

PROSTITUTION BILL 1999

Order of the Day

On motion by Mr Barnett (Leader of the House), resolved -

That the Prostitution Bill be now taken.

The SPEAKER: The problem is we do not have a number for this Bill yet. Earlier today, the Leader of the House gave notice that he would be bringing this matter on later in this day's sitting and there is no official order of the day number.

Introduction and First Reading

Bill introduced, on motion by Mr Prince (Minister for Police), and read a first time.

Second Reading

MR PRINCE (Albany - Minister for Police) [7 02 pm]: I move -

That the Bill be now read a second time.

The Government is introducing legislation that it considers will give police increased powers better to control child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship. The delay in presenting a Bill is not a result of any lack of commitment on the part of this Government to pursue the reform of prostitution laws in Western Australia; indeed, the delay has been occasioned by the need to achieve a position on this issue, which, at the end of the day, is not only acceptable to the community generally but also, in terms of effect, enforceable.

It is intended that the Bill will ensure the regulation of the activities of prostitutes and potential clients in public places and eliminate the involvement of children in prostitution. Therefore, the Bill precludes children from being prostitutes and prevents their exploitation for sexual gratification; protects the community by creating offences relating to health; and introduces offences to make street soliciting and kerb crawling illegal, regardless of who initiated the action, a prostitute or a client.

The Bill addresses the majority of the concerns expressed by members of both Houses concerning street and child prostitution and, in so doing, endeavours to provide a unified approach to ensuring that this conduct is no longer tolerable within this State.

The Prostitution Bill includes provisions that not only make this conduct unlawful, but through the imposition of strict penalties, including forfeiture, are directed at empowering police more effectively to curtail this activity. In general terms, it will be an offence to be involved in street soliciting, irrespective of whether the person is a prostitute, a client or an agent; that is, a person who seeks to procure another for prostitution. Similarly, any person who in a public place seeks another to act as a prostitute or to be the client of a prostitute will commit an offence. It is intended that the effect of this provision will be to bring about a reduction in the demand for street prostitutes by targeting in the first instance those persons seeking the services of prostitutes - that is, kerb crawling - for which a penalty of a maximum of two years' imprisonment will apply. In reducing the demand for services it is reasonable to assume that supply will also diminish.

Research has indicated that a number of women soliciting in this manner are looking to support a drug habit or to make a living. They are more susceptible to exploitation. Hence, a lesser penalty of a maximum of one year's imprisonment will apply to the prostitute. A greater penalty will apply where the offence involves a child.

I remind the House that a significant number of government and non-government agencies in the inner city and Northbridge

areas have responsibility to work together to provide an appropriate welfare response when people under the age of 18 are found working as prostitutes.

In relation to public health, the sexual transmission of life threatening infections such as HIV/AIDS and other forms of sexually transmitted diseases has been addressed through the inclusion of specific offences. For example, a person who knows or who could reasonably be expected to know that they have a sexually transmitted, life threatening infection who acts, or offers to act as a prostitute, will on conviction be subject to a penalty of imprisonment for a maximum of 20 years. On the other hand, where that conduct involves a sexually transmitted infection that is non-life threatening, a lesser penalty of a maximum of five years' imprisonment will apply.

One of the most offensive and visible adjuncts to prostitution is found in public advertising. The Bill will prohibit anyone from publishing any statement promoting employment in prostitution or from entering into a sponsorship arrangement which promotes prostitution. In reflecting the seriousness with which this issue is viewed, a penalty of a \$50 000 fine has been provided. In addressing the issue of advertising, I take the opportunity to thank the *Sunday Times*, *The West Australian* and Community Newspapers of Western Australia for their efforts in working with the Government to deliver a code of conduct that will limit the content of advertising for the purpose of prostitution. While the Government intends to monitor this accord, with a view to ongoing self-regulation by the parties involved, I take this opportunity to commend them for adopting this position on the issue.

While the exploitation of women is a serious issue, the community generally is appalled by those within society who would see fit to exploit children for the purpose of the sexual gratification of others, as has been the case in relation to the Asian sex tours and the steps taken to address that issue. As a consequence, a child - being a person under the age of 18 years - will be prohibited from involvement in or from being exploited for the purpose of prostitution. The Bill makes it an offence for any person to -

Cause, permit or seek to induce a child to act or continue to act as a prostitute or do anything with the intention of inducing a child to act or continue to act as a prostitute;

Receive any payment, in money or any other form, knowing that it or part of it has been derived, directly or indirectly, from a child taking part in an act of prostitution, whether as a prostitute or client; or

Enter into, or offer to enter into, an agreement under which a child is to act as a prostitute, whether for that person or any other person.

A penalty of a maximum of 14 years' imprisonment will apply to these offences. In addition, where a person takes part in an act of prostitution, whether as a prostitute or client, knowing that a child is present; provides acts of prostitution where the client is a child; or allows a child to enter or remain on premises where acts of prostitution are carried out, that person commits an offence for which appropriate penalties are provided.

However, there are occasions where the person acting as a prostitute or seeking the services of a prostitute, is himself or herself a child and therefore it is essential that the actions of a child in these circumstances should constitute an arrestable offence. This will empower police to take appropriate action in removing the child from further risk and to place that child in the care of an appropriate authority, such as Family and Children's Services.

To strengthen the effect of the Bill it is necessary to provide police with new powers of search and seizure and to provide for the undertaking of covert operations - subject to appropriate guidelines - to meet the evidentiary requirements necessary to ensure a conviction and to police the provisions of the Bill, particularly those relating to children and health. These powers have been developed by drawing from existing powers in the Criminal Code, the Misuse of Drugs Act 1981 and the Censorship Act 1996, and have been adapted to meet the unique situations likely to be faced by police when dealing with prostitution and the investigation of related offences. This includes -

A power of entry without warrant, at any time, to any place from which a business involving the provision of prostitution is or is suspected of being conducted. This provision enables the timely investigation of suspected prostitution offences relating to children or health and empowers police to detain and search all persons found on such premises.

Powers relating to seizure, retention and disposal of property. This provision allows for the seizure, retention and disposal of property during an investigation of any offence under the Bill. This is consistent with the powers contained in section 28 of the Misuse of Drugs Act 1981 and those which have been included in the Weapons Act 1999.

A new search warrant similar to that in the Misuse of Drugs Act 1981 has been created to enable searches of any place which may reveal evidence connected to prostitution. The warrant allows for the searching of any person on those premises and the gathering of evidence as to the commission of an offence under this Bill.

The Bill will allow police officers to operate covertly in order to obtain evidence of the commission of an offence. Statutory protection from prosecution will be provided for certain offences committed by undercover officers in the performance of that duty. Examples of the offences which may be committed by undercover officers in order to obtain evidence are the use of a false name; soliciting sexual services in public; or seeking sexual services at a business involving the provision of prostitution.

These powers have been provided as an interim measure until the criminal investigation (covert operations) Bill is finalised.

In addition to the offences relating to street soliciting, police officers will be empowered to issue a move-on notice where they suspect that a person is committing, or is about to commit a soliciting offence. The move-on notice will enable police to direct a person to move away from a specified area. The notice will prevent a person from returning to the area for a period set by police - maximum of 24 hours. Additionally, where a person is convicted of a soliciting offence or an offence relating to a move-on notice, the courts will be empowered to issue restraining orders prohibiting that person from returning to a specified area or engaging in a specified course of conduct. These provisions are detailed in part 6 of the Bill and have been drawn from the current Restraining Orders Act 1997.

Part 7 of the Bill contains evidentiary averments in relation to certain offences created by the Bill. These averments have been included to overcome the evidentiary difficulties likely to be encountered, by placing the onus of proof on the other parties with regard to prostitution related offences.

The issue of street and child prostitution is not for any one state government body to resolve in isolation as it is accepted that a number of agencies have a key role to play. The Bill therefore provides the powers and protections necessary to enable the relevant instrumentalities to work together and to coordinate their actions and resources in addressing this very issue.

As a consequence, the Bill allows for the exchange of information between relevant state authorities that may be required to deal with prostitution and other related issues; and provides protection of a person who in accordance with the provisions of the Act provides confidential information to an authorised state authority. In addition, regulations may be prescribed by the Governor on matters required or permitted by the Bill.

This Bill represents another major step in the commitment of the Government to law and order. In particular, it provides the Police Service with modern and more effective powers to enable police to deal adequately with the issue of street and child prostitution. In addition, it provides an assurance to the community that the Government is listening to community concerns relating to prostitution and is prepared to act to curb the incidence of street soliciting and kerb crawling, and the exploitation of children for the purpose of prostitution.

For the information of members, I table the explanatory memorandum for the Bill and commend the Bill to the House.

[See paper No 419.]

Debate adjourned, on motion by Dr Edwards.

PROSTITUTION BILL 1999

Second Reading

Resumed from 23 November.

MS WARNOCK (Perth) [7.01 pm]: It is no secret that the Opposition is pleased to see some kind of legislation on

prostitution come before this House this year. Indeed, the Opposition takes some credit for prompting the Government - which has been battling unsuccessfully for two years to produce a full and complete Bill covering the entire field of prostitution - to produce this quickly drawn up Bill. This Bill, like the one produced last week by the Opposition through my colleague, the member for Midland, deals discretely with the matters of street soliciting, kerb crawlers and child prostitution and leaves aside the whole matter of brothels, massage parlours, escort agencies and all the other matters associated with prostitution with which it is fair to say we in this place have been battling for some time. The Opposition is pleased to support an attempt to improve the lives of inner city residents - and I am particularly pleased as the member who represents those inner city residents - by removing from the residential streets activities which any residents anywhere would find offensive.

I have been representing the views of my constituents on this subject for some two years now. Dozens of my constituents have joined me in trying to persuade the Government to produce its long delayed legislation and to rid residential streets of what has become an offensive nuisance to the people who live in them, and to get tougher and better resourced policing for the area. Many people have stressed to me that they bear no particular animosity to the young women involved in street prostitution and it is largely young women who are involved. Rather, these people are concerned about the welfare of those women. They object to the kerb crawlers, as they are called, and the pimps who are an obvious part of street soliciting. These residents and some of the businesspeople in the area are offended by being propositioned themselves or having their young daughters propositioned. They do not like the constant presence of the repeated circling cars of the kerb crawlers and they are put off by needles and condoms being discarded in their gardens or on their front paths.

The people I have spoken to about this matter - with perhaps the exception of one or two - are very sensible people and they are realists. They are not moralists; they do not ring me every day telling me that fire and brimstone will descend if any of us try to do anything about prostitution. These people are realistic, they have been living in this area for some time and they have noticed their standard of living deteriorating because of the recent increase in street prostitution. These people do not expect prostitution to vanish overnight as a result of any legislation we might produce in this place. However, they will be hoping that with tougher penalties for street soliciting - which is the main problem - penalties for kerb crawling and tough penalties for child prostitution there will be some changes for the better. I stress that the people I am speaking about are realists, they have a sensible attitude to the matter and they would not resist any attempt to change the law. They are looking for a change for the better and expect some change in the law to produce that.

I must express my personal view that many more things need to be done in this area. One of them is to try to work very hard to assist the women involved in street prostitution. I am involved with a group of people who have been trying to do that for some time. We recently failed to get a government grant to do this but we will persist because we think it is very important. Many of the women involved in prostitution are young; some are actually underage and illegally involved in this activity. I believe many of these women are drug addicts. Some people tell me that the incidence of drug addiction among prostitutes is very high but others say that it is exaggerated by people for their own reasons. However, I believe that most people who work on the streets would not choose to work that way unless they had a drug addiction and needed to make quick money. Most people who, for whatever reason, choose to make a career out of this business would choose to work in different circumstances because, by its nature, street work is dangerous and I would not have thought that it has many attractions. It seems that many of the women who work in this field need quick money for drugs. They work on the streets rather than in houses or for escort services for that reason as one is not able to work in a brothel if one is a drug addict - it is forbidden.

There are a number of ways of earning a living as a prostitute and I do not need to outline them to this collection of adults who are well over 21 years of age, regardless of what any of us think of the profession. I am extremely concerned about the welfare of these young women, several of whom have disappeared from the streets in frightening circumstances. A great deal more needs to be done. For example, we need to spend more money on safe sex education. We need outreach workers in the area to work with the people who continue to work in street prostitution regardless of the fact that others do not support that concept. We need to spend more on drug rehabilitation in this community. I would prefer no-one worked on the streets at all. It is too dangerous. Every parent would be horrified at the thought of their daughter or son - there are a few young men working as street prostitutes - working on the streets. It is too dangerous but I believe the whole issue of prostitution, particularly street prostitution, needs to be approached realistically.

I will refer to the minister's briefing note. As you will recall, Mr Deputy Speaker, this Bill very recently arrived in this House. I believe that many members of the Opposition have not had an opportunity to study it very thoroughly, notwithstanding the fact that we put up a similar Bill last week. This Government's prostitution control Bill has three principal aims: The first is to provide offences for street soliciting for both prostitutes and clients, which is extraordinarily important; the second is to prevent children from being involved in prostitution and to protect them from exploitation, which again is an extraordinarily important aim; and the third is to empower police to deal effectively with prostitution in relation to issues of health, the involvement of children and street soliciting. Those are three very worthy aims indeed.

Women from my mother's generation have often asked me why we constantly talk about prostitutes and rarely talk about their clients; if there were no demand, there would be no supply. We seem to be constantly talking about cracking down on the prostitutes and street prostitution when it might be more effective to crack down on the people causing the demand. This Bill has the proper balance in that there are provisions for the prosecution of both prostitutes and their clients.

It is important to prevent children from being involved in prostitution and certainly to protect them from exploitation. Recently my colleague the member for Willagee and I were fairly vocal in attacking the Minister for Family and Children's Services because we believe that a large number of young girls are involved in prostitution in the inner city area. There seems to be some dispute about the number of young girls involved in prostitution. I have no doubt that there are a number

because I drive through the area fairly regularly. My office is in the area and I go to a lot of functions there. I regularly see young women on the street who are obviously prostituting themselves. However, until this time, there has been some difficulty about bringing Family and Children's Services as well as the police into this issue. I certainly support, and the Opposition in general supports, anything that will prevent children from being involved in prostitution in any way and protect them from exploitation.

The third extraordinarily important element is to empower police to deal more effectively with prostitution. As I said at the beginning of my speech, for some time my constituents and I have been making approaches to the Minister for Police and senior police. We have been petitioning, demonstrating in the streets and taking numerous other actions to draw attention to this problem. At one stage of the game, after one of several public meetings, a senior police officer said to me that he would give me his mobile number and that I should simply ring him when there was a problem and that the police would come and do what they could. Unfortunately, that officer was not always available to deal with these matters. When we rang the number that we were given, we often found the machine on with a voice saying to call tomorrow morning and the police would do what they could.

Obviously the police do not have enough resources to deal with these matters. There are many other crimes which others regard as far more important than prostitution; indeed, some people refer to prostitution as a victimless crime. I do not think my constituents would agree with that. As I have said, police resources are stretched thinly and some people think there are far more important issues for them to be involved in. The long and the short of it is that we have called the police at the numbers they have given us and they have not been there or they have carried out an operation - made a raid as others might say - which has cleared up the streets for about half a day, and then the people have come back. Obviously the police need to be empowered to deal far more effectively with street prostitution; there is no question about that.

One of the elements of that provision is the ability to approach a kerb crawler. Although I hesitate to relate any stories about anybody I know being caught up in a matter like this, the plain fact of the matter is that it has been until this time extraordinarily difficult to pin on someone that he is in fact soliciting. He might say, "I am waiting here for my wife and daughter to arrive", "I am looking for milk at the shop" or "I am gazing at the scenery". It has been extraordinarily difficult to make any charge stick. I am aware that has been a problem for the police, and many times they have related to me the difficulties that they have had in effectively bringing a kerb crawler to book, notwithstanding the fact that most of my constituents would know a kerb crawler when they saw one. However, for legal reasons, it has been very difficult to make that charge stick. If we could improve that in any way through this legislation, the Opposition would certainly support it.

