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The National District Attorneys' Association

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Articles, Reports, and Notes

OF

THE NATIONAL DISTRICT ATTORNEYS' ASSOCIATION

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Editor: Duane R. Nedrud, Assistant Professor of Law, University of Kansas City, Kansas City, Missouri

NATIONAL DISTRICT ATTORNEYS' ASSOCIATION FOUNDATION RECEIVES GRANT OF \$10,000 FROM ALLSTATE INSURANCE FOUNDATION

The Allstate Insurance Company, through its foundation, gave to the NDAA's Foundation a grant of \$10,000 to finance its "Murder by Motor" program for this year. Albert E. Spottke, Vice President of Allstate, addressed the Association at its meeting in Miami Beach and accepted a Certificate of Merit from the National District Attorney's

Association presented to the Allstate Insurance Company.

The National District Attorney's Association's Foundation was established to receive gifts from those persons and organizations interested in the law enforcement program of the Association. All such gifts are tax exempt.

"MURDER BY MOTOR" THEME TO BE CONTINUED AT BOSTON CONFERENCE, AUGUST 11, 12 AND 13th, AFTER SUCCESSFUL START AT MIAMI BEACH CONFERENCE

At the mid-winter meeting of the National District Attorney's Association in Miami Beach on March 16, 17, 18 and 19, a very informative and successful conference was held on traffic safety. Included as lecturers and speakers were Daniel P. Moynihan, Director, New York State Government Research Program of Syracuse University; Dr. Walter A. Cutter, Director, Center of Safety Education, Division of General Education, New York University; Dr. Herman A. Heise, Chairman of Committee on Legal Medicine, American Medical Association, Milwaukee, Wisconsin; Dr. C. J. Rehling, State Toxicologist, Auburn, Alabama; Dr. H. Ward Smith, of the

Attorney General's Laboratories, Toronto, Canada; William Randolph Hearst, Jr., Editor-in-Chief, Hearst Publications, and Chairman, President's Committee on Traffic Safety; James P. Economos, Director of Traffic Court Program, American Bar Association; Robert L. Donigan, Counsel, The Traffic Institute, Northwestern University; Richard E. Gerstein, State Attorney, Dade County, Miami, Florida; Harry Ackerman, County Attorney, Tucson, Arizona; and Leonard T. Kardy, State Attorney, Rockville, Maryland. The Honorable Tom C. Clark, Justice of the Supreme Court of the United States, addressed the district attorneys at the final banquet.

MEMBERSHIP OF NDAA APPROACHES 1500 MARK

Victor H. Blanc, District Attorney of Philadelphia and treasurer of the NDAA, reports that the NDAA, as of March 19, has 1373 members, including over 600 active members. Active members are those who hold the office of District

Attorney, County Attorney, State Attorney, etc. The associate members are assistants and former active members and assistants who no longer hold office. It was also reported that we are close to the goal of 50% of our membership as members of

the American Bar Association, which will enable the NDAA to obtain representation in ABA's House of Delegates.

With the membership of John H. Peters, Prose-

cuting Attorney in Honolulu, Hawaii, every state in the nation except Alaska is represented in the National District Attorneys' Association.

MEETING OF OFFICERS OF STATE PROSECUTORS' ASSOCIATIONS

A meeting of the officers of the various state associations was held at the Miami Beach conference. Several proposals were made regarding co-operation of the National Association and the state associations in assisting each other in the

promotion of better law enforcement. Proposals made and considered included the establishment of a permanent central office for the National Association and representation in the NDAA by the state associations.

THE TRAFFIC ACCIDENT PROBLEM AND THE U. S. PRESIDENT'S COMMITTEE FOR TRAFFIC SAFETY

Remarks of William Randolph Hearst, Jr., Chairman, the President's Committee for Traffic Safety, to the Conference of the District Attorneys' Association, March 19, 1960

... One thing we found out years ago. There is no *single* solution to the traffic accident problem—no panacea that will dramatically cut accidents in half as soon as it is imposed on the nation's motorists. The only way to substantial accident reduction is through a *balanced* program, administered on the basis of priority needs.

The reason I mention that now is because of a natural tendency by specific groups to push only those phases of a traffic safety program to which they are the most sympathetic. From the standpoint of one district attorney, for instance, it may seem unimportant that teenagers be taught to drive in high school. Or at least it may seem far less urgent than the aspects of law enforcement with which the D.A. is intimately familiar. On the other hand, the group advocating driver training may put a lower priority on *your* problems.

