

“Maxwell’s Silver Hammer ...”: Licensing Laws, Liquor Trading and the Maxwell Royal Commission in NSW 1951-4

DIANE KIRKBY*

In 1951 the NSW government set up a Royal Commission into Liquor Licensing in the state, to be chaired by Justice A V Maxwell. Its terms of reference were to examine: the breweries’ financial interests in the ownership and control of hotels and the adequacy of the present liquor licensing laws in controlling licensing; whether the distribution of liquor was reasonable; and whether the meals and accommodation being provided by hotels were adequate for the needs of the public. The Commission was also required to consider the provision of additional club licenses, and the desirability of reintroducing what had been the temperance advocates’ goal of local option provisions into the matter of granting new licenses.

The Commission began hearing evidence in July 1951, sat for 140 days, and examined over 400 witnesses from the Licensing Court, police, government departments, local government bodies, representatives of the breweries and other members of the liquor trade, members of temperance bodies, publicans, and interested individuals. At the conclusion of hearings Maxwell’s report on the conduct of hotels was damning. He said he had “little doubt” that “many – and possibly the majority of” publicans was motivated by profiteering rather than by the provision of services to customers that was “adequate to the needs of the public.” Their point of view, he said, was “based purely upon self-interest”. He noted that country drinkers were particularly disadvantaged because being unable to get to the pub before the early closing hour for a drink, to which by law and custom they were entitled, meant they had to engage in after-hours trading in defiance of the law. Publicans however favoured retaining early closing because they made more profit selling alcohol quickly in a short period of time “than with the burden of supervision and added labour involved in later hours”.¹

The evidence given to the Maxwell Commission is a window on to a darker side of that era of the infamous “six o’clock swill” which had been in place for fifty years. It revealed a level of corruption and criminality in the industry that captured the headlines. “I am satisfied...that there are evils associated with 6 o’clock closing which ought not to be tolerated in a civilised community”, Maxwell reported. He described drinking conditions in the metropolitan area as “deplorable” and early closing also as an encouragement to the practice of sly grog and after-hours trading at black-market rates. Reform of the licensing laws seemed imperative as the solution to a state of affairs that had another judge reportedly saying “the breweries were a law unto themselves” and “NSW publicans were arrogant, rapacious and contemptuous of their customers.”²

Maxwell handed down his report in March 1954 and the government quickly followed his recommendations with new legislation, extending trading hours and effectively bringing an end to the era of six o’clock closing in New South Wales. The Commission’s report and recommendations thus marked the beginning of a more enlightened and sophisticated drinking culture which was to be followed subsequently in other states in Australia a decade later, when the Beatles’ music dominated the airwaves and a whole new generation of drinkers had come of age.

* La Trobe University.

¹ *Report of the Royal Commission into Liquor Laws in NSW* (1954)

² *The Sunday Sun*, London, England, 26 July 1953, 43

The Maxwell Royal Commission was a moment of change in Australian drinking culture, and at its heart was a challenge to the gender dynamics of Australian society which had been created by early closing, not just in the pub but also outside it. Custom and law created a culture of sex-segregated drinking that provided much of the atmosphere of the Australian pub, but had influence also on the leisure activities of Australian men, their wives and families.

After a very long campaign by temperance advocates, early or six o'clock closing had been introduced during the Great War, when most historians believe wartime patriotism and austerity generated a general temperance mood. This was achieved by either referendum or legislation in all states except Western Australia (which adopted nine o'clock closing) and Queensland (which introduced eight o'clock closing in 1923).³ The effects of early closing on the Australian pub were undoubtedly profound. In particular, the physical character of hotels was changed. Reduced trading hours meant it was no longer possible to provide refreshments for social gatherings and club meetings in the evenings. Early closing also killed the hotel as a venue for entertainment. Billiard tables, dart boards and dance floors were removed, as were interior walls to create a larger front or public bar to accommodate the mass of drinkers who surged in for a drink in the rush period between 5 and 6 pm. For functional purposes, linoleum, chrome and tiles replaced oak, cedar and brass, especially in the public bar, to facilitate the easy hosing down of the drinking area once the drinkers had gone home.⁴

But most importantly the impact of these licensing laws was to create a masculine pub drinking culture in Australia. Early closing created a unique spatial economy inside the pub and turned the public bar, where men drank with other men in the rush period between 5 and 6 pm, into the focus of the pub and Australian public drinking culture. The fundamental point is that after early closing was introduced, the pub became a segregated place *for drinking* in both the popular imagination and in actuality. As the spatial economy of a pub changed, so too did the social geography, especially for women.

