

Mr Eric Ripper; Speaker; Mr Max Trenorden; Dr Janet Woollard; Mr Terry Waldron; Mr Matt Birney; Mr John Bradshaw; Mr Colin Barnett; Mr Kucera

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## LIQUOR LICENSING AMENDMENT BILL 2001

### *Second Reading*

Resumed from an earlier stage of the sitting.

**MR RIPPER** (Belmont - Deputy Premier) [2.33 pm]: Before question time I got the call to speak in this debate because the Bill otherwise would have been passed. I am aware that the Leader of the National Party wanted to speak on this Bill and unfortunately was not in the Chamber one minute before question time when it was considered. Is there any way in which he can be permitted to make a speech on this Bill?

The SPEAKER: As the Deputy Premier has not commenced his reply in the debate and was standing merely so that the Bill would not be passed, I am prepared to give the Deputy Premier a second call on this matter. I therefore give the call to the member for Avon.

**MR TRENORDEN** (Avon - Leader of the National Party) [2.34 pm]: Mr Speaker, I appreciate your leniency. No-one appreciates the rules of this House more than I do. However, there was some confusion this morning when we dealt with a number of Bills. A couple of my colleagues in the National Party have asked me to bring to the attention of the Leader of the House that we were conciliatory this morning when we dealt with those Bills, and we ask the Leader of the House to give some consideration to the National Party's views on this Bill. Our members contributed to those debates but were caught out on this occasion. We do not want to be hardnosed about these issues. The House must operate and we are happy with its processes. Mr Speaker, I appreciate this opportunity and I will be fairly quick.

The National Party has a very strong view about this issue. We are very strong supporters of the hotel and club industry because in rural Western Australia, hotels and clubs are where everyone meets. They are almost the only focus left for rural communities. When the local netball or football team meets, it is generally in a club or hotel. In fact, Mr Speaker, in your electorate that is generally where boy meets girl.

Mr Hyde interjected.

Mr TRENORDEN: Or whatever! The National Party is keen, therefore, about the rules and regulations of the hotel industry. I am personally disappointed about the attitude taken Australia-wide to this issue and the way in which legislation has been carried in this place from time to time. Hotels and clubs appear to be about alcohol, and they should not be about alcohol. Clubs and hotels should reflect the general attitude of the community. Like the member for Perth, I go along with the attitude that they should be a mirror reflection of the community. It has been often lost in this debate that about 90 per cent of alcohol is consumed away from hotels and clubs. Clubs and hotels are no longer the greatest sources of alcohol. The chances are greater that people who drink and drive have come from a restaurant or a private function than from a club or a pub. Those facts are not taken into consideration. That is the reason that the National Party has argued in the past that hotels and clubs should have the capacity to deliver a range of services. To some degree, that includes gambling, although the National Party does not support gambling, particularly poker machines. One can gamble at a newsagent; therefore, why should people not be able to play keno, lotto or other forms of gambling in pubs. It would also help to keep those places going. Families should be encouraged to attend country pubs and clubs more than they are.

Mr Speaker, in my part of the world, but more importantly in your part of the world, hotels are an important part of the tourism industry. They supply \$10 and \$16 meals to people whose journey takes them past their establishments. In many cases they house tourists, particularly in the north in the Speaker's electorate, and also in parts of the deep south. The National Party therefore wants hotels to be healthy and active.

The National Party supports these amendments. However, I would like to put on the record some considerations about how the legislation applies to rural WA. I listened with interest to the lead speaker of the Opposition, who spoke well. However, my remarks will be about only the country aspects. There is always debate in country towns about youths in hotels. My position, for which I have been heavily criticised, is that I prefer the youths in my town to be drinking beyond midnight in the hotel because I know where they are and the police know where they are. In any country town when a hotel is not closed at 11.00 pm or 12 midnight, it means people are not looking for entertainment or a party somewhere in the community. In country towns, people's entertainment is sometimes as mundane as going to the local gravel tip and drinking packaged beer, going to someone's house or going to a sports club.

Licensing causes problems. I am sure, Mr Speaker, the problem is no different in your electorate. Whether it be 1.00 am, 2.00 am or 3.00 am, the police strongly oppose extended closing times with reason; their shifts finish around midnight and they want to take officers off the roster. When a hotel closes at 1.00 am or 2.00 am, it can cause a problem when everyone pours out the door at closing time. There must be some criticism of the hotel industry because it does not discourage that.

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The Bill contains a measure that deals with packaged alcohol. I have some question marks about that. I have witnessed this in my home town on a regular basis: why would someone sell a stubby or a can of beer to someone at 1.55 am so that he can go out of the front door and throw it at a police officer?

Mr Marlborough: They obviously have more money than sense.