Last summer, the President's Committee felt it important to place fresh emphasis on the *major* traffic safety needs facing the nation. We came up with nine of them, and I'd like to read the list off to you now. Bear in mind that if some of these needs are not applicable to your own states and communities, it is because those areas have made a good start toward improvement of the traffic safety picture. Incidentally, I think that as District Attorneys you will find more than one of the nine needs pertinent to your own experiences. Here they are:

(1) Enactment, by every State and community, of sound, uniform traffic law and ordinances.

(2) Fair, firm and impartial enforcement of these laws and ordinances by properly trained and adequately equipped state and local police forces.

(3) Traffic courts that dispense fair and impartial justice, fostering respect for the law and support for its enforcement.

(4) Reasonable but strict requirements for obtaining and retaining a driver's license.

(5) Development, by all States and communities, of adequate and uniform accident reports, and use of this information to determine needs and corrective actions.

(6) Stimulation of construction of new highways, and rehabilitation and maintenance of those now existing, using the best engineering techniques to insure maximum safety.

(7) Periodic inspection of all motor vehicles.

(8) Nationwide instruction of young people in driving practices and attitudes.

(9) Progressive improvement of motor vehicle design and construction to afford greater ease in safe operation and greater protection for occupants.

All of these points can be found in what is called the Action Program, which might be termed the creed of the President's Committee. The Action Program is a comprehensive body of policies and procedures for the safe handling of traffic. It has been accepted by traffic safety authorities since its first publication in 1946. There was a revision in 1949, and we are now in the process of updating some of the details. The basic principles of the

Program are still thoroughly valid, but naturally the passage of 11 years has brought to light new ideas and recommendations.

Just for an example with which you may be unfamiliar, it has been found that the speeding ambulance actually kills more people than it saves. The American College of Surgeons and the Red Cross feels that the siren-wailing ambulance should join the buggy whip as things of the past. It is a very rare case indeed when excessive speed is necessary to save an accident victim's life. Far more common is the case of the speeding ambulance *creating* another accident through its driver's disregard of elementary safe driving.

Along the same line, there have been studies indicating that not even considering the use of unreasonable speed, ambulance service for traffic accident victims is far less than it should be in many communities. Why? Because of badly inexperienced ambulance attendants. Points like these are all too often ignored in the average safety campaign not based on a balanced program.

Incidentally, along with updating the Action Program, there is a factor in its revision that should interest you as District Attorneys. One category within the Program has always been called, simply, "Enforcement." It was decided that that is no longer sufficient, and we will split it into two separate categories. One will be called "Enforcement—Police," and the second will be headed "Enforcement—Courts."

In every category, the revisions and updating are being done by pre-eminent authorities in their specific fields. Their first drafts will be submitted next month, but much work will have to be done after that, and I can't tell you yet exactly when the revised Action Program will be published. I do know that it will interest you professionally and—I hope—as an overall blueprint for safer motoring.

Of course, a blueprint is without value unless it is used to build something—in this case, traffic safety. Also, it must be admitted that public officials can do only so much toward solution of traffic problems in the face of an apathetic citizenry.

It is for that reason that the cornerstone of President's Committee policy has been the formation and strengthening of citizen safety organizations in every state and community. Such groups can be invaluable in furthering the aims of a traffic safety program. You need only compare the records of communities and states that have effective citizen

groups against those that don't to see what I mean.

The state of Connecticut is a good example. There, a traffic-safety-minded administration and legislature in conjunction with strong citizen safety organizations on the state and local level have brought the mileage death rate to the lowest in the country—to nearly *half* the national average.

Without citizen support, public officials find themselves working in a vacuum or against outright antagonism as they try to impose safe driving on the populace. The trouble is that most people are firmly convinced of their prowess behind a steering wheel.

Some time ago, a study was conducted in which motorists were asked to rate their own driving abilities either as much above average, above average, average, below average, or much below average. As you might expect, practically all the respondents considered themselves above average or much above average. This illustrates the colossal conceit that seems to affect motorists everywhere and makes them think: "It can't happen to me."

