

## The Harm

### (1) Does the level of alcohol-related harm we are experiencing justify a new approach to the law?

Yes it does but we need to have a deep and fundamental re-assessment of the factors that justify any “new approach to the law”. For example, technology affecting production, promotion and distribution of alcohol has introduced new issues. This is especially the case in respect to promotion because of the subtle psychological and subliminal messages used in advertising. The Law Commission’s information concerning the inadequacy of free conscience votes in Parliament also justifies a new approach to making or writing the law regarding alcohol consumption. This ‘new approach’ must recognise that legal measures and education can only do so much to mitigate or prevent the harm. The ‘new approach’ needs to ask why do people want to cause themselves and others so much harm via misuse of alcohol or why do they over-imbibe to the point they do begin causing themselves and others harm? My attached paper, *Alcohol Misuse in Western Society*, examines some of the fundamentals we need to address.

### (2) Do you agree that getting drunk is considered acceptable drinking behaviour in New Zealand?

Personally, I do not agree that “getting drunk is acceptable behaviour”. Although, evidently, there are others in New Zealand who do agree that “getting drunk is acceptable” and that it is something to boast about. There even seems to be a competition amongst some young New Zealanders to outperform young Australians in this regard when both groups are abroad together somewhere. I do agree that there might be a reasonably widespread attitude in many social groups that drunkenness is acceptable behaviour. Abroad, amongst those who are not New Zealanders, after five years living in London, and with my “antipodean accent”, I found myself the butt of many jokes regarding drunkenness and ‘sheep jokes’. I found that annoying because I was born in England. I once had a ‘posh’ English accent as my New Zealand cousins reminded me. I have never associated myself with that sort of behaviour. Thus external evidence suggests that for New Zealanders “getting drunk is considered acceptable drinking behaviour”. Many years ago, standing on the terraces at Lancaster Park, I saw an inebriated law student urinate on a woman’s nice coat at a rugby test. Nobody said anything or remonstrated, not even the woman. On Monday, 14 September, at 5:55 a.m, Radio New Zealand played a song entitled “Rugby, Racing and Beer”. On the news immediately following, there was discussion of the ‘Undy-500’ and its aftermath of drunkenness in North Dunedin on Friday and Saturday nights (11 and 12 September, 2009). Some people were arguing that the motoring event, organised by Canterbury University Engineering Students, was not the cause of the trouble. Most of the 80 or so people reportedly arrested were from the University of Otago where I received my Economics Degree. The previous year, the Engineering Students’ event was cancelled and trouble still occurred. As Dunedin’s Mayor claimed, “If there were no alcohol there would be no problems”, (Peter Chin, Mayor of Dunedin, Radio NZ News, 14/9/09, 9:03), excessive consumption of alcohol seems to have been, *prima facie*, a ‘common denominator’ behind the trouble. Mr Chin’s comments on the ‘rally’ were also reported in

the Dominion Post (14/9/09, page 1), “fuelled around alcohol”. One might observe, the cars driven to Dunedin from Christchurch were fuelled by another price-inelastic commodity (refer comments elsewhere). However, as my attached paper (*Alcohol Misuse in Western Society*) and the points it discusses notes, a much lower common denominator exists and that needs to be discussed. My paper points out that non-legislative strategies will be more effective.

One (or a perhaps a “wowsers” like me) prefers to follow the apostle Paul’s dictum: “ .. be not drunk with wine, wherein is excess; but be filled with the Spirit of God ” (Ephesians 5:18). One cannot force others to apply this approach to their lives. Legislation, education or regulation will not succeed in changing people in this way. The Apostle Paul does not say one is not allowed to drink wine, beer or brandy etc. Elsewhere (I Timothy 5:23), he even advises a little wine is good for one’s stomach. In Titus 1:7, English translations of Paul’s advice to ‘bishops’ or ‘supervisors’ is that they “should not be given to wine”. However, using the *ejusdem generis* principle, the passage here simply suggests being aware of wine’s ability to cloud one’s judgement. People do not normally drink wine during a meeting or seminar. They might enjoy one afterwards. Later, in the same epistle (Titus 2:3), Paul advises against “much wine” which implies there is nothing wrong with drinking at least ‘some wine’. One may debate the precise alcohol content of the wine spoken of (c.f., appendix *Noah, Wine and Global Warming* in attached paper). But one may still not force others to abstain or look down on them if they do not abstain. Most importantly, one who does find one is able to follow the Apostle’s approach should also be aware that ‘but for the grace of God goes one’. By God’s grace, one does not go down the paths of people who do like to ‘get drunk’. In other words, being filled with the Spirit of God is a gift from God. It’s a gift that is freely available to others but is not forced on them. Those with the gift are not to boast. That includes not taking an “I-told-you-so” approach to the problems of today especially if they are perceived to be the results of previous legislation. The issue is to try and help or work with others who want to make a difference to the situation.

(3) *Do you think the risks associated with heavy drinking are well known. If not, what more could be done to make people aware of them?*

I lived in London between 2004 and 2009. For more than a year, over a three-year period between 2004-7, I lived at the Generator Hostel. Many Australians and New Zealanders stayed at this hostel for a few days although the majority of clients were from other parts of the world. I saw a lot of the 18-30 generation (cohort) imbibing in the hostel’s bar. Only an insignificant proportion of those who used the bar ever got inebriated or obviously drunk. Some lost sufficient control that they then engaged in sexual relations with people they otherwise would not have. This resulted in an unanticipated pregnancy for one young woman there. Another woman was effectively raped in her dorm room late one night. Sir Geoffrey Palmer has warned us of the serious health issues some drinkers should be concerned about. In that regard, I wondered if many were somewhat over-weight as a result of heavy drinking but that can be a problem of natural build, genes, poor diet, over-eating and under-exercising as well. Personally, because I do not drink alcohol and regard it as a medicine rather than relaxant, I am not particularly aware what the risks are. I have only a general sense of them. Long-term over-consumption of alcohol leading to

alcoholism and cirrhosis of the liver were the main risks, as far as I knew, and I personally never wanted to run those risks. I never forced my views on others. I had no mandate to. I suppose the information now available about the dangers of alcohol to general health would have vindicated my choice in retrospect.

