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Of Sausages and DUI's

Sausages are made by taking prime cuts and unsavory leftovers and grinding them together. Make laws is a similar process. Step into the Legislative kitchen and see for yourself.

One day in 1982, the Presidential Commission on Drunk Driving (of which I was a member) was trying to hammer out final guidelines to help the U.S. Congress curb America's drunk-driving problem. The recommendation under discussion that day was that drunk drivers should be jailed for 48 hours at the time of their arrest. Some of us – with me as the medical spokesman – were adamant that there should also be no such thing as release on bail, plea-bargaining or any other “deal making.”

This recommendation was strongly countered by several legal members on the commission. The spokesperson for the legal group, a distinguished senior legislator, began to orate in a paternalistic manner: “Let me teach you young idealists the facts of life.” In his persuasive, campaign-story-telling drawl, he made this argument: “Now, you doctors” he said, looking straight at me, “always get carried away with your healing enthusiasms . . . and God bless you for it. But sometimes you all are naïve. Putting a drunk driver in jail may sound peachy-keen. But you can't tie a judge's hands by telling him that there will be no ‘exceptions’ before the bench, and no ‘discussions’ in his chambers. No judge can live with those kinds of constraints.

“Now,” he continued, laying on some soothing balm, “I'll gladly admit that doctors are very smart people. But judges know better than doctors do about such things as what it is that people really want . . . and what kind of laws are enforceable..

“Now, picture the following scene,” he went on. “Suppose I'm a small-town judge. It is Friday night and the quarterback of the local college football team is arrested around midnight for drunk driving. Since

he is a healthy 21-year-old athlete, even you doctors will have to admit that there are no medical reasons to keep that boy in jail for 48 hours. As you all have told us previously in your erudite deliberations before this distinguished Commission, that boy's liver will have cleared all of the alcohol out of his system by 7 o'clock the next morning. In other words, by morning, that boy is not a danger to himself or anybody else. Yet, you want me to keep him in jail for 48 hours?

“Not on your life, I won't” he went on, warming up to his argument. “As a matter of fact, if I keep that boy in jail for 48 hours, it may be the end of his football career . . . and the end of my political career. Can you imagine,” he raised a judicial finger, “what the multitudes in the stadium would say at 1 o'clock that Saturday afternoon when they see their second-string quarterback trotting onto the field in their annual grudge game against their traditional arch-rival?”

He waited for this to sink in. “And all this is happening only because some silly old judge is keeping their star quarterback in jail . . . when said quarterback had only six beers 12 hours ago . . . the alcohol from which, as any doctor in the world will tell you, has been cleared out of that boy's liver hours ago?”

“So, you see,” he said beneficently to cheer us up, “being a judge is like being a surgeon. There are many things to consider before you operate. Come to think of it, making laws is like doing surgery.”

He looked pleased with himself. But I remember thinking that making laws was more like making sausages: You set out to make high-grade salami, but you end up making low-grade bologna.

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