The way the Government has chosen to go about this is interesting. It has referred to offences in the Police Act 1892. It is delightful when one finds that the Police Act and many sections of it date from 1892. Sections will be repealed and replaced with modern provisions - not before time. Some of those provisions relate to the reversal of the onus of proof. I am quite sure this will cause alarm among some civil libertarians. If we had more time to deal with this matter, perhaps we might give a great deal more thought to that aspect. However, for the moment, if I might set that aside, I will say simply that we support the Government on this matter. We are aware that reversing the onus of proof in matters like this will cause concern in the minds of some people.

How does the Bill suggest that we deal with the matter of street soliciting? It will be an offence for both the prostitute and a person seeking the services of a prostitute - the client, shall we say - to solicit such services in a public place. The offence will be committed by any person who in a public place - I emphasise that - seeks another to act as a prostitute or to be a prostitute's client. As many of us in this House do, I was listening to talkback radio as I was driving from one function to another today. I heard various people ask what is a public place, how would they know it and how would anybody define it, and if one rang an escort agency, would we be talking about the same offence? In short, we are not; we are talking about soliciting in a public place such as a street or park where somebody approaches and says something. I will not repeat any of the phrases because I am sure that most of the members in this House are old enough to be familiar with them. When a prostitute solicits a person's attention or a client solicits the services of a prostitute in a public place an offence will occur.

The definition of "seeks" includes inviting or requesting another person to be a client or prostitute, loitering in or frequenting a place for the purpose or intention of inviting or requesting another person to be a client or prostitute or receiving an invitation for another person to be a client or a prostitute. Members might say that on the face of it this seems difficult to deal with, but anybody who has driven down Stirling Street lately would find that the definition is fairly easy to arrive at. I certainly hope that the Bill's provisions will make it a great deal easier for the police to make any of these matters stick.

The penalty for clients, or the so-called kerb crawlers, will be imprisonment for two years. I would have thought that would be a serious disincentive for somebody who might be Sunday driving in a place where he should not be. For a prostitute the penalty will be imprisonment for one year. The higher penalty for clients is an attempt to reduce the demand for street prostitution. As I have said, women of my mother's generation have often asked why we do not try to reduce the demand. I would have to agree that I always thought of this business as a two-way contract. I have never been able to understand why one party to the contract was in such difficulties; whereas the other person was let off scot free, if that is the correct expression. Reducing the demand for this kind of prostitution would be a more successful way to curb this matter.

The Bill provides aggravated penalties where the offence involves a child; for those of us who are not lawyers, that means more serious penalties for offences involving a child. Where the prostitute is a child, the penalty is imprisonment for seven years and where the client is a child the penalty is imprisonment for three years. This is a very important matter and sensible men and women of goodwill will see that this is an important change for us to make. It is a demonstration to the community that we are determined to protect our children from being involved in this business and we will severely caution any adult from seeking to induce a child to act, or continue to act, as a prostitute. Those penalties are very fitting because it is entirely

inappropriate for any child to be involved in this activity. Adults over the age of 21 can make up their own minds about it; however, it is extraordinarily sad for a child to be involved and we must discourage this practice in any way that we can. The Bill is very tough in that area and I believe that everybody on this side of the House will support those penalties.

The situation of children who act as prostitutes is interesting. This will be an arrestable offence enabling police officers to remove children from their environment and for the appropriate authority to deal with them, such as Family and Children's Services. There has been a great deal of argument between the Government and the Opposition about whether one should be able to call in Family and Children's Services on these matters. I would prefer to call in a child's parents, as I am sure everybody in this House would. However, when that is not possible for the very large variety of reasons we all know about - some people simply do not get on with their parents, some people have no parents and some people are estranged from them - Family and Children's Services must become involved. Indeed, that is the charter of Family and Children's Services and it should be involved in these matters. It may seem harsh to some people but it is important to prevent children within the definition of "child" from being involved in this activity.

The next clause of the Bill is more controversial and we might discuss it during the consideration in detail stage. The Bill refers to police powers in relation to prostitution. Senior police have frequently complained to me about their lack of powers in this area. I have had off-the-record discussions about how difficult it is to prefer a charge in this area. This Bill provides new powers in relation to search, seizure, covert operations and street soliciting. The powers have been developed by drawing from existing powers in the Criminal Code, the Misuse of Drugs Act 1981 and the Censorship Act 1996 and adapting those provisions to suit the unique situations faced by police officers when investigating prostitution offences under the Bill. As I said, these provisions are likely to cause some concern to people. For example, I remember having a discussion about the powers of entry without warrant during debate on the Censorship Bill. In the context of prostitution in this Bill, police officers will be provided with powers of entry at any time without warrant to places where it is suspected that offences are being committed against the provisions of the Bill. As I said, the Opposition supports the Bill but I believe that some people will be concerned about matters of that ilk. The Bill provides powers of seizure, retention and disposal of property; the creation of a new search warrant similar to that in the Misuse of Drugs Act 1981; and a clause dealing with undercover officers, giving certain police officers the power to operate covertly as undercover officers to obtain evidence of the commission of an offence under the Act. Again, people may be somewhat concerned about that, but, as I say, the Opposition supports the Bill because we realise that the present problem of street soliciting simply must be fixed.

In addition to the enhanced offences relating to street soliciting, it is interesting to note that the Bill empowers police officers to issue a "move on" notice when they suspect that a person is committing or is about to commit an offence in relation to prostitution. That suspicion will be based on the evidence available at the time, such as the person's address, the time of day, the actions of the individual and any reason given to police in explanation of that person's actions. Again, although any ordinary person would be able to tell what that clause was about if they had visited Stirling Street at a particular time of day; nonetheless - I am not a lawyer - I can see difficulties in proving these matters before a court. However, with wide publicity about the Bill, if we succeed in getting it through the Parliament, anybody who wishes to take a risk of two years in prison would be a gambler of some kind.

In general, the Bill will not remove the current illegal status of brothels. I refer to section 76F of the Police Act 1892 and section 209 of the Criminal Code, which are the two sections that deal with the status of brothels. It also does not remove the offence of living off the earnings of prostitution, which comes under another section of that old Police Act. In addition, serious offences have been created to address the issue of sexually transmissible life threatening infections and sexually transmissible infections. The regulations will enable diseases that are considered sexually transmissible life threatening infections to be prescribed. For example, HIV will be prescribed as a sexually transmissible life threatening infection. People who know, or could reasonably be expected to know, that they have one of those infections and who act or offer to act as prostitutes will commit a crime. In this case, the penalty is imprisonment for 20 years; or, in the case of a sexually transmissible infection, imprisonment for five years.

The Bill further refers, as the Opposition's Bill did not, to advertising for employment. Any person who publishes a statement promoting employment in prostitution or enters into a sponsorship arrangement that promotes prostitution commits an offence. I note the penalty for that is \$50 000. I cannot help noting that a large number of advertisements promote employment and prostitution, or certainly advertise prostitution. Some of our more respectable newspapers, indeed every family newspaper in town, extensively advertises prostitution services. I will need an explanation during the consideration in detail stage, as I am sure the Opposition will, about what is meant by that provision.

As I have said, the Opposition is prepared to support this Bill, although alarm bells ring in my head on a number of civil liberties issues. It is because of these issues that I prefer the opposition Bill, produced last week by my colleague, the member for Midland. However, we are prepared to support this Bill because, as an Opposition, we accept that it is more than time to take action on street soliciting in residential areas. We therefore applaud the Government for responding to our prodding on this issue, as I believe that is what has occurred. People have said to me in interviews that I have conducted, "You just want to move it to some other suburb" and I have said, "No, I do not wish any residential area to be an area where street soliciting takes place."

In a worst case scenario, if the police, the Government and the community in general agreed that we were simply not able to stop street soliciting, for whatever reason, in the long term we might have to seek another solution and even suggest that part of a commercial or industrial area be set aside for this purpose. I hope that would be a last resort. I am not seeking to move street soliciting to another residential area. I simply do not want it to be in any area. It is not good, and I am certain most prostitutes would think the same thing. They do not want anybody practising prostitution in public on their doorstep any more than those in my electorate do. This Bill is largely about street soliciting in residential areas.

I cannot let the occasion pass without commenting that the present Minister for Police is the third such minister who has undertaken to produce a complete Bill to replace the mess that passes for prostitution legislation in this State. As I have said before, I do not underestimate the difficulty of drafting prostitution legislation. As a woman, a feminist and an activist, I have been involved in this issue for nearly 20 years. The Opposition has also worked on the issue for some time. We all know it is extremely complex. We are all subject to the pressures in our electorates that cause people to be very cautious about making any changes. This Opposition has genuinely offered its cooperation to the Government to get this Bill through. It is a different matter when a group of people are seriously seeking to politicise an issue. We are seriously seeking a solution to the problem.

Mr Prince: Does the bipartisanship go to what happens in the other place?

Ms WARNOCK: I hope it does. I cannot speak for the assemblage of other opposition parties.

Mr Prince: I mean members of the Labor Party.

Ms WARNOCK: Most certainly.

Mr Prince: If this can be fast tracked, surely it is to the benefit of the public. If it disappears to a committee and is delayed in the other place, that will not be good.

Ms WARNOCK: That is certainly not the intention, as far as I am aware.

Mr McGinty: You can say it more emphatically than that. The answer is categorically no.

Ms WARNOCK: That is right. We are determined that this Bill should pass. We are offering the Government our cooperation, despite some reservations about various aspects of the legislation. We know it must be done and we see no value in politicising this issue. We are all in the same business. We all know how difficult it is to deal with these matters. Today I had a couple of telephone calls about these matters. I will not let some opposition dissuade me from joining the Government in attempting to solve this problem in Western Australia. I believe it is a social problem that simply must be solved. Western Australia must sort out its prostitution legislation. The so-called containment policy which involves a set number of brothels being "okay", despite the fact that it is technically illegal to run such premises, simply does not work any more. It is quite obvious to everyone that houses, parlours, agencies and so on have proliferated in this town. We have only to check the advertising pages in any family newspapers, about which I remarked earlier, to see the extent of that proliferation. Some estimates suggest that several thousand women are working as prostitutes in this town. Clearly we must find a solution to the problem.

Mr Prince: You mentioned something about advertising, but I missed most of it.

Ms WARNOCK: In the briefing paper for this Bill, I was interested in the information on advertising for employment in prostitution. Does that refer only to advertising jobs as prostitutes?

Mr Prince: Yes, it does.

Ms WARNOCK: I misunderstood that. I thought it was about advertising in general.

Mr Prince: No.

Ms WARNOCK: I was going to say that some newspapers will descend rather heavily on the minister in that case.

Mr Prince: They have already tried.

Ms WARNOCK: I will say no more about that subject.

Mr Prince: I think perhaps the member could have chosen a more elegant expression, considering the subject we are talking about!

Ms WARNOCK: It is almost impossible when speaking about this subject not to find a double entendre.

As I have said frequently, if society is to accept this situation, obviously prostitution must be regulated in some way, particularly from the point of view of planning laws and health regulations. By the way, on this subject about society's views, earlier this year a couple of hundred average citizens went to an open day staged by Madison Avenue, a brothel in Victoria Park. They were all ages, men and women. As I have frequently said, numerous brothels are located near my office; in fact, two are within 50 yards or so of it. In more than seven years of being in that area, I have had no complaints whatsoever about them. My impression from both this fact and my visit to that rather colourful and interesting open day was that, in general, most members of our community do not think about prostitution very much. It does not occur to them to talk about it very much. If they have any view about it, it is that it seems to be going on somewhere else that they do not know about. As long as it does not jump out in front of their faces, they are not terribly concerned about it. I hope I am not mistaking their view which I have arrived at from observing and studying this issue for many years.

Whereas I have heard not a single word of complaint about any of the many brothels in my area, including those close to my office, I have been inundated with complaints about street soliciting in the area for the past two years. I do not exaggerate for the purposes of politicising the issue. It is simply a fact that at one stage of the game I was getting several calls a week that could not be ignored. That is when I began to take the issue to the Government. It was quite clear that something had to be done. People's 12 year old daughters cannot walk to the local corner shop to get a bottle of milk - that will give members some idea of my age; how long has it been since we have seen a bottle of milk?

Mr Prince: Twenty years.

Ms WARNOCK: As I was saying, we cannot have these young girls walking to the local corner store in the early evening to get a carton of milk and have someone soliciting them, as happens. It is just not the sort of thing that people want in their area, including the prostitutes. Perhaps the views of the community in this matter are ahead of those of the members in this House. The people I spoke to when I went to the open day at Madison Avenue were very sensible, ordinary people of all ages, all sizes, both men and women. A grandmother was there with her daughter who had a baby in a pram. They were intrigued and were giggling about the whole event. I did not hear anybody say, "Shock, horror". I saw nobody standing outside with a sign that read, "The devil will descend on you". People seem to have a down to earth attitude about this form of prostitution. In future, if we are seeking some way of dealing with this matter, we must take the same attitude. As I say, we support the Bill, but we await with interest a much fuller and more complete approach to the whole issue at some time in the future.

DR EDWARDS (Maylands) [7.37 pm]: Like the member for Perth, I welcome the fact that the Bill has arrived in the Parliament. I have some friends who live in the heart of Northbridge and for some time I have heard about the problems involving street soliciting. I took the liberty of referring those friends to the member for Perth. Street soliciting has been a problem. This family would have no problem with my telling everybody about this matter, because they were very upset about it. This family was having all the same problems as those outlined by the member for Perth: Children walking to the shops were being accosted; cars were driving around at a very slow pace; and women walking by were being solicited. It created a very uncomfortable atmosphere. When this family moved, they lived in the same area and were confronted with same problem daily. I hope the Bill can enable something proper to happen about the street soliciting we are seeing in the Northbridge area and other parts of Perth. Recently my stepdaughter was walking in an area near Northbridge and could see this going on. When that happens, as parents, we have concerns about the welfare of these children.

In 1984 and 1985 I conducted a major study on prostitution for the Civil Liberties Council of WA in a project for the Human Rights and Equal Opportunity Commission of Australia. As a member of Parliament I perhaps know a little bit more about prostitution than other members in this place although I need to add that my knowledge is quite old, because I did the study a long time ago. The aim of the study was to look at the rights of the people who were affected by prostitution. It was to look at the rights of women in the industry - it was mainly women at that time - to cast a glance over the rights of the clients, and then to look more broadly at the rights of the community. That is because prostitution impinges on people's rights and people's enjoyment of their community, particularly with the street soliciting we have had recently. A six week project turned into a six month project - I might add with no increased fees being paid. However, we all became so interested in the subject that we did not mind that it dragged on for six months. For the duration of that time I was the project officer for this study.

It distressed me when the study was compiled that it then took over a year for the Human Rights and Equality Opportunity Commission to publish it. When the commission finally published the study, there was no great editing or any major changes. I think it was nervous about putting out a paper dealing with prostitution. As far as we could gather that was the first time in Western Australia that someone had taken an overview on prostitution. The paper went into the long and colourful history of prostitution. We interviewed clients, workers and people in the community, so that we had the views of everyone. We also made some recommendations. The study built on the work of a royal commission and some other work that had been done. One of the strong calls from this report was for the containment policy to be written out. The containment policy then was an open secret, but nobody could get it in writing. Even then there were complaints from operators because they were not sure whether they were inside or outside the containment policy area, and they wanted greater certainty. Fortunately, since then a more pragmatic attitude has been taken, and the containment policy is now much more clearly defined.

My study got off to a flying start, and that reflected my naivete. A media release went out saying that the study was about to commence. I got a call at six o'clock in the morning from the *Daily News* which wanted to talk to me about it. That was fine; I was happy to talk to anyone. As they say, any publicity is good publicity, and we wanted everyone to know about our study. The *Daily News* asked me to go down to James Street at seven o'clock in the morning. I was a bit put out, but I got down there. I was nicely dressed and I had my clipboard and all my notes.

Mr Prince: Were you wearing red?