Mr TRENORDEN: It does happen. I would prefer that the sale of packaged alcohol be cut off half an hour or three-quarters of an hour before closing time, so people do not have missiles in their hands when they walk out of the hotel. I would also prefer that police officers did not stand on the footpath as people poured out of the hotel. Some young fellows in town see that as pouring petrol on a flame. However, I agree that those people should not break the law. They should not kick over rubbish bins, smash the proprietor's front window, and disturb Mrs Jones when they walk past her house while she is trying to sleep. Nevertheless, we are better off knowing where those people are. In a country town we are better off having 100 youths in the local hotel where we know where they are. There is less drinking and driving, and other problems can be more easily marshalled.

I have some criticism of the police who always oppose applications for the extension of a licence, but I recognise their problem. The problem will exist one way or another anyhow. If there are five parties around town, youths will be causing problems in five different places instead of one.

I hope that when the occasional licence is applied for, a country perspective is put on the application. I can understand the arguments that were put forward earlier about hotels and clubs in the metropolitan area competing with each other for the same patrons, but in country areas that is not the case. No-one is competing for the patronage of drinkers because there is no competition.

We support the amendments for the further tweaking of the system. I only hope that hotels in country areas can get the occasional licence that allows them to stay open until the wee hours of the morning, so that there can be music and entertainment for the youths in country towns, although not on a permanent basis. If it were to be on a permanent basis, it should be a club licence, which would be very rare in country areas. On that basis the National Party supports the Bill.

**DR WOOLLARD** (Alfred Cove) [2.45 pm]: I have heard about the needs of small business hotel owners from the Liberal Party's perspective. I will put forward the wishes of the community. Many members of the community are quite happy with the closing times of pubs and motels now and would not like to see the hours extended to 3.00 am. I can speak both as a member of the local community and as a mother whose children are now at the age at which they go out drinking with their friends. I would like the hotels to have a reasonable closing time so that those children go home at a reasonable time.

As for extending cafe licences so that restaurants may become miniature pubs, it would mean the equivalent of another 600 hotels in our State. I am sure that most people would agree that the State already has sufficient hotels and motels, without licensing being extended to other areas.

I support this Bill because it will tighten up controls and eliminate some loopholes that have enabled people to get licences and pursue licences to extend their trading hours. These are good measures and they are in the interest of the community.

**MR WALDRON** (Wagin) [2.47 pm]: Most of the points have been covered. Together with the Leader of the National Party, I will support the amendments.

I am also the father of young daughters who go to hotels. Members have mentioned that the times at which people leave hotels should be staggered. That is very important. In metropolitan areas and especially in country towns I have witnessed the problems that occur when many people are forced to leave premises at the same time. Members have mentioned binge drinking before closing times. That is an important point because when hotels acquire an extended licence, the times at which people leave are naturally staggered and they do not quickly fill themselves up with alcohol.

When I was coaching at the Kojonup Football Club a few years ago, a bachelors and spinsters dance took place one Saturday night. I was very concerned for my players because I knew most of them would be attending. I set them a task and told them that I wanted them to leave the B and S dance at midnight, because everyone would be drinking and would not notice that they had gone. I did not want them to tell me what happened until after the grand final that year. It was very disciplined at the Kojonup Football Club, so I did not go to the B and S dance and nothing was said until after the premiership. We won the premiership. I asked the players what happened, and they said that they left the B and S dance, which was pretty hard for them to do. They told me, however, that at 11.30 pm, which was half an hour before they left, they bought something like 20 jugs of beer which they consumed between 11.30 pm and 12 midnight. That illustrates what happens in country towns when there is nowhere to go when the hotel closes early. People can buy a heap of grog and then the problems start.

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Staggered closing times are very important, and I certainly support flexibility in licensing hours. Young people today are generally more responsible than some of us were at their age, especially when it comes to drink-driving. With those few words, I support the legislation.

**MR RIPPER** (Belmont - Deputy Premier) [2.49 pm]: I thank members for their contributions to this debate and for their general support of the legislation. Members have taken the opportunity to raise a number of issues that are probably not strictly related to the content of the Bill, but are related to further improvements that they would like to be included in liquor licensing legislation. Some comment was made on special facility licences, particularly by the member for Kalgoorlie who ran through some of the issues relating to special facility licences for hotels, restaurants and clubs. Although he had some interesting comments to make, I argue that this is a very sensitive area of regulation. Vigorously opposed points of view are usually expressed with regard to liquor licensing laws and regulations. The minister has brought to the Parliament matters on which he has achieved consensus between the major interest groups. He has obtained agreement from the Australian Hotels Association, the Cabaret Owners Association and the Liquor Stores Association of WA.

Mr Birney: Not the restaurateurs.

Mr RIPPER: I am acting on advice on whom he has received agreement from so I cannot comment on that. The minister has advised all three associations in the following terms -

I note the three organisations generally wish to defer any major changes to the system of extended trading permits and, accordingly, I will not proceed with any amendments to the extended trading permits until I reach agreement in principle with all three organisations on the proposed amendments.

