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## LEGISLATIVE RESPONSIBILITY FOR FUTURE HIGHWAY USE

Louis R. Morony\*

*The Nebraska Law Review is pleased to present the following article which, in timely fashion, reviews and analyzes the function of law in safeguarding and facilitating the operation of our rapidly growing highway transportation system. Having been in association with a national program for modernization of motor vehicle and highway use laws for many years, the author is well qualified to discuss his subject. After reviewing the present trend toward modernization of highway construction codes, the author deplores the lack of similar reform in highway use and motor vehicle laws, emphasizing that such reform is essential to the solution of present and future problems of highway use. It is believed that the suggestions and information contained in this article will be valuable for lawyers and legislators everywhere.*

*The Editors*

### I. INTRODUCTION

Sparked by the greatest program of Federal-Aid in the history of this Nation, Nebraska is revamping its street and highway network. Within the three year period ending with the close of the fiscal year 1959, Nebraska will spend more than \$150 million in State and Federal funds on Federal-Aid road projects, including the new Interstate Route 80.<sup>1</sup> In addition, the State, the cities, and the several counties will spend other sums on roads and streets which are not a part of the Federal-Aid systems, and this

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<sup>1</sup> U.S. Department of Commerce, Bureau of Public Roads, Release No. G-606 (Aug. 10, 1955); No. G-697 (Aug. 1, 1956); No. G-825 (Aug. 2, 1957); No. G-923 (Apr. 17, 1958); Table No. DC-47387. The tables of apportionments of Federal-Aid funds to the states for the fiscal years 1957 through 1959, compiled by the Bureau of Public Roads, show that the State of Nebraska would be apportioned nearly \$72.5 million in federal funds during that period for the Interstate Highway construction program, and nearly \$48.7 million for Federal-Aid projects on primary, secondary, and urban facilities. Federal funds cover ninety per cent of cost on the Interstate System, while federal funds apportioned for work on other roads are to be matched by the state.

is only the beginning of the thirteen to fifteen year effort to provide the State with highway facilities which will be adequate to meet future needs. There is every assurance of a successful conclusion of the effort, for planning, programming, and financing are soundly based on factual long-range surveys of needs and resources.<sup>2</sup>

The Nebraska Legislature has contributed much to the realization of this improvement program through the passage of adequate legislation, the bedrock upon which the Department of Roads, and other agencies concerned, must base their activities. Because legal questions are constantly being raised, and demanding the attention of both bench and bar, the legal profession has also been involved in the improvement program. That Nebraska is presently accomplishing this improvement program according to orderly plan attests to the fact that the Legislature and the legal profession have succeeded, through cooperation, in reducing the number of legal problems and smoothing the way for a progressive development of facilities.

The new and expanded Federal-Aid program for highways was enacted into law by Congress in 1956 because the states, through long-range engineering studies of physical needs, were able to present a convincing case for aid in overcoming deficiencies accumulated over the years. This need was documented to the apparent satisfaction of members of Congress serving upon committees concerned with highway matters.<sup>3</sup> The result was the Federal-Aid Highway Act of 1956.<sup>4</sup> This act, which appropriated billions of dollars in taxes for highway improvements, was passed with public approval only because a convincing factual case was made by the states for such action.

## II. RECENT MODERNIZATION OF HIGHWAY LAWS.

If outmoded and antiquated laws are to be changed and modernized in such manner as to be of benefit to the State and public,

<sup>2</sup> See Needs of the Highway Systems, 1955-1984, H.R.Doc. No. 120, 84th Cong., 1st Sess. 6, Table I (1955), a report of the Secretary of Commerce to the 84th Congress in which the State of Nebraska reported its financial need for all roads and streets for the period 1955-1964 at \$821 million.

<sup>3</sup> A Ten-Year National Highway Program, The President's Advisory Committee on a National Highway Program (Jan., 1955).