What can the public official do in the face of this over-confidence? Only a limited amount, unless he has firm citizen support. The citizen safety organization can help on two levels, one of them psychological. That is, aside from actively supporting public officials in *their* efforts, the group—by its very existence—tends to make other citizens alter their thinking about traffic safety. I don't mean that the formation of citizen safety organizations brings an overnight change in everyone's attitude toward driving. But the idea of civic leaders and just plain people working hand in hand with public officials *does* bring home to the average citizen that there may be something to this traffic safety stuff after all.

However, traffic safety won't be won by voluntary cooperation alone. No matter how hard we work for that cooperation, we just won't get it from a certain percentage of motorists. Even when one of them does get caught committing a traffic violation, he doesn't let it bother him. If he is responsible for an accident, he may be very contrite for a while, but he doesn't think of it as assault with a deadly weapon.

Unquestionably, part of this attitude stems from the lowly station suffered by the traffic court. At a conference sponsored by the American Bar Association last year, in which the President's Com-

mittee cooperated, one of the major points raised was this "stepchild" status of the traffic court. I think we will have come a long way when the traffic violator's case is treated with the seriousness it deserves, instead of as a minor transgression to be laughed off. Some of the laughter will stop when the dignity of the Traffic Court, and the penalties imposed within its halls, begin to match those of the so-called higher courts.

From full respect for the law as it relates to traffic violations, it is only a short step to the understanding that an operator's permit is a privilege rather than a right. I know, *we* consider it a privilege now, and a lot of people are willing to give the idea lip service. But below the surface lies Joe Blow's conviction that *his* operator's permit is as sacrosanct as the Bill of Rights. One reason is that he is not reminded often enough that it *is* a privilege. He is not made to submit to periodic re-examination, and he was not even fully tested when he first got his permit. Improvement in driver licensing requirements is a priority need in far too many areas today.

Stricter licensing requirements are like numerous other needed improvements—they must first be enacted into law. For that reason the President's Committee has tried to figure out the best way to acquaint state legislators with the seriousness of the traffic accident crisis today. Just as the traffic court is the stepchild of the judicial system, so do legislators often consider traffic safety needs relatively unimportant.

It is through what we call the program of continuous legislative attention that the President's Committee is seeking to improve legislative handling of the traffic problem. This program was presented to key state legislators at a series of four regional seminars, and we were more than gratified at its reception.

Briefly, it works like this. Once a state legislature embarks upon the program, the first step is to set up a continuing committee of legislators—a committee that meets between legislative sessions as well as during them. Along with the committee are appointed a citizens' advisory committee and a study director.

The study director maintains two-way lines of communication with the judiciary and with the

executive departments and their technical consultants. Each executive department with traffic responsibilities conducts its phase of a traffic safety needs study and submits its own conclusions and recommendations on the basis of this fact-finding.

Then the legislative committee, in consultation with its citizens' advisory committee and the department heads and their technical experts, analyzes the findings of the various departments, applies standards, and determines traffic safety needs. Out of such a joint effort, the legislative committee can develop a sound long-range program, set up a timetable for the priority needs, and draft legislation to meet these needs.

As immediate needs are met, those of future years will be reviewed and revised, and the studies projected farther ahead. Thus, through the work of its continuing traffic safety committee, the legislature will be far better informed, and balanced legislative programs stand a far better chance of realization.

California, Minnesota and Michigan have already committed themselves to this program. Also, at the request of numerous state legislators, we are planning further seminars to get the message across. We're pretty enthusiastic about this, and we feel we have reason to be.

Your own concern for safety highways, as proven by this conference, is being shared by ever larger numbers of Americans. They agree that it is simply idiotic just to resign ourselves to the level of highway carnage that exists today.

Hard work, pointing to rational objectives, is the only answer. Traffic safety cannot be a "hit and run" proposition, because it is not a matter that responds to anything less than the greatest dedication, based on the certainty that traffic deaths are *avoidable* deaths.

Without trying to make this sound like a pep talk, there is a real need for your help. To your credit, you have recognized this and pledged that help. My only hope is that the interest shown here is carried over into your work back home and doesn't falter in discouragement at the magnitude of the problem. Traffic accidents *can* be reduced and can be *kept* at a low level. Numerous communities have proven this. There is no reason why your city cannot join them. . .

PUBLIC HEALTH AND TRAFFIC SAFETY

DANIEL P. MOYNIHAN

Director, New York State Government Research Project, Maxwell Graduate School of Citizenship and Public Affairs, Syracuse University

A Proposal that Traffic Regulations be removed from the area of statutory law, and be made part of the Public Health Code to be promulgated by the public health authorities of the State Governments.

