THE DRINKING DRIVER—QUO VADIMUS?

by S. FREEMAN*

IN INSPECTING the records of drinking drivers examined by me since my appointment as Police Medical Officer in the Spring of 1958, I am struck in the first instance by the fact that such drivers emanate from all strata of the social structure. The two notable exceptions in my experience were (a) women and (b) members of the Jewish race. A sad reflection on the failure of the public in general to appreciate the dangers of drinking and driving was the fact that two out of three of the drivers seen depended on driving for a livelihood. Education—by which I mean formal education—appeared to have little influence in inculcating into the minds of the drivers the dangers of alcohol, since one-third of the total seen were of the professional classes, e.g. architects, teachers, lawyers, business executives—and even doctors!

Unfortunately, in this country the trend has always been to regard the convicted drinking driver as just unlucky, and the offence comparable with a parking misdemeanour. However, it is gratifying to note that at long last the wind of change in this matter is beginning to blow, though hitherto only as a light breeze. As a result of publicity given to the dangers of drinking and driving, the public is slowly coming round to the view that the drunken driver may indeed be worthy of censure. The tragedy is that this viewpoint is too slow in growth and the prevalence of the alcoholic driver, far from diminishing, increases yearly as more and more cars occupy the roads. The problem is a twofold one. Firstly, the public must be educated and made acutely conscious of the problem and its dangers. Secondly, the law must be strengthened to make its deterrent value a real one.

Let us now consider and discuss the methods used at present in dealing with the problem. Firstly, let us ask ourselves if we are encouraging motorists to drink by continuing with the policy of building large car-parking sites adjoining almost every tavern in the country? Secondly, are we leaning too far backwards in our dealings with drinking drivers in our efforts to make 101% sure that justice must be done? Thirdly, are we paying sufficient attention to the innocent victims of the drunken driver? It would appear to me that, in this country, the cards are heavily stacked in favour of the driver. The suspicions of an arresting constable, the opinion of a station inspector, the opinion after full and complete examination of a medical officer, together with urinalysis showing alcohol content of over 300 mg.% (i.e. over 8 pints of beer or 16 small whiskies) would appear to me, as indeed it must to you, to be more than ample evidence to justify a conviction. Yet such cases are acquitted time and time again in our courts of law. A smooth-tongued driver, together with a glib lawyer, can get away with much in our courts. Such acquittals are doubly dangerous as, by example, they encourage other drivers to drink and drive with the confidence of precedents established. In all the cases examined by me I can say in all certainty that I have never certified a case about which, at the time, I have had a shadow of doubt. There has surely not been anything like a similar certainty about the innocence of drinking drivers acquitted in our courts!

At the same time it behoves me to make one reservation—an important one. It can happen that a driver is suffering from a disability producing signs which fit in with the pattern of the effects of alcohol. Where such a doubt exists it would appear to me that a second examination is not only desirable but is, in fact, essential. This should take place after a sufficient interval to be abundantly sure that all effects of alcohol have disappeared. I could go further and suggest that all drivers certified should have such a second examination. This would dispose of the frequent suggestions in court that the accused normally showed the signs found on arrest. At the same time it is appreciated

*T.D., Divisional Police Medical Officer, Manchester.
that financial consideration may well prove a stumbling block in securing a routine second examination.

Several cities and boroughs in this country are now dispensing with the opinion of a doctor regarding fitness to drive by reason of alcohol. Sole reliance is placed upon the, testimony of the arresting constable and the station inspector. The doctor is called in to make a medical examination and report on any illness or disability which would preclude the detention of the accused. In such circumstances he is not required to attend court proceedings unless the defence query his examination findings. This procedure makes life very much easier for the doctor who finds frequent court attendance of great nuisance value. At the same time, to leave such a vital decision, with no corroborative evidence of chemical test, to a constable and an inspector, is a policy about which there could be serious misgivings. My own experience is that both constable and inspector concerned are only too happy to have me verify, or otherwise, their opinion. I have never found the slightest suggestion to the contrary, particularly in view of the knowledge that I am available at court to corroborate their opinion. On the other hand it is only right and proper to point out that the method of dispensing with the services of a doctor appears to work most satisfactorily in the cities of Toronto and New York which I visited recently. It must, however, be made clear that both cities rely largely on chemical examination as evidence, and without this the task would be well-nigh impossible. As the city of Toronto dealt with over 2,600 such cases in the space of less than nine months prior to my visit, it will be appreciated that the capacity of the entire medical profession of that city might have been strained to breaking point if medical examination had been required in all cases.

Refusal to consent to examination has occurred in about 10% of the cases seen by me. It was noticed with interest that, by and large, refusals took place amongst those who had the largest consumption of alcohol. Seeing a possible "let out" here, they had clutched at this straw with avidity. The very few exceptions to this were those to whom the title of "Police Medical Officer" suggested that the examination might be a biased one, since the doctor was acting for the police, in their eyes. I could understand and appreciate their misgivings, although incorrect, and went to great lengths to explain that my opinion would be a completely neutral one in accordance with the ethics of my profession. Unfortunately, to the inebriated driver, my protestations usually fell on stony ground.