<sup>4</sup> 70 Stat. 374 (1956). For a resumé of the important features of this Act, and the later modifications in 1958, see the excellent discussion by Mr. David D. Levin, pp. 377 to 406, *supra*.

it is necessary that the same factual presentation which was made to the Congress be made to the Legislatures. This technique was used successfully in Nebraska in 1955 to obtain the passage of modern highway laws.

Well before the enactment of the Federal-Aid Highway Act of 1956, many states were hampered by outmoded statutory provisions which did not grant the highway departments the authority to construct and improve the highways in accordance with the demands of modern traffic. When the pressure of the accelerated Federal-Aid construction program arose, many legal problems that had often been considered the merest nuisance suddenly assumed the proportions of major legal barriers to a proper implementation of the highway improvement program. This was true not only in projecting long-range plans and projects, but also in attempts to reorganize for more efficient routine operation.<sup>5</sup>

This problem also existed in Nebraska. As late as 1954, the Department of Roads described the law under which it was then functioning in these words:

This disorganized mass of archaic law is no longer serviceable. . . Present inadequacies consist of conflicting provisions, ambiguous passages, and omission of many important and needed provisions required to plan, construct, maintain and police highways required by modern conditions as distinguished from conditions existing in the horse and buggy days when the basis of Nebraska's highway law was legislated.<sup>6</sup>

These provisions were so unsuited to modern concepts and requirements of highway development, that the State felt impelled to take remedial action. Consequently, in 1954, the Department of Roads, in cooperation with the Bureau of Public Roads, initiated a Federal-Aid project to rewrite and modernize Nebraska's highway laws.

The modernization program was accomplished with the aid of attorneys secured by the Department,<sup>7</sup> and the newly revised

<sup>5</sup> Better Laws for Better Highways, Bulletin 88, The Highway Research Board, The National Academy of Sciences, The National Research Council. Also see, Johnson, "State Highway Officials and the Laws Project," Highway Laws, Bulletin 145.

<sup>6</sup> "Statute Recodification," Let's Talk Highways, Department of Roads and Irrigation, State of Nebraska, p. 7. (July, 1954).

<sup>7</sup> The bulk of the work was accomplished by two attorneys; Mr. Henry Grether, a member of the staff at the College of Law, University of Nebraska, who was retained by the Department of Roads especially for this purpose, and by Miss Jean Caha, a member of the Department's legal staff.

laws were presented to the legislature only after many conferences held between attorneys, legislators, members of the department, and legislative bill drafters.<sup>8</sup> Favorable legislative action gave Nebraska the new highway laws which today are largely responsible for facilitating the work and speeding accomplishments in the highway improvement program.<sup>9</sup> Without such modernization of law, the old legal roadblocks would have continued to have had an adverse effect upon the ability of the Department of Roads to function effectively.

Other states, too, have found it absolutely essential that highway laws be modernized to cope with modern road-building problems.<sup>10</sup> The need was so evident that several years ago the Highway Research Board of the National Research Council, National Academy of Sciences, Washington, D.C., created a committee on highway laws to undertake a national study designed to assist the states in modernization of their statutes.<sup>11</sup>

This study has gained momentum and stature, and has already proved of substantial value to the states as findings are released periodically.<sup>12</sup> The American Bar Association has given the project

<sup>8</sup> For a resumé of the background and intent of this revision, and the technique used in presentation, see A Progress Report, Laws Recodification Project, State Highway and County Road Laws, Department of Roads and Irrigation, State of Nebraska (Sept., 1955). A portion of this report may be found at 35 Neb. L. Rev. 76 (1955).

<sup>9</sup> Neb. Rev. Stat. §§ 39-1301 to 39-1362 (Supp. 1957). Also note the recodified county road laws immediately following; §§ 39-1401 to 39-2003 (Supp. 1957). The latter was recodified in 1957 after the successful recodification of the highway laws in 1955. This action resulted in the complete recodification and modernization of the first six articles of Chapter 39, Neb. Rev. Stat. 1943 (Reissue 1952) in two legislative sessions.