(Editor's note: This paper was delivered at the Mid-winter Conference of the National District Attorneys' Association, Miami Beach, Florida, March 17, 1960. The proposal herein made is somewhat revolutionary in the field of traffic law enforcement. Basically, the proposal comes from the author's experience in the State of New York, where prior to assuming his present position, he was the chairman of the New York State Traffic Safety Policy Committee. The author would welcome comments and views from others as to whether the type of regulation he suggests would have any beneficial or deleterious effects before the courts. For example, would a jury take into consideration its semblance to the Public Health Code and related statutes, and thus eliminate some of the apathy that seems to exist in the enforcement of the Motor Vehicle Laws?)

The most puzzling, yet revealing, aspect of the traffic safety problem is that it has been with us for so long and we have learned so little about it. The automobile is a mechanical device of the 19th century. It was in common use half a century ago, and has not changed in any essential design feature since that time. Automobile injuries reached epidemic proportions a generation ago. Today, Dr. McFarland at Harvard estimates that during a fifteen year period, approximately 10% of the population may be killed or injured in a highway accident. Yet our efforts to control the problem are still largely based on a hodge podge of supposition and inference derived from assumptions we have never verified, which, more significantly, we have never seriously tried to verify.

If one considers the amount of professional enquiry that has been devoted to other fields of public health such as tuberculosis or poliomyelitis, to other problems of public administration such as social welfare, or to other areas of law enforcements such as parole, it is staggering that we have devoted so little effort to the study of the epidemic or our highways.

The most tenable explanation for this absence of serious enquiry is that our attitude towards traffic safety has in fact been ambivalent. We have and have not wanted anything done about it. A familiar way out of such predicaments is to attack the problem in a manner that ensures minimum results.

If this seems an odd way to behave, it is yet no different from our approach to drinking during prohibition, or to gambling in more recent years. Closer study would probably reveal many similarities in the emotions involved in drinking, gambling and driving a highpowered automobile. The uniquely American sport of drag racing manages to combine all three. Certainly there is much similarity in the public's attitude towards violating the laws which purport to regulate these activities.

In these circumstances we might expect to go on indefinitely with our present round of slogans and slaughter. Possibly we will. More likely not, however, for it appears the public attitude towards the problem is changing. The automobile is steadily losing ground as an object of our national affection. For more and more persons it is becoming little more than a means of transportation: if restrictions are necessary to make it a safe means of transportation, more and more of these persons will accept them. This process will be hastened if it is true, as I suspect, that the problem is getting worse.

There could hardly be a better example of our lack of information about this problem than that we don't really know if it is getting worse or not. The question is confused at the outset of our emphasis on deaths and the death rate. For a generation the number of traffic fatalities has remained stable at about 37,500 deaths per year. As the total mileage driven has increased, the death rate per hundred million miles has correspondingly declined. This has been going on all over the world. The most likely explanation is simply that doctors are getting better at keeping people alive, while the increasing number of motor vehicles has

probably increased the speed with which injured persons get to the doctor, and vice versa.

Automobile injuries are not, however, primarily fatal. For every fatal injury there are upwards of 125 non-fatal injuries. The total number of injuries, rather than the tiny fraction of fatal injuries, is the true measure of the problem. Here we find anything but stability. Of thirty-one States for which I have been able to obtain detailed injury statistics for the decade 1948 to 1957, seventeen showed an increase in motor vehicle injuries of over 100% during that period. Florida showed an increase of 486%. In New York the total went up 125% and the *rate* of injuries per 100 million miles travelled increased 44%! It would be wrong to put too much faith in motor vehicle statistics compiled by state governments, but these figures surely indicate something is going on.

If it is true the public attitude towards safety is changing, if we are going to encounter a serious demand that something be done about the problem, we are headed for a crisis because it is most unlikely that our present laws or our present means of enforcing them can effectively respond to this demand.

For four years, as an assistant to the Governor of New York State, I was much involved in the formulation and execution of traffic safety policy. Latterly I served as Chairman of the state's policy body in this field. I came gradually to feel we were all involved in a monstrous deception, designed to conceal our ignorance from the public and ourselves. So far as the motor vehicle laws are concerned, in New York State, as elsewhere, the logical fallacy of *petitio principii* has been elevated to a way of life. With minor exceptions, the basic assumptions on which the laws are based are simply taken for granted. This results in a circular system of reasoning which continually proves itself. Thus we declare driving over 50 mph to be unsafe. We know that 36% of the automobiles on state roads are always going faster than 50 mph. Whenever any of these are involved in accidents, we do not have to inquire why; we have already legislated the explanation: speeding.