What to do about this is a difficult problem. I believe wider advertising of the risks of alcohol consumption, or over-consumption, may lead to even more increases in consumption because of the way subliminal advertising appears to work. My belief here depends on the scientific evidence one reads. Whatever the truth is, in this regard, I suggest an approach based on "Project Premium" (refer attached paper I wrote for the Commission on several matters relating to this exercise, *Alcohol Misuse in Western Society*). "Project Premium" sets the basis for new approaches to the problem and a better strategy than just tinkering with rules and regulations. More on this will become evident as I answer the remaining questions.

(4) Do you think the cumulative lifetime risks associated with drinking are well known? If not, what more could be done to make more people aware of them?

I think that some people are not aware of the risks but the majority consciously prefer to weigh or calculate those risks against perceived short-term benefits. Instead of just advertising or elevating them, we need to think of new approaches to changing people's lifestyles, ethos or desire to incur either heavy drinking risks or cumulative lifetime risks.

(5) Is the management of intoxicated people an acceptable use of a large part of the New Zealand Police resources? If not, what are the alternatives?

No, definitely not. The most obvious solution is to require those involved in the production, promotion, distribution and consumption of alcohol products to manage intoxicated people and provide facilities to handle such people. To some extent, as I understand it, the Salvation Army and other organisations contract with the industry to provide such facilities. However, there are not enough apparently. These are costs that have to be paid for. Mostly, they are paid out of Government revenues from excise taxes which is expensive and rather unfair for those who imbibe sensibly. Every tax- or ratepayer meets the cost to some extent because hospital beds are reputed to be unavailable at times when other people need them.

Therefore, it seems better and more profitable to put the ambulance at the top of the cliff or do away with the need for it altogether. That means investigating the reasons why people get into the situation where the police have to be called in to manage the situation or someone has to be sent to a hospital where patients already waiting for treatment have to give way to an incoming emergency. Apparently, and I stand to be corrected, it is the 70% or so of the alcohol-consuming public in private dwellings or in public places outside the confines and controls of licensed 'drinking-premises' that police attention has to be mostly directed. Often, these situations are in isolated or distant locations adding to the 'management' costs. Once again, an innovative approach is required whereby help can be given to people with underlying problems that flare-up into violence or misbehaviour as

alcohol is consumed, especially in private places or households. In the Generator Hostel, a former police hostel converted to a backpackers' hostel with an in-house 'licensed premises' in Compton Place, Bloomsbury, London, we saw very few problems that required policing. The hostel employed an in-house 'bouncer' who intervened before a threatening situation deteriorated to the point of requiring police intervention. In one case, a young woman in some strife possibly caused by a combination of drugs and alcohol was assisted by her peers who warned me not to call the police or a doctor. They did appear to know what they were doing, probably because of past experience - a sad comment in itself -, because the young person was alright the next day. How many times is that not the case?

## **Object of the Law**

(6) *Is the balance in the current law between individual responsibility and providing an environment that is conducive to moderate drinking the correct one? If not, what changes could be made?*

If the 'environment' here means licensed premises, it seems legislation today is doing quite well. Some improvements could be possible but patrons and staff in many environments are acting properly and effectively. However, the Commission's observations note that some people drive between licensed and 'off-licensed' premises to enjoy activities in the former but get most of their liquor from other cheaper outlets. They must consume that liquor where authorities prefer them not to. Naturally, licensed premises cannot or won't allow liquor purchased elsewhere be consumed on their premises. One could make it difficult for such people to do this by requiring there be a longish distance between the different type of outlets and a strict prohibition against driving with any alcohol at all. If people have to walk a couple of kilometres, especially in inclement weather, they might prefer to stay in the comfort of more expensive outlets and consume less although as I suggest below, alcohol tends to be 'price inelastic'. A ban on any alcohol whatsoever when driving might raise other unintended consequences and is probably draconian (excessively harsh) although that might be the simplest and most practical measure - Strict Prohibition on the roads only, i.e., not even permission to transport alcohol except for licensed commercial operators delivering supplies to licensed premises.

Anyway, the majority of problems would now appear to be in the rest of the environment where moderation and self-control lapse and where legislation cannot reach. Legislation and education are failing to reach that sector (households, streets, private cars, beaches, public areas etc.) I do not believe education or legislation can do much to control this unregulated environment. Within these problem sectors, the best long-term solution is not legislation but changing people's desires and priorities. Even the most disciplined Legislature audited by Committees of the House, law clerks and responsible lobby groups is unlikely to find ways through the legislative morass to balance individual responsibility and provision of 'environments conducive to moderate drinking'. There is a better way but I confine those comments to my attached paper (*Alcohol Misuse in Western Society*).