A difficulty which besets every doctor when he first takes up this work is to become used to the fact that the accused, unlike patients seen in ordinary practice, have little regard for the truth. I recall with some chagrin the number of occasions, before I knew better, when I fell hook, line and sinker for the tale told with such pathos that only two half-pints of beer had been consumed all evening, only to find a forensic report a few days later showing a minimum consumption of possibly 9 or 10 pints. I am now completely cynical about statements made to me about the quantity of drink consumed, having learned the hard way!

The problem remains that the drinking driver, whether he is a confirmed or casual drinker, or whether he drinks much or little, can be a menace on the roads, and the problem with the steady increase of vehicles is likely to become progressively greater unless the sense of urgency is realized and measures taken accordingly. Although it may be said that some confirmed drinkers could become less impaired than others with a similar alcohol intake, there are several other determining factors to be considered. Firstly, relatively small amounts of alcohol may affect co-ordination and thus reduce ability to deal with rapid action required in an emergency whilst driving. Secondly, even a small alcohol intake slows down the action of the pupils to strong light and accommodation, and similarly slows down the speed of response to emergencies. Thirdly, the actual amount of alcohol intake is—per se—no real criterion of the ability to have effective control of a vehicle without also taking into account (i) weather conditions, (ii) fatigue, (iii) emotional state such as worry, excitement, depression, and (iv) relationship to food.

From my experience the sudden change from a warm room to the cold outside air, tiredness due to the lateness of the hour, elation from the convivial effects of a hectic party, or a few drinks several hours after a meal can, and do, either independently or in combination, produce interference of a gross nature with driving ability with a relatively small consumption
of alcohol. When this is combined with the sentiment so prevalent that "I drive better when I have had a drink", then the effects can well be disastrous. For this reason it would be a dangerous matter to lay down by law a certain percentage of alcohol in the body beyond which conviction would be automatic, without leaving it open to prosecute in cases where the percentage was less but where, in the opinion of the police and medical officer, driving ability was impaired because of alcohol. The fate of such drivers would then of necessity be determined by the courts in the light of police and medical evidence.

What, then, of the Future?

From the foregoing it must be argued that there is room for considerable re-thinking on this problem. Protection of the public at large must be afforded in larger measure. Taking full cognisance of the need to allow within the limits of commonsense the liberty of the individual, but at the same time applying that consideration to the public as well as the driver, the problem can be discussed under several headings.

Propaganda

The effects of alcohol on driving and its attendant dangers must be stressed unceasingly through the media of press, radio and television. Here the assistance of barristers, senior police officers and experienced doctors could be obtained with relative ease. Even politicians could be of use save for the general tendency to disbelieve their pronouncements! By teaching the public it is to be hoped that from the minds of juries will disappear for ever the present philosophy that "There, but for the grace of God, go I". Social ostracism of the convicted driver might, indeed, prove both efficient and effective.

Chemical Tests

Urinalysis or estimation by breathalyzer (provided the latter is foolproof) could be used on all possible occasions provided that such tests have full recognition by law. The level of blood alcohol of 150 mg.% suggested by the B.M.A. scientific committee on this subject and above which conviction would be automatic, might well be acceptable with one proviso. This is the point already stressed, that prosecution could still be undertaken when necessary, even although percentage is below this amount. It should be noted that the corresponding figures in Sweden and West Germany are 150 mg.% and 80 mg.% respectively. There has been considerable opposition to the suggestion that drivers should be compelled to submit to such tests. Whilst I am by no means in agreement with such opposition, I appreciate the honesty of purpose of those who feel strongly about it. For that reason I can see no better or fairer compromise than the method in use in New York State. There the application form for a driving licence contains a clause giving the police permission to carry out any chemical examination necessary, when required. Should the applicant object on the grounds of conscience, he need not sign and, of course, will not be given a licence. A driver can still refuse to submit to chemical examination but, in that event, the licensing authority is informed immediately and the licence is withdrawn and application for its return cannot be made until all court proceedings have been completed. This would appear to be a most effective method of dealing with the problem as refusals are relatively uncommon and the liberty of the individual still preserved.

Should such a rigid and high limit as 150 mg.% blood alcohol become law, the public would have to be warned that consumption below that level would not absolve them from prosecution if driving was affected as a result. For that reason, it would be necessary to continue to carry out medical examination of all cases, in addition to chemical tests performed. Objection to a rigid blood alcohol level has been put forward vehemently by hardened and seasoned drinkers who claim that they have the ability and capacity to go well over the limit without any ill-effects whatsoever. This objection is, in my view, futile for two reasons. Firstly, it has been stated categorically in the highest scientific circles that no driver is unaffected with a blood alcohol over 150 mg.% Secondly, and even more importantly, assuming that there are a few hardened drinkers who could safely exceed that limit, then it must be incumbent upon them to reduce their drinking whilst driving to comply with a law enacted for those who are not so "fortunate". The simple analogy here is the expert and very skilled motorist who has to reduce his speed in restricted areas to comply with a law made for those, in the majority, who are not so proficient. On that line I rest my case.