<sup>10</sup> In addition to Nebraska, North Dakota, Idaho, and Louisiana, have also made highway laws studies. Similar studies are presently under way in Illinois, Michigan, Minnesota, New Mexico, Oklahoma, Pennsylvania, and Rhode Island.

<sup>11</sup> Levin, "Report of the Committee on Highway Laws," Highway Laws, Bulletin 145 of the Highway Research Board, National Academy of Sciences, National Research Council.

<sup>12</sup> Highway Laws Committee, Highway Research Board; Special Report 21, Relocation of Public Utilities Due to Highway Improvement—An Analysis of Legal Aspects (1955); Special Report 26, Expressway Law—An Analysis (1957); Special Report 27, Acquisition of Land for Future Highway Use—A Legal Analysis (1957); Special Reports 32 and 33, Condemnation of Property for Highway Purposes, Parts I and II (1958).

its official sanction,<sup>13</sup> and the work continues toward a determination of essential elements of highway law, the development of yardsticks which the states may utilize in evaluating the soundness and effectiveness of their own statutes.

### III. NEED FOR STATUTORY MODERNIZATION OF HIGHWAY USE LAWS

There is every reason to believe that developments in the movement to modernize highway laws will elevate the highway statutes to the standards necessary for a highway improvement program based on the traffic demands of 1975.

Unfortunately, the same degree of urgency has not been assigned to the problems of highway and motor vehicle use. To date, there has been no concerted and overwhelming surge of public demand for a change in such laws, as was experienced in the highway improvement program, possibly because the problems of regulation and control of use are not so evident to the people as their own problem of attempting to navigate inadequate facilities.

With adequate highways now virtually assured, it is time comparable attention was directed toward the operational side of the highway transportation picture; toward the responsibilities of the State in regulation and control of motor vehicle ownership and use in order that traffic operations upon the improved roads of Nebraska may be safeguarded and facilitated.<sup>14</sup> In this, both the attorney and the state legislator hold an important role.

In contrast to their activity in behalf of highway development, however, it would appear that neither the attorney nor the state legislator has met his responsibilities for assuring the highest degree of safety and efficiency in citizens' use of the streets and highways. Furthermore, the attorney and the legislator have,

<sup>13</sup> A 1958 Resolution of the Standing Committee on Commerce, The American Bar Association, approves in principle the policy and program of the Highway Laws Project, Highway Research Board, The National Academy of Sciences.

<sup>14</sup> P.L. 684, 85th Cong., 2d Sess. (1958), grants ". . . the consent of Congress to the several states to negotiate and enter into compacts for the purpose of promoting highway traffic safety." See also, Hearings on H.R.J. Res. 221, 85th Cong., 2d Sess. (1958), before a Subcommittee of the House Committee on Interstate and Foreign Commerce; Highway Traffic Safety, Report 2971 of the Special Subcommittee on Traffic Safety of the House Committee on Interstate and Foreign Commerce, pursuant to H.R. Res. 357, 84th Cong., 2d Sess. (1956).

so far, failed to establish the close relationship that is needed in this field of law which so directly affects the daily lives and behavior of so many people.

Generally, the legal profession is not consulted in the genesis of motor vehicle laws, and therefore, often takes note of such laws only after they appear within the statutes. It is logical and desirable that the legal profession should concern itself with such laws as they are made, and assist the legislator in enacting only such laws as are sound, workable, equitable, and effective.<sup>15</sup>

The public demand for better facilities has so engrossed the minds and thinking of legislators that, in their deliberation of legislative matters pertaining to highway transportation, they have failed to give proper weight and balance to the operational problems of the highway system. They have authorized the expenditure of millions for highway improvements, but, relatively speaking, have put only pennies toward the problems involved in regulating and controlling their use. Perhaps the legislators have failed to appreciate their own importance in that area of state responsibility.