That is the answer to the arguments put forward by the member for Kalgoorlie about extended trading hours for hotels against those for clubs and restaurants. The Government has proceeded with the matters on which there is a degree of consensus and there will be further consultation with the industry on the other matters covered in the member's speech. This situation is understood by the Executive Director of the Australian Hotels Association, Bradley Woods. He writes -

With regard to the deferral of matters pertaining to extended trading permits, we would request that the repeal of section 60(5) be a matter that is also deferred for future consideration. We look forward to pursuing our interest in changing the policy on ETPs as soon as possible.

Accordingly, the matter to do with the trading hours of hotels and extended trading permits is yet to be resolved with the liquor industry.

Those quotes paint the picture accurately. The legislation has the general support of the industry. Other matters have been raised by members of this House and there is disagreement in the industry about those matters. The minister will consult further to see if it is possible to introduce more legislation that has general support from the industry.

It appears that the House has supported this legislation on the same basis as the Government. The House recognises that the legislation strengthens the existing regulatory framework. There is concern about special facility licences undermining the other provisions of the legislation. It is hoped that the other provisions will allow people to achieve most of what they currently achieve under special facility licences where their objectives are legitimate. The possibility of achieving legitimate objectives through the other provisions is strengthened by, for example, the removal of the requirement that hotels and taverns sell packaged liquor as well as supply liquor on the premises.

The Bill needs to go into consideration in detail as the Government wishes to move an amendment. I hope there is an opportunity to pursue some of the detail of the legislation during that stage.

The member for Murdoch called for a community debate on the regulation of the liquor industry. His speech was interesting and had some appeal. I will refer the speech to the minister in the other place for his consideration. Parliament deals with amendments to liquor licensing on an annual basis and it goes to show how difficult it is to achieve a system of regulation that is accepted as optimum by all parties to the industry.

Mr Board: A trap we keep falling into with this issue is that some of the issues are covered by planning legislation. Amenities and housing is better dealt with by local authorities or planning legislation than by liquor licensing. We have restricted the growth of an industry to protect another industry that ought to be protected through different legislation.

Mr RIPPER: I am interested in the member's comments, but they will not necessarily achieve the favour of the Government. It is an interesting argument and I will refer it to the Minister for Racing and Gaming for his consideration. I thank members for their contributions.

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Mr Bradshaw: Why was the Bill introduced into this House and not the other place?

Mr RIPPER: I am interested in that question myself. I have made inquiries, but I have not received a conclusive answer. I assume there was a need to balance the legislative loads between the two Houses. That is the reason the Bill was introduced into this House. A minister would normally prefer to deal with his own legislation rather than have it dealt with by the B team in the other place. I hope the member for Kalgoorlie will forgive me.

Mr Birney: I am a very forgiving person.

Mr RIPPER: I include myself in the B team as I only represent the Minister for Racing and Gaming in this place. I thank members for their support of this legislation and I hope we will have a speedy consideration in detail.

The SPEAKER: I would have thought that this was the best place to introduce all legislation.

Question put and passed.

Bill read a second time.

*Consideration in Detail*

**Clauses 1 to 5 put and passed.**

**Clause 6: Section 46 amended and transitional provision -**

Mr BIRNEY: I will reiterate some of the things I said earlier that relate to this clause. This is the crux of this Bill and it is the only contentious issue. Subclause (2) states -

The licensing authority shall not grant a special facility licence if granting or varying a licence of another class, or imposing, varying or cancelling a condition on a licence of another class, or issuing an extended trading permit in respect of another class of licence, would achieve the purposes for which the special facility licence is sought.

It is basically saying that if a person has a hotel licence, that person obviously has the option of applying for an extended trading permit. If this legislation is passed, it will prohibit those hotel owners from achieving a special facility licence, because, under the terms of this legislation, that hotel owner is deemed to be able to achieve what he is trying to achieve; that is, a 3.00 am closing time. I submit to the Deputy Premier that that is not working at the moment. I have been over it before and I do not want to go over it again in any great detail. However, the fact is that the director is not issuing 3.00 am closing time licences. I submit to the Deputy Premier that a hotel licence with an extended trading permit sitting over the top of it would not be sufficient. I am aware that the Deputy Premier is about to move an amendment that may strengthen that further. If nothing else, that suggests to me that we need to bring on debate about extended trading hours sooner rather than later. The Opposition is prepared to support not only the Bill but also the amendment on the understanding that the Government is aware that we need to bring on debate about extended trading hours.

Mr RIPPER: This piece of legislation is about preserving the integrity of the system of regulation for the liquor industry in this State. Regrettably, the option of special facility licences, which was introduced for the best reasons some years ago, has developed in a way that tends to undermine the regulatory provisions in the rest of the legislation. We must restrict the application of special facility licences - we have the agreement of the liquor industry on this matter - so as not to undermine the rest of the legislation. We want people to use the alternative applicable sections of the legislation, with all of the conditions that apply to those alternative applicable sections of the legislation, to achieve their objectives, not to go down the crude and blunt route of circumventing the legislation through gaining a special facility licence.

