

The pedestrian problem is acute in urban areas and requires much greater attention. Traffic consists of vehicles and of persons walking; under prevailing legal concepts inherited from the last century, it is "half-slave and half-free."

Here again in Detroit, and a limited number of other communities, forward steps have been taken during the last three years in the enactment of modernized pedestrian control ordinances and in gaining for them the necessary public support.

Since a majority of urban pedestrian fatalities occur at night, adequate street lighting will help the pedestrian problem greatly. Modern expressways provided for the concentration of heavy city traffic, will also go far in this direction. But these measures, however necessary, cannot solve the whole problem. The pedestrian situation demands thorough investigation in the light of 20th century traffic requirements.

II. Police Enforcement

In our second main division we come to police enforcement of existing laws and legislation. Many real gains in this field during the emergency pay tribute to the abilities and vision of the men who are operating our state and city enforcement agencies.

With fewer men, the police have met successfully the large demands imposed by war. This has been possible only through increasing efficiency.

The police have developed a substantially increased interest in training programs from which we can anticipate large returns in the post-war era, despite forced curtailment of such training during the war period.

How drastic the immediate curtailment has been is revealed by the fact that in 1941 a majority of all state departments pro-

vided some kind of training, while in 1943 less than half a dozen departments were continuing those programs.

Meanwhile, however, their development of training materials and plans, together with their support for the Northwestern University Traffic Institute and the National Police Academy and the limited number of state or local training activities, is building a constantly wider acceptance in the profession and with the public for their efforts to raise police standards by adequate training.

Gains have also been made in coordinating police efforts with those of other agencies having jurisdiction over traffic operations. Through the Highway Traffic Advisory Committee to the War Department, enforcement agencies of the states have worked closely in cooperation with other state agencies and with the federal government in facilitating highway transportation essential to the war effort. Closer cooperation between state and local police and sheriffs also is evident.

Another enforcement gain has come through the development and adoption of scientific techniques for traffic control. Among the new techniques we can see an extension of the "directed" or "selective" enforcement program, based on record analysis; use of speed zoning in cooperation with highway departments; the use of coordinated state-wide special emphasis programs such as the use of road blocks in California; uniform enforcement policy in Washington; and the "selected route" enforcement program in Connecticut; the expanded use of special accident investigation procedures, and a tendency toward greater centralization of responsibility for traffic law enforcement functions.

These evidences of progress take on added significance when we remember that it was not until the middle 30's—less than a decade ago—that all 48 states had traffic police departments.

On the minus side of the enforcement picture, there is, of course, the sharp curtailment in manpower, already referred to, ranging from 20 to 40 per cent in city and state agencies. This depletion of forces, together with the inability to train properly the replacement personnel, represents what is probably the greatest single negative factor in the police situation.

Reductions in budget and in equipment also have been felt in many instances, aggravated by the necessary diversion of men, equipment and attention from traffic control to wartime emergency duties.

The most urgent need in police enforcement during the period ahead obviously will be the recruitment and training of new personnel to make up the wartime losses. The problem will be complicated by the necessity for prompt action, in order to maintain effective controls. The obstacles can be overcome to some extent by careful advance planning.

What should be the size of post-war traffic forces? The answer will depend, of course, upon local circumstances and upon the changing conditions of street and highway use, but it appears certain that pre-war strength will have to be the minimum requirement, in view of the accident fatality record of the years immediately before Pearl Harbor.

Obviously, the planning job cannot stop there. Some kind of reasonable relationship must be worked out between the size of the accident prevention forces and the size of the problem to be met.

At this point a comparison with other public safety agencies may be made in formulating police-expenditure estimates. What are the community or state losses from crime, or fire, in terms of lives, property and money? What is expended to prevent crime and how much is spent to prevent and fight fires? A proportionate expenditure to build up police forces to adequate size and standards would, in the vast majority of cases, mean goals far higher than anything contemplated before.

Nor is size alone the measure of future traffic-control needs. Policies and procedures need revision and invigoration. In preparing for this discussion, I asked a leading state police executive the other day for comments. Here is what he said:

"In spite of improvements already made, I believe that most departments have only scratched the surface in reaching even recognized standards in the enforcement of traffic laws."

This statement is a strong challenge to increased efficiency and effectiveness in traffic police work. It calls for specific improvements. One is a complete inventory of personnel, budget and equipment, as the first step in drafting a detailed program of improvement to gear the department to problems now on the horizon.

The encouraging trend in police training of recent years is, of course, only a beginning. The provision of good training for all members of every department, including administrative officers, is high on the police agenda. Funds and equipment will be necessary. In many large metropolitan departments, and in many states, the task is well under way. But the job is as big and difficult as it is important.

Administration of driver licensing laws is fundamentally connected with traffic control. Public officials in this field have tried hard to hold their own against serious odds. Virginia developed an efficient corps of women examiners; Colorado, Texas, Mississippi, South Carolina and other states held training courses for replacement personnel. In state after state these officials are still fighting to "hold the line."