Women continued to drink in pubs, as they had done in the nineteenth century. Now, however, it was in designated areas such as the Ladies' Lounge or Parlour (occasionally called the Ladies' Saloon). In contrast with the public bar which had no tables and chairs (and occasionally bar stools), the Ladies Lounge had seating and tables on which to place glasses, but was located away from the main area of a pub. It did not have its own bar, but had a servery with a grille or "special hatch" through which drinks would be served and passed by the bar staff to the customers on the other side. "Unpretentious" and "sparsely furnished", a journalist described one ladies' parlour in Sydney, in 1925.⁵

Early closing did more than merely consolidate the popular image of the pub as a male domain. It also confirmed that respectable women did not drink in a pub. This of course was a moral and class-based assumption, but a powerful one nevertheless that is apparent in the responses the Licensing Court made to applications from licensees to run a ladies' parlour. "What is the idea of having a 'ladies parlour'?" the Licensing Court asked of architect PE Everett who was responsible for incorporating a Ladies Lounge into the Boundary Hotel, East Melbourne. He replied that he thought the Licensing Court desired such accommodation. "As a matter of fact, the Court is totally

³ Phillips, "Six o'clock swill": The introduction of early closing of hotel bars in Australia" (1980) 75 *Historical Studies* 250.

⁴ Freeland, *The Australian Pub* (1966) 175 - 176.

⁵ *Bulletin*, 14 May 1925.

opposed to it. You can have the parlour, but to advertise it as a ‘ladies parlour’ is most reprehensible”.⁶

However, the Ladies Lounge became more accepted and popularized. In a similar fashion in the 1930s, an area designated “the lounge” became popular. Lounge drinking allowed men to mix with women and encouraged the sociability of mixed drinking. Patrons of the lounge might include men who did not feel comfortable with the masculinity of the front bar, women who did not want to sit in the Ladies’ Lounge, and mixed groups of men and women who wanted to sit with each other.

This lounge drinking further increased in popularity during World War Two, when American servicemen were in Australia and couples wanted to drink together in convivial surroundings. Not only was the lounge a more agreeable place for visiting servicemen who may have felt uneasy with the “Australian” masculinity of the public bar, but women were in fact legally barred from drinking in public bars in city and metropolitan areas during the war. The irony here is that such measures gave women greater freedom, in the sense that socialising became focused on the lounge, away from the masculine public bar, but not necessarily away from men.

Women wanted the right to drink. In the postwar period, the challenge to sex-segregated drinking and early closing gathered momentum. Consequently the condition of pubs came under public scrutiny. This was the context in which the Maxwell Royal Commission was established by the NSW government in 1951. Women’s access to the pub as a drinking space was a significant factor of the evidence Maxwell drew and the recommendations he subsequently made. One witness, Romola Wilmott, of the middle-class suburb of Woollahra, took issue with the “wretched and poky conditions” inside Sydney pubs, singling out the “less favourable conditions” in the Ladies’ Lounge. She resented, as a woman, paying more for a beer and not being able to have a drink with her husband as many hotels in her area did not have mixed lounges. When Wilmott admitted she had never been “game” to enter a public bar, Maxwell suggested that she should try the methods of Mrs Pankhurst and the suffragettes.⁷ The sentiment of such evidence found its way into Justice Maxwell’s final report, which emphasised that hotels had to improve their facilities: “There is a clear need for provision for drinking at tables or seated – as against what is described as ‘perpendicular’ drinking - for better facilities than very large bars, less secrecy and more openness attendant upon the present layout of many bars and in addition, greater provision for either gardens or open air bars”.⁸

From now on drinking was to be done in mixed company. Public drinking places were to be transformed. Maxwell specifically said that it was no longer acceptable for women to wait outside on the footpath while their husbands drank in the bar with their mates, something he described as “a most unedifying spectacle”. He advocated changes that meant “both sexes would be permitted to partake of liquid refreshment prior to attending the evening shows”

Maxwell may have had a feminist agenda but this was not necessarily a gesture towards women’s right to drink; it was more a means to “civilize” the drinking culture of men through women’s inclusion. Sex-segregated drinking encouraged a culture of drunkenness. Australia’s was a heavy drinking culture with a high level of alcoholism. In a study undertaken by Sydney sociologist Margaret Sargent the proportion of

⁶ *Argus*, 14 July 1925.

