

# CASE NOTE - SUPREME COURT

by Mark Hunter

O'Neill Hotel Management Services  
Pty Ltd v NT Liquor Commission

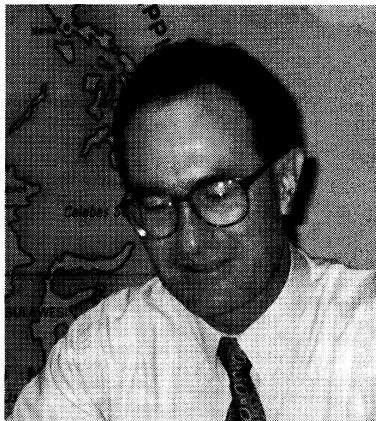
Supreme Court No. 54 of 1999

Judgment of Thomas J delivered 15  
November 1999

## LIQUOR LAW - LIQUOR COMMISSION - JURISDICTION

The plaintiff held a liquor licence for the Crossways Motor Hotel in Katherine and received notification of a hearing to be conducted by the defendant pursuant to s49 of the *Liquor Act* ("the Act").

The complainant was the defendant's registrar who had reported to the defendant on an investigation conducted by him. It was alleged that the plaintiff, through its employees and contrary to the Act, had on the evening of 5 June 1998 sold alcohol to intoxicated persons in the "Last Chance Saloon". These alleged offences had not been the subject of a criminal prosecution. The plaintiff made an application to the Supreme Court for judicial review and prohibition or declaratory relief to restrain the defendant from proceeding to hear the complaint.



Her Honour observed that penal sanctions such as fines and imprisonment are under the Act reserved to the Court and that the civil standard of proof applies to hearings conducted by the defendant (subject to the comments of Dixon J in *Briginshaw v Briginshaw* 1938 60CLR336). Thomas J further noted that the statutory position and reporting role of the defendant's registrar as a complainant is distinguishable from the position of a prosecutor in the Court.

### Appearances

#### Plaintiff

Counsel - Reeves QC  
Solicitors - De Silva Hebron

#### Defendant

Counsel - McDonald and Webb  
Solicitors - Morgan Buckley

The plaintiff contended that the defendant is not entitled to suspend a liquor licence in the absence of a finding of guilt by the Court of Summary Jurisdiction ("the Court").

### HELD

1. The plaintiff's application is refused.
2. The context of relevant provisions in the Act indicates that the Legislature intends the exercise of separate jurisdictions under the Act by the defendant and the Court.

### Commentary

The Court of Appeal commented upon the nature of Liquor Commission hearings in *NT Liquor Commission and Ors v Rhonwood Pty Ltd* 1997 117 NTR 1. See casenotes in *Balance*, October 1997.



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