The regulation and control of the driver and his use of the motor vehicle is the responsibility of the State. There is no broad Federal control of road use; no Federal stimulation and leader-

<sup>15</sup> Arthur T. Vanderbilt, former Chief Justice of the Supreme Court of New Jersey, recently stated: "Into our lawyer's briefs, our judicial decisions, and our legal treatises has gone some of the most productive thinking of the race. How different is the picture when we turn to legislation! Again we are confronted with enormous bulk, but here, unlike the situation of judicial decisions, the mass is inert; it does not readily enter into the bloodstream of the thinking process of either the judge or the lawyer. It is recognized, of course, as law, but its acceptance has been reluctant, in many instances sullen, in part by reason of the lack of any research apparatus comparable to that available for judicial decisions. Its resources are relatively unknown and to a degree unknowable. Its availability for purposes of experimentation and of adaptation to the changing needs of the times is therefore far more a matter of chance than in the case of judicial decisions. Although occasional statutes represent a high degree of craftsmanship, the technical quality of legislation generally is far below that of judicial decisions and our legal treatises, a condition that is probably both a cause and an effect of the attitude of lawyers toward it. When we turn to administrative law we find the same conditions of bulk, inaccessibility, inferior craftsmanship, and an adverse attitude on the part of the bar that exist with respect to legislation; the only difference is that these conditions exist in much higher degree with respect to administrative law." Vanderbilt, *Men and Measures in the Law*, pp. 28, 29, (Alfred A. Knopf, Inc., New York, 1959). Hereinafter cited as Vanderbilt.

ship comparable to the funds and standards applied in the Federal-Aid Highway program. There is little possibility of Congressional action in this field, except as a last desperate resort which few people are convinced could be necessary. Each state must presently handle its own operational problems, and this is as it should be under our form of government.<sup>16</sup> The role of the state legislator in this field is, therefore, of the utmost importance.

Recently, the Bureau of Public Roads estimated the nation's 1958 motor vehicle registration at 68.4 million. By 1970, we should expect at least 20 million more motor vehicles and approximately 15 million additional drivers to join the traffic stream of our nation's roads and streets. If this national growth in motor vehicle numbers and use continues in years to come, Nebraska must be prepared to cope with its share, both local and interstate.

Experience has shown that the work of the State agencies charged with regulation and control of motor vehicle traffic grows more difficult and challenging with the growth of motor vehicle registration and use. There is every reason to anticipate that the measure of this responsibility will become more burdensome and complex in the future, when the number of motor vehicles, travel mileages, and accident exposure will be at levels far above those of today.

How well the State of Nebraska prepares itself to cope with these future responsibilities of government will determine the degree to which the people of Nebraska receive the kind of service to which they are entitled in the years ahead.

If the State of Nebraska intends effectively to meet anticipated problems of future motor vehicle use, a start must be made now, *and the starting point is the law itself*. It is a present problem for the present legislature. Therefore, the balance of this article will be primarily concerned with matters of legislative responsibility and with what the Nebraska Legislature can do now to prepare for the future safety, convenience and efficiency of motor vehicle and highway use.

#### IV. THE ROLE OF THE LEGISLATOR

The State legislator has had more basic influence on the progress made in improving the safety and convenience of high-

<sup>16</sup> See: Uniform State Traffic Laws Rather Than Federal Enactment Desirable, President's Highway Safety Conference, Report of the Committee on Laws and Ordinances (revised 1949) p. 13, Reprinted for the President's Committee for Traffic Safety (1954).



way travel than any other person or force. Yet, by and large, it appears that the legislator has been the forgotten man in much of the work which has been done. That is a status for which the legislator, himself, is largely responsible, for only occasionally has he seen fit to view his role as anything beyond the passage of law.

It is time the legislator took his place and was recognized not only as a lawmaker, but also as an important person in keeping the State functions under the law operative and effective. It is essential to Nebraska's future progress in highway transportation that the State Senator maintain continuing and active interest in such matters.