Dr EDWARDS: I was not. I was wearing white. I remember it distinctly. They asked me to stand outside a shop and the photographer was way over in the distance, about half a kilometre away. They ended up having a photograph of me right outside Barbarellas. Even though Barbarellas was 200 metres in the other direction they had used a very wide lens, and the headline on the front page of the *Daily News* was, "What's a nice girl like this doing looking at prostitution?" My family were mortified, because I had not told them I was doing the study. It had a really great result. We were inundated with telephone calls.

The saddest were the telephone calls from men who were using the services of sex industry workers. In fact, because I was a medical doctor some of them told me why they needed to see these people. There was a call from them for me to tell them that what they were doing was okay. I took a slightly hard-nosed attitude in that I was trying to get them to do interviews that were structured so that we could build up valid research on which we could base our study. The message that came from many of these people who had a relationship of types with "the girls" as they called them, was about companionship, a connection and making a link with someone they could talk to over time. I was astounded at that stage that some of them paid for but did not have sex. They paid to see someone. It was obvious that there were some lonely people out there. There were some heart-wrenching stories.

Mr Prince: That is not the case with street prostitution.

Dr EDWARDS: No, that is absolutely not the case with clients of street workers.

These men were quite "respectable". I had to take notes, but I made sure those notes were absolutely secure and I did not document anything that would identify people.

Mr Osborne: You did not drop them on the floor of Parliament House?

Dr EDWARDS: No, I did not.

What came through to me was the sadness of that situation. In some ways, although people do not necessarily approve of prostitution, with containment and the brothels as they were then, the situation worked reasonably well. These people went to a designated place. They were not out driving around trying to pick up people. It was in a controlled atmosphere in which the madams made sure that the women had health checks. At some level it was meeting a need that these people had. This is not what we are talking about tonight. We are talking about people who are driving around seeking out women and perhaps some young men who often have a drug habit and who need to make a fast buck to support that habit.

It is a sad situation, but at least aspects of this Bill go some way towards addressing that. The fact that this Bill targets the people who are doing the kerb crawling is a good thing. I am pleased that has happened, because in many ways that is innovative. Not a lot of other Legislatures have sought that remedy. I might add that from my reading, where they have, it has been pretty contentious with some mixed results.

Mr Prince: I spoke to some members of the London Metropolitan Police in February or March. They do not have this sort of provision but they do have a provision where they can track down the registered proprietor of the motor vehicle and they have a law that permits them to send a notice to the home where the motorist resides - "Dear Mr or Mrs". I gather that the divorce rate goes up. Which is not necessarily a desirable consequence.

Dr EDWARDS: It would climb rapidly. Maybe a bit of prevention is better than the cure.

I can proudly say that I am one of the few members who has visited a brothel and is now happy to talk about it. As part of my study I organised to visit a brothel. It was an elucidating experience. There was also a downside. We decided early on that in any interview I did or any visit I had with somebody involved in the industry I should have a chaperone. I had a friend who was somewhat older than I, but she had blonde hair and was very attractive - it was not the member for Perth. We went to a brothel and we met the madam. I call her the madam, because that is what she called herself. We met the girls, which is what they called themselves. It was useful to talk to them about their lives, about drugs, about the services and about what went on. As we walked out the door the madam grabbed my friend. I thought, "Hang on, what's this?" We had both been standing wondering how we could walk out of a brothel without being seen. We imagined that someone might see us. I am sure other people have had this experience. My friend was grabbed by the madam and they were chatting away. When she came out she was furious. I asked her why and she said that the madam had offered her a job. I said, "Well, I'm furious; she didn't offer me one!" There were lots of things that happened and we had lots of laughs, but it was quite elucidating.

Throughout the course of the study I went to the homes of women who were in the sex industry and I had workers in my home. What came through to me was that we all were people, but we were in different circumstances. It was often harsh economic circumstances that got them into this situation, and it then became very difficult for them to get out of it. Again I am pleased that the Bill has a different level of penalty for the women who are involved in prostitution versus the people who are seeking the service.

When I was doing my study I was able to visit New South Wales and speak to research staff there. It was interesting to hear what they were doing at that stage. They had a similar problem but they sought to ban soliciting around churches hospitals and schools. I was always a bit puzzled about hospitals. I could understand the ban around churches and schools.

Mr Prince: Given what happens in most hospital emergency departments on any evening, one would wonder why! I do not reflect upon the staff, just on what happens.

Dr EDWARDS: Similarly, I had a chance to speak to people in Victoria, and I was interested in their planning and the way they were moving towards licensing. In 1999, enough models have now been tried around Australia for us hopefully in the near future to have a more extensive package to tackle the problem. In 1985, I identified two problems, which might be what made the Human Rights and Equal Opportunity Commission nervous and why it sat on the report. At the end of the day, I must thank the media for my report ever seeing the light of day. The federal Freedom of Information Act had just been passed, and *The Western Mail* which existed at that time was about to be successful with an appeal to the Administrative Appeals Tribunal to get hold of a copy of my report, so it printed it in 24 hours and distributed it before the case was heard in the AAT, and thus it became public. The two problems I was concerned about then were AIDS and violence. AIDS had only just started to appear in the medical literature, but it seemed to me that a lot of unprotected sex was going on in the industry and that the issue of condoms needed to be seriously addressed. People who get sexually transmissible diseases do not get them from brothels. In fact, brothels have a much better record than what we might call the enthusiastic amateur who goes home with someone from a nightclub.

Mr Prince: Not an enthusiastic amateur. A promiscuous person is far more likely to, firstly, become infected and, secondly, pass it on than is any prostitute in a brothel.

Dr EDWARDS: These days a lot of young people practice what may be called serial monogamy, and if they contract a

disease like chlamydia often they do not know they have it and pass it on. The evidence now is that brothels generally are well regulated and the staff have health checks, and the incidence of sexually transmissible disease is low. However, among enthusiastic amateurs, and undoubtedly among street prostitutes, there is a pool of sexually transmissible diseases.

Mr Prince: It is promiscuity that is in any sense unregulated.

Dr EDWARDS: It is risk management.

Mr Prince: A brothel is by definition regulated promiscuity. Street prostitutes and those who are simply promiscuous, male or female, are, by and large, the carriers of any sexually transmissible disease.

Dr EDWARDS: We can have another detailed discussion about that matter. One of the issues I was clear about in my report was that it does not do much good to licence people, make them have health checks and give them certificates to say that they had a health check today and are clear of all these diseases, because their clients almost never have health checks, and the next client they see may have some disease or infection that infects those people and that will not show up, depending on what the infection is, for three or four weeks, or for three months in the case of HIV AIDS.

Mr Prince: In the case of chlamydia, it may never show up.

Dr EDWARDS: That is right, and that woman may infect someone. The consumer may think that because the woman has had a health check and has a certificate, there is a measure of protection, but of course there is not, because the greatest danger is the clients. I am pleased that this Bill addresses the health aspect. What diseases does the Minister envisage will be covered? Will hepatitis B be covered, for example?

Mr Prince: Any sexually transmitted disease or infection.

Dr EDWARDS: Obviously street prostitutes are likely to have a pool of diseases that not only are sexually transmissible but also relate to drug use.

Mr Prince: It does not need to be a disease that is transmissible only by sexual means. It is a disease that may be transmitted by sexual means, which includes hepatitis B and C.

Dr EDWARDS: I am pleased to hear that. That is an important distinction.

I was also concerned about the issue of violence and was particularly fearful for women who are sole operators. They explained to me, and I am sure the situation is probably similar today, that to try to keep within the law, and certainly within the containment policy, they could not have men act as their bouncers or bodyguards; and there are good reasons for that. However, equally, they were putting themselves at risk if, as happened periodically, they got a client who was crazed. At the same time, I was shocked at the extent to which prostitution was occurring in the community. I visited one person at home who lived across the road from a church, and she giggled because she said she was sure the people who attended the church every Sunday had no idea what went on across the road, despite the regular stream of nice cars in her driveway.

The Bill places a strong emphasis on children. None of us wants prostitution to involve children, and I am pleased that the minister has picked that up in the Bill.

When I did my study, I spoke to people about drugs, and it seemed to me that back then, and it may have changed since then, the principal drug that was used was major tranquillisers, and women in particular would tell me that they needed to be full of major tranquillisers and valium in order to do the job. The line they used was that the more out of it they were, the better they did the job and the more money they got. We are now in a different dynamic with street prostitution in that people are desperate for drugs.

Mr Prince: There is an element of reinforcement here. Because prostitution is so destructive of people's self worth, they anaesthetise themselves by using a cocktail of narcotics, both licit and illicit, and that leads to the necessity to engage in prostitution to earn the money to buy the drugs, and so on and so on. That is particularly the case on the streets, and much less so in brothels.

Dr EDWARDS: The other difficulty is if they are full of a cocktail of drugs, they are not as aware as they might be of what is going on and are not picking up the clues about whether they are in a violent situation or at risk.

I am pleased that this Bill also addresses advertising, because that area can do with some attention, and, like the minister, I congratulate the media on coming together and looking at a code of practice. I will be interested to observe that over the next few months to see what happens. I am glad that we are finally dealing with this matter. In 1986 when my report was released, the then Minister for Police said that nothing could be done about the problem because it was too difficult, to which I responded that Lord Forrest had made the same comment earlier this century, and something needed to be done. At least in 1999, we are taking one step towards what I hope will be a wider package where we can look at prostitution, acknowledge that it goes on and seek to have a better system of regulating it.

MR MCGINTY (Fremantle) [7.57 pm]: Like other members of the Opposition, I welcome this legislation to deal with streetwalkers and their clients, and with children, and to give the police greater powers to deal more effectively with this significant social problem on the streets of Perth. While I am pleased that this issue is being dealt with, I am disappointed that the legislation does not go further and deal with all of the issues relating to this industry, because we are now left with some unworkable and anachronistic provisions which bring the whole of the law in this area into disrepute, in the same way as the containment policy, which is another way of saying we have a law but we will not enforce it, inevitably brings the law into disrepute, because people look at the provisions of the Criminal Code and the Police Act and laugh and say it is not a

serious law and is not intended to be enforced. We cannot afford to have laws like that on the statute book. This legislation deals with the most pressing public issue in respect of prostitution, which is streetwalkers and their clients.

This month, my appreciation of the problems faced by people living in some of the inner urban areas of Perth was heightened when I received a letter from Trish Milburn. It was a letter that I am sure every member of this House will recall having received. Trish Milburn lives in Pier Street in North Perth, and in her letter she related very objectively a harrowing tale of her experiences and those of her partner and their two young children, an 11-year-old son and a 13-year-old daughter, and the consequences of the decision, obviously against public policy, of shifting an illegal activity from the area where it had been in operation for a number of years in the vicinity of Hyde Park in Northbridge to the area immediately adjacent to Perth Oval in Pier Street, and the impact that had had on them in their family home. When I spoke to Ms Milburn and her partner, Mr White, on 5 November, the story they told me, and what I observed sitting in their house, was frankly appalling. I would not like such things to happen adjacent to, and in full view of, my house, and all members would feel exactly the same way. Streetwalkers were apparent, which must have a disturbing influence on the life of this family, and any other family in the vicinity. Ms Milburn and Mr White told me that they and their two young children were the latest victims of street prostitution; that is, they could watch sex acts occurring in the street from their lounge room window as streetwalkers are picked up before them. They said that their 13-year-old daughter was harassed by a kerb crawler on her way home from school, and he twice tried to get her into his car. Fortunately, the 13-year-old girl had enough wit about her to take down the car's number, and it turned out that the person who tried to harass her and get her into the car was a married man. He was taken to the police station, but there was not sufficient evidence to warrant a charge being laid. I hope that in future, particularly with an offence against a child - this legislation is fairly strong with offences against children - charges will be laid. The legislation is also fairly strong against the kerb crawlers. Ms Milburn as a member of public who runs her fashion photography business from home said she wants some action taken to overcome the problem for not only them, but also other families and business affected by street prostitution.

It is interesting how this debate has evolved over time. A broad acceptance of brothels appears to be found in the community. People know where they are, and they appreciate that, by and large, they are safe places which meet a community need. That is not the case with streetwalkers. A number of incidents have involved prostitutes on the streets with offences of a serious criminal nature in recent times. It is not only dangerous for the prostitutes but also significant health-related issues need to be dealt with. The experience of visiting this house in North Perth immediately adjacent to Perth Oval, and seeing first hand what the family must put up with, convinced me that pussyfooting around on this issue can no longer be justified. Protection for the community is needed. Strong laws are needed to prohibit street prostitution in residential areas. I put aside for the moment whether provision should be made to enable the desperate women, most of whom have a drug-dependency problem, particularly with heroin addiction, should have their needs accommodated in non-residential areas. Streetwalking in residential areas should not be tolerated because of the impact of this practices and its debris on families in residential areas.

What will remain of the law relating to prostitution once legislation relating to street soliciting is passed? I briefly touch on the existing law, which is quite an anachronism. The Criminal Code provision relating to prostitution is section 191 which reads -

Any person who -

- (1) Procures a girl or women who is under the age of 21 years, and is not a common prostitute or of known immoral character to have unlawful carnal connection with a man, either in Western Australia or elsewhere;

. . . is guilty of a misdemeanour.

The provision further outlines that any person who procures a women or girl to become a common prostitute, procures a women or girl to leave Western Australia for the intention of becoming a prostitute, or procures a women or girl to leave her usual place of abode to become a prostitute is guilty of a misdemeanour, and the penalty prescribed is imprisonment for two years. Those provisions will remain in the Criminal Code following the passage of this legislation before the House, which deals only with street prostitutes and prostitution law as it relates to minors. The quaint provision of the Criminal Code which relates to brothels is section 209, which is headed "Bawdy houses", and reads -

Any person who keeps a house, room or set of rooms or place of any kind whatsoever for the purposes of prostitution, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

In my electorate of Fremantle, 205 South Terrace is a well-known brothel. From a distance it appears to be a well-organised brothel. I have never in my nine years as the member for Fremantle had anyone complain to me from a public order or puritanical view about the existence of 205 South Terrace, Fremantle. I heard the member for Perth say that existing brothels are well known and pose no problems for the community. However, the people who run 205 South Terrace, Fremantle, if the law is not an ass, should be arrested and put in jail for three years, according to the Criminal Code. That provision will remain after the passage of this law tonight. Government action, whether it be by the police or the Government, enables a law to be ignored which states that if one has a brothel, one will be put into jail for three years. A Government which enables that to continue brings the law into disrepute. We should not have a provision in the Criminal Code which nobody, including the Government, intends to enforce.

Mr Prince: It has been the situation for 100 years. It was in the Criminal Code when it was written.

Mr McGINTY: I do not think community acceptance of brothels, and the dichotomy between what the law says and the reality, has been so pronounced for that long.

Mr Prince: I debate that. At the time of the First World War, a significant amount of prostitution occurred, as it did to a certain extent during the Depression years, and certainly during the Second World War and post-Second World War. It definitely was around during the Vietnam War when the rest and recreation took place. My point is that at various different times in the last century, almost as a barometer in a sense, greater tolerance or condemnation of prostitution has occurred in brothel or any other form.

Mr McGINTY: The Roe Street brothels in North Perth were legendary, although I do not remember them.

Mr Prince: I arrived in Western Australia after that era.

Mr McGINTY: The Hay Street brothels in Kalgoorlie are legendary. Parliament should not tolerate a situation in which the law is crystal clear, yet no-one intends to enforce it. It is against public policy to do that. In dealing with prostitution, that section should be repealed and dealt with more comprehensively. Another section in the existing law that will remain intact after the passage of the streetwalking legislation is section 213 of the Criminal Code, which deals with people who act as keepers of bawdy houses. Perhaps the parliamentary draftspeople or politicians in years gone by could not bring themselves to actually call it a brothel, but that is what a bawdy house is. The relevant provision states -

Any person who appears, acts, or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in section 209, is to be taken to be the keeper thereof, whether he is or is not the real keeper.

This provision is honoured in the breach and brings the Western Australian Criminal Code into disrepute because nobody intends to enforce it. In that sense this legislation contains some disappointments. This fiction, or farce, has been allowed to continue because of a timidity on the government benches to properly deal with the issue. It is appropriate that we deal with the most pressing part of the prostitution issue; that is, the streetwalker and kerb crawler issue. However, it is disappointing that the matter has not gone further.

