



**THE LAW REFORM COMMISSION  
OF WESTERN AUSTRALIA**

**Project No 15**

**Imposition of Driving  
Disqualifications**

**REPORT**

**JUNE 1971**



**REPORT  
ON  
IMPOSITION OF DRIVING DISQUALIFICATIONS**

To: The HON. R. E. BERTRAM, M.L.A,  
ATTORNEY GENERAL

**TERMS OF REFERENCE**

1. “To consider the need for legislation to provide for the imposition of driving disqualifications on a person convicted of an offence in the commission of which he drives or uses a motor vehicle.”

**WORKING PAPER**

2. The Committee issued a working paper on 9 March last. A copy of the paper is attached.

3. Comments were received from the -

Hon. Mr. Justice Burt,  
Chairman and Judges of the District Court,  
Council of the Law Society of W.A.,  
then Commissioner of Police,  
Deputy Commonwealth Crown Solicitor,  
Acting Director of the Child Welfare Department.

4. The Chairman and Judges of the District Court, the Law Society and the former Commissioner of Police are in favour of the introduction of legislation providing for the imposition of driving disqualification.

5. The Deputy Commonwealth Crown Solicitor (Mr. Odlum) was not in favour of the proposal and put forward alternative suggestions. The consensus of opinion in the Child Welfare Department is that the proposal should not be adopted.

6. Mr. Justice Burt wrote to the Committee drawing attention to a related problem of accident proneness and stating that policy on that question should not be formulated until "one has taken competent psychological and psychiatric opinion and after a thorough statistical analysis of traffic 'incidents' - to use a neutral expression".

7. The Law Society did not say why it thought the proposal should be implemented.

8. The following is an extract from Mr. Napier's letter -

"Motor Driver's Licenses are cancelled or suspended quite frequently by Courts, in respect of offences under the provisions of the *Traffic Act*, hence the problem of detecting such persons driving motor vehicles is not a new experience for Police.

Should criminals at the time of conviction be deprived of their Motor Driver's License, the Police are in a much better position to detect them driving a vehicle, than is the case with an otherwise law-abiding citizen.

Through the medium of publication in the W.A. Police Gazette Photo Supplements of certain criminals, with accompanying descriptions, the Police Officers familiarise themselves with these photos and are better equipped to recognise them, - many of them would already be known to a large number of Police, whereas this does not apply to an ordinary motorist in the community.

Any cancellation or suspension of a Motor Driver's License under the terms of Project No. 15 would be published in the Police Gazette, circulated to all Police throughout the State, for information and recording.

Should a criminal deprived of a Motor Driver's License drive a vehicle, he would ensure this was done furtively and on a restrictive basis, which would tend to be far less effective to him in the planned commission of further crime, than if there was no legislative restriction on his driving."

9. The Chairman and Judges of the District Court are of the opinion that disqualification would be useful both as a means of preventing crime and as a penalty. Although inclined to the view that disqualification would be difficult to enforce they do not regard this as decisive. They think that the Committee's objections in paragraph 24(2) and (3) of the working paper

have little force. The court could be relied upon to avoid any unnecessary unevenness, and any diminution of the usefulness of a disqualified driver would be outweighed by preventing the harm he might do if permitted to drive. They think that disqualification would be appropriate in cases where a deterrent sentence is necessary, but the offence is not sufficiently grave to warrant imprisonment.

10. The Committee would point out however that under the existing legislation permitting disqualification (Part IV of the *Traffic Act* and s.668A of the *Criminal Code*) it has been found desirable to make provision for the granting of dispensation in some cases and though the courts will no doubt administer any new legislation adequately, there are still likely to be occasions when it may be unduly harsh to deprive a person of his licence to drive in certain circumstances even though disqualified. If legislation is enacted giving the courts power to impose disqualification then provision should be made for granting dispensation in special or extraordinary cases.

11. The Acting Director of the Child Welfare Department advised that the officers of his Department had discussed the working paper and that the consensus of opinion was opposed to disqualification either as a penalty or as an instrument of prevention. Officers were sceptical of the efficacy of its use as a means of preventing crime. Although it was conceded that possibly some may not commit offences because they were disqualified, it was thought unrealistic to assume that in general a person who was prepared to commit a serious offence would not be prepared to commit the less serious offence of driving while disqualified. It was suggested that disqualification may actually add to the crime rate by tempting offenders to steal a vehicle to help avoid identification.

12. The opinion of the officers of that Department was that the proposal was arbitrary. Vehicles were involved in one way or another in a great many crimes: a shop lifter may remove stolen goods in his car or a person may utter a forged cheque after driving to the city to do so, but presumably these would be outside the ambit of the legislation.

13. In his letter to the Committee, the Deputy Commonwealth Crown Solicitor in effect doubted whether any period of disqualification or suspension of a driving licence would act as a deterrent in the commission, proposed or otherwise, of a crime.

## COMMITTEE'S VIEWS

14. In the final paragraph of the working paper the Committee expressed tentative views. The Committee has now reconsidered the matter in the light of the comments received, but does not feel that it is any better qualified now to express any firm recommendations. As a matter of personal preference, however, the members are each still of the view that the introduction of the new sanction, either as a penalty or as a means of preventing crime, is difficult to justify.

CHAIRMAN

MEMBER

MEMBER

18 June, 1971