The issue of extended trading hours has been raised. That is certainly an issue with which the Minister for Racing and Gaming and the Government want to deal. However, at this stage, we do not have consensus within the liquor industry. The minister has come to Parliament with legislation on which there is consensus and has agreed to consult further with the industry on extended trading hours. The minister will be acting on that issue. However, as members are aware, the liquor industry can be a hotbed of controversy when changes like this are proposed. There will need to be a careful process of consultation with the industry before that issue can be brought to Parliament.

Mr BRADSHAW: My concern with what the Deputy Premier has said is that we are over-regulated. If I had my way, I would do away with all regulations and just regulate which side of the road people should drive on and those types of issues, which would take away the need for consensus. The Government probably will not get consensus from the people it is trying to get consensus from because they all have different viewpoints. Therefore, it will be a hard job. It should be for the benefit of the community rather than for the benefit of the

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people involved in the industry. I am not saying that we should just write off the people in the industry, because they have invested a lot of money in many cases. We must have concern for those people. Times have changed. The world has moved on. Western Australia has moved on. Our way of life has changed. As I said earlier, it is time we had a proper look at the liquor licensing laws in Western Australia.

I ask the Deputy Premier whether he would consider putting in place a select committee to look at the liquor licensing laws in Western Australia. It is like putting Dracula in charge of the blood bank: he would be more worried about the blood than about other circumstances. That is probably not the best analogy, but the fact is that the Government should speak to members of the public who use the services rather than the people in the industry. It should be a general debate in the community, rather than one that is tied to the people who have a vested interest in the industry. I will repeat that, as I am not sure whether the Deputy Premier was listening: will he condone or support a select committee into the liquor licensing industry in Western Australia? Unless we have a proper, broad-ranging review of the industry, we will go on forever with this piecemeal approach to amending the liquor licensing laws in Western Australia.

I am not sure how hotels will be able to operate until three o'clock or four o'clock in the morning, which they currently do under the special facilities licences, once those special facility licences have been abolished. How will hotels overcome that problem in certain circumstances? As I said during debate on the second reading, I do not want every hotel open until three o'clock or four o'clock in the morning, because there are hotels in residential areas, which no-one would want open at that time of the morning. However, there are special circumstances. When I went to Sydney in the 1960s, some hotels used to operate from six o'clock in the morning to six o'clock in the afternoon, because the wharfies used to knock off at 6.00 am and go to the pub for a couple of beers and then go home to bed for the day. Certain licensing facilities must be available when people need them, not when the industry would like them to be available. It is about time that we had a good look at the industry and had a general review to ensure that it is what the people want, not what the vested interests want.

Mr BIRNEY: I will reinforce what the member for Murray-Wellington said. The time has probably come for us to have an all-encompassing review of the liquor licensing laws in Western Australia. We have moved on quite significantly from when the Liquor Licensing Act was first introduced many years ago. I fully accept and understand that to change the liquor licensing laws is a difficult proposition. It is a hotbed. People from the Australian Hotels Association and clubs, as well as those with all sorts of vested interests, will be on the Government's back if it changes any of the liquor licensing laws.

The member for Murray-Wellington's suggestion of a select committee may well be a good idea. A select committee, rather than one minister, would be able to take evidence far and wide and have a good look into the industry. From that, a reasonably good outcome would eventuate, given that not just the strongest lobby group would get its way if a select committee were established. I fully accept that to change the liquor licensing laws in Western Australia is a difficult proposition. It can even be likened to making love to a porcupine. I know that is a very difficult proposition.

Mr House: How do you know that?

Mr BIRNEY: I take that back. I do not know, but I am sure it would be.

Mr Kucera: I knew Kalgoorlie was a man's town, but that is ridiculous.

Mr BIRNEY: Nonetheless, it is very difficult to change the liquor licensing laws. I suggest that a select committee may well be the way forward.

Mr TRENORDEN: That brings back memories of the esteemed Clerk in this place who was the clerk for a select committee in New South Wales which checked out houses of ill-repute for some time. It may be a committee of which 57 people may want to be members.

Mr Kucera: I will drink to that.

Mr TRENORDEN: I was just thinking about the Ritz and a few other places that might be worth checking out. However, I do not argue against the point put by the member for Kalgoorlie. This is an important point in a changing world. I know that the Deputy Premier is representing the minister in the other place during this process, but I want to be sure that the metropolitan argument does not get mixed up with the country argument and that, on the odd occasion that country hotels apply for special licences, within reason, they are granted. I hope some of the reasons include the matters I raised earlier. I do not believe that opposition by the police, in itself, should be sufficient reason not to grant an application. I want to hear the minister say that, when granting these licences, a differentiation will be made between metropolitan and non-metropolitan areas.