## Supply Controls - Licensing

### (7) Do you agree with the current system of four types of liquor licence?

Apart from the occasional meal, I rarely use these establishments and have little understanding of the system of licensing. To have three basic licences: on-, off- and club-; a special licence then exemptions on top of that seems rather extraordinary to me at first sight. If one looks at the terms etymologically (meaning of word), 'on - off' is binary and creates all sorts of options. There are special licences if those terms don't cover everything. If that is not enough there can be exemptions. One must ask if there is really any licensing at all. Yet the Commission favours retaining these 'four' licences. I would argue there are not "four" licences but an infinite or perhaps non-definite number.

Nevertheless, I can see the point behind this system and I hesitate to suggest an alternative, apart from the Commission's that "chartered clubs, police canteens (viz the Gualter case, *The Dominion Post* 7/9/09), Parliament, defence premises, fire stations etc., should also have to apply for a liquor licence.

The plethora of licensing situations simply illustrates the deep ingrained nature of alcohol in society. Once the worst after-effects of the Great Flood had subsided, Noah was able to plant a vineyard and enjoy the fruits of the vine. He got drunk and an incident occurred that should not have. So this is an ancient problem going back to the man who saved us from the Flood. But this is the nature of mankind's dilemma since he took of the Tree of Good and Evil Knowledge (*lit.*, "Tree of Knowledge of Good and Evil"). The complexity of New Zealand's liquor legislation is a good example of the position man would find himself arriving at one day. I have referred to this dilemma in the attached paper.

### (8) Should the criteria for licences change and, if so, what should the changes be?

Changing licence criteria would seem to be less relevant than questioning whether certain places should be licensed to sell alcohol at all. I do not manage or operate a dairy, supermarket, chartered club, public house or Parliamentary canteen on a day-to-day basis. I don't do this at all so I am loathe to make suggestions on matters I have no practical experience of. Perhaps premises licensed to sell liquor consumed there should be required to have a secure lock-up facility to restrain those out-of-control until they have sobered-up. However, that would not solve perhaps 50 to 70 per cent of the problems elsewhere. Such a policy would only considerably raise costs for many premises. Those costs would be passed on to patrons, driving them away and resulting in even more consumption in hitherto completely uncontrolled environments. It is now much easier to avoid controlled environments as people have been able to get supplies of liquor much more easily and cheaply in recent times (since 1989?).

### (9) Do you think the Liquor Licensing Authority should be retained as the regulator?

I am not sure what the question means. If another organisation were to do this function it would still be a liquor licensing authority (LLA) of some sort. Does the question ask if the

existing authority or a replacement should lose regulatory powers that should presumably be in other hands? The Law Commission suggests strengthening the existing LLA. From what I can observe it is almost outrageous it has not been doing the functions the Commission asks for it to do. A spokesman for the existing authority told me there were some areas where the legislation could be tidied up. But with “seventy-three” DLA’s around the country, the Commission’s recommendation [Supply Control (A) Licensing Regimes, paragraph 13, first bullet point] might spawn a rather large bureaucracy when Government finances are not well placed to fund it. To offset this cost, perhaps the seventy-three DLA’s could be merged into a smaller number or pool all resources into one central authority.

The LLA and any bureaucracy it might have is one issue. But the background issue pertaining to dangers of alcohol consumption, which like cars and lots of other things that cause problems, is not the LLA’s responsibility nor can it be.

(10) Do you think local views should be taken into account in respect of licences in that area?

Drunken hooligans, road accident victims, household violence etc., are uniformly the same phenomena in any local area, in New Zealand and around the world. If the reason for seventy-three DLA’s is to represent “local views” on the degree of licensing of alcohol consumption one wonders if that is enough. Perhaps every precinct in every community needs its own DLA. Modern communication systems make it easy for each precinct to contact one single authority, or perhaps three or four regional authorities, if there are problems. Looking at the situation in this way, one wonders if seventy-three different DLA’s each with their “own views” is a device which clouds the issue and allows for more licences than is wise under current circumstances.

From the perspective (e.g., “Project Premium”) I am coming from, “local views” cannot differ on this matter as they can for example in district schemes for land use etc. Representation of “local views” in a plethora of DLA’s sounds more like a scheme, in some cases at least, for getting around The Law on alcohol than enforcing it. According to the Commission, District Licensing Agencies’ performance is “extraordinarily variable”.

### **Supply Controls - Hours**

(11) Do you think the hours that restaurants, bars, and clubs can be open should be restricted? If so, what should the hours be?

Arguably, the current system has produced some benefits that provide extra employment, better facilities for tourists and perhaps improved communication within the local community. Some employers in other sectors might not be so keen for their staff to be out until 2:00 a.m., but the alternative to greatly restrict hours for ‘trading’ in the above set of premises might ‘shut-out’ other benefits. This is a typical good-bad trade-off (Refer “Tree of Knowledge of Good and Evil in the heading *Technology, Complexity and The Law* in the attached paper). It gets hideously complicated trying to introduce regulatory schemes that distinguish between restaurants, bars and clubs because they are all the same animal or

vehicle at some point or other. Parliament sets the legal *modus operandi* and the organisations in the sector simply re-design their facilities and activities to suit the new regimen. There are so many more liquor licences today (6295 in 1990, 14183 in 2009) that it must be a difficult task policing the existing hours or any other time-regimen Parliament might try to introduce.