The other provisions relating to prostitution are found in the Police Act. The Prostitution Bill deals with soliciting on a street, so it is appropriate that the soliciting provision from section 59 of the Police Act is repealed. It currently reads -

any common prostitute who shall solicit, importune or accost any person or persons for the purpose of prostitution, or loiter about for the purposes of prostitution in any street, or place, or within the view or hearing of any person passing therein . . .

People who do this commit an offence. That provision is being repealed and replaced by far more verbose provisions in the Prostitution Bill. The rest of the farcical prostitution law will remain intact and can be found in sections 76F and 76G of the Police Act. The first section deals with brothels and the second with what has been traditionally referred to as "living off the earnings". Section 76F provides that -

Any person who -

- (1) keeps or manages, or acts, or assists in the management of any premises for purposes of prostitution; or
- (2) being the tenant, lessee, or occupier of any premises . . .
- (3) being the lessor or landlord of any premises . . . is liable, on summary conviction -
 - (a) to a fine not exceeding \$100, or imprisonment not exceeding 6 months; and
 - (b) on a second or subsequent conviction, to a fine not exceeding \$200, or to imprisonment not exceeding 12 months.

Keeping a brothel will remain an offence under the Police Act. Similarly, it will remain an offence to live off the earnings of a prostitute. Section 76G provides -

(1) Every person who -

- (a) knowingly lives wholly or in part on the earnings of prostitution; or
- (b) in any public place persistently solicits or importunes for immoral purposes,

shall be deemed to have committed an offence against section 66, and may be dealt with accordingly.

The section then states -

- (2) Where a person lives with, or is habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

This is an important, but small, step in dealing with the prostitution issue. Our statute books will still contain legislation, in the form of the Police Act and the Criminal Code, that we laugh at, think is a joke and which none of us takes seriously. The police and the Government do not intend to enforce the legislation. Government ministers do not want the legislation enforced because they know it will create problems. It is the old ostrich approach: If one buries one's head in the sand and pretends something is not there, then it is not there. We on this side of the House think the legislation should go further for the important public policy reason that legislation should comprehensively deal with prostitution. This Bill does not do that, but at least it deals with a particular evil and provides what I hope will be a good remedy.

Notwithstanding the reservations the member for Perth alluded to, this Bill has the wholehearted support of the Opposition. It hopes - it will be a vain hope - that next year the Minister for Police will introduce more comprehensive legislation that deals with the total issue and does away with the farce of our current prostitution laws.

MS McHALE (Thornlie) [8.15 pm]: I will make a few brief remarks about the public health aspect of the Bill. My colleagues indicated that the Bill has the support of members on this side of the House, although that support varies in strength. However, the common denominator is that the Opposition supports the Government's intentions and attempt to legislate in this area. The Bill deals only with streetwalkers, and the member for Fremantle has already indicated that the Opposition would like the Bill to go further. I will not explore that area as it has been canvassed. I merely want to deal with a couple of clauses in the Bill and ask the Minister for Police, in between his huffing and puffing, to comment on those clauses.

Mr Prince: I beg your pardon?

Ms McHALE: The minister is on his side of the House huffing and puffing.

Mr Prince: I assure the member it is not in relation to her.

Ms McHALE: That is good. The minister can tell me later why he is huffing and puffing and trying to blow the house down.

Mr Prince: It has nothing to do with the member for Thornlie.

Ms McHALE: A number of constituents in my electorate have written to me expressing their concern and anxiety about the prevalence of prostitution. Those views range from the recognition of the need to regulate prostitution to a genuine desire for prostitution to be completely outlawed. We know prostitution has been around for many hundreds of years and perhaps the best way to deal with it is by regulation, rather than trying to outlaw it. Notwithstanding those views, many of my constituents are genuinely concerned and have sought guidance from the Government on managing prostitution. This Bill goes some way to dealing with one element of prostitution that members on both sides of the House believe is undesirable, causes health problems and is of grave concern to residents in those Perth areas where streetwalkers prevail.

I refer to two issues: One is to put on record the severe treatment of any person who knows, or is reasonably expected to know, that he or she has a life-threatening sexually transmissible disease and who commits a sex act. This has very serious penalties. According to the Bill, that applies to the streetwalkers, pimps and the person soliciting. We should be clear - if I am wrong I am sure someone will tell me - that the provisions in this Bill are very punitive for anybody who knowingly commits a sexual act if they are HIV positive, for instance, or have a life-threatening sexually transmissible disease. In trying to deal with various serious health issues among streetwalkers, whereby there is very little protection for the workers and their clients, this Bill adopts a very strong punitive approach. That is the legal framework. I hope there will be additional social strategies to deal with the fact that many of the streetwalkers are drug addicts or have some other illness that needs intervention strategies. It cannot all be dealt with in one Bill. Perhaps the minister will indicate what strategies the Government may be considering to deal with the other problems associated with streetwalkers.

I now refer to clause 31, which contains provisions for searching a person. According to the Bill, persons, whether they are prostitutes, pimps, clients or anybody else, may be forced to have a body cavity search. The clause states that the police officer cannot carry out a search of a person unless of the same sex as the person searched. Subclause (3) states that -

Nothing in this Part authorizes a search by way of an examination of the body cavities of a person unless it is carried out under subsection (5) by a medical practitioner or registered nurse.

Subclause (4) states that a police officer may arrange for a medical practitioner or registered nurse to examine the body cavities of the person to be searched. Subclause (5) states that it must be carried out by a medical practitioner or registered nurse, and subclause (6) states that a police officer may use any force that is reasonably necessary to perform a function under this clause. That gives rise to concerns, and those concerns have been expressed to me. Does it mean the police can forcibly detain a person in order to carry out a body cavity search? If so, under what circumstances would a person be forcibly restrained for a body cavity search?

Mr Prince: Clause 27 states that a police officer may without a warrant stop, detain and search anyone whom the police officer suspects on reasonable grounds to be committing an offence or carrying anything that will afford evidence for the commission of an offence. The member should now go to clause 31 which sets out how the search may be carried out. A police officer must have reasonable grounds to stop and search. Clause 31 states that, for example, if a female is stopped, a female must search her, and, similarly, it must be male-male.

Ms McHALE: The first step in the process is that there must be a cause to stop the person.

Mr Prince: There must be a cause to stop the person. It is not on a random basis, whereby a person will be held down while a doctor or nurse searches that person's body cavities. There must be reasonable grounds. That is an objective test of suspicion of commission of an offence.

Ms McHALE: Is that provision under which a body cavity search is forcibly carried out in any other legislation?

Mr Prince: It is, after arrest. There is a general power under the Criminal Code to search and take body samples and so forth after arrest, and under the Misuse of Drugs Act there is a power to search before arrest. The provisions in that Act are almost exactly the same as these. It is almost rewriting the Misuse of Drugs Act 1981 and clearly is aimed at drugs.

Ms McHALE: Under the Misuse of Drugs Act 1981, if there is a suspicion of an offence being committed, can a person be forcibly detained?

Mr Prince: Yes. A police officer has the power to tell people to turn out their pockets, take off their clothes and so on. Police do that, but not often.

Ms McHALE: This power is more or less the same.

Mr Prince: It is the same power but it is in relation to a different area of criminal activity. The difference is that when a police officer reasonably suspects, for example, that this man is the person who is the pimp for this girl, he can search this man.

Ms McHALE: Very clearly, the power to carry out a body cavity search would be invoked in the context of suspicion of drug dealing.

Mr Prince: It would be suspicion of commission of an offence under this legislation, such as streetwalking, street soliciting, by a male or female, and/or the involvement of children in prostitution.

Ms McHALE: Would the police be able to invoke the powers under the Misuse of Drugs Act?

Mr Prince: Yes they can, but they must have reasonable grounds to suspect there is an offence under the Misuse of Drugs Act. Under this law, if the police have reasonable grounds to suspect, for example, this male is living off the earnings of that girl in this piece of street, they may search this man. They may then find drugs.

Ms McHALE: I am talking about body cavities - anal or vaginal.

Mr Prince: That is where you are likely to find drugs.

Ms McHALE: I know that. These are very intrusive procedures and we must make sure that those powers are used sparingly and with justification.

Mr Prince: The difficulty, particularly with street girls, is that most of them - I agree with the member for Maylands on this - use a cocktail of drugs of heroin and others. They are a small quantity drug and the girls are very adept at hiding them in their body cavities very quickly. If the police suspect someone is a street prostitute but she has not been caught in the act, they can take her to the station and she can be searched by a nurse. If they find drugs, a charge can be preferred, but otherwise they use the move-on power. We must try to get them off the street and, insofar as is possible, get them into a program that will help them keep off the street.

Ms McHALE: That power of body cavity search presumably also could be used on the third party if a pimp were involved.

Mr Prince: Absolutely, if a pimp is "running" a number of these girls; the police arrested one some months ago with 60 deals on him. I have the greatest contempt for that individual, who is doing this for greed and money and not for any other reason. I have far more sympathy and pity for the girls than I ever have for a man who does that.

Ms McHALE: I just want to have on record what the powers of this Bill are because it is incumbent on us to explore it so that we do not rush through it.

Mr Prince: You have identified a quite serious power to give to police. It is already there in the Misuse of Drugs Act and it must relate back to a reasonable suspicion that the police officer has of the commission of an offence.

Ms McHALE: I will move back to clause 28, which relates to the entry of, and seizure at, a place of business without warrant. This gives the police very wide-ranging powers to enter any place without a warrant if they suspect that prostitution is being carried on and they can inspect any articles or records kept there. That suggests to me that they could enter a brothel and check records.

Mr Prince: Yes, but only in the context of this Bill. This Bill is about streetwalking, which most brothels will not have anything to do with. This Bill is about children in prostitution. If a police officer has reason to believe that there is information in a brothel relating to children in prostitution, the officer can go straight in without a warrant.

Ms McHALE: Part 3 contains provisions about children; part 4 contains provisions about police.

Mr Prince: The police powers that are contained in this Bill relate to the offences described in this Bill and not generally. For example, if a police officer gets information on the street that there is a child of 16 years of age or similar in the brothel just down the road, the police officer can, without the necessity of going to find a justice of the peace, swearing out a warrant and all the rest of it, go straight in. More often than not, the child will not be there for long. The officer can go straight in without a warrant and stop, detain and search anyone in the place. He can say, "I have reason to believe there is a child here. I will search the place and look at your records to see if there is any evidence of a child involved in prostitution in this place." That is not a general power of entry at all but must relate to the offences that are created under this Bill.

Ms McHALE: It would be knowing where there is a child prostitute.

Mr Prince: Yes, that is a classic example.

Ms McHALE: The police cannot enter premises without a warrant if there is no suspicion of a child prostitute?

Mr Prince: Another example would be that they had been given information that a prostitute with a sexually transmitted disease is working in a brothel or a man with a sexually transmitted disease has just gone in one. They could go straight in without delay. To get a warrant might take an hour, by which time the person may have gone.

Ms McHALE: So the Bill gives some limited power to the police to enter brothels for the purpose of investigating certain matters?

Mr Prince: That is right, yes.

Ms McHALE: That really stretches it a bit away from streetwalking.

Mr Prince: The Bill is only partly about streetwalking; it is mostly about children, anyone under the age of 18, who are involved in the wider sense in prostitution and anybody who feeds off them.

Ms McHALE: It is important to get that clarified. I wanted to put on record those concerns about the very wide-ranging power of body search. That is generally a departure from the usual police procedure and investigation. The minister says that the power is in the Misuse of Drugs Act. I can see a link but it is important to have on record that the powers are there and also to clarify the entry provisions.

In conclusion, many people in Thornlie who do not have prostitution on their doorstep and who see it as an issue for the inner metropolitan seats, nevertheless are concerned about the welfare of women and children who may be drawn into the field of prostitution. We should not think, and I am sure that the Government does not think, that this is the solution. We need to follow many more steps. I would be interested to hear in the minister's response what the Government is planning to do in relation to drug addiction for many of these young women and the other health and social problems which drive them into street prostitution as opposed to working for brothels.

MR MCGOWAN (Rockingham) [8.35 pm]: Like the other speakers on behalf of the Opposition, I indicate my support for this Bill. Although I support what it is trying to do in trying to remove prostitution from our streets, in particular from residential areas, I have some concerns that it is only part of the equation and hence will be ineffective in a lot of respects.

A lot of people involved in street prostitution are drug addicts. Virtually all of the women and men who sell themselves on the streets of Perth have some sort of drug addiction. It is a terrible affliction on them and appears to be something that a great many of them can do very little about. Most, if not all, who are involved in this appalling way of making a living would not want to be doing what they are doing but for the fact they are addicted to these drugs. Because they are addicted to these drugs, outlawing their street soliciting, although I regard this as a positive step, does not remove the overall problem, which is that they need money to support their habit. It is only part of the solution. The solution to this problem is a very difficult question. There is a considerable risk that they will continue to offend. They will be constantly fined, and I suppose in the end - it will probably take a considerable time - some of them will be sent to prison for what they are doing. This Bill will not do a lot to help to solve the problem of their drug addiction. As I indicated, it is only part of the solution to the problem of prostitution besetting this State.

I have some experience of this where I used to live. I was formerly a resident of Brisbane in Queensland. When I lived there, an interesting story appeared one day in *The Courier-Mail* newspaper. A journalist got into his car with a photographer and drove to Fortitude Valley, the red light district of Brisbane. He interviewed some of the people involved in the industry and discovered that an immense amount of corruption was involved in the prostitution industry in Queensland, and in Brisbane particularly. His story led on to probably the most famous *Four Corners* episode in its history when it exposed corruption involving the prostitutes and the Police Force in Brisbane, which stretched all the way to the Commissioner of Police. I suppose, in the end, in December 1989 it led to the downfall of the National Party Government, which had ruled in Queensland for 32 years. That particular series of events was chronicled every day from about 1987 to the election in December 1989 on *The Courier-Mail* newspapers' front page, inside page or page 3. Every day it covered the links between the Police Force and prostitution in that State, the corrupt activities of Terry Lewis, the Commissioner of the Police Force of Queensland, and his involvement with his bag man, whose name I think was Jack Herbert, and a ring of police officers. There were also some implications, of which my memory is hazy because it was more than 10 years ago, that Lewis had been promoted over the top of about 18 other officers to achieve the job of Commissioner of Police and that some of the funds he had been procuring through his involvement in organised crime in Queensland had been making their way to the Government. The people adjudicated on that. They went through about three Premiers in two years, Joh Bjelke-Petersen, Mike Ahern and Russell Cooper, a very unfortunate man who was Premier for about two months. In the end, the election of 1989 gave the Goss Labor Government a mandate to clean up what had occurred there in relation to prostitution, the Police Force and the Government.

The events in that State have the potential to occur in Western Australia. At present prostitution is controlled through a containment policy. Although I think seven brothels in this State are legal, there are dozens of brothels in Western Australia, the vast majority of which are established illegally. The Police Service turns a blind eye to them and does not prosecute. However, it leaves the situation open to becoming like that which existed in Queensland in the lead-up to the Fitzgerald inquiry of 1987. It is a system in which brothels are acting outside the written law of the State. We must address that. Almost every other State in the Commonwealth is addressing or has already addressed that problem.

New South Wales has gone through a range of experiments. It has implemented a system whereby brothels are required to operate in light industrial or commercial areas. Their approval is governed by local councils under a specific Act. The Police Service has been removed entirely from the process. Local communities are left to determine where the establishments will be permitted. That system has its benefits and its flaws. A range of councils, as I suspect would a range of councils in Western Australia, take the view that they do not want any brothels, therefore they will not approve any. That results in brothels being established illegally.

Under the prostitution legislation, anyone who wanted to establish a brothel could appeal a council decision made on moral grounds, such as prostitution is dirty and awful, and have the council's decision overturned. In New South Wales a brothel can be established in a light industrial or commercial area. As I said, that system has taken the police out of the equation. It has removed an opportunity for any kind of corrupt police conduct to occur.