By explanation, of course, I mean that the police know who to arrest, the courts know who to fine, the state knows whose license to suspend. Thus we satisfy the primitive need when anything unpleasant happens to identify and punish the

guilty person. This makes everybody feel better, but there is no way to know whether it prevents accidents, because we have not proved either of our major assumptions: that speeding causes accidents, or that punishing persons for speeding will prevent them from doing so.

All of our traffic laws are based on assumptions as to how accidents happen and how they can be prevented. Yet we have never troubled to verify most of these assumptions by the rigorous, scientific methods we take for granted in other fields of public health. It may be that most or even all our assumptions will prove correct. But until we have proof, are we not really acting like muddled peasants locking the window against the infection of the night air?

I think often of the problem we had in New York state with the question of speeding. Across the border, in Connecticut, Governor Ribicoff had begun an heroic crackdown on speeders. The whole nation was impressed by the courage this took. Licenses were being suspended wholesale. And, sure enough, the number of deaths went down a bit and so did the death rate. But the number of accidents increased, and the number of injuries increased. Most distressing of all, the *rate* of accidents and injuries increased. In 1955 there were 210 injuries per hundred million vehicle miles travelled in Connecticut. By 1958 there were 227. After four years of crackdown the chance of getting injured had increased 8% for every mile traveled.

These results became particularly distressing in the light of a vast study of speed and accidents on the open highway carried out by the federal government during these very years. This study sponsored by the Bureau of Public Roads, was incomparably the largest of its kind ever undertaken. It covered 3.7 billion vehicle-miles of travel in eleven states, and accidents involving 10,000 vehicles. Roadside interviews were conducted with 290,000 drivers. The federal government found that for speeds from 35 mph to 65 mph the faster you drive, the fewer accidents you have. Cars going 35 mph were involved in 600 accidents per 100 million vehicle miles of travel. Cars going 65 miles per hour were involved in fewer than 100 accidents for the same exposure. At 65 mph the involvement rate began to rise. But even at 80 mph it was only one quarter the rate of 35 mph.

Could it be that the State of Connecticut, by

forcing its citizens to drive more slowly, has forced them to have more accidents? We know that an enormous effort has been made to make them drive more slowly. We know the Federal government has found that accident rates at low speeds are much greater than accident rates at high speeds. We know that in Connecticut, while speeds presumably have gone down, the accident rate has gone up. I certainly don't contend this is the case, I don't know if in fact speeds went down, but surely it is time we took a closer look at this question.

Of course, this is not so much a problem for us in New York State. We have a fifty mile speed limit, but we don't enforce it. We pretended to enforce it and hundreds of thousands of drivers are arrested each year for violating it, but as I said earlier, 36% of the vehicles travelling are always violating the law. Incidentally, one of the pillars of our traffic safety program is the point system under which we take away the licenses of persistent violators of the traffic laws. Oddly enough, in 1954, for example, with over 600,000 reported traffic convictions, barely 2000 drivers got caught speeding three times in 18 months. This isn't bad considering that over a third of our 5,000,000 drivers were speeding every day. Unhappily for these poor fellows, they were labelled persistent violators and stripped of their right to drive for varying periods.

This whole question of accident-prone drivers, and persistent violators very much wants a closer look. Certain types of drivers seem to have high accident rates. The very young and the very old have more accidents than those in between. People who get into trouble with the criminal laws get in trouble with the traffic laws. People with family troubles incline to have automobile troubles. We can make these correlations, but what can we do about them? There are not superficial qualities to be altered by a safety poster or a traffic court fine. And even supposing you could take all these drivers off the highway, what would you have left? You would have left the overwhelming majority of drivers—and accidents. Teenagers, for example, are involved in accidents at a rate in excess of two and one-half times that of all drivers. But altogether they only account for 6% of the accidents. Incidentally, the Bureau of Public Roads found that on the open highway teenagers have over four times as many accidents at 30 mph as they do at 60 mph. Does this mean we should

urge juveniles to drive faster? I think it is time we checked.