Mr RIPPER: I hope another opposition speaker will follow me so that I have an opportunity to move the amendment, and I will now respond to the comments made by members opposite. The member for Murray-

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Wellington asked about the public interest. Of course public interest is a very important factor in determining liquor licensing laws. It is essential in the public interest that we have a system of liquor licensing to cover a combination of people's enjoyment of alcohol, the social ills that can flow from the abuse of alcohol and the health concerns that are also present. A system of liquor licensing exists because of community interest.

Naturally, as the system of liquor licensing has developed, people's economic interests have become involved. Licences achieve a value and people make investments based on expectations that certain rules will apply. A lot of the debate about liquor licensing revolves around the appropriate balance of the economic interests of the different players. Those legitimate interests must be taken into account, but the member for Murray-Wellington is right to say that in the final analysis of the regulation of alcohol, public interest must predominate.

I note the suggestion that a parliamentary committee of inquiry into liquor licensing should be established. In 1993-94 the Mattingley committee inquired into liquor licensing. The outcome of that committee was a package of amendments that were endorsed by this Parliament in 1998, and a further review of the legislation is due in 2003. It might be argued, therefore, that a review has already taken place and a subsequent review is in the pipeline. Nevertheless, I am sure the Minister for Racing and Gaming will examine the member's comments.

As to the establishment of a select committee, this House has tried to move away from select committees in support of a system of standing committees. Standing committees have the power, on their own motion, to determine to undertake an inquiry. The relevant committee in this case is the Community Development and Justice Standing Committee. It would be possible for that committee, on its own motion, to decide to make inquiries into liquor regulation. It does not require a decision by the minister to do so; the committee can make that decision. In any case, a further inquiry is already in the pipeline.

The Leader of the National Party raised concerns about whether applications for special facility licences in the country would be given special consideration. My advice is that each case is looked at on its merits. Of course, circumstances in the country are different from circumstances in the city. There is no set of guidelines or special policy prescriptions for the country, but the requirement is to look at each case on its merits. One would hope that the decision-maker would take any special circumstances into account.

Mr Trenorden: I knew that would be the answer, but I wanted it on the record, because I did not want the metropolitan argument of nightclubs versus hotels to be predominant in this issue.

Mr RIPPER: There seemed to be some misunderstanding that hotels were paying special facility licences and continuing to operate as hotels. Once an operation obtains a special facility licence, it surrenders its pre-existing licence and moves to the special facility classification.

Mr Birney: That does not make any difference. They still operate and stay open until 3.00 am.

Mr RIPPER: We have a significant number of these. Last year 368 special facility licences were in operation.

Mr BARNETT: The amendments and the Liquor Licensing Amendment Bill contain a number of important provisions relating to special facility licences and trading hours. The community has a concern about hours of trading. My own philosophy is one of deregulation, but where hotels are located within residential areas a clear conflict exists between the hotel, its patrons and the residents. This is not just about granting special licences for extended hours or extending the hours of trading; it also relates to the number of patrons who can be in an establishment. That is a function. The extent to which the community is disrupted relates to the hours of trading and the number of patrons that can be in the facility. I find it strange that the Government has introduced a liquor licensing amendment Bill while at the same time, as I understand it, a provision in the Health Act has been changed which will enable a significant increase in the number of patrons who can attend these establishments. If that is the case, I would like some explanation as to why such a significant policy change appears to have been made by the minister by stealth rather than by way of public announcement, and why it has not been included in this legislation. If the minister is bringing to this Parliament a Bill to debate liquor licensing, and at the same time somewhere else in the bureaucracy administrative changes are being made which increase the number of patrons from a rule of one patron per square metre to one patron to approximately 0.8 of a square metre, this will have a severe impact on the number of people who can be in an establishment, particularly a popular hotel, and could effectively mean a blow-out of up to 50 per cent in the number of patrons.

A number of hotels in my electorate have a few problems. The Cottesloe Beach Hotel and the Ocean Beach Hotel in north Cottesloe have huge problems with crowd control on hot summer nights and it is not unusual to see a queue of young people a hundred metres long wanting to get into what is obviously "the" session. It is great that kids generally behave and enjoy themselves - my sons are among the crowd most Sunday afternoons. The problems arise when the hotels close and 1 000 patrons pour out, often late on a Sunday night. That is the difficult time. When they disperse around the streets of Cottesloe or walk up John Street and other streets

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heading back towards the rail station, there are continual examples of vandalism, noisy and inappropriate behaviour and disruption to the community. It is a matter of managing the crowd.

Here is a Bill on liquor licensing - we are talking about hours of trading, special licences and the like - yet a fundamental aspect of the management of licensed premises relates to people numbers, and somewhere else it appears that an administrative change has been made which may be far more significant than the contents of this Bill. Why is it in the Bill? Why has it not been drawn to our attention in the second reading debate?

Mr BIRNEY: Currently, different facilities are able to obtain a special facility licence if they can prove that they are a tourist attraction or destination. Some debate has occurred about exactly what is the definition of a tourist. It has come to my attention that the Government may have settled on a definition of tourist about which I have some concerns. As I understand it, by way of regulation, the Government intends to deem a tourist to be somebody who stays at a place that is at least 40 kilometres from his or her usual place of residence for a period of at least one night and who intends to stay away from his or her usual place of residence for a period of less than 12 months. There are also a couple of other conditions.