The legislation contains a range of requirements such as health checks and the need to locate in non-residential areas. The community has acknowledged that it does not really like prostitution; it is not a very appealing feature of society. However, it has accepted that it is the world's oldest profession and that, plainly, a head-in-the-sand attitude by the Government will not work.

We need to adopt a similar approach in this State of legislating to enable brothels to be established subject to local control in non-residential areas. They should be restricted to light industrial or fully industrial areas. It is a far better direction to take than the present unofficial containment policy, that leaves the way open for police corruption to rear its ugly head in our State, as occurred in Queensland.

Victoria has a system in place under the Prostitution Control Board, which has representatives from the industry, the Police Service, health professions and the like. It issues a licence to establish a brothel under certain conditions, subject to the payment of an annual fee. The Prostitution Control Board is designed to ensure that organised crime and the prospect of police corruption is removed from the system. Queensland is following a similar system, although I think additional fees are incurred; nonetheless, it is addressing the issue in the light of the police corruption that occurred there.

Victoria, New South Wales and Queensland have all addressed prostitution. I understand the Northern Territory has also addressed the matter, although I do not think its system is particularly good. One of the changes has been to legalise escorts. South Australia intends to introduce a Bill into the Parliament and will allow all members - both sides have agreed - to have a conscience vote on whether to support the Bill. I understand Tasmania is working on a system to regulate prostitution along similar lines to the process in Victoria and Queensland.

That leaves one State - Western Australia. A Bill is before the Parliament in Western Australia that will address one very small part of the issue, that of streetwalking. It does not address the wider issues of prostitution in relation to organised crime and police corruption. I am sure, as the minister, certainly the Deputy Premier, will freely acknowledge, it is too difficult to deal with and the coalition party room will not deal with it.

Seven years ago, a distant time for me, the Labor Party was in government and I do not think we addressed the issue either. Perhaps we introduced a Bill.

Mr Prince: You commissioned Mrs Beryl Grant to do a study. She did a very good study and you shelved it.

Mr McGOWAN: In any event, the Labor Party did not control the upper House, although I am not trying to make excuses; whereas the Government has an Opposition that will support a Bill to fully deal with prostitution. There is no perfect solution to this problem that will keep everyone happy. Not everyone will be happy with prostitution being regulated. People will sit in the gallery and say that we are giving in to the forces of evil when we legislate to provide a legal framework for brothels. However, as I said, this Government has an Opposition that will support a Bill. We want to see this important social issue addressed.

I am sure I can read the mind of the Minister for Police and I am sure he knows a Bill is necessary.

Mr Prince: I can't read my own mind.

Mr McGOWAN: I know that the police commissioner, former commissioner and Deputy Premier support it, and I am pretty sure that the Deputy Leader of the Liberal Party would also support it. However, the coalition party room is the stumbling block. We must address this as a Parliament. The Bill before us addresses only one small part of the problem. Although, as I said, on balance it is probably a positive step, particularly for those people living in areas where this sort of thing takes place, in a general sense many of these activities will not stop. They have tried to outlaw this sort of thing in all parts of America, but it still goes on, because desperate people resort to desperate measures. It is a positive step and the people who live in these areas have been calling for it. We should give it a go, at least to make their lives slightly more pleasant.

Last night I had a cup of tea with a woman who lives in Perth. I think she has been prominent in the media of late. She was telling me all sorts of stories about how kerb crawlers have attempted to pick up her daughter, who is only 13 or 14 years of age. They have attempted to pick her up in the same way, merely because she lives in a particular suburb. She is outraged by it. No-one should have to endure that sort of treatment. That is why I support this Bill. Although I do not think it will completely solve the problem, on balance it may make her life and the lives of the residents in that area slightly better. I know that the Opposition and our police spokesperson, the member for Midland, have been pushing for this type of legislation. She forced the Minister for Police to come up with this Bill by introducing her own Bill. In a way it is the Opposition's Bill that we have before us at the moment.

I have one concern in regard to some of the provisions of the Bill; that is, officers going undercover to seek evidence against a kerb crawler with the view to prosecuting that person. My concern is that it obviously runs the risk of being known as entrapment. Entrapment does not exist in the law in this State. It is not recognised by the Criminal Code or by the courts in this State. However, I have some difficulties with concepts.

Mr Prince: It is, however, an issue that can go to the question of intention, when intention is an element of an offence.

Mr McGOWAN: That is true, but I was about to raise a practical situation with the minister; for example, an individual is talking to someone he or she meets on the street and could possibly be prosecuted when that person's actual intentions, although not entirely honourable, were not intended to procure a prostitute.

Mr Prince: It is far more likely to be used when there is suspicion of child prostitution in a brothel, for example, or some other place when there is information that this is going on. We may wind up with a police officer - male or female - going

in, giving a false name and asking whether that brothel has anybody who is 16 years of age. That is the only way we will ever get the evidence that will be sufficient for a prosecution in which the information is not enough. In a sense that is entrapment, and if the person who is believed to be offering this, because that is the information received, then says, "Certainly, but the price is", we have them. It must be very carefully used only on the right information and only on the appropriately selected officers.

Mr McGOWAN: Is there a prospect that this provision could be used to place on the street attractive police officers dressed in clothes that would ordinarily make them look like prostitutes in order to prosecute kerb crawlers?

Mr Prince: That is conceivable, but I suspect that would be done only if there were a known kerb crawler who, for various reasons, the police had not been able to prosecute. It is a device for targeted policing against someone who is reasonably believed to be committing criminal offences, but the police cannot get the hard evidence. That is the only time it will be done; it will not be done on a random basis.

Mr McGOWAN: We see it in American television programs all the time, whether it be in *Hill Street Blues* or in movies. Police officers are dressed up as prostitutes to catch people. I find that whole concept very alien to our culture.

Mr Prince: That is more fiction than fact, because I am sure that the Americans have strict laws about agent provocateurs and entrapment, and it varies from State to State. I do not see the police doing that. It is not the sort of thing on which we will waste police resources. It will be used and targeted when the police have good information that an offence is being committed but they do not have the evidence to prove it.

Mr McGOWAN: It would be in extreme circumstances. The minister cannot envisage circumstances other than those he has raised with me in which it would take place?

Mr Prince: It relates only to the offences under this Bill, which are largely to do with streetwalking, street soliciting and children. I gave you the example of a rumour that a massage parlour will provide a 14, 15 or 16 year old if a person asks and is prepared to pay. If we cannot get the evidence, we will send somebody in there to see whether that person can get the evidence.

Mr McGOWAN: That is a positive development if that is what it will be used for. I will conclude my remarks by saying that I support this Bill on balance. It is only part of the equation. The minister knows that it is only part of the equation and that we need overriding prostitution laws. The vast bulk of the public of Western Australia would also realise that. There has been a softening of attitudes. People are not as strict in their views that something is bad and that, therefore, we need to outlaw it. They recognise reality in relation to these issues and that this industry will keep going irrespective of what we as a Parliament say. They are saying that we as parliamentarians must come up with a scheme which attempts to meet community needs in terms of location and which attempts to prevent corruption and organised crime becoming involved. The minister might be on his eighth draft of the legislation, but I implore the Government and the coalition party room, which is increasingly flexing its muscles, to bring something into this Parliament. In doing so, it will receive opposition support, which would have been a very different situation from that which existed in the last Government seven long years ago.

DR CONSTABLE (Churchlands) [8.58 pm]: I welcome the opportunity to make some brief comments in support of the Prostitution Bill. It has been a long time in the making, as I am sure other speakers have observed. In giving support, I also recognise that the vast majority of people in the community of this State will also support the provisions in this Bill. The purpose of the Bill is to give increased powers to the police, particularly to better control child prostitution, and no-one would argue with that; street prostitution, and very few people would argue with that; kerb crawlers; and advertising and censorship. I support this Bill, but I am concerned, as are other people, that perhaps we are looking at only part of the picture. However, this part of the picture is essential and it is essential that we deal with it.

It is very gratifying that the Bill regulates not only the activities of prostitutes but also the activities of their clients. There was a discussion on the radio this afternoon about the use of language in reference to prostitution. For centuries women have been called whores, prostitutes and other names that have extremely negative connotations, but we call the people who procure prostitutes "clients". Just as lawyers call their customers "clients", we call those who use the services of prostitutes "clients". One woman suggested that perhaps we should find some negative term for these people to even up the use of the language. The word "client" gives some credibility to those involved in this activity on our streets and in our towns.

First, this legislation makes street soliciting and kerb crawling illegal, regardless of who initiates the action. It is an enormous step forward that, along with the prostitute, the so-called client is now seen to be committing an offence. The legislation precludes a person from acting as an agent for either the prostitute or the person seeking the services of a prostitute. That is a very important aspect of this legislation.

Secondly, the essential part of the legislation is that it aims to eliminate child prostitution. I doubt that anyone in the community would openly support the notion of child prostitution or the encouragement of child prostitution. The laws in this case should be very harsh because it is something we do not want to see. Thirdly, the legislation seeks to protect the community by creating offences relating to health. Again, this is a very important area that must be dealt with.

This legislation has been a long time in the making. Not only has this Government been promising it for the almost seven years that it has been in office, but I can remember another life in which I was the chairperson of the women's policy subcommittee of the Liberal Party which in 1988 tried to write a policy relating to this issue. The community and political discussion has gone back a long way. It is a great shame that this legislation was second read only yesterday and that we have had barely 24 hours to examine and digest it before speaking on it. I am sure that, like many other members, I have

had time to have only a cursory look at it. There is a real danger in treating any legislation in this way. To rush through the debate on the legislation and not to have enough time to scrutinise it runs the risk of making mistakes and having to come back next year to correct them. I urge the Leader of the House to ensure that this does not happen often with any legislation, especially with legislation as important as this. It is important legislation and it is important that we get it right.

The minister stated in his second reading speech that the time it has taken to get this legislation into the House was not the result of a lack of commitment. I accept that, but he went on to comment -

... the delay has been occasioned by the need to achieve a position on this issue, which, at the end of the day, is not only acceptable to the community generally but also, in terms of effect, enforceable.

I do not believe it has needed seven years to get to this point, but it has taken that long.

Mr Prince: Without wishing to contradict the member, I think it was the member for Wagin, as the Minister for Police, who suggested in 1996 that this should be done.

Dr CONSTABLE: We were talking about it in 1988 when I chaired the women's policy subcommittee.

Mr Prince: In the life of this Government, it was first raised in 1996.

Dr CONSTABLE: Perhaps it should have been addressed before that.

The minister stated in the second reading speech that the legislation will bring about a reduction in the demand for street prostitutes. It probably will do that. The minister stated -

In reducing the demand for services it is reasonable to assume that supply will also diminish.

I can see street prostitution diminishing, but I am not sure that, in dealing with only part of the problem, we will not create other problems. This certainly raises a number of questions. Given that the penalty is a maximum of two years' imprisonment for street prostitution, it is probably fair to predict that it will be less visible than it is today.

However, questions arise: What will be the effect on brothels? Will there be a greater demand for brothels? Will more brothels spring up? Will more single operators set up in suburbs around Perth? That is a very important question. Two or three years ago I had a call from a resident in City Beach who was very upset because a single operator had set up shop in a rented property next to her home and family in a quiet suburban street. Unfortunately, the law as it stands does not deal with single operators. I called the local police station and discussed it with the sergeant, who said nothing could be done. Not long after that, for whatever reason, this single operator moved from the property. However, the single operator's presence caused much anxiety and worry. These are the issues we need to address. I would not be surprised if, in dealing with street prostitution and kerb crawling as we are, we see a mushrooming of the number of single operators setting up in properties in and around Perth. I see the Leader of the House nodding his head in agreement.

The Bill deals with only a couple of issues; it does not deal with the very important issues that must be addressed with regard to prostitution. It is highly likely that, in solving some important issues, we will create new issues or exacerbate other problems that already exist.

The minister also pointed out a very serious matter in his second reading speech -

A number of women soliciting in this manner -

That is, street prostitution -

- are looking to support a drug habit or to make a living.

What will these women do once this law is passed and they can no longer solicit in the streets? What will they do to feed that habit? Will they turn to other forms of crime? Will they continue soliciting, perhaps in quieter places rather than in the obvious areas of inner-city Perth? That is a major issue. We must ensure that these women know where they can go to access rehabilitation programs. Women who do not have jobs and who work the streets to make a living, to feed themselves and their children, should be told that counselling services are available and that they can obtain assistance, even financial assistance if necessary. If the Government passes this legislation without addressing those issues, it will be doing these women a grave disservice. We recognise some of the problems they face and we must help them to solve those problems.

I totally support the measures addressing health issues and the penalties provided in the Bill. The Bill recognises the importance of offences that involve the transmission of life-threatening diseases. Some people might say that a 20-year maximum penalty for transmitting infections such as HIV and AIDS is not enough and that perhaps it should be more. I think that the five-year maximum for transmitting non-life-threatening diseases will gain general acceptance in the community. I wonder how the community will interpret the stance taken by the Government. On the one hand, we are legislating against certain activities and behaviours relating to prostitutes, but we continue to turn a blind eye to other activities. Somewhere along the line, and some time soon, some Government must take the serious step of dealing with the issue as a whole. I suspect that this legislation with which we are dealing tonight, in solving the visible problem of street prostitution and kerb crawling, will exacerbate the other problems that still need to be dealt with. Therefore, the Government and the authorities continue to condone illegal activities relating to prostitution covered by other laws. In fact, they condone those illegal activities, provided some disease is not transmitted as a result of those activities of prostitution. Therefore, there is not a lot of logic in part of what we are doing tonight.

This Bill is only part of the story. I sincerely hope that the Government has the resolve to come back with further legislation

before too long to deal with the entire issue. The example that I gave in my electorate is a serious one, and I sincerely hope that we do not see an increase in single operators setting up. However, I think I will be disappointed and that that will be the case. I repeat that I support the legislation.

I draw attention to one other comment in the minister's second reading speech. He said -

While the exploitation of women is a serious issue, the community generally is appalled by those within society who would see fit to exploit children for the purpose of the sexual gratification of others,

I agree totally with the second part of that statement. The community is generally appalled by that behaviour towards children. However, a comparison is almost made in that statement that the exploitation of women is serious but the exploitation of children is more serious. The exploitation of anyone in our community for whatever purpose is appalling and equally serious. Although this legislation deals specifically with the exploitation of children, we should not go soft on the notion of exploitation of women and men in our community.

MR PENDAL (South Perth) [9.12 pm]: I support the Bill, and in the first instance I congratulate the Government for having introduced some form of legislative control in the dying days of this session. It is probably decades since the Parliament and Western Australia has seen a serious attempt to better the laws and improve the laws that have been operating for well over 100 years. If we are making any mistake here, we are making a mistake in dealing with the matter as quickly as we are. My recollection is that the Opposition introduced a Bill some time in the middle of last week. The Government approved a Bill for introduction into the Parliament some time on Tuesday of this week, and now on Wednesday we are about to deal with all stages of the Bill, if not tonight, tomorrow.

I know that it will not mean very much, but I call on the memory of the late Andrew Mensaros, who taught many new members of Parliament 10 or 15 years ago that whenever Parliament acted quickly or swiftly, it invariably got it wrong. I would have thought that with a Bill of the kind that the Government agreed to as late as Tuesday of this week, knowing that it would have the support of the Opposition because it was not dissimilar to that which was announced last week by the Opposition, it might have been a good idea to allow the Bill to remain on the table of the House over the Christmas and summer recess, perhaps making it a priority early in the new year. I repeat that on most occasions when the late Andrew Mensaros warned that there would be a price to pay for shuffling a Bill through very quickly, he was invariably right. I hope that will not occur. Nonetheless, I signal my lack of enthusiasm for dealing with this Bill as quickly as we are being asked to do tonight.