Try as we will to identify some particular kind of conduct or person to blame for the problem of traffic safety, we keep coming back to the central fact that the overwhelming number of accidents involve what we call normal people acting in a routine manner which suddenly fails them.

At first it would seem the conclusion to be drawn from this is simply that a certain number of accidents will occur for any given amount of exposure to accident possibilities. And if, as we are told, 1970 will see 100 million motor vehicles travelling a trillion vehicle miles, we may expect it will also see twenty or twenty-five million vehicle accidents.

This is not necessarily so, however. We have also found rather startling differences between the accident experiences of different groups of people which cannot be entirely explained by factors such as age or sex or other immutable qualities. For example, the Bureau of Public Roads found that two door sedans had accident involvement rates four times as great as hard tops; convertibles, two times as great as station wagons. The Bureau found the cars over ten years of age have nearly two and a half times the accident involvement rate of newer cars. It found that during the day local drivers have 75% higher accident involvement rate than out-of-state drivers, and at night the difference rose to 250%. We have long known the great difference in the rate of accidents on different types of highways. We have found equally large differences between the geographical locations, even aesthetic sensibilities.

Clearly there must be an explanation of these differences, something about one type of highway, or automobile, or person makes for safer driving. Perhaps there is a single factor, more likely a kind of safety syndrome which produces this result. If we could identify these single or multiple factors, it may be they will prove transferable. Obviously, this is so in the geometric design of highways. Perhaps it will be so between, say, occupation groups.

We do have evidence that you can affect driving performance rather dramatically. For example, the brilliant research group at Dunlap and Associates of Stamford, Connecticut, brought about an 50% drop in personal injury accidents at one Air Force base by means of a scientifically designed safety program.

Here is where the District Attorneys of the nation come in. I am suggesting we must undertake a general revision of our traffic laws to establish them on the basis of a systematic, continuing, study of driver behavior and automobile design. The object of our traffic laws must not be to punish crime, but to prevent accidents and injuries. I can conceive of no more important force in bringing about this revision than for the chief law enforcement officers of the nation to begin demanding that they be given effective laws to enforce. I can think of nothing more potent than for the District Attorneys to begin asserting that if they are to ask that citizens be fined, imprisoned, and punished for violating the traffic laws, both parties have a right to know that there is some scientific evidence to show that these laws should have been obeyed in the first place.

This is the first thing you can do. The second thing is to make a special effort to be of help whenever any research activity is taking place in areas under your jurisdiction. The kind of research that pays off in this field involves all manner of legal obstacles and hazards for the researchers. It is almost impossible to perform successfully without the full cooperation of the police and the law enforcement agencies. A fine example of what can be done is the way the officials in the Boston area are cooperating in the exciting research on fatal highway collisions being carried out by the Department of Legal Medicine at the Harvard Medical School.

The third proposal I will make to you as District Attorneys is a more complicated one. It concerns the whole nature of the traffic laws.

If our laws are to be revised, more than just the public ambivalence about traffic safety will have to change. Even a willing public will not be an informed one. We must expect that in the future, as in the present, a powerful combination of special interest and general ignorance will impede any serious effort to investigate or do anything about the problem of traffic safety. Such efforts are easily obstructed, because they involve the legislative process which is simply not suited for the enactment of technical regulations governing an activity of half the population on the one hand, and the most powerful economic interest in the country on the other.

I have, therefore, a simple proposal to make.

I propose that traffic regulations be removed from the area of statutory law, and be made part of the public health code, to be promulgated by the public health authorities of the state governments. As far back as the 18th century we have had public health regulatory agencies for the purpose of establishing sanitary regulations to control and prevent epidemics. It is time the same step be taken to control the epidemic on our highways. Within general outlines established by the legislature, the medical authorities of the various state governments should be given authority to establish the requirements for driver licenses and the rules for driver behavior and be given general surveillance over highway and automobile design.

This would put responsibility in the hands of persons capable of exercising it. What is the point of asking a legislature to determine how much a person may drink before driving, or what kind of eyesight he must have to get and keep a license? The legislative antics that ensue, debauch and stultify the whole democratic process. These are matters that should be left to the experienced judgment of persons trained in the medical and related sciences.

This would put responsibility for action in the hands of persons who are least subject to the pressures of special interest and general ignorance of which I have spoken.

