

Imposition of Driving Disqualifications

Terms of Reference

In 1969, the Committee was asked to consider the need for legislation imposing driving disqualifications on persons who committed crimes involving the use of a motor vehicle.

Background of Reference

The reference arose from an increased recognition by police and the judiciary of the large role the motor vehicle had assumed in the commission of modern crime. Some members of the judiciary suggested that courts be empowered by a broad discretion to disqualify from driving a person who had used a vehicle in connection with the commission of a crime.

After considering the law in other jurisdictions, particularly where courts had the power to order disqualification, the Committee came to the preliminary conclusion that disqualification was ineffective both as a means of preventing crime and as a penalty. The Committee based this conclusion on three factors:

- (a) that a person intending to commit an offence is likely to ignore a driving disqualification or obtain another person to drive, thereby rendering disqualification ineffective as a deterrent;
- (b) that disqualification could unfairly burden some people more than others, particularly those whose livelihood depended upon retention of a driving licence; and
- (c) that because of the social significance of driving, deprivation of the ability to drive might diminish an individual's usefulness as a member of society.

The Committee released a working paper on the subject in March 1971 setting out the research and reasons for reaching its preliminary conclusion.

Nature and Extent of Consultation

The working paper was forwarded to a number of interested parties including courts, government departments and other law reform agencies. The Committee received six submissions in response to the working paper. Some parties, including District Court judicial officers, the Commissioner of Police and the Law Society, supported the introduction of legislation empowering courts to make disqualification orders. However, the Child Welfare Department opposed the introduction of this sanction, noting that the proposal could unwittingly increase the crime rate by tempting offenders to steal a vehicle to avoid identification. The Deputy Commonwealth Crown Solicitor also expressed doubt that disqualification would act as an effective deterrent to crime. The Committee released its final report in June 1971.¹

No Action Recommended

Following consideration of all submissions, the Committee concluded that the introduction of driving disqualification in this context, either as a penalty or as a means of preventing crime, was difficult to justify. In the circumstances, the Committee refrained from making any specific recommendations.

¹ Law Reform Committee of Western Australia, *Imposition of Driving Disqualifications*, Project No 15 (1971).