In my experiences at the Generator Hostel in London, they closed the in-house bar at 2:00 a.m., from memory (or perhaps 1:00 a.m.,) and this requirement was studiously observed. There were few problems although regular consumption of alcohol in quantities that did not leave the patron inebriated does apparently lead to long-term health problems. If Parliament did require Ten O'Clock or Eleven O'Clock closing, people who wish to imbibe further can easily maintain stocks at home and continue drinking there. So changing hours is probably not going to be of much help and reducing the absolute number of hours might render some facilities uneconomic in arbitrary and unfair ways. Many public houses have closed down in London because the traditional users of those premises have moved away or died out, replaced by ethnic groups that (officially anyway) abstain from alcohol. This illustrates that many other factors affect the amount of alcohol consumed, the availability of facilities supplying it etc. Changing hours seems to have little significance or certainly much less significance than other factors. The desire to consume alcohol, too much of it, etc., is a human condition that needs looking at.

(12) Do you think the hours for off-licence premises (including supermarkets and liquor stores) can sell alcohol should be restricted? If so, what should the hours be?

There is evidence the "on-licenses" noted above are managing quite well to "balance individual enjoyment of alcohol and harm minimisation objectives". (I discussed the issue of people traveling between on and off licences under Question 6). On the other hand, once having legally allowed or permitted this, there is also evidence Parliament's laws cannot control the purchase, transportation and consumption of liquor obtained at "off-licences" or elsewhere (e.g., private back-yard stills). Perhaps there should only be regulated and monitored on-licences since a plethora of off-licences, after a couple of decades of liberalisation or relaxation, is considered a not-so-good idea after all. Then a fair way to allocate those licences must be found. The next step down that road would be nationalisation of the liquor industry. If Parliament is going to effectively encourage supermarkets, dairies, chemists or whatever to invest in the sale of alcoholic beverages or products, it is unreasonable and impractical to expect them to display those products only for a short period each day, or worse, suddenly remove that right from them. Restricting off-licence hours probably would make it uneconomic to sell the products. A Six O'Clock Swill in Supermarkets would have disturbing ramifications on parking, aisle supervision etc., if there were only a one or two hour window, probably when people return home from work, for them to make their purchases of alcoholic beverages. Furthermore, I have to say I do not see everyone in supermarkets congregating around the liquor stands or shelves. (Although some people have commented that the liquor stands in supermarkets are increasing their percentage of floor space). On my ventures into supermarkets, I find people are evenly distributed across the entire supermarket floor-space. Most trolleys full of goods leaving the supermarkets seem to have a normal range of food, cleaning

materials, cosmetics etc., and minimal quantities of alcohol. It is not clear to me, from those admittedly limited observations, that drunkenness is the result of alcohol being sold in supermarkets. Although what happens sometime afterward is another matter.

Nevertheless, according to the Commission's view and the views of others, the upsurge in "off-licences" seems to have been a mistake. However, there is a danger in mistaking that development, supposedly a result of the last overhaul of the legislation, for a deeper issue. The 'deeper issue' is something that is not being observed scientifically or by surveys that may in fact be poorly designed and failing to register important information. (For example, the problem of Mr Laidlaw's "Western Paradigm deficiency", see opening comments in attached paper *Alcohol Misuse in Western Society*). Thus, re-regulating the "off-licences" sale-hours seems to be a rather insignificant side-issue compared to other (deeper) factors that are really much more important. Furthermore, if Parliament were to back-track here, it would have to do so slowly and there would be a good argument to compensate organisations for winding-down costs. Since that range of options is also draconian, we must really visit Project Premium etc., as per my attached paper.

(13) *Should we continue to have specific days on which alcohol cannot be sold?*

When alcohol can be served or sold approximately 17 hours a day, 363 days a week, somewhere or other, there seems little point having specific days when alcohol cannot be sold. Such measures remind me of the Maginot Line, King Canute or climate changers. One can get around them (e.g., by stocking) or the water gets in (liquor gets out) anyway. If the days when alcohol cannot be sold are days observed for some 'religious' significance, there seems even less point banning sales on those days because the 'recognised' religious communities presumably don't purchase alcohol then, if their members ever do anyway. Many more different religious communities now exist in New Zealand, so it seems impractical catering for all of them. As a general statement, if a deity supposedly being observed on two or three days a year, or even that day plus one other day a week, is ignored for the other days of the week, one wonders what sort of deity is really being observed. Is the 'deity' actually the Government or employers who want everyone sober on Monday morning ready for work? This last point raises the whole issue of human misbehaviour generally and how to deal with it - whether fuelled by alcohol or something else. There is very little Government legislation can do in this regard. Its contract with many churches to do this is hardly working because very few people attend churches these days. *Ipsa facto*, it is unlikely Government legislation has ever done much to control problems with alcohol as we know from archaeological and Biblical evidence:

"Who has redness of eyes? They that tarry long at the wine; they that go to seek mixed wine. Look not thou upon the wine when it is red, when it giveth his colour in the cup, [when] it moves itself aright. At the last it bites like a serpent, and stings like an adder. Thine eyes shall behold strange women, and thine heart shall utter perverse things. Yea, thou shall be as he that lies down in the midst of the sea, or as he that lies upon the top of a mast. They have stricken me, [shall thou say, and] I was not sick; they have beaten me, [and] I felt [it] not: when shall I awake? I will seek it yet again." (Proverbs 23:29-35. Words in square brackets not in original Hebrew but necessary for English context).

## Supply Controls - Age

### (14) At what age should a person be able to purchase alcohol in New Zealand?

The problem with age restrictions is that there is always someone who is at an age where it is legal to purchase alcohol to supply the product to someone who is under the legal age. If Parliament wishes to protect those under age eighteen, does it have to set the age limit at twenty-five on the assumption seventeen year olds would mix with twenty-four year olds but not twenty-five year olds? Obviously this sort of analysis is nonsense so does that make an age limit nonsense too? I tend to think it does. At this point we might need to consider that a combination of restrictions implicitly called for here and above, and below with pricing mechanisms etc., could deliver less drunkenness and other bad side effects of alcohol consumption. As an economist, I am aware of evidence that suggests the only option here is Prohibition where the costs then become quite different although rather lower than current costs of, by Prohibition standards, relatively open availability of alcoholic products. As noted earlier this is not a route we would support. Also, as will be noted below, if we push costs of alcohol too high the private backyard stills will return. The private stills will return if Parliament moves to Prohibition.