Finally, this would put responsibility in hands the public has learned to trust. Clearly, the public has little faith in the present system. Twenty million traffic cases a year go into court with no noticeable effect. But if the courts began enforcing regulations which had sanction of the medical profession behind them, might not the public come to feel these regulations were designed to protect the motorist, not to oppress him? Is it not true that few persons hesitate to violate a speed law today, but most would think twice before drinking water the county health officer had declared impure?

Important as are the three measures I have mentioned to you, I feel they lead to a further development of even greater importance. By establishing driver regulation on a scientific basis, we may then move on to the point where we ought really to have started, which is the regulation of the design of the automobile.

Any rational approach to the problem of traffic

safety would not start with the driver. There are just too many of them. We already have 82 million. In a decade we expect 110 million, driving a trillion miles. When we can get half this number to vote for a president once every four years we think democracy has triumphed. It is idle to suppose very much can be done about the driving behavior of all or most of them. Something, yes, but not a great deal.

With the automobile, however, there are enormous possibilities for improvement. Here there are probably not more than a dozen people who need to be persuaded in order to bring these improvements about. There improvements fall into two general categories.

First, it is becoming apparent that much can be done to improve the design of our automobiles so they can be driven more safely. This does not necessarily mean making them simpler, it could mean making them more complicated so as to keep the driver alert, but one way or another the techniques of effective machine manipulation can be applied here.

Some automotive design improvements would be relatively simple. As our cars are designed with lower and lower silhouettes, we will shortly be driving flat on our backs. This is hard to do with maximum safety. The average eye height is already below the recommended level, but there would be no problem restoring it. Other improvements would be more complicated. For example, we need to find out what is the effect of planned obsolescence on older cars. Do the brakes give out at the same time the chrome begins to rust? Should we encourage manufacturers to produce a basic car which is not changed from year to year, which they can get the kinks out of, and which will not at a given point suddenly fall to pieces like the one hoss shay? Or perhaps we should ask for a car which will be sold on the explicit understanding that after a certain point it will be unsafe to drive.

Second, it has for some time been apparent that enormous improvements could be made in the interior design of automobiles so as to minimize the injuries which result from accidents to make accidents safe. This is the principle known as "packaging" the driver. It was clearly stated by Dr. C. Hunter Shelden in the *Journal of the American Medical Association*:

The accidents may occur as the result of speed, inadequate highways, poor judgment, or mechanical failure, but none of these actually causes the passenger injury. The injury occurs primarily as a result of faulty interior design of the automobile. 'Faulty' is actually a gross understatement, as there is almost no feature of the interior design of a car that provides for safety. The doors, seats, cushions, knobs, steering wheel and even the overhead structure are so poorly constructed from the safety standpoint that it is surprising anyone escapes from an automobile accident without serious injury. The elimination of the mechanically hazardous features of interior construction would prevent approximately seventy-five per cent of the fatalities, or 28,500 deaths each year.

For some years the American College of Surgeons and the American Medical Association have been pressing the automobile manufacturers to do something about this problem, but with very little success. I would suggest it is neither reasonable or fair to expect success. The single objective of the automobile manufacturers is to make money by selling automobiles. They do this by reminding customers of the joy of motoring and making the driver feel powerful and secure inside his automobile. Is it reasonable to expect the manufacturers will at the same time equip their machines with padded dash boards, seat belts and the other safety features that are apt to remind potential customers that, apart from war, the automobile is the one experience of violent death and injury which civilized man must still endure?

I do not suggest that the design of automobiles be made subject to direct government regulation, but I think it is apparent that a massive effort must be made to determine which are the safest designs and by persuasion to induce the manufacturers to adopt them. Here again I feel this is a task which we could, with confidence, entrust to the public health profession.

All these possibilities inspire the hope that we are soon to see enormous advances in the field of traffic safety, not only in our understanding of the problem, but in the uses to which we put our understanding. It is particularly encouraging that this issue is receiving the attention of our nation's District Attorneys who are admired for many things, but first of all for courage.

1960 N.U. SHORT COURSE FOR PROSECUTORS

The Fifteenth Annual Short Course for Prosecutors will be held at the Northwestern University School of Law, Chicago, Illinois, during the five-day period August 1-6, 1960. Attendance will be open to attorneys holding state or federal offices as prosecutor or assistant prosecutor, to attorneys

who are nominees for the office at the next election, and to legal personnel in the armed forces. For further information, please write to Professor Fred E. Inbau, School of Law, Northwestern University, 357 East Chicago Avenue, Chicago 11, Illinois.