I have said that I support the Bill. Ironically, I am happy that it does not deal with the central issue at stake; that is, whether we should be institutionalising, legitimising and regulating prostitution. The reason I am happy that the Government has fallen short of that is that, frankly, I am not sure which way I would have voted had the Government brought in a Bill of that kind. I notice that the Opposition did not bring in a Bill of that kind a week ago. If we in any way broadly reflect the view of society in Western Australia in 1999, which I think we do, it is interesting that we are dealing with a Bill that touches on the peripheral questions but does not address - I have already said that I am pleased it does not - the central, single issue of whether we should be regulating and legitimising the practice.

I know that it might not be fashionable to say so, but I happen to think that the policy of toleration and containment has served Western Australia well. I have no doubt in my mind that prostitution per se is wrong. Invariably, that brings on the debate that, notwithstanding that it is wrong, it is inevitable in our sort of society.

Ms Warnock: It has existed in every known human society for thousands and thousands of years.

Mr PENDAL: Sure. I say this to the member for Perth: In every sophisticated society throughout the world for thousands of years until the middle of the last century, so too has slavery. Slavery was built into the culture of almost every country.

Mr Prince: It still is in some places.

Mr PENDAL: It is now condemned by the United Nations, and condemned and outlawed by most enlightened, sophisticated societies like ours. Therefore, it is no argument to say that prostitution, because it is inevitable, should be tolerated.

Ms Warnock: Nobody is saying it should be tolerated.

Mr PENDAL: This is my speech. I am saying here tonight that that was the attitude taken a century ago in respect of slavery. After thousands of years of it being part of the culture of so many societies, the so-called enlightened world said that it was wrong to treat a man or a woman as a saleable commodity, usually because of the colour of his or her skin. I know I used this argument last year in the course of the abortion debate. It is still relevant to this debate. Prostitution is not inevitable; it does not need to be integrated and legitimised. I know that is not what the Government has in mind on this occasion. I repeat, I think the minister handling the Bill has shown a level of courage that Governments, certainly to my knowledge for the past two decades, have failed to do. That is one of the reasons I am a bit relieved to know we are not addressing that central issue. If we were, I think, but I am not sure, that I would seek to make the case that we should keep the practice at arm's length for as long as possible, in the hope that the role of education could one day mean that society in future does not rely on prostitution for human relations. It is demeaning for women, but it is also demeaning for men because it says that people in our society need to make commercial recourse to physical relations.

Ms Warnock: Some people do, quite obviously.

Mr PENDAL: Not only some people do. We know it is a flourishing, multimillion dollar industry. I am saying that we have made considerable progress in the past century and a half in the so-called enlightened world by banning such things as

slavery, but we still have a lot of catching up to do in terms of prostitution. Why? Because our so-called enlightened attitude is that it is inevitable and it will always be there. That was said about slavery and other forms of human abuse over many years.

Mr Prince: There is a certain element of slavery in prostitution.

Mr PENDAL: Yes indeed. The minister's interjection is a very good comment. If the Bill has a weakness, it is that the minister's speech tends to be offhanded about the exploitation of women. I note that the member for Churchlands referred to that aspect. The Bill is dealt with in a comprehensive way in the second reading speech and the accompanying explanatory memorandum, and it is a weakness that it has dealt with the exploitation of women in such a peremptory way. If the Bill has a strength, and I think it does, it is that it determines that people under the age of 18 years may not be involved in the practice. As a conservative social thinker, I find it interesting that we shall impose, and I hope enforce, a cut-off point of 18 years. I find it not only encouraging, but also a bit puzzling, in the light of the pressure on Parliaments and Governments in the past 20 years to lower the age of consent in other fields of human activity. I think the Government has it right, and perhaps the decision we make today will be visited again when other debates of an associated kind take place in the near future.

In a way, we are closing down the argument on prostitution at least for another generation. We shall not have to address that single central issue of whether to legitimise prostitution by a Bill of a wider nature. I repeat, I am not unhappy about that because, had we been confronted with that sort of Bill, I am not sure how I would have reacted. I commend the Government to the extent that it took an interest in the matter to take it off the political boil and, to some extent, the Opposition also deserves some commendation in that regard.

Finally, I think some of the peripheral issues dealt with by the Bill perhaps do not go far enough. I am very encouraged by the fact that advertisements for employment in this field will be banned, and I welcome that. I still find it an incredible compromise that newspaper advertising for the trade will be a very lucrative income earner for newspapers in this town. Only 10 or 15 years ago society, through Parliament, allowed the banning of advertising for cigarette products. Why? Because it was felt that cigarette products were injurious to a person's physical health. There is some analogy there and some oddity that 15 years down the track we leave the current regime in place. I will not go so far as to congratulate the newspaper industry, as the minister has done in his second reading speech, for the reasons I have outlined. Nonetheless I express concern over the one real weakness; that is, we are dealing with this issue at a pace and rate that is not necessary. The Bill could well have been laid on the Table of the House for the summer recess and be given priority on the Notice Paper for the opening of the new session. However, to the extent that the Government has tackled the issue, I commend it and I support the Bill.

MR PRINCE (Albany - Minister for Police) [9.27 pm]: I thank members for their contributions, which have all been positive and have shown the speed with which a Bill can be analysed and debated in detail, given that it became available just over 24 hours ago. A few matters were raised by various speakers, to which I should respond.

The member for Perth talked about the assistance to prostitutes who are street walkers, particularly young girls. This matter was also raised by the member for Churchlands. As I said in the second reading speech, there are, of course, a significant number of government and non-government agencies the function of which is to look after people such as prostitutes who resort to the streets. A variety of agencies deal with finding homes for the homeless and are there to help with health problems and all sorts of counselling. I know the member for Perth is associated with one such agency, which is a non-government organisation. I respectfully suggest that a plethora of help is available. Part of the problem is that many of the women, particularly the young girls who are on the streets for whatever reason, do not resort to these agencies. I suspect, particularly in the case of youngsters, that it is because they are in some thrall to a male who is living off them. It is essential and necessary, therefore, to get them in touch.

Part of the legislative solution to that problem can be found in clause 60, which provides for exchange of information between government agencies, such as Police, Health, Family and Children's Services and the Ministry of Justice. There is a process for overcoming confidentiality provisions which would otherwise limit the free exchange of information. The object of the exercise is to enable agencies to be informed about these people and, therefore, be able to act. It is also the case, as I have said, that many of these children do not voluntarily seek assistance. That is the sole reason that the Bill contains the offence of being a child prostitute. It is not that I or the Government wish to make criminal the activities of a 14-year-old girl who is prostituting on the street. We do not want to do that as a matter of course, but it is a means to an end. The Bill gives the ability to take that child off the street and put her in some form of care. Even Banksia Hill Juvenile Detention Centre would be a better place than on the street. By getting her off the streets we would be able to deal with the underlying problems and causes that take a child into prostitution. As in the past, not all but many children of that age who find themselves on the street and keep body and soul together by selling themselves to men, are victims of child sexual abuse. Almost invariably they have come from what is euphemistically termed a dysfunctional family, and have usually been the subjects of abuse for much of their young lives and are often people who are addicted to or habitual users of various forms of narcotics, both legal and illegal.

In a sense, in order to be able to recover and rehabilitate them, it is necessary to lift them out of that circumstance. There is no home to which they can go. There is no place to which they can be released; if there were, they would not be on the street in the first place. There is no-one with whom they are associating who is likely to try to dissuade them from behaving in this way. I speak in a generality, and the information we have is that there are about a dozen under-age girl prostitutes at present. The figure varies from time to time, but it is about that number at any one time. Family and Children's Services has received two reports in the past little while. We are not talking about a large number, but we are certainly talking about

people for whom, unfortunately, making criminal their activity is the one way in which we are able to rehabilitate them to get them off the street.

Women prostitutes aged 18 and over often have come from the sort of background I have described. However, they have the capacity to be able to break free if they are given some assistance and help. That is certainly part and parcel of what one would expect. Although the Bill refers to penalties of imprisonment or fines, I make the point very strongly that all of those penalties must be read in conjunction with the Sentencing Act and the Young Offenders Act where appropriate. It is obviously not the case that people will go to jail for committing these offences, because a wide variety of sentencing options are available, many of which are coupled with some form of intervention. When the drug courts come, an even greater variety will be available. Presently a significant number of diversionary programs for drug addicts are available through the courts. All of these things can be used right now if we can only get these people into the system. So although part and parcel of the intention of the Bill is certainly to get street soliciting off the streets so that it does not occur, whether it be by the prostitute or the potential client, there is also, particularly in relation to the prostitute, the desire to be able to use the existing systems to try to persuade these people not to go back to that life. The methadone, naltrexone and a number of other programs exist to deal with drug addiction. As Dr George O'Neil has said, many of his original patients, and probably quite a number now, were or are prostitutes. That is how he got into using naltrexone for detoxification. It is not that there exists a vacuum in service to deal with a prostitute who is arrested and able to be directed forcibly into rehabilitation and assistance; there is a plethora at the moment.

With regard to the move-on power, which the member for Perth mentioned, this must be supported by behaviour. I gave the example of Ms Milburn, who has seen me at some length. She complained to the police, but when the police arrived there was no visible criminal activity. However, acting on information received, the police will see the individual. The power may then be used, because the police may have reasonable grounds to do so. That is a classic case where, although there is nothing that could lead to an arrest because the police have no direct evidence, other than the evidence from Ms Milburn, which may or may not be sufficient under this new law, the police would certainly have sufficient information to be able to issue a move-on notice and get that prostitute out of that area. The move-on power has been developed to overcome the difficulties of clearing off the streets prostitutes who have such excuses as, "He is my friend and he is giving me a lift home" and "I am just waiting for a bus." I just remind the member for Perth and other members that there are also quite significant powers dealing with restraining orders; in other words, if the move-on notice is breached, the restraining order power comes into effect. These people will not get away with it with a slap on the wrist; we will ensure that they do not misbehave again.

I have probably dealt with most of the other matters raised by the member for Perth and likewise by the member for Maylands, except for the issue to do with safe sex and sexually transmitted disease. It is generally recognised by the health authorities that prostitutes who work in well-run brothels have a very low possibility of contracting any form of sexually transmitted disease - about 1 per cent is said to be the possibility. However, 1 per cent is 1 per cent and is still significant. Certainly the girls who work in well-run brothels take good care of their health by having regular checks, and the madams are quite rigorous in enforcing that. However, as one of the more notorious madams, Mary-Anne Kenworthy, said about six months ago on a radio interview, when the briefing note was tabled in this place and became a matter of some public discussion, she at that stage knew of six people working who had HIV. I do not know whether that is accurate; I am simply saying that is what the woman said on radio. If there is only one, the provision in clause 17 of the Bill is specifically designed to stop that person working and to protect, in the wider sense, public health. That is something to be borne in mind.

Other members have essentially supported the Bill and raised a number of matters repetitiously. I do not mean that in a critical fashion. It does somewhat bemuse me to know that part of the history of dealing with prostitution in this State is that in 1850 a Bill was introduced to discuss legitimate businesses - I think hairdressers - fronting for brothels. During the debate in the then Legislative Council, it was agreed that the next legislation to be introduced should deal with prostitution. In 1892 the Police Act did deal with it. At about the same time, the first Criminal Code of this State was written by Sir Samuel Griffiths. Queensland in like fashion had some complementary provisions to do with prostitution. The member for Maylands produced a report in 1985, as she said. Miss Beryl Grant produced a report in 1990. In 1999 there is some new legislation dealing with prostitution. It is actually more than a hundred years since the last legislation attempted to deal with any aspect of prostitution.

I thank members for their support. We must go into consideration in detail because a minor typographical error has snuck passed parliamentary counsel.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 and 2 put and passed.

Clause 3: Definitions -

Mr PRINCE: I move -

Page 3, line 3 - To delete the words "do not".

In the final proofreading of the Bill before it went to print, parliamentary counsel noted that, inadvertently, a double negative was used here. It is simply a matter of omission. The parliamentary counsel corrected it on his computer, but through some glitch, not his fault, it did not end up being corrected on the printed copy. This is a minor matter that must be amended.

Ms WARNOCK: I have no objection to that matter, and I am sure my colleagues will not either. I accept the explanation that it is merely a computer glitch, and it makes sense.

Amendment put and passed.

Ms WARNOCK: I seek clarification of what is a public place. I note that the essential elements of the Labor Police Act Amendment (Prohibition of Street Prostitution) Bill are included in this Bill. The offence of soliciting applies to both client and prostitute, with higher penalties for accosting children. As I said earlier, I am pleased to support the Bill. The question of what is a public place is something to which we must pay some attention. In Labor's street prostitution Bill the prohibition applied to any thoroughfare or street as defined by the Criminal Code. A street included a public place, and a public place was defined as a place to which the general public can, and does, have access. It would cover, as I understand it, parks, public squares et cetera. I am concerned that the definition in this Bill is a little more extensive and may include a privately owned place.

For that reason, I seek clarification of exactly what a public place means here. At common law a public place is not necessarily one to which the public has a claim or right or even permission to frequent. Also, a place possessing a public character at one time or another may cease to possess it at another time; I am talking about the bar of a hotel when the public has left, for example. I would very much like to know what is a public place and whether it would apply to a brothel, a nightclub, a shopping centre car park, a shopping mall or merely to a street or square or public park.

Mr PRINCE: That is a fair question. The limitation in the definition in the Bill those opposite introduced, taken as it was from the Australian Capital Territory legislation, is a limitation that might not apply here. I am not quite sure of the definitions of "street" and "thoroughfare" in the ACT. If we left it as a street and thoroughfare in this Bill, all people have to do is find out where the road reserve line is and get on the other side of it; then they are not in a public place. That would clearly lead to anomalies and to the objectionable behaviour continuing, but it would not be subject to the offence provisions because it is not technically a public place. This definition is not an unusual one. It is in a form found in the Road Traffic Act to my certain knowledge, and in a number of other bits of legislation as well.

A public place is a road, a square, a public park, a public car park, and a private car park that is open to and used by the public on payment of a fee. Under this definition it can also include the grounds of a school which are not a public place otherwise, or a university, or other place of education other than the part to which neither students nor members of the public have access; that is, they are private areas. It would also include Subiaco football oval, or any other sporting oval for that matter, to which people can gain entry only by payment of a fee when a game is in progress; otherwise, people cannot gain entry. A privately owned place that is occupied may be a squat in some of the abandoned houses. The intention there is to allow us to deal with those places as well. Often that is a place to which the streetwalkers will go to service their clients.

Ms Warnock: What about a brothel?

Mr PRINCE: No. A brothel is private premises. The owner, or occupier, or lessee, usually reserves the right of admission. It is not a place that is open to the public.

Ms Warnock: This is not intended to extend to the rest of the sex industry.

Mr PRINCE: No; it does not extend to the rest of prostitution. As to whether it extends to a hotel, a pub, arguably, the answer is no. Although publicans open the doors and ask people to come in, otherwise they will not make any money out of selling drinks and so forth, they also reserve the right to refuse admission. It is not, therefore, a public place.

Mr Kobelke: Are you quite certain of that?

Mr PRINCE: Yes.

Mr Kobelke: A general reading of paragraph (i) indicates to me that the normal hotel bar is a public place.

Mr PRINCE: I doubt it very much indeed. It does not have that character of being a public place. Paragraphs (a) and (b) certainly do not cover it.

Mr Kobelke: At Subiaco Oval, the football association clearly has the right to refuse people entry, and it does that.

Mr PRINCE: That is specifically included under the definition as being a place to which the public is permitted to have access, whether on payment or otherwise. That is a place where people can come in by paying a fee.

Mr Kobelke: They can do that at any hotel.

Mr PRINCE: The publican has the right to tell people to get out arbitrarily.

Mr Kobelke: So does the football commission. It can target people if there is rowdy behaviour one week. The next week, it can photograph them and say they cannot have admission any more.

Mr PRINCE: That is with cause.

Mr Kobelke: Surely it is the same situation for the publican, otherwise, he can be up on the ground of discrimination.

Mr PRINCE: A publican has an absolute right to say that someone cannot come into the hotel.

Mr Kobelke: What about publicans who have done that to Aborigines and cases have been taken up on the ground of racial discrimination?

