



Speech by

Mr G. HEALY

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LIQUOR (EVICTIONS, UNLICENSED SALES AND OTHER MATTERS) AMENDMENT BILL

Mr HEALY (Toowoomba North—NPA) (4.13 p.m.): The coalition will support the Liquor (Evictions, Unlicensed Sales and Other Matters) Amendment Bill 1999. The reason we support this Bill, quite frankly, is that it is a positive response to some problems that have occurred out there in the community and to the needs of the community. We recognise that legislation needs to evolve with the community that it seeks to govern.

Queenslanders now enjoy a vibrant and diverse range of restaurants, hotels, bars and nightclubs right across the State. These businesses encourage us to visit licensed premises, socialise over a drink, enjoy a meal, be entertained and even have a cup of coffee. However, abuse and misuse of alcohol results in significant personal, family and social costs. To protect our young people in particular, there is a social imperative to regulate the sale and consumption of liquor and to provide licensees with regulations which allow them to run their business in a safe, healthy environment.

When the initial Bill was enshrined in legislation in 1992, it was intended to empower licensees to manage their premises in a manner consistent with the responsible serving of liquor. It was designed to allow licensees to operate their business in a style of their choosing by establishing codes of dress and of behaviour. It was considered that licensees had the right to refuse to serve liquor to persons who they felt were unduly intoxicated and to evict persons who were creating a disturbance or behaving in a disorderly manner.

Unfortunately, recent court decisions have raised some doubts as to the effectiveness of the Act and highlighted grave omissions. In particular, two cases in the Townsville Magistrates Court brought into question the right of licensees or their employees to evict unruly patrons from their premises. In the first case, a licensee sought to evict a patron who was not intoxicated but was creating a disturbance in the premises, disrupting the social environment of the other clientele. The magistrate found that the Liquor Act did not provide power for a licensee to evict a patron who was creating a disturbance.

In a second case heard by a different magistrate, a patron from a Townsville nightclub had been charged with behaving in a disorderly manner and resisting an employee of the premises, who required the patron to leave. In this case the nightclub employee had witnessed the patron throwing lit firecrackers into a crowded bar at 2.30 in the morning. Whilst the patron was found guilty of behaving in a disorderly manner, he was found not guilty of resisting eviction. The magistrate considered that the Liquor Act did not confer a right of eviction under any circumstance. So the issue of a licensee's power to evict is a critical one. The right of eviction is an essential power for licensees to effect the proper management and good control of their premises and to ensure a safe and friendly environment for their patrons.

Surprisingly, I have had a little bit of experience in relation to this—I have not been evicted from licensed premises or anything like that. I come from a family hotel background. In fact, the Healy family ran the Gladstone Hotel in Toowoomba for some 33 years and I spent the first 21 years of my life in a hotel. My father, the licensee, Mr Dennis Healy, is still regarded as one of the finest hoteliers in Toowoomba and on the Darling Downs. The hotel, of course, had a wonderful reputation, and it was a working man's hotel.

Mr Gibbs: I've had a few drinks there.

Mr HEALY: Yes, I know that—in fact, several. The Minister will agree that it is not a bad establishment.

In those days—this is before the 1992 legislation—because of the way the hotel was, quite often a few fellows who were obviously fairly well intoxicated would come into the hotel. We often found that, if there was a problem in the hotel, it was normally because there was a bit of a blue on; it was because a couple of them got into a heated argument and next thing there was a fight on in the hotel. I always used to be amazed at how my father would be able to handle these. He is a fairly big man and can handle himself, but I never ever in my whole life saw him throw a punch in the hotel to try to stop a fight.

What he used to do, which was a real art, was that, if a fight did break out between some unruly patrons who were obviously intoxicated, he would race around the side of the bar and every time somehow herd them outside onto the street and then he would lock the doors behind them. In the cases which I observed, whilst he was evicting the patron, he never himself got in the fracas, in the scuffle, although I am sure in a lot of cases he would have loved to.

With the legislation that was in place at that time, I often wondered how far could he or any other licensee go when it came to evicting patrons, but he was very good at it. He is still involved to some degree in the industry. He is now president of the Toowoomba City Bowls Club, and for about 10 years he was involved with Clifford Park Racecourse managing the bars. So he has had a long and distinguished history and career within liquor licensing in Toowoomba and on the Darling Downs.

