

**ROAD TRAFFIC (NOTICES OF LICENCE DISQUALIFICATION OR  
SUSPENSION) AMENDMENT BILL**

**23 November 2006**

Adjourned debate on second reading.

(Continued from 1 November. Page 855.)

**The Hon. D.G.E. HOOD:** I rise to support the second reading of this bill. The bill seeks to amend the Road Traffic Act to resolve a somewhat embarrassing situation arising out of the Supreme Court decisions of the *Police v. Conway* and the *Police v. Parker* in June this year. Road traffic law is somewhat more complex than a lay member of the public might at first think. Amongst at least one set of legal loose-leaf services, it has its own category alongside much broader categories and it is the subject of frequent challenges in the courts. I think this happens because of the particular volume of drink-driving offences and the desire of drivers to retain their licence regardless of the cost.

Hence, we get these situations from time to time where the random breath-testing regime comes under challenge. The government needs to rectify an error identified by the Supreme Court. One cannot ridicule the government or the drafters about this issue; to some extent, these things just happen. Family First has no problem with the retrospective rectification of this law. First, the error identified by the court would have been apparent only to a very studious lawyer. All drivers who were disqualified or suspended would no doubt have assumed their notice was valid until they saw a lawyer who worked out the problem.

In our view there was nothing manifestly misleading or deceptive in the notice to drivers. We are talking about a loophole. Secondly, we think it is entirely appropriate that those who thought they were disqualified, but who on a technicality were not, can be given credit for the time served under the now mistaken apprehension that they were disqualified. There are other aspects of tidying up the law with which, again, we have no problem. We think the

government has balanced well the toughening of the law whilst offering protection of citizens in this particular case. It may be that some lawyers will go ramming against this amendment to ensure the best possible result for the client and we might have to amend this again. Let us hope that is not the case. We trust that the Crown's lawyers have done their very best to defend themselves against the potential attack of which I speak.

When we saw the title of this bill, our thoughts immediately turned to a question I asked the minister on Thursday 28 September this year regarding the service of notices of disqualification, and I will take a moment to raise that point again. This was in respect of another loophole that people are using to escape disqualification charges, and ultimately disqualification, full stop, by avoiding service of their disqualification notice or pretending that they did not receive it; that is, the notice is posted to them and they claim that they did not receive the notice.

We certainly hope that lawyers are not advising their clients to say to courts that that is the case when it may not be. To our mind, this service issue can be fairly readily resolved by improving upon the provisions that relate to the service. The minister undertook to provide an answer to our questions, the second of which was: what action has the minister taken to rectify the situation? We would suggest that personal service of the notice or service by registered mail would be quite appropriate and would end this loophole, if you like, that exists at the moment. This bill seems to us an opportune time to deal with this reform. As we saw, for instance, when the Development Panel Amendment Bill was debated in this place, the Leader of the Government moved eleventh hour amendments concerning the names of land zones on the city's northern fringes—

*The Hon. D.W. Ridgway interjecting:*

**The Hon. D.G.E. HOOD:** I thought you would like that—changes recommended by the relevant department, whilst we were in the process of amending the act. If drivers have been disqualified, there ought to be a clear way for police to prosecute and prove that they have been served or can

presume to have been served. This is a simple matter that should be fixed once and for all—and in the short term not the long term. We call upon the minister to include a remedy for this longstanding situation by an amendment to the bill. In conclusion, though, we support the second reading of this bill and certainly the intention and the principle upon which it is based.