Alcohol and Traffic-safety Legislation in Norway

In earlier times, it was almost exclusively the more severe forms of the effects of alcohol which interested legislators. However, the rapid development of technics and traffic, and the increased demand for precision thus brought about, have made it more obvious that the milder forms of the influence of alcohol may also be of considerable significance. So, in our country also, in recent years, a number of legal provisions have been brought in, which increase the demands made on those who form a part of the traffic, or who carry out traffic activity, as regards their relationship to alcohol.

I am afraid that I shall not be able to go further into this development now, but shall content myself with giving a brief account of the most important provisions we have in this sphere in Norway today.

In the motor-vehicles act now current, the act of 20th February 1926, it is stipulated that no one may drive, or attempt to drive, a motor-vehicle when under the influence of alcohol: that is to say, not sober. The question as to how far the driver of a motor-vehicle is under the influence of alcohol, or sober, is decided in the first instance by a doctor, after a clinical examination has been made. This examination is conducted according to prescribed directives. In the medical declaration which the doctor concerned must make points such as sense of direction, recent memory, power of description, calculation tests, etc. are mentioned.

But in addition to the provision that no one may drive a motor-vehicle whilst in a state of intoxication, the act also stipulates that if the person concerned has an alcohol concentration in the blood in excess of 0.5 per mille, he shall be deemed, in relation to the provisions of the motor-vehicle act, to be under the influence of alcohol (not sober).

I should like to add a few comments to this last and very important provision. As an objective criterion of culpability, the act here stipulates that the alcohol content of the person's blood must not exceed 0.5 per mille whilst driving. If this limit is exceeded, the case is thereupon decided; but even if the alcohol concentration does not come up to this level he may still be convicted if, by clinical examination, it can, nevertheless, be proved that he has been under the influence of alcohol.

Nor, according to this provision, is it a condition of culpability that the influence of alcohol in the case in question has been a danger to traffic safety, even less so that driver has done any damage whilst driving.

I would also draw your attention to
the provision that a driver driving a motor vehicle, or who is close to a motor-vehicle he has just driven or is about to start up, may be taken by the police to a doctor who may make a blood test, when there is reason to believe that he is under the influence of alcohol. The person concerned is then obliged to submit to a medical examination, and to allow a blood test to be taken. Such an examination is performed by one of the doctors who have expressed themselves willing to undertake medical examinations of this kind, and have been appointed by the public authorities, or by a doctor specially appointed by the Ministry of Justice to conduct such examinations. The actual analysis of the blood is carried out by the Pharmaceutical Institute of the University, and, for safety's sake, the institute employs a safety margin of 0.15 per mille, in addition to the 0.5 per mille stipulated by the act.

The act also includes the provision that error with regard to the amount of alcohol concentration does not render one immune from punishment. Similarly, the act equates the attempt with the accomplished offence, in contrast to what is otherwise the norm, according to Norwegian law, in the case of misdemeanours. That differentiation is made between whether or not a person has actually driven or merely attempted to drive, when determining sentence, is another matter.

According to the penal clauses of the motor-vehicles act, for an offence against the provisions of the act, a fine or a sentence of imprisonment for a period not exceeding one year may be imposed. In the case of a person having driven a motor-vehicle whilst under the influence of alcohol, the act particularly stipulates that a sentence of imprisonment shall be imposed, unless there are mitigating circumstances. The Supreme Court has interpreted this in such a way that, in general, the prison sentence shall be effective imprisonment; that is to say the offender shall not be bound over and the sentence suspended. According to the Supreme Court, there must be altogether special circumstances before a suspended sentence may be imposed, when anyone has driven a motor-vehicle whilst in a state of intoxication. To cite from actual practice, I would mention that of 125 such cases tried by the Supreme Court during the period 1936/9, sentences of effective imprisonment were imposed in 116 cases, suspended imprisonment in 12, and fines in 7. Thus in approximately 85% of these cases effective imprisonment was imposed on persons who had driven motor-vehicles when intoxicated.