⁷ *Evidence of the Royal Commission of Inquiry into the Liquor Laws and Allied Subjects* (1952) Vol 5, 2289-2291.

⁸ *Report of the Royal Commission into Liquor Laws in NSW* (1954) 87.

alcoholics was found to be high and sex-differentiated. Sargent concluded that it was “the presence or absence of women which influences the amount of drinking in men.”⁹

Maxwell’s goals of ending both early closing and the sex-segregated drinking culture simultaneously were the means to address the excessive drinking that was a feature of Australian life. The introduction of early closing in 1916 had led to a decline in alcohol consumption for a while, reaching its lowest point in the mid-1930s during the Great Depression. From the outbreak of war in 1939, however, it had begun again to increase, until it reached the status of national pastime commented on by so many social commentators, and contributed to what, by 1970, was described as “the social problem of alcoholism which pervades Australian society”.¹⁰ Rather than reduce drunkenness, the limitations imposed on trading hours actually accelerated the rate of drinking, concentrated it into fewer hours in the day, increased the amount of home consumption, and led to the drinking culture that by mid-century was being described as one of “the most uncivilised drinking practices in the world”.

Ending the era of early closing was one goal of the Royal Commission. Breaking the pubs’ monopoly on alcohol was another. Although the Control of Liquor Order which had been imposed during the war ended in 1946, the major breweries continued to regulate the supply of beer to retail outlets through a quota system. This, together with licensing laws that kept the trade restricted to drinking before 6 pm, gave the breweries and publicans power to control the trade and drive up demand. As demand increased, the breweries claimed they could not meet it. It was precisely to investigate this problem that the New South Welsh government set up the Royal Commission to examine drinking in pubs and clubs throughout the state. But doing that also meant transforming the gender dynamics of public drinking.

The wartime restrictions that forbade women to drink in bars had also been lifted in all states except Queensland, and it was custom, not legal restriction, which kept women out of bars. That custom was policed and promoted by publicans. After Maxwell, pubs were no longer going to be the only place to drink as the licensing laws extended to restaurants, theatres and other venues where men and women mixed together. But it was not until the 1960s that women acted on Justice Maxwell’s suggestion and became “bar room suffragettes” like Mrs Pankhurst. When Queensland once again undertook a major overhaul of its liquor laws, to liberalise the consumption of food and liquor together but not to liberalise the restrictions on women drinking in a public space, women took action, chaining themselves to bars and bringing media attention to their protests. They were followed by women in other states where custom not law prevented mixed drinking.¹¹

Yet the culture of drunkenness which had prevailed under the early closing regime reached new heights in the 1960s even as the numbers of venues catering to women drinkers expanded. By 1970, Sargent calculated, one in twenty males compared with one in a hundred women was now alcoholic.

It was not just early closing that created this culture. While the outcome of the Royal Commission undoubtedly led to changes in the control and availability of liquor supply, changes in pub trading hours and an expansion of liquor licensing to restaurants meant that Australian drinking culture began to change as sex-segregated drinking also broke down. It was not for almost another twenty years after Maxwell that more sophisticated drinking customs could be observed.

⁹ Sargent, *Alcoholism as a Social Problem* (1973).

¹⁰ Ibid.

¹¹ As told in Kirkby, *Barmaids: A History of Women’s Work in Pubs* (1997).

Licensing laws were clearly very significant in bringing about changes to drinking patterns, but the changes to the licensing laws needed further time to have real effect. High alcohol consumption had always accompanied prosperity, economic historian Tony Dingle has said. In the 1960s Australia was a society that was increasingly prosperous and leaving its rural working class origins behind.¹² Australians acted out “the good life” they were enjoying with excessive alcohol consumption and public drinking rituals.¹³ In the early 1970s the long period of prosperity following the war finally came to an end. Only then did the real changes in drinking culture become apparent.

¹² Dingle, “‘The truly magnificent thirst’: An Historical Survey of Australian Drinking Habits” (1980) 19:3 *Historical Studies* 227

¹³ Kirkby, “Drinking ‘the good life’, Australia, c 1880-c 1980” in Holt (ed) *Alcohol: A Social History* (forthcoming 2006).