The author strongly believes in the system which gives us three distinct branches of government. Certainly, interference or encroachment of any one branch on another should not be tolerated. But, one cannot escape the conclusion that legislators have a broader responsibility than simply passing laws, delegating authority and appropriating funds. They are the logical people to take stock of what is being done under the law, to determine how effective laws and their administration are in serving the people of the State; to look ahead and decide what must be done to keep pace as new possibilities of highway transportation unfold.

Legislation concerned with the driver, the vehicle and its use is complicated. It is essential that the legislator have clear understanding of the intent and purpose of the law he is asked to pass. The intent must be clearly set out as a guide to administration and enforcement, and as an aid to uniform interpretation by the courts. The administrator must understand what the law was intended to accomplish and he must know exactly what is his role in applying the law. Finally, the public, which is expected to submit to provisions of the law and pay the bill, is entitled to understand the law, what it is supposed to do, and why it is necessary in the public interest.<sup>17</sup>

If government is to perform effectively in the several functional areas bearing on regulation and control of motor vehicle and highway use, the laws under which these functions are administered must be soundly conceived, adequate from the standpoint of legal authority, and flexible so they can readily keep

<sup>17</sup> Treatise on Legislative Intent, Highway Laws Committee, Highway Research Board, National Academy of Sciences, National Research Council (Publication Pending).

pace at all times with fast-moving developments in the highway transportation field.

As has been true of highway law, statutes dealing with motor vehicle matters are a patch-work of legal language enacted as expediency demanded. Lawmakers, over the last 50 years, have been striving to deal with problems brought about by growing use of the motor vehicle, with only partial success. Each year, on ever increasing scale, thousands of proposed laws have been considered; laws enacted, repealed, re-enacted and amended, in an effort to keep pace.

Today, we have motor vehicle codes bulging with legal provisions. These provisions have been added piecemeal to meet problems and situations of the moment. It has been something like adding a thin layer of topsoil to a field in an effort to cover up the rocks. As time passes, the rocks work their way up to the surface again, and more topsoil is required. It would be far more effective and lasting to dig out the rocks, to get at the base of the problem both in farming and in preparing good legal ground for the various functions of government bearing on safety and efficiency of motor vehicle use.<sup>18</sup>

Motor vehicle codes in the several states, put together piece by piece, have been far removed from a planned pattern of development based on demonstrable needs, comparable to procedures used in the field of highway development. In spite of the evident need for such thorough and comprehensive treatment, we have resorted too often to half measures and expedients.<sup>19</sup>

Many laws have been passed without regard to their real objectives. As a result, too often there is a failure to recognize

<sup>18</sup> Editor's Note: Certainly this is true of existing Nebraska statutes, presently a hodgepodge of varied regulations carelessly jammed together over the years in Chapter 39, Article 7, under the general heading: "Regulations Governing the Use of Public Roads." Scattered here may be found every conceivable type of regulation; from the use of horses and mules upon the roads to general regulation of the point system for suspension of drivers license. Within this single article may be found (1) "Rules of the Road as Prescribed by the Act of 1931, As Amended," (2) "Rules of the Road as Prescribed by the Act of 1933, As Amended in 1937," (3) "Rules of the Road as Prescribed by the Acts of 1935," and numerous other miscellaneous provisions. As if this were not enough, numerous other provisions are contained within Chapter 60: "Motor Vehicles."

<sup>19</sup> Uniform State Traffic Laws Rather Than Federal Enactment Desirable, President's Highway Safety Conference, Report of the Committee on Laws and Ordinances (revised 1949) p. 13. Reprinted for the President's Committee for Traffic Safety (1954).

properly the need for an effective program of administration to assure that the law is applied for the maximum benefit. Unless the administrator is given an adequate budget he is hampered in the acquisition of trained manpower, equipment and facilities necessary to do the kind of job the people of the State have a right to expect.