Having grown up in that atmosphere, I can understand the need for effective legislation to protect those licensees when the time comes for them to address a particular situation that may occur in their licensed premises. Although licensees can call upon police to help remove drunk or disorderly patrons, it is often impractical to do so, particularly late at night and particularly in remote locations. It could be argued that the provisions relating to the power to remove persons from premises or to refuse entry to certain persons does not have sufficient regard to the rights and liberties of the individual. However, it can be conversely argued that the rights of licensees to conduct their business in a socially responsible way would be hindered by the absence of the amendments.

Discriminatory refusal of entry to a premises or service to patrons has never been contemplated, nor will it ever be or should be. Licensees must have some basis upon which eviction or refusal of entry is based. Legitimate reasons include if the patron is drunk, disorderly or creating a disturbance, or if their attire does not conform to the stated dress code. Refusals on the grounds of race, gender, sexual preference or other such discriminatory reasons will never be accepted.

The amendment of the liquor legislation relevant to evictions provides licensees with a firm set of guidelines and limited circumstances within which they are able to operate a premises, provide responsible liquor service and maintain a safe, friendly environment for their patrons. As I said, these amendments are worthy of support because they recognise change in our environment and respond to the needs of our community.

Our hotel and club licensees are constantly facing difficult circumstances created by unruly patrons. On the one hand, the licensees are providing a very necessary component of this State's tourism strategy for a growing tourism market, that is, clean, safe environments for the service of food, beverage and entertainment—a market that seeks a high level of value and service. It is also a market that, unfortunately, attracts some who, in the full impetus of holiday mode, abuse the standards of dress and behaviour as stated by the licensee. To protect their business and the comfort of their patrons, licensees need to access the same right as any other business or individual to demand the removal of an unruly, rude, abusive or highly intoxicated person. But they also need the right to undertake that eviction themselves, so that disruption to the premises and the patrons is kept to a minimum.

Apart from the impracticality of the State's Police Service being called in every time there is an incident when a licensee wishes to remove an unruly person, in certain parts of Queensland a police officer may be some hours' distance from the licensed premises. As our tourism market grows, so too will the problems faced by our licensed venue operators. We need to recognise that developing situation and provide a positive response to the Queensland licensees who seek to provide a necessary service in a safe environment, while conducting a profitable business.

The other amendments relate to unlicensed sales and other matters. They are recognition of other increasing problems within our community. The trading and sale of liquor from unlicensed premises have been a problem for many years. The original Act undertook to curb that practice, but some so-called clever people have found some so-called clever ways to circumvent the legislation. Apart from being a blatant disregard of the law, those illegal business operators place an additional burden upon the resources of our police and the Liquor Licensing Division of the Department of Tourism, Sport and Racing. Those premises are not subject to the same stringent legal requirements as licensees with respect to the responsible service of liquor. They have no qualms about selling liquor to

minors. They have no hesitation in selling alcohol to the unduly intoxicated, and they feel no responsibility to their neighbours or the surrounding area. More importantly, they are not required to meet the same financial obligations associated with a licensed operator.

General licence holders such as hotels are required to pay large premiums upon the granting of a licence. These premiums are then factored into the overall value of the premises. Unlicensed operators and illegal traders impact greatly on the viability of those licensed premises and detract from the value of the business. The provisions of the Act relating to unlicensed trading have been strengthened by a range of measures including an increase in penalties, including jail terms, and by extending the power of seizure to equipment used or potentially to be used in the commission of such offences.

The current provisions have certainly not deterred some of those illegal operators from trading illegally. In fact, large sums of money and resources have been expended in an attempt to enforce the current provisions of the Act upon illegal operators, yet these provisions have done little to discourage illegal operators and have had very little apparent impact on some particular operators. In fact, on many occasions the same premises have resumed illegal operations within hours of being investigated and even charged. The police and investigating officers have removed illegal alcohol from an unlicensed premises, only to see replacement stock at the same premises appear within less than 24 hours and the illegal trade continue.

As I stated earlier, all these amendments are a direct response to the constantly changing environment in which our society lives and grows. They are modifications and improvements that reply to the needs of our liquor operators, whether large multinational operators or owners of small businesses. They are adjustments and variations that ensure that our community is able to enjoy the hospitable social atmosphere of Queensland's hotels and clubs in a safe, secure environment. They are amendments that respond to a community need, and for that reason we support them. Our support of the amendments to the Bill is an indication of the coalition's desire to seek solutions to difficulties and problems created by the evolution of our community and our commitment to ensure that we provide our community with a safe, healthy environment in which to live and prosper.