I bring to the attention of the Treasurer the first point that a tourist is somebody who stays at a place that is at least 40 kilometres from his or her usual place of residence. That condition would become restrictive if, for argument's sake, it applied to a restaurant in Fremantle on the Fishing Boat Harbour. All members would agree that a restaurant on the Fishing Boat Harbour in Fremantle would be deemed a tourist attraction. Not only would it attract international and national tourists, but also it would attract people from Northbridge, South Perth and elsewhere in the metropolitan area.

If those type of restaurateurs were to go to the Director of Liquor Licensing and argue that their premises were tourist attractions and that they would, therefore, apply for a special facility licence, their argument would be flawed once we accept this definition of tourist. People who come from all over the metropolitan area may well fit into that definition of tourist and I urge the Treasurer to take that on board.

Mr RIPPER: I will postpone moving the amendment for a little while so that I can deal with the answers to these questions. I trust that the Leader of the Opposition will again cooperate and allow me to get to my feet at a later stage to move the amendment.

The Leader of the Opposition has raised the issue of numbers of people inside establishments and the apparent changes to health regulations with regard to that matter. The Leader of the Opposition asked why this matter is not dealt with in the legislation. This is not a comprehensive liquor licensing Bill. The Bill is designed to achieve a certain number of limited purposes for which consensus has been achieved with the interested parties. It is agreed that other issues must be dealt with in the liquor industry, including extended trading hours. The Leader of the Opposition has a valid point when he says that the issue of the number of people inside establishments must be considered in conjunction with extended trading hours. The Minister for Racing and Gaming will deal with those other issues, and he has already foreshadowed that to the various interest groups in the liquor industry.

I am advised that the number of people in establishments is usually governed by health regulations but there is a power in the Liquor Licensing Act for liquor licensing authorities to come in over the top and institute more stringent regulations concerning the number of people in establishments. That may form part of the discussions between the Minister for Racing and Gaming and industry representatives about extended trading hours.

Mr Barnett: Has a decision already been made?

Mr RIPPER: I will come to that. The Minister for Health advises me that he is able to contribute information to this debate. I have made those preliminary remarks and the Minister for Health can advise us what, if any, regulatory changes have been made.

Mr KUCERA: I am not fully aware of the changes that will be imposed, but this measure has not been introduced by stealth. A trial was undertaken by the previous Government to consider the number of people in licensed premises. A trial was conducted in a number of premises in the Northbridge area and perhaps one premise in Fremantle.

Earlier, the member for Murdoch raised the point that many of these licensing issues deal with a range of legislation including planning, health regulations and the existing licensing laws. My personal experience is that all these matters are taken together when dealing with licensing issues and the regulation of licences.

About two and a half months ago, I was advised that the trial had been concluded. Approaches were made by the City of Perth and other interested parties. Some suggested changes have been made to that issue and discussions have occurred with the Australian Hotels Association, the licensing authorities generally and the

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health regulators. I understand that drafting is being undertaken to change the regulations referring to that trial. I have received no advice about what stage that drafting is at or if it has reached any conclusions. In due course I will be happy to give that advice to the minister concerned. The draft has not been conducted by stealth.

Mr Barnett: I understand that it is effectively coming into place now.

Mr KUCERA: It is my understanding that it is being discussed. I am not sure whether it will come into place.

Mr Barnett: Does the minister think that it warrants a public announcement? It is a major policy change.

Mr KUCERA: That may very well be the case when the draft is completed. It is my understanding that it has not been completed, although that may be the Leader of the Opposition's understanding.

Mr Barnett: If you are going to agree to an increase of 50 per cent more patrons into hotels when there are already serious social problems in certain hotels in Perth, as the minister will appreciate, that is a serious issue.

Mr KUCERA: Those issues are governed in the regulations and they must be read in conjunction with all the other regulations that are brought into play. None of them is considered in isolation; they must be considered in their context. Certainly if there is a change, an announcement will be made. At this stage I have not been fully advised, although it is currently being considered. The previous Government instituted the draft, so there is no stealth involved.

Mr RIPPER: The member for Kalgoorlie referred to the definition of a tourist. He gave an example of someone who has a drink in a restaurant in Fremantle. When I go to Fremantle, I do not regard myself as a tourist; I regard myself as a resident of Western Australia enjoying one of the advantages of living in Western Australia. I can deal with the concerns of the member for Kalgoorlie by reminding him that the definition of a tourist is in regulation 9A of the liquor licensing regulations. That regulation deals with special facility licences. The definition of "tourist" would not affect a restaurant but it would affect an organisation that had a special facility licence.