Over the years, legislatures have considered and acted upon an assortment of proposals that fall into one or more of the following categories:

1. *Legislation based on sound national recommendations* sometimes has been so compromised or emasculated that the object of the law is lost completely. The basis of such action, in part, is probably the assumption that the public, conditioned to certain past policies and practices, will accept only so much additional regulation. It presupposes lack of public acceptance when, in fact, the basic problem may be lack of understanding on the part of the public of desired objectives and, perhaps, lack of understanding on the part of the legislator as well. Sound legislative action and effective administrative procedures that could stem from such law consequently fall by the wayside.<sup>20</sup>

2. *Legislation of State agencies seeking additional funds for manpower, equipment, and facilities.* While oftentimes justified in light of the job to be done, these requests are seldom documented as part of a well defined over-all plan based on a factual survey of need. Quite often the legislature is unconvinced the administrator needs all that he is asking, and feels justified in modifying the request or rejecting it entirely. Meanwhile, the problems with which the administrative agency must contend continue to grow and are likely to expand to the point where they seriously jeopardize the efficiency of the function.

3. *Legislation generated by individuals or pressure groups,* some well intentioned, although not always completely knowledgeable, and some acting selfishly.

It is little wonder then that the legislator, beset on all sides by pressures for this measure or that, is hard put to know which is good and which is bad when he has little factual information to guide him. The individual legislator cannot be expected to be an authority in every field of government, nor can he be expected to exercise precise and expert judgment on every ques-

<sup>20</sup> The Relationship Between Good Traffic Laws and Safe Motoring, Indiana Legislative Study Commission on Traffic Safety (1955).

tion coming before him for decision. It follows that he must often decide along lines which seem expedient at the time.

In the evolution of laws in the field of motor vehicle ownership and use the Uniform Vehicle Code, which has served as a practical guide to the states for more than 30 years, stands above all other developments in its influence on legislation.<sup>21</sup>

The Uniform Code was a product of the first national conference on street and highway safety, called in 1924 by Herbert Hoover, then Secretary of Commerce. Up to that time there had been no common or uniform approach among states with respect to traffic control matters. The Code formalized wide realization that uniformity throughout the nation was not only desirable but necessary. That concept is even more valid today than it was in 1924 when traffic demand and the problems of traffic control were not nearly so great.<sup>22</sup>

When the Uniform Code was drawn it incorporated the basic provisions considered necessary at that time for an effective program of administration and enforcement. It represented a cross-section of traffic law experience and requirements. A short time later, a Model Traffic Ordinance, supplementing requirements of the Uniform Code, was developed as a pattern for municipal traffic ordinances.<sup>23</sup>

Periodic changes have been made in both documents over the years in an effort to keep pace with developing problems. While most of the states and many cities have accepted these standards as guides, there has been a general failure to keep abreast at all times with the latest revisions proposed. However, many of the Uniform Code provisions have been adopted by the states so that in legal language and intent, at least, the states have achieved a degree of uniformity.

Nearly everyone agrees that uniformity is desirable and necessary to eliminate the confusion and danger of conflicting laws and regulations between the states. However, the passage of laws simply because they are uniform means little or nothing unless there is first a showing of need for legislation, and that the

<sup>21</sup> The Uniform Vehicle Code (Revised), National Committee on Uniform Traffic Laws and Ordinances (1956).

<sup>22</sup> First National Conference on Street and Highway Safety, Washington, D.C., Dec. 15-16, 1924, Hon. Herbert Hoover, Secretary of Commerce.

<sup>23</sup> Model Traffic Ordinance for Municipalities (Revised). National Committee on Uniform Traffic Laws and Ordinances (1956).

recommendations of the Uniform Code encompass the needs; and unless the legislature understands that in order to accomplish the purposes and objectives of the Uniform Code consideration must be given to what will be needed in way of funds to provide the necessary trained manpower and facilities to fully implement the law.

No law in the motor vehicle field can accomplish its purpose without enlightened administration and enforcement. Long-range factual study will make it possible for the legislature to evaluate the needs in all areas of concern.

Laws must be objective. Adoption of Uniform Code provisions just because they are in the Code is not being objective. A case should be made for any legislative changes, and action taken only after evaluation of need and possible impact on the people of the State.