The problems facing us now overwhelm age restriction issues. However, as a short- or medium-term measure, raising age restrictions to twenty-three might be a comparatively simple, easy and useful experimental measure to apply. I say experimental, because if twenty-three year olds were supplying to twenty-year olds, there might be more protection for teenagers than at the current age limit. In the meantime, measures to encourage people to look for a more fulfilling 'spiritual' alternative (Project Premium), especially those aimed at the young (e.g., ten to eighteen), might begin to achieve the desired effects.

### (15) At what age should a person be able to drink at a pub, club, bar or restaurant?

I do not see any point differentiating between questions 14 and 15. The age-limits, or having any age-limit at all, should be the same no matter what type of establishment provides liquor for sale. The product has the same effect whether consumed in one establishment or another or indeed in private houses. People of the same age can be affected in different ways and women are affected differently from men. If alcohol-related diseases are so terrible, as some scientific evidence is reputed to show, there might well be a necessity to raise the age at which consumption of alcohol is legal to something like the early twenties when human bodies are perhaps better equipped to handle the stuff. Like transport issues, this might be something to consider in a national health policy and legislate through that on the matter of drinking-ages generally and drinking-age for the purchase of alcohol.

Generally, I believe that of all the measures being suggested to 'control' the impact of excessive drinking, age restrictions are the least costly, easiest to implement and the ones with the most, hitherto "unknown", benefits which are all the rage in this post-Rumsfield age of disquiet over the impact of too much legislation and its unknown side effects.

## **Supply Controls - Individual and Parental Responsibility**

(16) Should it be an offence for anyone other than a parent or guardian to supply alcohol to someone under the purchase age?

If alcohol is so dangerous to health, and we are concerned about products being consumed by young, immature and still-developing bodies, it is doubtful even parents or guardians should be allowed to supply alcohol to someone under the purchase age. If Parliament is prepared to take a stance on Climate Change and put onerous restrictions on coal consumption because it is supposedly so bad for the climate, albeit incorrectly in my view, it might consider making a public statement that alcohol is too dangerous for anyone under a certain age (e.g., twenty three) to partake. Parliament could then make it illegal for anyone to supply alcohol to someone under the purchase age. Some might argue that the 'danger-to-health' issue should lead to wide-ranging restrictions on alcohol availability. In this submission, I am in favour of carrot rather than stick approaches (i.e., Project Premium).

Anyway, evidence is emerging that parents and guardians are among the worst offenders in this regard. Now that there are well-enforced and well-complied-with regulations upon the "on-licence" sector, the spotlight has zeroed-in on parents or guardians and shown them to be less-than-responsible over the years. Or there has been a rapid rise in irresponsible parenting since the last 'reform' of liquor legislation.

In conclusion, my answer here is "Yes", but we might also consider parents' and guardians' rights as well especially if the health consequences are as bad as suggested. If alcohol is a really dangerous drug, as some are suggesting, perhaps even parents and guardians should not be entrusted with decision-making powers regarding supply of liquor to their wards.

## **Supply Controls - Individual and Parental Responsibility**

(17) Do you think there are any alcohol products that should be banned ?

I heard Sir Geoffrey Palmer describe one product at the Health Select Committee on Wednesday, 19 August, 2009. It sounded bizarre to me and involved people walking through some sort of mist laced with alcohol. All this is beyond my imagination or experience which is not that limited after five years or so dwelling at the Generator Hostel with its in-house bar, or other hostels where the dining room might be assailed from time to time by drinking parties and loud music. This question is tied up with issues of advertising and technology. Banning one product might only pave the way for another which inevitably has to be banned as well.

Perhaps the following incident might be an interesting parallel to consider. A friend of mine wanted me to attend a 'church' one evening set up by a couple of young men, one of whom later met a very untimely death by murder. This 'church' rented a premises on Courtenay Place. We entered a dark auditorium, were confronted and roughly waived-in by a rather

unwelcoming and unsmiling door attendant. We promptly walked out. The atmosphere was laced by what we instinctively and simultaneously felt were undesirable spirits (or spirit). The 'spirit' of the place immediately seemed wrong and the two young men who had organised it were later subject to murder in one case and very strange prophetic utterances in the other that were the subject of front-page news in the local newspapers. Filled with God's Holy Spirit, we left immediately. Subsequent events confirmed our suspicions.

The point of this anecdote is that banning a commercial product, or 'church service' for that matter, does not achieve much. It's much better that people immediately realise something is not good and avoid it, get out of the situation immediately and leave well alone. This is the sort of solution 'Project Premium' refers to. Non-demand will lead to non-supply. Of course some products are so dangerous that stringent laws must be made to ban them. It should not be legal to rush into a sushi bar with polonium and slip it into someone's food as happened in London while I was there. One hesitates to suggest alcohol, even saturated in some sort of 'mist', has been suddenly discovered to be as lethal as *sushi a la polonium*. If it is that dangerous, then Prohibition might be the answer after all, although I am not suggesting that at all, not even as an economist. Anyway, I am far from convinced alcohol in the form of beer, wine, spirits or other products beyond my knowledge is especially or particularly dangerous especially in moderate or occasional quantities, either as medicine or as relaxant. If alcohol were that dangerous, it raises serious questions about Jesus's and the Apostle Paul's actions and sayings recorded in the Bible. Unless they were only acting and talking in reference to very small quantities such as a small sip once a week (Communion-Eucharist), four sips once a year (at *Pesach* or Passover), or to 'grape juice'; and of those arguments, as some might make, I am far from convinced they are true either.