Special facility licences were originally introduced to facilitate tourism. It is appropriate that there should be a definition of "tourist" in the relevant regulations. The definition of "tourist" is the one that is adopted by the Western Australian Tourism Commission.

Mr Birney: If a restaurant wanted to apply for a special facility license under the tourism clause in the Act, it would probably be prohibited from doing so unless it could demonstrate that 60, 70 or 80 per cent of its patronage were tourists from outside Perth. I do not think that the minister would find that that would be the case.

Mr RIPPER: The matter of issuing a special facility licence must be judged on its merits. The original purpose of the licence was to facilitate tourism. The regulations now incorporate a definition of tourist that is used by the Western Australian Tourism Commission.

Given the concern that has been expressed by various groups within the industry, and by various members within this House about the potential for special facility licences to undermine the integrity of the regulatory system included in the other provisions of the legislation, it is fair enough to have a standard definition of "tourist" in the regulations.

Mr BRADSHAW: I asked how this will change the situation for hoteliers so they can trade later in the night and earlier in the morning. That question has not been answered. We should not be considering more regulations; we should be providing that, where a need exists, as long as the activities in the establishments do not upset local residents, hoteliers can trade to suit their clientele. How will the amendments address that, or will they make obtaining permits more difficult?

Mr RIPPER: Legislative provision exists for extended-trading permits to be granted. The problem has been the absence of guidelines governing the award of such permits. Consequently, the Office of Racing, Gaming and Liquor has not been acceding to requests for such permits. This issue must be dealt with. As I have said on a number of occasions, the minister intends to deal with it, and the industry understands that. Judging from the correspondence I have seen, the industry accepts that this Bill should proceed, incorporating the changes it does, and that further discussions will be held about extended-trading permits. Clearly, an issue has been raised with the Opposition and Government by the various organisations. The minister intends to consult further with the industry to try to reach a resolution on this question of extended-trading permits.

Mr BRADSHAW: Unfortunately that answer does not make me happy. In a year, the Government will still be trying to come to an arrangement with people in the liquor industry to overcome this problem. Those in the industry have vested interests and will be working against each other rather than pulling together. The minister should have taken the bull by the horns and fixed this problem now. Restricting hotel trading is not in the



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community's best interests. We should be ensuring that hoteliers can get extended-trading permits so they can trade when required and in a suitable location.

Mr RIPPER: I am complimented by the assumption that this Government can solve in six months what the previous Government did not solve in the three years preceding the election. It would obviously be better if the minister were to reach consensus with industry groups. However, if that does not happen, the minister can still make a decision. He can come to Cabinet with his own recommendation on how the matter should be handled, and the Government will then make a decision. The Government has come to the Parliament with some matters on which there is consensus and has agreed to further consultation on other matters. Members on this side are not saying that any particular industry group has a veto on the Government's policy. After that further consultation - regardless of whether consensus is reached - the Government might be required to make a decision. If it is, it will come back to the Parliament at that stage.

Mr BRADSHAW: I hear what the Deputy Premier is saying. However, I am concerned that the liquor industry is a strong lobby group. It probably influenced the previous Government and is influencing this Government. It will take a brave Government to make changes.

Mr Ripper: This is a brave Government.

Mr BRADSHAW: We will see in due course. Community attitudes, ideas and lifestyles have changed. However, because we are hamstrung by the regulations and the lobbying done by the industry, Governments do not have the guts or determination to make the changes the public want. People are happy to wander down the street and into a cafe for a cappuccino. The cappuccino strips that have sprung up in the past 15 years are a prime example of how our lifestyles have changed. Some of us do not like to drink coffee late at night because it keeps us awake. We would prefer to have a beer or a spirit, but not necessarily at a hotel. This move will not necessarily detract from hotel trading, because it will attract people who want to access liquor at different outlets. Cafes and restaurants tend to be more expensive than hotels, so not everyone will rush into those establishments to have an alcoholic drink.

It will be a brave Government that makes these changes. I wonder whether the Mattingly committee was hamstrung by lobbying and whether the report was meek and mild compared to what it could have been. It went one step in the right direction by opening up 20 per cent of the floor space of restaurants for non-dining alcohol service. The average person would not know that that facility exists; I do not know whether any restaurants have promoted that change. I have not noticed any that have set aside such a service area, but obviously some have. I do not know whether an area is partitioned off from the dining area. The change is certainly not widespread. Europeans often go out walking and stop to have a drink without having to find a bar or a hotel.

I would like to see the regulations freed up for hoteliers who wish to trade into the early hours. This legislation will make it harder for them. We must address that issue quickly.

Mr KUCERA: I congratulate my predecessor on having the courage to introduce some of these measures. I know some of the problems he would have faced with various lobby groups. Extensive consultation was conducted about the clientele numbers in licensed premises. An extensive trial was also conducted in Northbridge with the agreement of the Australian Hotels Association, the Cabaret Owners Association and, I understand, most of the other players in the liquor industry. The process also included consultation with the Western Australian Municipal Association, the Police Service and the Fire and Emergency Services Authority of Western Australia. Some clear agreements were entered into.