Despite all the experience of the past, we still are approaching legislation on a short-term, stop-gap basis, never catching up with growth of the highway transportation problems.

Legislators, even today, are still put to the necessity of coping with outside and oftentimes selfish pressures without full and complete factual information to guide them. State agencies responsible for regulation and control of motor vehicle use still have not attained the stature in state government commensurate with the importance of the job they have to do. They still are working under the handicap of inadequate authority in some cases, insufficient budgets, and shortage of trained manpower and equipment.

The short-sighted approach to legislation and to administration of law in this field can no longer serve, any more than it can in any other major area of public welfare. States must now begin to adopt the same long-range, orderly approach to problems of motor vehicle ownership and use as has been applied to the highway improvement program. Failure to plan ahead in the face of much greater traffic volumes which new and improved facilities are expected to generate not only would be short-sighted, but would endanger hard-won gains in accident prevention and over-all efficiency of the highway transportation system.

Since the first approach is to the legal base, it is the responsibility of the legislature to see that the laws are kept adequate over the years. But, in considering the adequacy of law, we cannot find the full answer in the statute books. We must look to the law in motion as a function of government to determine what additional legislative or administrative tools must be brought

to bear on the activity—authority, budget, higher standards, trained manpower, equipment, facilities—to do the job better now and to prepare for the future, insofar as requirements can be foreseen.<sup>24</sup>

It is time to take a searching look at each function of State government bearing on ownership and operation of the motor vehicle, taking the function apart, piece by piece, and subjecting it to critical analysis to determine its past effectiveness, its adequacy in dealing with current problems, and what it will need in the way of legislation to prepare and equip it for the bigger job ahead.<sup>25</sup>

Full knowledge and understanding of every State function involved is necessary for an intelligent and sound approach to the problems of safe and efficient motor vehicle use. Such an approach, bolstered by all available factual data, is a service to the legislators who want to deal with problems on this basis but seldom have had full advantage of such guidance. It should be of direct benefit to the administrative official, for it would make it possible for him to present a convincing case for needed improvements. And, in the end, it should lead to better services and protection for the public.

Here is where the legislator can step up to the new concept of his responsibility in this field—in the legislative sponsorship and direction of a long-range factual study of every State function bearing on ownership and use of the motor vehicle. State functions that should be given benefit of such study, with the primary objective the provision of an adequate legal base in terms of authority and budget, include: Accident Records; Courts; Driver Education; Driver Licensing; Financial Responsibility; Public Information; Vehicle Registration and Title; State Police or Highway Patrol; and Highway Operations, including all matters affecting safety and convenience of vehicle operation on the highway, except construction and maintenance.

The proposed study program should consider each function purely as a function—as a job for which the State is responsible.

<sup>24</sup> "Of the great gap between law in books and the law in action not even a first-year law student needs to be told; it is but an aspect of the wide gulf between precept and practice in every activity in which human beings with all their frailties have a part. What looks perfect on paper often turns out to be quite defective in fact . . . appreciating the difference between law in books and law in action is an indispensable part of the lawyer's daily work." Vanderbilt, p. 37.

<sup>25</sup> Research Needs in Traffic Safety, Hearing before a subcommittee of the House Committee on Interstate and Foreign Commerce, 85th Cong., 2d Sess. (April 23, 1958).

It should not be concerned primarily with placement of that function in the governmental structure, nor should it be considered as a management study. The primary objective should be determination of basic deficiencies which the legislature can correct so that the function can perform efficiently and effectively, not only for today, but for the years ahead. The public's first interest is that the jobs assigned to government be done, and done well.

