

New York University Law School March 6, 1968 concerning the question of court congestion:

Much is said nowadays of court congestion. But now we have discovered a new congestion—law office congestion! At Philadelphia in the Federal Eastern District, a computer was put on the court's docket. After some 2,000 cases had been programmed, a surprising discovery was made. Thirty percent of the cases involved longshoremen claims and three law firms represented 95% of the plaintiffs involved; two firms represented 95% of the defendants. The congestion was in the lawyers! Another 25% of the cases were FELA and Jones Act actions with similar results. Of the whole number of plaintiffs involved some 10% were represented by solo firms. Chief Judge Clary got busy and the dispositions there increased 31% last year! The point is: The lawyers must do their part in clearing up this docket congestion problem. I dare say that the remainder of the Philadelphia docket will show up the same way. And I expect the Southern District of New York's 11,000 case backlog will come out in somewhat the same "lawyer congestion" fashion; and in all likelihood the 4,000 case arrearage in the District of Columbia will uncover the same problem, perhaps in different categories of cases; and the 4,000 case load of the Eastern District of Louisiana will probably do likewise, as will the 2,500 cases in San Francisco and the 1,500 in Brooklyn. *And in the state system, where the delay runs as high as 5½ years, the same will probably be true.* Yes, the lawyers will have to remodel their dockets.

We must also improve the stature of our judges, give them the advantages of continued training in judicial education; and, as to state judges, take their selection and that of their staff out of politics; give them longer tenure, and give them more security retirement-wise. Long summer recesses should be abolished and the judges' time utilized on backlog.

Further, Justice Clark made the following statement:

Let me say, however, that before I would be willing to compromise even one of our present rights, such as is being suggested by some as to trial by jury, it would have to be shown that action was imperative and that there was no other remedy. Before we tinker with the foundations of our legal system let us first get the facts and make an appraisal of the problem. If automobile personal injury litigation, as many think, is the cause of congestion then we must remedy it. But let us first make sure that it is the cause. At the moment the statistics in Philadelphia indicate the contrary.

CONCLUSION

I have mentioned today but a few of the problems which must be included in a comprehensive study of the automobile insurance system. There are many others. The study group should also consider the factors influencing the number of accidents and claims. Some of these would include:

- (1) The number of cars driven and miles driven,
- (2) The driver education and testing programs across the country,
- (3) The safeguards against the influence of drinking and driving,
- (3) Automobile equipment safety standards and enforcement of these standards,
- (5) The adequacy of our state and federal highway systems, and
- (6) Increased traffic problems in urban areas, along with highway construction and maintenance.

The study should take into account the current inflationary pressures, the need for automobile reserve funds and pooling to meet the increased costs of catastrophes and insolvencies. Such a study must also look into the factors affecting the cost of claims.

Yet the solving of each of these individual problems will not be the solution. All of the problems and allegations, as delineated in this statement, are closely interrelated and only by viewing them in their total perspective can they be properly appraised, evaluated, and where necessary, corrected.

Once again let me say that my offices and those of the National Association of Insurance Commissioners stand ready to be of whatever assistance we can in obtaining the information and data which this Committee will need in order to evaluate the problem and to develop a comprehensive and meaningful understanding. I would be happy to designate a committee of select insurance commissioners who would sit with you and your staff on any problem and I will be happy to meet with you at any time to further explore and develop those areas where we might be helpful to you.