I note the Leader of the Opposition's preference for deregulation. This measure introduces a responsible attitude to clientele numbers in clubs. As I said, I signed off on some regulations on 24 July, and I understand they have gone to the Executive Council. Obviously they have not been gazetted, so that cannot be announced as requested by the leader. I have no problems with making an announcement. This measure regulates and increases the numbers allowed in licensed premises. It is in keeping with recommendations made by the consultation group. The previous Government did undertake extensive consultation.

Mrs Edwardes: Are they going to be gazetted this Thursday or Friday?

Mr KUCERA: I cannot provide the date of gazettal. I will make an announcement about that from a health perspective. It highlights some of the issues being raised about the range of Acts that coincide with the Liquor Licensing Act 1988. I had some involvement with the Mattingly report. That strong report made some good recommendations, which the previous Government acted upon and initiated. There is no doubt that there is a constant need for liquor industry regulations to change. It is a volatile industry that is constantly changing. From my experience, these amendments will tighten the level of discretion given to the director of the Liquor Licensing Court. In answer to some of the issues raised, particularly by country members, it must be remembered that the special facility licence is one way for a licensee to achieve his aim. That point has been

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clearly made by every speaker. There are many ways for a licensee to achieve his aims. More importantly, there are many other factors, in terms of the community making sure that regulations are properly overseen. There is an issue with large hotels in suburban areas and the number of patrons attending them, which must be regulated. These amendments will tighten it.

I was a little taken aback when the Leader of the Opposition said that these measures were being introduced by stealth. There is no stealth. Separate issues are taken into account and will cross over at all times with this suite of regulations. I have a great deal of confidence in the current licensing regime and I have no doubt that this Bill will simply assist to get the job done even better.

Mr RIPPER: I move -

Page 3, after line 16 - To insert -

(2a) Subsection (2) applies -

- (a) whether or not an application has been made for a grant, variation, imposition, cancellation or issue referred to in that subsection; and
- (b) even if such an application has been made and has been refused.

Page 3, line 17 - To delete (2a) and substitute (2b).

I believe that members understand the purpose of this amendment. I can read the formal justification if members wish.

Mrs Edwardes: Please.

Mr RIPPER: I will run through the advice I have been given on this matter. On 2 July 2001, a decision was handed down in the Liquor Licensing Court on an application for a grant of a special facility licence for the Mustang Bar in Northbridge. In this decision, the judge stated -

The case for the applicant is that a licence of another class would not be reasonably adequate for the purpose relied upon. As I have already observed, the applicant is the holder of a tavern licence for these premises under which it is not authorised to sell liquor for consumption on or off the premises after midnight, except pursuant to an extended trading permit. The evidence is that the Director of Liquor Licensing has issued extended trading permits authorising the applicant to trade under its tavern licence until 1.00 am on Tuesday to Sunday mornings. The Director of Liquor Licensing has refused to grant extended trading permits until 2.00 am. As a matter of fact, therefore, I conclude that the imposition of an extended trading permit on the existing tavern licence would not be reasonably adequate for the purpose upon which this applicant relies in its present application.

The application for the grant of the special facility licence was subsequently granted. Parliamentary counsel considered this decision and prepared an amendment to the Bill to clarify that a special facility licence cannot be granted if a licence of another class, together with an extended trading permit, would achieve the same purpose, irrespective of whether such a licence or permit has been applied for and refused. That is the end of the formal advice that I have been given on the matter. My understanding of the issue is that this is a matter of preserving the integrity of the remainder of the regulatory scheme. If someone cannot get permission for extended trading under the remainder of the regulatory scheme, because that application has been refused, it seems anomalous if he could then get a special facility licence. In any case, that is the advice that has been given. I gathered from the comments made by the member for Kalgoorlie that the Opposition will support these amendments.

Mr BIRNEY: The Opposition will support the amendments. In the interest of expediency, the Opposition does not, at this stage, wish to talk about any other clauses in the Bill. My understanding of the amendments moved by the Treasurer is that they relate to a recent court decision. The court held that a licence of another class would not be suitable to achieve the purposes for which a hotelier may apply for a special facility licence. It is interesting that the court held that view, because that is also my view. It goes right to the crux of the discussion on this Bill. Clause 6(2) of the Bill provides that if a licence of another class will do the job, a person cannot then have a special facility licence. Technically speaking, the court is probably a little wrong, because a hotel licence with an extended trading permit on top probably would do the job. The problem is that the director, in his wisdom, saw fit not to grant extended trading hours until 3.00 am, so the court held the view that that would not do the job. That is my view as well. The Government is seeking to tighten clause 6 of the Bill. The Opposition is prepared to support the amendment on the understanding that extended trading hours will be addressed in the near future.

**Amendments put and passed.**

**Clause, as amended, put and passed.**

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**Clauses 7 to 12 put and passed.**

**Title put and passed.**