Each of the State functions involved should be opened to fresh thinking and the viewpoints of those who, by reason of experience and interest, can help pass judgment on past performance and requirements of the future. Among them are such people as those accustomed to probing deeply into problems through the channels of research, students of government, economists and others.<sup>26</sup>

The State of Minnesota is pioneering this type of study. The work there has been going on for nearly two years. At this writing, recommendations of the Study Committee to meet immediate needs are awaiting attention of the 1959 legislative session. This is the first phase of the long-range program of improvement Minnesota hopes to develop through the study process. Future needs will be developed as the study progresses, and a legislative timetable will be prepared later as a guide to subsequent sessions of the Legislature.<sup>27</sup>

<sup>26</sup> Various research projects and studies in the areas under discussion have been and are being carried out in colleges and universities and by other agencies. While it is impractical to cite each project of that type, two examples might be mentioned. One, in report form, is *Driver Improvement—The Point System*, Institute of Government, University of North Carolina, which was prepared for the American Association of Motor Vehicle Administrators. Another, presently under way, is a state-by-state study of driver license laws being conducted by the staff of the Automotive Safety Foundation. For other works, accomplished and in progress, see: *Research Review*, a quarterly supplement to the monthly *Traffic Safety* magazine, National Safety Council, Chicago; *Index to Highway Research Correlation Service Circulars*, Highway Research Board, National Academy of Sciences, National Research Council.

<sup>27</sup> "Study Methods and Procedures for Gathering the Facts on Each Motor Vehicle Function of Government," State of Minnesota Work Manual, Stage I, Minnesota Motor Vehicle and Traffic Laws Study Committee, Jan. 1, 1958. Also, see: *Minnesota Program of Action*, adopted by the Governor's Motor Vehicle and Traffic Laws Study Committee, Duluth, Minnesota, Aug. 22, 1958, which includes reports and legislative recommendations for consideration by the 1959 legislature.

In Minnesota those involved have come to the realization that a study of this type has no real ending. There must be periodic review of the long-range legislative program in light of changing conditions. Projection into the future must be pushed ahead as time passes so that the improvement program always points to the job that will have to be done in the years ahead.

In the face of ever increasing motor vehicle use, executive and administrative officials, legislators, professional organizations and citizen leaders, including members of the bench and bar, throughout the states, have recognized the need to meet future problems on the basis of facts, and are taking leadership in development of these long-range factual studies of needs.

The American Association of Motor Vehicle Administrators, the Western Interstate Committee on Highway Policy Problems of the Council of State Governments, the Institute of Traffic Engineers, and the Executive Committee of the International Association of Chiefs of Police, for example, have officially endorsed the study program and are encouraging their members to stimulate interest in their home states.

Factual study, of course, is no stranger to interim legislative committees and to legislative councils. Much of the work they have done, however, lies primarily in the short-range, or immediate needs, field and has not been geared to the long-range orderly approach to problems of the future. This long-range study offers them an opportunity for much broader and more lasting service in their respective legislatures and, in the end, to their people.

*Long-range action on the basis of thorough factual study is the keystone of the role the State legislator must play to assure maximum value in terms of safety and efficiency of highway transportation.*

What role should members of the legal profession play in this new era of highway transportation progress? Certainly, as guardians of the basic rights and privileges of citizens, members of the profession will want to assure themselves that the State's laws are soundly conceived and are capable of doing the job for which they are intended, always in the public interest. Secondly, as citizen leaders in State and community affairs, lawyers are in position to give leadership to the development of public encouragement and support for the long-range factual study approach to the needs of State functions bearing on ownership and use of the motor vehicle.



The legal profession can render no more timely and worthwhile service to State government and to the people than that which they can now give in this field, which has been recognized as one of the most needful among major areas of public welfare.

#### V. CONCLUSION

The long-range factual study of needs in the field of motor vehicle and highway use will provide legislators with an orderly guide for future legislative action. It should result in clear-cut authority and assignment of responsibility for efficient management of motor vehicle matters. It should diminish the courts' problems in interpreting and enforcing the laws which apply in this field. This approach should give the public increased value for the tax dollar through more efficient and effective performance of the governmental functions involved.

Other benefits can be added to these, but in the end they all add up to safer and more efficient use of streets and highways, with consequent saving of life and limb, and a very real reduction in monetary losses due to accidents and congestion which today are a burdensome charge against the economy of the State.