(18) Do you think the rules about supermarkets and grocers selling liquor should continue as now ?

This is a really complex issue. First of all there is an indefinite and indefinable boundary between large grocers and small supermarkets. Considering the larger end of the 'supermarket' category, and having let them establish a liquor aisle, I have not seen any problems. They adequately monitor purchasers. So there is probably no advantage to be gained from changing current those rules.

As for the rest of this class, i.e., mostly grocers, and not overlooking that chemists are exempt from all the regulations under this legislation, I suspect there may be problems. That is partly because a large proportion of grocers has come under day-to-day management by comparatively recent migrants who come from cultural backgrounds that might vary widely and in ways that we do not understand especially in regard to their attitudes to alcohol sale and consumption. On one hand, they might have virtual prohibitionist attitudes and may even be required to sell on behalf of their employer even though they prefer not to because of their religious or cultural convictions. On the other hand, some owners or employees in grocers may have much more relaxed attitudes and be prepared to sell 'under the counter' to get around existing restrictions.

If there is serious leakage or flood of illegally-sold alcohol from these smaller “off-licences” such as grocers or superettes etc., perhaps the rules governing their sale of liquor should be tightened. However, that takes us back down the road of restricting sale of liquor to a limited range of “on-licences” and larger supermarkets which are much easier to monitor. The problem here is that having allowed supermarkets to sell liquor Parliament bestows comparative advantage to supermarkets over grocers and smaller operations if it allows the former but not the latter to have licences to sell liquor. A lot of grocers effectively compete by sitting out extremely long hours in comparatively remote-from-supermarket locations to catch the convenience customer, or elderly and infirmed unable to travel much distance. It would be unfair to remove “off-licences” from them or further restrict their operations regarding sale of liquor unless supermarkets got the same treatment and that might lead, as noted above, to a Six O’Clock Supermarket Swill.

If there are significant economic advantages to a supermarket or grocer being allowed to sell alcohol, so significant that they cannot afford to lose the trade, we should be doubly concerned. It suggests more and more of household budgets are going into the consumption of alcohol. If that is combined with similar shifts in fuel and debt servicing, we are in much deeper trouble than currently realised.

### **Demand Reduction - Tax/price**

(19) *Do you think the availability of cheap alcohol is contributing to alcohol-related harms?*

If it’s cheaper than good food, I think it can be. Beer, for example, can be reasonably filling. I understand, but not from any personal experience, that beer satisfies hunger almost as well as food. If that consequently leads to drunkenness and alcohol-related harm, obviously cheap alcohol does do that. Food in New Zealand is now very expensive. That is partly because distribution costs have mushroomed after high oil prices. However, when oil prices fell, the cost of food did not fall suggesting monopolistic or oligopolistic forces controlling prices. Food in New Zealand is considerably more expensive than ASDA supermarkets in London which is now a cheaper place to live if one frequents those supermarkets that distribute goods at prices supported by the European food policy to subsidise food to consumers. The United States also subsidises food to consumers.

On balance and in general, I do not think that market for supply of liquor is any more or less oligopolistic than the market for food supply. So the appearance of cheap alcohol but dear food is surprising. Therein lies yet another conundrum. This is probably just another aspect of the failure of the “Western Paradigm” as Chris Laidlaw put it on Radio New Zealand one Sunday morning in August 2009 in an interview with Sir Geoffrey Palmer. We cannot lower food costs without interfering too much with the markets and that is not advisable although we could consider food coupons in order to make sure people do get sufficient food at reasonable prices. These could be paid for by a tax on alcohol rather than try to set minimum prices for alcohol which would be difficult to enforce anyway.

Direct taxes on alcohol would have to be quite punitive to significantly affect the demand. In my view alcohol is price inelastic just as petrol is and the black irony in this is that cars

and drunken drivers are therefore tanked up with two of the most price-inelastic commodities known to economists. There is some price elasticity with petrol. A friend (Dr Bill Frith) in the Transport Ministry told me his officials did notice warrants of fitness for private motor cars were registering fewer kilometres driven between warrants at the height of the most recent 'oil crisis'. While most of us perceived that there was little reduction in traffic during that crisis, evidently there was some reduction in petrol consumption. Of course, such statistics for alcohol consumption would not easily show that quite a lot of people were consuming just as much, or more, even as the price went up and up. The people we might therefore want to 'target' with more expensive alcohol might just slip through the net and the alcohol-related harm remains unabated. The factors that drive people to consume too much alcohol, and cause harm either to themselves or to others, probably cannot be influenced by price or tax measures. A Malaysian friend said the equivalent \$30 bottle of whiskey in New Zealand retailed at \$80 in Malaysia, the difference being government taxes. He said this product in New Zealand was "far too cheap". I would have thought that even the application of a \$10 per bottle tax impost each year for the next five years would be far too draconian for the public and suppliers. It might have some impact on consumption but that would take at least five years to occur and much economic damage or harm would presumably 'incur' in the interim.

Thus taxes and prices are probably not going to achieve much, although interim doses of extra taxes while we establish Project Premium might be worthwhile as a complement to the primary strategy.