Mr PRINCE: Yes, because there has been evidence that it was not just, "You cannot come in here." It was, "You cannot come in here because of your colour."

Mr Kobelke: I will bow to the minister's superior knowledge, but I am not convinced.

Mr PRINCE: The intention here is to cover not only the street but also the park, the public car park and places of that nature.

Mr KOBELKE: My concern is with hotels, because if hotels are picked up as public places, that will have considerable implications for other sectors.

Mr PRINCE: That is not the intention. If a publican has a prostitute soliciting in the bar, the publican would have the prostitute out of there quick smart, otherwise the licensing court will have the publican.

Clause, as amended, put and passed

Clause 4: Prostitution -

Mr KOBELKE: With the forbearance of the Acting Speaker (Mrs Holmes), I will ask a question about the long title, which reads -

An Act to make provisions about prostitution and for related purposes, and to amend certain other Acts.

It does not say "to amend certain other Acts for related purposes". Does that mean that amendments to other Acts will take force and have effect totally unrelated to the prostitution matters which are the subject of the Bill?

Mr Prince: My advisers say no.

Mr KOBELKE: A later clause gives certain powers to the police that, on my simple reading, indicate powers that go to matters related to and supportive of the main provisions of the Bill.

Mr Prince: I understand the point, and it was the subject of some interjection and debate earlier. My view is that the powers of the police spelt out in this Bill are referable to the offences created by this Bill and to no other.

Mr KOBELKE: The definition of "prostitution" is a fundamental definition to a range of clauses within the Bill. I will read into the record what I think are the active parts, without giving the qualifiers, which obviously are important. The definition reads -

When this Act refers to prostitution it means prostitution in which payment is consideration for the sexual stimulation of a person ("**the client**") by means of physical contact between the client and another person ("**the prostitute**") . . .

Other clauses relate to what are offences relating to prostitutes. How does one become a prostitute? Let us say that a person was convicted of an offence with respect to prostitution: Is that person then characterised as a prostitute or does it have to be the act at the time relating to a sundry or related offence which makes the person a prostitute?

Mr Prince: The answer is found in the earlier definitions of "act as a prostitute" and "prostitute", which is referred to in clause 4. To "act as a prostitute" means to take part, as a prostitute, in an act of prostitution.

Mr KOBELKE: The act would have to be involved at the same time or in direct relationship to the particular offence which involved prostitution?

Mr Prince: That is right.

Mr KOBELKE: A concern that arises in various parts of the Bill - not because I am making a judgment on whether it is good or bad - is the extent of the reach of the provisions of the Bill. The second reading speech says that the Bill will increase powers for the better control of child prostitution, street prostitution, kerb crawlers, advertising and sponsorship. However, in order to tie that down as tightly as possible - I commend the minister's efforts in trying to do that - the powers will have the potential to reach far beyond that and will try to enforce provisions opposed to prostitution in a much wider way. I am not making a judgment on whether that is good or bad. The difficulty when it is extended further is that we encounter a range of extra problems of which the minister would be well aware, and those measures are not taken up in this Bill. I will give one example of where this possibly would be extended. I have taken the minister's definition of a public place. The offences which relate to prostitution in a public place will not, on the minister's advice, apply to hotels. I understand that in Kalgoorlie - although I have never been in a hotel in Kalgoorlie where I have seen it happen - various forms of sexual favours take place in public with so-called skimpy barmaids involving physical contact for the purpose of sexual stimulation. That clearly is prostitution if money is exchanged. If a \$5 note is put into the G-string of a skimpy barmaid and certain actions take place, that is prostitution. To catch some of the offences, that must be in a public place, but that would seem to go well beyond the kerb crawlers this Bill is intended to catch.

Mr PRINCE: That is a fair comment. We can then get into a discussion about strippers who have physical contact with the patrons of the strip show and so on and whether that is sexual stimulation etc. That could be considered to be an act of prostitution. For example, if the stripping is taking place in a closed place, whether it be a club or a private house where some show is being put on, it is not a public place, so it is not an offence. The clause defines prostitution for the purposes of this Bill, and not generally, although it is probably not a bad definition if we wanted a general definition of prostitution. However, prostitution is defined for the purposes of this Bill and the offences created under this Bill. Is the skimpy barmaid who allows the patron across the bar to tweak her nipples doing that for consideration? The character of prostitution is, "I will do this or permit this to be done to me if you pay me a sum of money. No money, no service."

Mr Kobelke: What if money is exchanged, as I am told it does.

Mr PRINCE: Sometimes it does not and sometimes it is debateable. To be blunt, if that happens in a hotel bar, I would still argue that is not a public place within the definition of this Bill. Far be it for me to preempt what the Court of Appeal might say, but I will. The tenor of the Bill is to do with street soliciting, either by a prostitute or a client. We are not talking about child prostitution. Does that include a bar of a pub in a street in Kalgoorlie where a barmaid happens to be wearing very little and is not compelled but chooses to behave in this way? I think the Court of Appeal would say no. To be honest, when it comes down it, I would expect the police to concentrate on the offensive trade on the street and not what is going on in a bar. If people want to be involved in that, they can go into the bar. If they do not want to have anything to do with it, they do not have to go in there. We cannot avoid what happens on the street. That is the problem with street walking. We cannot get away from the fact that it is there right smack in front of us as we go to and from our homes, as our children go to and from school or the deli or whatever. That is the problem and the nature of the difficulty that we are trying to address with this legislation. If there is a problem and complaints are made about skimpy barmaids having their nipples tweaked for \$10 or whatever in a pub in Kalgoorlie, that is matter of complaint to the licensing authorities. The licensing court may choose to do something about that publican's licence on the basis that it is an indecent act.

Ms Warnock: Are you saying it is a different offence?

Mr PRINCE: It is a different offence that can be dealt with through the licensing court. It may be an offence under the Criminal Code in relation to indecent acts; that is debateable, particularly when there is consent. The question then is whether it offends those who are around. It becomes a complicated legal question, and I doubt whether the police will bother to try to charge anyone, because why is the complainant complaining? If he did not like it, he should not have been there, because it is in a private place and consequently only offensive to the people inside the pub at the time. This is all about what happens in a public place, to which members of the public who do not like it, do not want to see it and do not want it to have any effect on their lives, object. That is the tenor of the Bill, and I would expect any court to interpret it in that way.

Mr KOBELKE: Are the offences or crimes which are created by this Bill ones for which people can take civil action?

Mr Prince: No.

Mr KOBELKE: Must the prosecution be by the police?

Mr PRINCE: Clause 58 states that a complaint of an offence under this Act can be made only by a police officer.

Mr MARLBOROUGH: My quick reading of this Bill indicates that it deals with sex between different genders rather than between people of the same gender.

Mr Prince: No.

Mr MARLBOROUGH: My understanding is that under another Act that deals with homosexual sex, the age of consent is set at 21. How is that affected by the definition of "child" under this Bill as meaning a person whose age is less than 18 years?

Mr PRINCE: Insofar as it relates to a female heterosexual prostitute, it is an offence under the age of 18; over the age of 18 it is not an offence.

Mr Marlborough: Where does it say that it is a female?

Mr PRINCE: I am saying that is the way it will be interpreted. With regard to a male, the age of 21 still applies.

Mr Marlborough: Where does it say that?

Mr PRINCE: It does not need to say that because it is in the Criminal Code. The Criminal Code states with regard to sexual intercourse by females that under the age of 16 it is an offence; under the age of 17 it is an offence if the other party is in a position of authority, a classic example being an employer or a school teacher. Those cases are male-female, with the female generally being the younger party, but that is not always the case, and the member may recall a recent conviction where it was the other way round - older female and younger male. With regard to homosexual offences - and I was not here when that Bill went through the Parliament, but I think I am right in saying, because I have not read it in recent times - the age is 21. This Bill does not affect that. What this Bill does is criminalise prostitution under the age of 18.

Mr Marlborough: I am suggesting that this does not in itself criminalise prostitution over the age of 18 by people of the same sex. It is written, as the minister correctly says, for women. It has nothing to do with people wanting to hire prostitutes of the same sex, which happens every day of the week. Is the minister saying it does not need to?

Mr PRINCE: It does not address that. Sexual intercourse with a female under the age of 16 is an offence, regardless of whether there is payment. It is an offence to have consensual sex with a person under the age of 16, and with a person under the age of 17 if the older person is in a position of authority. If an act of sexual intercourse which is prostitution is committed by a person under the age of 18, it is an offence by that individual, as well as by the other party. It does not matter whether it is heterosexual or homosexual. I think I am right in saying that the age of consent for homosexuality is 21, and it is an offence if committed under the age of 21. I am talking about consensual sex which is not prostitution.

Mr Marlborough: Are we therefore saying that a female homosexual over the age of 18 but not 21 is committing an offence anyway? We are talking about selling the body for sexual pleasure between one party and another. It may be a party of the same sex. This Bill seems to fall into the traditional category of defining one sex as male and the other as female.

Mr PRINCE: No. I said at the beginning that this Bill does not distinguish -

Mr Marlborough: Does it penalise a female who is involved in homosexual activity in the form of prostitution and is between the ages of 18 and 21 as it penalises a male?

Mr PRINCE: It does not, because if I am correct in recalling the provisions with regard to sodomy, they refer only to male homosexuality.

Mr Marlborough: There is a bit of discrimination there, is there not?

Mr PRINCE: The member and I, and perhaps others, can debate that at another time with perhaps another piece of legislation, because we are not talking about that in this legislation.

Mr Marlborough: With the greatest of respect, you are.

Mr PRINCE: That was the subject of the legislation in 1989, which was talking about male homosexuality, for which the age of consent is 21. Nothing in the Criminal Law deals with lesbian behaviour in any way at all when a person is over the age of 18.

Mr Marlborough: That is right, and that is discriminatory. It is time to review the law.

Clause put and passed.

Clause 5: Seeking prostitute in public place -

Ms WARNOCK: I want to draw attention to the issue of loitering. Subclause (4) states -

For the purposes of subsection (1), a person (in this section called "**the offender**") seeks another person to act as a prostitute if the offender . . .

It then talks about loitering. This is an interesting issue which seems to reverse the onus of proof. A person who loiters in or frequents a place is presumed to have the intention of loitering unless the contrary is proved. I have often talked to the police about this because there is so much street prostitution in my area, and I am aware that it is extraordinarily difficult to prove this offence, because when is a person loitering and when is a person not loitering. It seems to me that there may be some civil libertarian complaints about this matter. The minister is a lawyer; I am not. How can it be proved that a person is loitering as opposed to just standing? I would be interested if the minister could explain that to me. I am aware that one of the things that is most maddening to the people in the area and one of the things they would most like to get rid of is the so-called loiterers or kerb crawlers. How does one prove it, and how will police go about their business in this matter?

Mr PRINCE: In a sense, the member is asking for a legal opinion.

Mr Kobelke: For the purpose of standing orders, we will not treat it in that way.

Mr PRINCE: I hope not. I am trying to remember my annotated Police Act, which I have not looked at for some time.

Mr Marlborough: You removed section 54B a long time ago; why not reintroduce it for the people of Northbridge?

Mr PRINCE: Relating to what?

Mr Marlborough: Relating to three people meeting on the street for a chat.

Mr PRINCE: The member and I would be more than three people.

A plethora of legal interpretation relates to the Police Act and loitering; namely, at least 100 years' worth. I recall that it is the behaviour of the individual in being in or around a particularly small location for a period of time when it is otherwise unexplainable. In other words, the person has no apparent reason for being there. Someone standing at a bus stop clearly has a reason. Someone standing at a bus stop when the buses have ceased to run is in a different position. The member for Perth understands very well the difficulty in prosecuting effectively, as the excuse of "I am waiting for a bus" or "I am waiting for my friend to pick me up from here" negates the prosecution.

Clause 54 when read in conjunction with clause 5(4)(b) leads to the circumstance in which our Ms Milburn tells us what is happening. That is the evidence. There is no evidence of a sexual act, and not necessarily any evidence of an attempt to solicit. That person is presumed to be soliciting and the averment provision in clause 54 states, "Explain yourself." The police will not use the provision capriciously.

Ms Warnock: One would hope not.

Mr PRINCE: No, because the power relates to street soliciting. That is what it is all about. It is a very difficult area. I clearly concede that it trespasses over the otherwise basic rules: "If you want to accuse me, you as the State must prove everything. I do not have to say anything, and I do not have to incriminate myself." The reversal of the evidentiary onus of proof should apply only when there is no other way around it. However, the reversal of the onus of proof has occurred in English law, and now Australian law, for centuries. One can find examples in the Criminal Code as it was originally written, and a stack can be found in the Police Act 1899. The one which comes to mind in the Criminal Code is section 205, which reads -

Except as otherwise stated, it is immaterial, in the case of any of the offences defined in this chapter committed with respect to a person or a child under the specified age, that the accused person did not know that the person or child was under that age . . .

That has been included since the code was written. It is unchanged for 100 years. The Police Act has a brilliant provision relating to the possession of property reasonably expected to be stolen. One makes the accusation, and it is up to the accused to come up with an explanation.

Ms Warnock: You say it is not unusual.

Mr PRINCE: It is not unusual as heaps of examples of its use can be given. It is done where there is no other way to deal with what is categorised as offensive behaviour. We are trying to deal with offensive behaviour for the benefit of the overwhelming majority of the public, who do not want to see street prostitution, clients or prostitutes, outside their homes day and night, particularly in the electorate of the member for Perth.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Seeking to induce person to act as prostitute -

Mr KOBELKE: This clause refers to seeking to induce people to act as prostitutes, which seems to go beyond street crawling or street prostitution. It is targeted at madams or controllers of brothels or people inducing people into prostitution.

Mr Prince: Partly.

Mr KOBELKE: I will ask the minister to clarify in a moment. What is the intent of the clause? I read that a person who does anything or refrains from doing anything with the intent of inducing another person, who is not a child, to act or to continue to act as a prostitute will be guilty of an offence, with a penalty of imprisonment for 10 years or a summary conviction for three years. Can the minister confirm or correct my interpretation? Second, how does this sit with the current law by which it is an offence to run a house for the purpose of prostitution or being a pimp?

Mr PRINCE: Many of the brothels that are generally accepted to be well run are caught under containment - it is those which are generally speaking tolerated because they have strict regimes and drugs are kept out of the premises and so forth. This measure does not apply to such an exercise. However, a number of women who work as prostitutes - it is usually a woman imposed upon by a man - on the street will be assaulted or supplied with drugs, which is part and parcel of the control to get them on the street. As I know from clients I have represented, some instances have arisen of women being treated in that way who have worked in brothels of this city. It can apply, although mainly to women on the street, to women in brothels, massage parlours or escort agencies. It is intended also to pick up some of the sex slavery provisions from federal legislation. This is a restatement of some of that legislation, which as a matter of public policy the Government and I happen to think is the right thing to do.

Mr Kobelke: Your referral to the containment policy is a fiction. You should not bring it in. The difficulty we have is the current situation.

Mr PRINCE: As far as I am aware it has never been written down anywhere.

Mr Kobelke: It is a fiction: It may have worked to a limited extent, but it is not working now. Your point is that this has wide application. It applies to anyone involved in street prostitution or brothels, although the intention and target of the provision clearly relates to workers on the street induced by, or under the control of, other people. The other matter to which you related was sexual slavery, which is a matter of concern.

Mr PRINCE: Yes, it is intended to apply, and undoubtedly will do so in the main, to women and girls on the street, but it can also apply to women working in what would otherwise be a tolerated brothel, massage parlour or whatever name one uses. It is far less likely to be the case in such premises, but I know from my professional experience that it has happened.

Mr MARLBOROUGH: This provision carries with it the following: It might be, it could be and it may be. However, if it is applied, it carries with it a severe penalty of 10 years' imprisonment. I am not suggesting that it should be a lighter sentence, although I can think of some horrific crimes for which the penalty is not nearly so severe. My reading of it is a lot broader than I have heard suggested. Why would clause 7 not apply to the literally hundreds of advertisements we see in the *Sunday Times* each week. Among the advertisements for brothels and single operators offering their services are numerous advertisements offering opportunities for young girls in the main - and young males - to join escort agencies.