In addition to the penal clauses, the act also includes provisions regarding the suspension of driving licenses. If the driver of a motor-vehicle is convicted of having driven a motor-vehicle whilst under the influence of alcohol, his driving licence shall be suspended for at least one year. If the person has previously been convicted for such an offence during the preceding five years, his driving licence shall be suspended permanently. The respective chiefs of police suspend licenses, but on appeal the Ministry of Justice may reduce the period of suspension stipulated by the police, and the Ministry may also reduce the period of suspension to one of less than a year, when there are particularly extenuating circumstances and the time stipulated by the police would cause undue hardship. In this connection I might mention that it is only in purely exceptional cases that the Min-
istry of Justice approves suspension for a period of less than one year. As you will notice, according to Norwegian law, it is a very serious matter for a driver to drive a motor-vehicle whilst in a state of intoxication.

In addition to the provisions of the motor-vehicles act, we have, in Norway, other important provisions in another act, namely, the act of 16th July, 1936, regarding obligatory abstention from the consumption of alcohol by persons in certain posts. This act stipulates that it is absolutely forbidden for certain persons, during a particular period, to consume drinks with an alcohol content, with the exception of beer which does not contain more than 2.5 per mille of alcohol. This act embraces serving military personnel, and persons serving on railways, tramways and aircraft, with certain qualifications which, however, I do not propose to go into. In addition the act embraces anyone who serves as the driver of a motor-vehicle, in a post or profession which involves the conveyance of persons or goods. For drivers of motor-vehicles in this category it is, first of all, forbidden to consume alcohol, apart from the weak beer previously mentioned, during actual driving: but, as a general rule, this ban also applies for the last eight hours before commencing duty. To put it briefly, in the case of a professional driver, not only does Norwegian law demand that he shall not be under the influence of alcohol, but also charges him with complete abstention from intoxicating liquor, apart from the aforementioned weak beer, both whilst driving and for a considerable period beforehand.

The provisions of the motor-vehicles act regarding obligatory medical examination, penalties, and the suspension of driving licences apply similarly to the drivers of motor-vehicles offending against this special provision for professional driving.

Norwegian legislation in this may seem strict, but the legislators have been of the opinion that people driving motor-vehicles have such great responsibility for the life and limb of their fellow-men that they must be prepared to abstain, or, at the least, reduce their use of alcohol in connection with driving, so that traffic safety may not suffer from inopportune use of alcohol.

I may also add that a report is now at hand, from an officially appointed committee, in which further stringencies to a number of the provisions I have named, are proposed.

Of the most important of the committee's proposals I would mention that other intoxicants besides alcohol shall be embraced by the act. Th majority of the committee proposes that the provision regarding the limit of alcohol content of the blood be maintained, i.e. 0.5 per mille, whilst the minority proposes that the limit be lowered to 0.35 per mille. The committee further proposes that it should be forbidden to drive a vehicle when a person has such a quantity of alcohol in the body as to lead to an alcohol content of the blood which contravenes the maximum stipulated by the act.

It is further suggested that no one shall drive, or attempt to drive, a motor-vehicle, if he has consumed alcohol, weak beer excepted, or other intoxicant, during the last three hours before driving. Nor shall it be permitted to consume alcohol during the first three hours after driving, if the driver is aware, or should be aware, that there may be a police enquiry owing to his driving.
Nor, according to the committee's proposals, must anyone be a party to an intoxicated person's driving by encouraging, impelling or deluding him to do so, or by putting the motor-vehicle in a state of preparedness to be driven by him, or by handing over the motor-vehicle to him for driving. And finally I would mention the committee's proposal that any driver of a motor-vehicle, at the request of the police, shall be obliged to let his breath be tested.

The committee's proposals are at present being considered by the Ministry of Social Affairs, and it has not yet been decided if they shall be made law.