(20) Does the difference in price between alcohol bought from retailers such as supermarkets and liquor stores and alcohol bought in a bar or restaurant influence where you drink ?

I do not drink alcohol. About the closest I came to making decisions like this were in London where meals in pubs, presumably subsidised by returns from alcohol, were sometimes a slightly cheaper than in other establishments, especially if you got a good helping. I stopped doing this when I found a Kurdish restaurant near Kings Cross Station which gave even bigger helpings than the pubs. My Kurdish friend's competitor across the road came in and complained one day that his helpings were too generous. I suspect that if the liquor is cheaper elsewhere one will go after it. If one sufficiently wants the entertainment and the alcohol even at a higher price, one will rationalise away the extra costs and pay for the desired quantity or close to that. I have had to pay the shockingly high food prices in New Zealand on my return here and sustain a faster run-down of my savings. I cannot reduce food consumption because I am already under-weight. For many consumers of liquor the price may not make much difference but for rather different reasons.

(21) Do you think there is a case for increasing tax or setting a minimum price for alcohol in order to help reduce the amount of alcohol consumed by young people and heavy drinkers ?

We have to differentiate between "young people" and "heavy drinkers" and note that even

small quantities of alcohol may be tantamount to 'heavy drinking' for young people. I would think that there is a more rigid price inelasticity for small amounts of alcohol for 'young people' and for much larger quantities consumed by 'older' heavy drinkers than for moderate or occasional drinkers.

With 'young people' there is a much more disturbing issue that relates to this price inelasticity. I found in conversations in hostels that many young people are savvy enough to realise that debts incurred, particularly for university education, may never have to be repaid. This same phenomenon applies to a lot of the so-called "sub-prime" mortgage lending that reached astronomical levels by 2007. Mortgages were virtually handed over to people to buy mobile homes in American trailer parks etc., without any concern for their ultimate repayment. Such borrowers, if they either could not or no longer wanted to pay off their mortgages, simply walked away from their obligations. This is yet another hitch beginning to arise in the "Western Paradigm" and the drinking issue is not to be separated from this. Put up the price to the 'young people' sector and they will just go into more debt to pay for it. Prices have rarely deterred confirmed alcoholics and heavy drinkers. Now, there is a culture among 'young people' that is undeterred by prices or taxes on alcoholic products. They will just go into debt or dis-save rather than run down funds or savings other 'heavy drinkers' might have - as many do.

Even if it is not a question of getting into debt to sustain excessive drinking, making alcohol more expensive using minimum prices or taxes will only result in people re-arranging their disposable income and spending less on other products or services. Pricing policies do not work particularly well in this area. Excessive consumption of alcohol is a personal problem brought on by issues raised in my position paper.

### **Demand Reduction - Advertising**

(22) *Should the way alcohol is marketed (including advertising, promotions, and sponsorship) have greater restrictions? If so, what restrictions are appropriate?*

We have enough received wisdom from decades of modern advertising, promotions and sponsorship to know that there are myriads of ways to circumvent rules or restrictions. When David Thompson was Minister of Justice in the Muldoon Government, I referred him to breaches of alcohol advertising legislation when promotion of alcohol was banned in news media. He just went ho-hum. I voted for someone else. Today, a leading pornographer is able to circumvent Companies Act legislation because officials are too tardy to apprehend him. Officials say the rules broken in that case are not generally enforced so when a complaint is laid it is effectively too late to prosecute because many others would have to be likewise treated and retrospectively. It is unlikely new rules for alcohol promotion and advertising etc., will be followed any more than earlier attempts to curb the effects of advertising and promotion. The best way to combat the effects of promotion are to 'immunise' the recipients with promotion of a more effective way of life than living for the next fix of alcohol. That's what Project Premium is about. Whether it is about finding new alternatives to the "Western Paradigm" or about responding to the Creator there should be more to life than alcohol. Advertising does not work if the targeted

respondent is disinterested - believe me!

Furthermore, and most critically, there are now various problems, deeply ingrained in the 'receiving public's psyche regarding subliminal messages. These even extend to the habit of television companies deliberately sounding the advertisements louder than the programmes so that one has to turn down the volume when a programme is interrupted by an advertisement. (Or, the volume is lowered when a programme comes on to interrupt the advertising). The technique, used by Hitler at Nuremberg, should be banned and I believe it is officially disallowed. It is just another example of a regulation or rule unenforced. Since rules prohibiting certain advertising practices, nothing to do with alcohol but with other products, are unenforced there is little point making more rules to restrict alcohol promotion.

### **Problem Limitation - Treatment**

*(23) Do you think there is a need for greater emphasis on treatment for people using alcohol in a risky manner?*

It depends on the treatment envisaged. Programmes for treatment along the lines of Project Premium (refer attached paper) would work in the opinion of this author. We need to find out why people use alcohol in a risky manner and help them to see or understand there is a better way of living. Our contention is that if one is taught that one is simply a product of evolution and has no avenue of privilege that many others have, or is disenchanted with the avenue of privilege one does have; drink, drugs and other pursuits such as gambolling become an easy avenue of escape or release of frustration. The person using alcohol in a risky manner may not be able to express his or her frustration, world-view or lack thereof that drives him or her to take risks with alcohol. This makes treatment hard to design and hard to target.

The question also implies having 'centres' where treatment is given (or received). It is unlikely the Government will establish such centres when there is already pressure to close down facilities because of financial considerations. This just shows how costly the problem is. We need to ask why these problems develop and aim at stopping people jumping the cliff rather than providing ambulances at the bottom. Giving people a new hope in life is better than 'treatment'.