This is not surprising in view of the heavy inroads which the

war has made on administrative personnel, and the general tendency toward relaxation of license requirements. Most states have barely been able to preserve the nucleus of a program for post-war rebuilding and expansion. In too many departments function after function is literally "starving to death."

The need for restoring these administrative functions promptly to a high level of efficiency will be urgent in the demobilization period. Ten million or more men and women of driving age will be released from the armed services, where they have experienced discipline and training. They cannot be expected to have much patience with civilian authorities carrying out administrative and disciplinary jobs without adequate training. Standards will have to be pushed upwards.

Even during the war the American Association of Motor Vehicle Administrators has sponsored a seminar on driver improvement. Action of a substantial and continuing nature has developed from it.

The objectives, then, in the driver training field will not be new but the conditions demanding their achievement after victory will be new. We will need examining procedures for new drivers which will screen out the unfit and give constructive assistance to those needing special instructions or the development of driving skills. Better re-examination techniques will be needed, with improved use of suspension and revocation powers, to deal with habitual violators. These improvements will depend upon better-trained personnel, more adequate records and a general step-up in administrative efficiency.

The exercise of powers to suspend or revoke driver licenses is a potent instrument in the control of traffic and the prevention of accidents. A trend is noticeable toward the concentration of this power in the hands of administrative agencies, outside of judicial authority. Careful examination of this question will be needed, particularly as to the job the courts should perform with respect to this phase of the enforcement program.

III. The Courts

Good traffic law enforcement demands teamwork; it is the product of coordinated activities by many agencies.

During the last three war years many developments have taken place which lay the groundwork for improvement of traffic court administration. And if these events have not yet been translated into widespread accomplishment, at least they give grounds for encouragement.

We have a long way to go in traffic court improvement, but we are definitely on the way.

The first major step forward was acceptance by the National Committee on Traffic Law Enforcement of the George Warren

report on traffic court conditions, and his recommendations for improvement. This report has been recently digested and printed in a book called "Traffic Courts on Trial." Copies are available through the American Bar Association, the National Safety Council and the Safety Division, International Association of Chiefs of Police.

Completion of the Warren report was followed by general recognition by the bench and bar for administrative reforms to make our judicial system more responsive to the needs of modern traffic. The report was specifically endorsed by the American Bar Association and other groups in the legal profession. The beginning of an active program has been undertaken by the Bar Association, through its Junior Bar Conference, and by the Traffic Courts Committee of the National Safety Council and related groups, to put into effect as many as practicable of the 57 specific recommendations.

During the past two years more than 35 state-wide court conferences were held, bringing together judges, prosecutors, lawyers and others. Initiated originally by the National Safety Council and subsequently sponsored jointly by the Council and the Junior Bar Conference, American Bar Association, these meetings were successful, without exception, in stimulating greater cooperative effort within the states. In some instances, they resulted in immediate improvement in traffic court conditions and procedures.

In two states—Colorado and Nebraska—the state conferences already have been followed by a series of regional institutes which have carried the program into local communities. This has given genuine impetus to the movement in those states. Similar follow-up activities in other states can be expected to accomplish equally gratifying results.

One problem peculiar to traffic courts comes from the fact that violators of traffic laws are not criminals in the usual sense of the word. They resent being classed with criminals. This makes desirable a segregation of cases and the creation of full-time traffic courts wherever this is feasible.

Another complicating factor in many jurisdictions is the revenue-raising aspect of traffic cases. Impartial justice—the blindfolded lady with the torch and scales—can never be compatible with a system in which somebody's budget demands a minimum volume of fines.

Strict and continuous enforcement of traffic laws is essential to public safety. On this basis the public accepts, and supports, measures necessary to good enforcement. But here again troubles crop up: Not all traffic laws are by any means matters of safety. Many are only matters of convenience.

A driver hailed into court for parking illegally in space reserved for the convenience of a department store may be resentful because he is unable to relate his offense to the deaths and injuries in the community.

I do not suggest that parking regulations be rescinded, or their enforcement overlooked. But I do suggest that enforcement efforts in behalf of accident prevention be clearly so labeled. The public should be helped to understand the distinction between violations which menace life or property, and those which merely interfere with convenience. The distinction is important because of its bearing on support for needed traffic court improvements.

By far the largest number of traffic-regulation violators are in the latter category—the overtime parkers, etc. Since these cases must be taken care of, traffic court dockets are often so jammed that justice cannot be administered efficiently. Efforts to remedy this situation through the establishment of so-called “cafeteria courts” sometimes meet resistance on the ground that it makes possible the “purchase” of the privilege of violating the law. This tends to undermine respect for law. Methods of overcoming the difficulty must be worked out. Graduated fines in the “cafeteria court” for first, second, and third offenses might be a solution, for example, with fourth-time offenders automatically taken into court.