Refusal to Agree to Examination

I hold the view that this should be dealt with in a manner already described...
in use for chemical tests in New York State. This again would answer those critics who are so concerned with individual rights. Licence application forms could be amended simply to cover permission both for medical examination and chemical tests.

Road Accidents—Examination of All Drivers Concerned

It is an accepted and undisputed fact that many drivers under the influence of alcohol escape prosecution because, through being involved in a road accident, they are taken to hospital. This "escape route" is known to many, and even a drunken driver can retain the cunning required to complain of symptoms which would require immediate hospital investigation. By the time a casualty officer has completed his physical examination, together with the time taken for X-ray examination, the sobering-up operation has been completed and another drunken driver has escaped the dragnet. It would be a simple matter—and an effective one—to obtain a sample of blood or urine from all drivers who arrive in hospital casualty departments following road accidents in which they have been involved, and thus seal the escape route.

Police Medical Officer

As the doctor involved is employed by the local authority this title is a complete misnomer, which is misleading to the public. Drivers who are asked permission to examine are suspicious because of their fear that the "police doctor" is biased. This is, of course, not the case, but the feeling of mistrust is understandable. Whilst the need for a change of title is a real one, I must confess that I find it difficult to suggest a simple alternative, although "Judicial Medical Officer" does spring to mind.

Disposal in Courts of Law

That there is widespread dissatisfaction both with court decisions and penalties awarded is manifest. One of the main criticisms of the latter is the widespread divergence of fines and periods of disqualification in different parts of the country, and even by lay magistrates in the same city. Leaders of our Judiciary have repeatedly drawn the attention of lay magistrates to this anomalous state of affairs. It might be more equitable if all such cases for summary trial could be dealt with by stipendiary magistrates. This is a matter worthy of earnest consideration by our legislators. It should never be able to be said that if one must drive a car and drink, it will pay dividends to do so in the City of "X", where fines are low, and not in the County Borough of "Y" where penalties are at least twice as severe. This is a disquieting state of affairs.

It has been suggested that a second conviction for drunken driving should carry automatic disqualification for five years, whilst for a third conviction suspension should be for life. Such a suggestion has my full support, and would prove a deterrent even to the most hardened sinners.

Conclusion

It is surely a cliche that in every country in the world where there are motor vehicles there exists the problem of the drinking driver. It is equally true that each and every country will formulate its own methods of dealing with this problem. Such methods will vary in considerable measure according to the social habits of its people and the standards of democracy which prevail. Motor vehicles are becoming more and more powerful as new ideas continue to be incorporated in their design. Simultaneously more cars are being used the world over, yet the ratio of improvement of road conditions is a very much slower one. Thus, the menace of the drinking driver becomes greater each year as his machine becomes, with increasing engine performance, more and more a veritable lethal weapon. Courageous and drastic action to combat this unnecessary danger is needed—and needed quickly.

DISCUSSION

Mrs. Prichard (U.K.): Dr. Freeman states that the public should be educated. Does he not think that we should recommend strongly that this education should be given in schools and colleges professionally?

Dr. Freeman: I don't care where it's given, as long as it's given. There is tremendous scope here, and we've got to do some re-thinking on the matter. We've got to start the public from scratch, as though they were at their first day of school. We are accustomed to drinking in this country, and this is a very good custom. I like drinking, and let's make this quite clear: I'm not a total abstainer, I like alcohol, but I don't drink when I drive and I don't drink when I work. But, by and large, we were
taught to drink in an age where you could be drunk in charge of a horse. We must now reconcile ourselves to the fact that we are living in a different era.

Brigadier Stoney (U.K.): Would Dr. Freeman agree that if a 150 mg./100 ml. level were laid down as constituting an automatic offence, this would be a real danger as the courts would tend to let off many seriously impaired drivers whose blood alcohol is found to be lower than that level?

Dr. Freeman: I made the proviso quite clearly that the public must be told that drinking a lesser amount would not absolve them from prosecution. If these trials were taken out of the hands of lay Justices of the Peace, many of whom do not appreciate the position, and were put in the hands of stipendiary magistrates, I don’t think this problem would arise.

Unidentified Speaker: Would Dr. Freeman agree that the time has come when information should be given to the schools on this matter?

Dr. Freeman: Yes, I agree. I think that the propaganda should be widespread; it should be effective; it should be given in schools; it should be given in clubs; it should be given in the press. The thing that I have in mind, which is very important, is that it should be considered to be “not done” to drink when you drive. At the present moment it’s considered just another motoring offence, and you’re still a great fellow and you’re still a respected member of your club, you’re just unlucky. If we can train the public and inculcate into them the idea that this is a nasty offence—that it is as bad as stealing an old dame’s handbag—then I think that we are accomplishing our task.