### **Problem Limitation - Penalties**

*(24) Should there be increased penalties for serious breaches of the liquor laws?*

Penalties are probably serious enough considering a breach probably means loss of license. This question suggests, once again, that existing measures are not enforced. As we discussed above, it seems a pornographer and many others are able to routinely breach Companies Act regulations. Promotions etc., do not comply with advertising standards. This probably reflects a deeper or more general problem where Regulations or Departmental Procedures are perceived to be 'lesser' legislation than a section in a Statute.

Officials are loathe to apply them. Furthermore, it might be perceived that an employee or licence holder who perhaps lets someone drink too much alcohol in a licensed premises and who received two years jail sentence as part of a harsher regime of penalties, is unfairly treated alongside murderers who may get out of jail on parole after two years. An even wider problem then is the question of penalties for even worse crimes. If penalties for other crimes are not made harsher at the same time to maintain sentencing relativities then there is little point increasing penalties for serious breaches of liquor laws.

From the perspective of this submission we would be more harshly punishing license holders who may not be present when a breach occurs, their employees who may perhaps not have the experience necessary to be fully responsible for license conditions or intoxicated people who really do not know what they are doing. It is better to offer people and society a hope or *raison d'être* for living than try even harsher punishments to control breaches of the liquor laws. Project Premium offers a new way of looking at the problem based on positive reinforcements rather than on negative reinforcement.

### **Problem Limitation - Penalties**

(25) *Should there be greater use of infringement offences for minor breaches of the liquor law?*

In an appendix (*Noah, Wine and Global Warming*) in my paper *Alcohol Misuse in Western Society*, there is a point about the dangers of being unaware of the alcoholic content of wines and how the content changes because of changing environmental and botanical circumstances.

From general observation, “infringement offences” don’t seem to deter people anyway. They will not because the reason for getting drunk, hence the disorderly behaviour that sometimes ensues, has much to do with the priorities of “Western Society”; e.g., its nihilistic evolutionist dogma that underpins its educational, scientific and commercial enterprises.

If “serious breaches” are not being enforced as questions 24 and 26 imply, there seems little point legislating for “increased penalties” or “greater powers” (for police). Thus, simply “widening” the use of “infringement offences” seems pointless. As with inflation of the money supply, infringement offences have declining deterrent as they increase. To give the Commission an unusual but increasingly common-place perspective on this, the author has incredible difficulty contracting ‘low’ or ‘semi-skilled’ work because he is “too qualified”. Yet the same employers, complaining of the frequent absences of employees, or no-shows especially after weekends, will not turn to the ‘older’ and always sober alternative. There seems to be little deterrent value in the infringement notice and the employers are either unable to use the threat of the sack or are unwilling to use that option. So the whole environment concerning deterrence seems to be distorted. The distortion arises from failure to enforce laws. Where enforcement does occur, sentencing often appears to be too light. When it comes to the consumption of alcohol there are personal factors that apply. Set against the background of the general decay in society’s standards, as reflected in inconsistent deterrence strategies, we are simply re-arranging deck chairs on the Titanic

by shuffling out more infringement offences. Far better to follow positive reinforcement strategies as suggested in Project Premium.

### **Problem Limitation - Penalties**

(26) Should the Police have greater powers to close down bars where there are breaches of law occurring?

Either the Police have these powers or they do not. It does not make sense that they can be “increased” or “decreased”. This sounds like the enforcement problem all over again. It may well be in some areas that ‘politically’ it is inadvisable for the police to “close down a bar”. If that is the case, short of some sort of ‘Federal Police Force’ that can monitor bars etc, the problem once again centres on addressing society’s attitudes, its philosophies and the role or rule of Law.

### **Problem Limitation - Liquor in Public Places**

(27) Should liquor bans be retained?

Yes.

### **Problem Limitation - Liquor in Public Places**

(28) If so, how can the liquor ban provisions be improved?

They appear to be working reasonably well. The only liquor ban area I am familiar with seems to work (in Wellington’s Cuba Mall) although late at night or very early in the morning it apparently comes unstuck a bit because there are few people around and police cars of course have no access to the area. Businesses on the street or mall complain of messes they have to clean up. Either the area would have to be shut-off to the public at those times (1:00 a.m to 5:00 a.m ?) or marshals of some sort would have to patrol the area then. Neither option would be practical or cost effective. Each public place where a liquor ban operates would probably require improvements unique or peculiar to its particular situation.

### **Problem Limitation - Liquor in Public Places**

(29) Do you think an offence of drinking in a public place, rather than the liquor ban system, is preferable?

No. In order to have the offender apprehended the police must be called in. In a public place, enforcement by citizenry seems a better alternative. This is working with smoking bans and seems to be having a parallel effect in liquor ban areas. Peer pressure seems to be working better than infringement offences etc. Peer pressure is backed up by a big official sign in Cuba Mall and that seems to be all that is required (except, possibly, for the after-hours period). In any case, police resources are so thinly stretched that effective

delegation of the enforcement process of the liquor ban to peer pressure may actually be much more cost-effective. However, these comments are based on very limited experience or observation and may not be particularly representative.

### **Problem Limitation - Liquor in Public Places**

(30) Do you think it should be an infringement offence to be drunk in a public place?

There may be many reasons for a person being drunk in a public place. There seems to be little point punishing the person. Why did the person get drunk in the first place? That's the question that really has to be addressed as my paper seeks to do (*Alcohol Misuse in Western Society*).

### **General**

(31) Do you have any further comments or suggestions?

Please refer to my attached paper, *Alcohol Misuse in Western Society - With Particular Reference to New Zealand*.