Remember that traffic court improvement, as an organized program, is still new. Do not let my enthusiasm for what is already being done about it minimize in your minds the enormous job which lies ahead, or the difficulties which must be overcome. Involved in it are adequate physical facilities to replace court rooms which in a great many instances today are incredibly bad. Mr. Warren found justice being administered or mal-administered in some mighty strange places.

Then there is the necessity for well-qualified and well-trained personnel on the bench, in administrative posts, and in the prosecution of traffic cases.

The purpose of traffic courts is not primarily punitive. It is primarily preventive. Its object is not to levy fines and put people in jail, but to provide impartial punishment for drivers who make traffic disorderly and dangerous.

The performance of traffic courts, in teamwork with other enforcement agencies, will determine to a large degree the standard of public observance of fair rules of the road.

IV. Public Attitude

Finally we come to the incalculably important matter of public support for a safe-traffic program.

It is common these days to hear it said that the war has resulted in public indifference to the traffic accident problem.

There has unquestionably been a slackening of interest in accident news. A certain amount of apathy toward domestic problems is inevitable because of the distractions of global conflict. Perhaps a large part of the blame for the general increase in traffic fatalities during the last year can be attributed to this condition.

But public indifference, however much of a factor it may have been, should not be allowed to weigh too heavily in our appraisal of future problems. The apathy we hear of today is temporary. When the accident toll begins to climb up again, after travel is resumed, public inattention will vanish like morning mist.

What we need to be concerned about is *lack of public information*. All the facts of the safety problem must be explained and presented, over and over again, so that the sound and essential programs we have been discussing can be given intelligent public support.

This phase of the job, it seems to me, should occupy a prominent place in the post-war planning of every agency concerned with the control of traffic. Public understanding and support must be the cornerstone of progress on every sector; in pedestrian control, in driver examination, in uniform laws and ordinances, in court improvements.

Since the traffic fatality curve started upwards 12 months ago, a good many effective educational campaigns have given evidence of the possibilities for constructive effort in securing greater public support. The outstanding brake-inspection program in Michigan, sponsored jointly by state, county and municipal enforcement agencies, comes to mind. The results in decreased fatalities are almost too good to be true. Many other community programs throughout the country have been carried out with equal success.

Recently a dozen or more agencies of the Federal Government joined in requesting the Office of War Information to undertake a nationwide information campaign on accident prevention, which will get under way this fall in all media. It will be a general public appeal for carefulness and for support of sound safety programs, with special emphasis on the rising wartime toll of traffic accidents.

Undertakings of this type offer opportunity for many non-official groups to support actively the work of enforcement agencies, through encouragement of a sound public attitude. The operations of enforcement authorities themselves, competently exercised in the public interest, help tremendously in moulding public opinion. A part of this official responsibility should be to interpret laws, administrative activities and policies to the public, so that the attitude of citizens can be founded upon better and

still better understanding of the objectives of enforcement.

Over the long pull, an extremely important factor in public attitude toward traffic law enforcement will be the education and training of boys and girls of high school age. Good courses, properly organized and manned, will equip them first of all to take their places as responsible citizens in our modern society. Nearly two and one-half million boys and girls reach driving age every year, which indicates how important their training could be in cutting down the size of the enforcement job.

Beyond this, adequate driver education and training for boys and girls will help secure an intelligent public attitude toward enforcement in the future. It will help give them wider knowledge of traffic problems and a clearer understanding of the individual responsibilities of each driver and pedestrian.

A sufficiently well-informed public will make possible eventually an enforcement program that will realize all of the humanitarian objectives of improved traffic legislation.

V. Conclusions

We have covered much ground in this discussion. Perhaps too much. That is a common penalty for one who tries to review comprehensively a broad and complex subject.

Out of these observations I should like to distill a few conclusions, points which seem to me to loom importantly ahead:

(1) All forces of traffic law enforcement must be cooperatively united to attain results.

(2) Laws, ordinances and enforcement policies must be simplified, made uniform and thoroughly interpreted to street and highway users.

(3) Enforcement personnel must be adequate, qualified and trained to high professional standards.

(4) Traffic courts, which represent for millions their only contact with the judiciary, must function impartially, consistently and in accordance with the highest ideals of justice. Their goal must be public safety.

(5) The efforts of all agencies must be directed to encouragement of strong national self-discipline—to voluntary acceptance of individual responsibility for observance of the rules of the road.

(6) The outlook for the immediate post-war period in accident prevention is serious. All essential enforcement and administrative agencies must be rebuilt as rapidly as possible.

During the year before this war—1941—a total of 40,000 deaths in American traffic accidents was a startling measure of man's "irresponsibility to man."

Can we—will we—tolerate again that price for needless carelessness? You know, and I know, that we must not!