Mr Prince: That is specifically covered by a clause in this Bill which says that that form of advertising is banned. Advertising to induce people to become prostitutes is banned by clause 10 - promoting employment in the prostitution industry.

Ms Warnock interjected.

Mr MARLBOROUGH: It is a lot broader than street prostitution.

Mr PRINCE: Yes. It has a lot to do with children.

Mr Marlborough: Children?

Mr PRINCE: The Bill is aimed principally at street prostitution. However, it is also aimed at getting children out of

prostitution and there are other things in it. I mentioned advertising in the second reading speech. This clause concerns sexual slavery in a sense because that is where we got it from and it mostly relates to street prostitution. However, it can also relate to a prostitute in a brothel although it would depend on the circumstances of the relationship, for want of any other way of describing it, between the male and the female. If a male is supplying a woman or girl with illegal drugs - usually a cocktail of amphetamines, heroin and tranquillisers - and is living off what she produces, I think 10 years is a fair sentence. If those offenders want to go for summary conviction, they might go inside for three years. I reckon they will be fairly harshly dealt with in the prison system and I will not weep for them. There are very few other things I can think of from the point of view of human behaviour which I find more loathsome and I think most people would agree with that.

Clause put and passed.

Clause 8: Allowing person with sexually transmissible infection to act as prostitute -

Mr KOBELKE: With the minister's cooperation and the forbearance of the Chair, I will again ask a question which takes up matters covered in several clauses. Clause 8 makes it an offence to allow a person with a sexually transmissible infection to act as a prostitute. Clause 9 relates in a similar way to persons with certain health conditions who use prostitutes and clause 17 covers persons with certain health conditions who act as prostitutes. The Government seems to have covered all the possible permutations. However, we find in clause 8 that a person who commits an offence under that clause is liable to imprisonment for three years if it is a simple offence and to imprisonment for 14 years if it is a crime. Under clause 9, persons with certain health conditions are prohibited from using prostitutes. If they are a person with a life threatening sexually transmissible infection, the penalty is 20 years' imprisonment. If it is a non-life threatening sexually transmissible infection, the penalty is five years' imprisonment for a crime and two years' imprisonment for a summary conviction. The same penalties apply to a prostitute. It seems that with the drug problem and the level of infection of sexually transmissible diseases among the drug using community, we have a huge problem. If the provisions in clauses 8 and the other clauses to which I alluded are used effectively, we will have a major problem in our jails. I would like the minister to comment on whether he thinks the provisions in clauses 8, 9 and 17 will be used and whether it is likely there will be a reasonable number of prosecutions and convictions. If that is the case, what are the implications for the number of places we need in jails? More important than that, if the people who are likely to be convicted in this area are people with drug problems, will we simply put them in Bandyup Women's Prison or Casuarina Prison or will facilities be available in our jails in time to meet the requirements of this Bill so that these offenders can be treated as drug dependent people and put on the path to rehabilitation?

Mr PRINCE: There have been a few people with a sexually transmissible life threatening infection. I recall as Minister for Health being involved in dealing with several, not many. Some of them were prosecuted under the provisions of the code and imprisoned because they simply would not stop behaving in a promiscuous fashion. To a large extent the code is re-stated here in the prostitution context so there is no doubt. For people with life threatening infections - and there are some - obviously we are trying to deter them from behaving in this fashion. Under clause 8, if the madam knows that a girl has HIV, there is no way she should permit that girl to be in the brothel.

Mr Kobelke: But in street prostitution it is a different matter.

Mr PRINCE: I am talking about clause 8 which criminalises the person carrying on the business involving the provision of prostitution, not the prostitute herself. Likewise, if the madam knows a particular girl has a sexually transmissible disease which is not life threatening, she has committed an offence. This is a deterrent to these people being less than vigilant about the health of the people who come into their premises. Clause 9 is a re-statement of the code dealing with the person who has a life threatening sexually transmissible infection and the penalty will depend on the way the person has behaved. However, I know of two or three such people who wound up in jail because there was no other way of controlling their behaviour.

Will that lead to a problem in the jails? In the sense that there are a few in there already and they are handled in a special way by the prison officers -

Mr Kobelke: You missed the point of the question. I understand what you are saying and I want to get through this as expeditiously as I can. However, I was pointing to the fact that in clauses 8, 9 and 17, and given that this is primarily aimed at street prostitution, there is a potential for a much larger number of people to be convicted. I am concerned about the impact on our jails and the need to have special programs in the jails if many of these people are drug dependent.

Mr PRINCE: I am coming to that. I am dealing with the life threatening cases first because more often than not people who behave in this way will go to jail because that is the only appropriate penalty. People with a non-life threatening infection may be dealt with by a non-custodial sentence.

Mr Kobelke: So you are not anticipating a sizeable increase in the jail population because of these provisions.

Mr PRINCE: No, I am not. People with non-life threatening infections - ones that can be treated by medical science - should be able to be dealt with outside jail. That is a general statement which will not apply to any specific individual and circumstance. A stack of other sentencing options are available under both the Sentencing and Young Offenders Acts. My adviser has reminded me, as I said in the closing remarks of my second reading speech, that if Miss Kenworthy is to be believed, she thinks there are six people with HIV operating within prostitution at the moment. That is not a sizeable increase. For other forms of infection, if the person can be dealt with by imprisonment, that is the way to deal with them.

Mr Kobelke: But you are creating an offence which has a penalty of imprisonment.

Mr PRINCE: Yes. However, the Sentencing Act and the Criminal Code have a stack of sentencing options. We are not

saying it is mandatory imprisonment; we are saying that it is the maximum punishment. We have expressed it in terms of imprisonment and it is for the courts to apply the appropriate penalty using the discretion which they have in other legislation. I would expect a person with HIV-AIDS to go to jail on the basis that the person has acted in a way that is likely to give a death sentence to someone else. If someone is doing that, jail is probably the only place for that person. Other people with less serious forms of infection, chlamydia, syphilis or whatever the case may be, would probably be dealt with without being sent to jail.

Mr KOBELKE: Clause 8(1) says -

A person carrying on a business involving the provision of prostitution commits an offence . . .

This clause gives legal recognition to the fact that people are conducting businesses for the purpose of providing prostitution in Western Australia. The clause is tacit recognition of that fact. Is this, to the minister's knowledge, the first time that we have had legislation which has acknowledged the institution of prostitution as an industry?

Mr PRINCE: Section 76F of the Police Act 1892 reads -

Any person who -

- (1) keeps or manages, or acts, or assists in the management of any premises for purposes of prostitution; or
- (2) being the tenant, lessee, or occupier of any premises, knowingly permits such premises, or any part thereof, to be used for purposes of prostitution; or

It goes on to say that that person commits an offence.

Mr Kobelke: Yes, the offence relates to it. However, this Bill has offences relating to another part and not to the fact that the person is conducting a business.

Mr PRINCE: It was recognised 107 years ago.

Mr Kobelke: Yes, for the purposes of an offence.

Mr PRINCE: This is for the purpose of an offence.

Mr Kobelke: There is a subtle difference.

Mr PRINCE: No, there is not. With respect, the member for Nollamara is trying for a subtlety that does not exist. It was recognised in the Police Act of this State 107 years ago and it is recognised again in this Bill. There is really no difference.

Clause put and passed.

Clause 9 put and passed.

Clause 10: Promoting employment in prostitution industry -

Mr KOBELKE: I will not go into the second reading debate with respect to the promotion of the industry and advertising. I have some concerns about what was said there but I will skip over that. I simply want clarification of a technical point. The clause says -

A person is not to publish or cause to be published a statement that is intended or likely to induce a person to -

- (a) seek employment as, or act as, a prostitute; or
- (b) seek employment in any other capacity in any business involving prostitution.

Can the minister confirm that there are no loopholes in that clause, that the definition of "a person" will cover a newspaper in whatever form it appears? Does the definition of "a person" have a legal standing which will allow prostitution to be pursued against a range of entities should they undertake such publication?

Mr PRINCE: Clause 62 covers that matter because if a body corporate is found to have committed an offence, each person who is a managerial officer of the body will be treated as having committed the offence. A body corporate is a person in the Interpretation Act. If people try to get around that clause by using a proprietary limited company, they will be caught.

Mr MARLBOROUGH: The clause seems to be nonsensical. It paints an image of responsibility but, when looked at, cannot stand up to carry with it the responsibility that the minister is trying to paint. How does the minister intend to police a clause that does not allow advertising for the procurement of people to work in the profession when in fact the Government has a containment policy?

Mr Prince: What?

Mr MARLBOROUGH: The Government currently has a containment policy. It recognises that there are brothels operating. How does the minister think that people go to work there? Can he tell me? Is it done by magic signals? How does it happen? It is a nonsense.

Mr Prince: The girls who wind up in the brothels that are tolerated are not necessarily attracted there by advertisements that appear in newspapers. Frequently they are attracted by word of mouth and frequently somebody has said something to someone else. They may work there of necessity because money in their family is short, or whatever the case may be.

Mr MARLBOROUGH: They just ring up?

Mr Prince: Usually they will know one of the other girls and that is how it occurs. As a matter of policy, it is wrong that people should be able to advertise that this is an attractive line of employment.

Mr MARLBOROUGH: If the minister got rid of his containment policy, he might have some moral position. He has no moral position on it.

Mr Prince: I am not talking about morality.

Mr MARLBOROUGH: The minister has said that he is delighted the *Sunday Times* and *The West Australian* have joined him. What a nonsense. The truth of the matter is that the minister has a containment policy. How do people know where to work in the first instance? If I believe the minister, it is all done by Chinese whispers. Women are short of money so they phone up a known brothel. How do they know about the known brothel? Do they go down to the drycleaners or the deli and talk about it? What a nonsense. They know about it because it is advertised. Is the minister saying that if people put a written advertisement in a newspaper they will be prosecuted but that they will not be prosecuted if they telephone somebody? Clause 10 specifically states that a person is not to publish or cause to be published. Can the madam of a brothel which works within the containment policy maybe have a conference phone with a room full of women and ask them how they are that evening and whether they would like to work for her? Would that be allowed? It is not publishing or causing to be published. Is that how it will work? How will the minister stand up with any moral integrity on this nonsense when he has a containment policy?

Mr Prince: Do you not support it?

Mr MARLBOROUGH: I do not support this clause; it is a nonsense. It does not measure up.

Mr Prince: Do you not want to discourage people from being involved?

Mr MARLBOROUGH: I live in the real world. I do not live in a pixies-down-the-back-garden world. The minister is the expert. He can tell me how they will be informed about his containment policy; or will this clause make them all die on the vine?

Mr Prince: This is not, and never was intended to be, the total answer.

Mr MARLBOROUGH: Clause 10 is not the answer at all.

Mr Prince: Will you let me speak?

Mr MARLBOROUGH: It is my five minutes. I am saying that clause 10 is not the answer and the minister knows it. It is a nonsense. If he got rid of his containment policy, it might have some standing. The definition of a containment policy is that something exists and that we are trying to control the way in which it exists. One of the ways brothels exist and flourish is not only because of clients but also because there is work for people to do. Why the minister has a \$50 000 penalty attached to a piece of nonsense, I do not know.

Clause put and passed.

Clauses 11 to 24 put and passed.

Clause 25: Powers to obtain information -

Mr KOBELKE: On my reading of this clause, it is not tied specifically to matters relevant to offences contained in the Bill.

Mr Prince: It is only in relation to this Bill.

Mr KOBELKE: It must be specific.

Mr Prince: It is not a general power.

Mr KOBELKE: Can the minister give an assurance that all the other powers that are provided to the police under part 4 are also to be used in relation to enforcement of offences under only this Bill?

Mr PRINCE: If it were to be otherwise we would have to explicitly state that the police are now given the following general powers in relation to all offences known to the criminal calendar. It does not say so. The powers provided in this part can relate to the offences created by only this Bill. When we bring in the police powers Bill next calendar year, some of this will be generally applicable in a modified fashion. Then we will debate it across the gamut of the criminal offences. However, it can apply to the offences created only in this Bill.

Clause put and passed.

Clause 26 and 27 put and passed.

Clause 28: Entry of, and seizure at, place of business without warrant -

Ms McHALE: I referred to this matter during my contribution to the second reading speech. Why does clause 28 relate only to children?

Mr Prince: It does not. It relates to offences under this Bill. My reference to a minor was only an example.

Ms McHALE: Can I be reassured that it is not exclusively related to children?

Mr Prince: Yes.

Ms McHALE: Does it give the police powers of entry to a premise or a range of premises?

Mr Prince: In relation to the offences created by only this Bill.

Clause put and passed.

Clauses 29 to 51 put and passed.

Clause 52: Person residing with child prostitute presumed to receive payment -

Mr KOBELKE: Some terrible examples have been brought to my attention of young girls aged from 13 to 15 falling out with their families after a bit of a tiff, going into the city, getting caught up with people who may be associates or introduced by friends, living with them, getting hooked on drugs and becoming almost a prisoner to a person over 18 who could clearly be treated as an adult.

Mr Prince: In their twenties.

Mr KOBELKE: If they are older teenagers they are adults under the law. In cases such as that, instances may arise in which the older person has physical control over the younger person, often in a threatening and harmful way.

Mr Prince: It is not so much physical, but more in an emotional way.

Mr KOBELKE: It often becomes physical. The person may receive moneys through the supply of drugs because the child is engaging in prostitution. I am not sure how effective clause 52 will be in dealing with such cases. In the past it has been very difficult to get the police to press charges and to get Family and Children's Services to become involved.

It is a difficult situation for those agencies because the young girl usually does not wish to cooperate and provide information. A mother who has contacted me several times says her daughter has asked her to save her, but as soon as the older male is on the scene she cannot stand up to him. Unless she is totally removed from that situation, and assured that the threat of the male is removed she would not be willing to be a witness and provide the evidence needed so that the police or other government agencies can take action. I am not sure whether this new provision in clause 52 provides any assistance to deal with those cases.

Mr Prince: Yes, it does.

Mr KOBELKE: If it does, we come back to the issue that I asked about earlier - I know the minister answered it, but it is not clear in my mind - about how direct and clear must the linkage of prostitution be with the minor and the money going to an adult who has some control over the minor.

Mr PRINCE: It goes to clause 19. We are dealing with clause 52 which contains an evidentiary provision that assists in the prosecution of an offence under clause 19. Clause 19 relates to attaining payment for prostitution by a child. I have had a few complaints about a few instances like the scenario spelt out by the member; thankfully, relatively speaking, they are only a few. Usually we are talking about a girl of 13 years or 14 years of age and a man in his early twenties, and sometimes more than one at the same time. In the days before the welfare state, where there was no other means for the 13 year old or 14 year old to have earned money and given it to the man, it was relatively easy to ask how he came by this money, and say that it must have come from the girl who was working as a prostitute. The young homeless allowance, unemployment benefit or any form of benefit that the man may be receiving makes it next to impossible to relate that sum of money paid to this girl by a client to the sum of money the man has. There is a pooling of the cash.

This averment says that if the male is living with the girl who is a child prostitute - we have the evidence that she is a child prostitute and has been convicted - the onus is on the male to satisfy the court that he did not know she was a child prostitute and did not receive any of the money. It is a turning of the onus of proof. It seeks to overcome the problem we have had for long time to connect the act of prostitution and the money thereby earned with the pimp. In the case of a child, it is justified to reverse the onus of proof, not necessarily in other matters, but certainly in relation to a child. It is something that, hopefully, will not arise too often.

In the circumstances the member put forward, and no doubt the member for Perth has heard a similar story, this is a law and power which enables the police, the authorities, and the state to deal with what is otherwise a terrible situation that we cannot deal with. Because of the amendments made to the Child Welfare Act in 1990, Family and Children's Services has no power. Those officers cannot take the 14 year old girl. There is no power of arrest and no way they can get her. The criminalisation of child prostitution enables us to get the child. The provisions in clauses 19 and 52 enable us to get at the Svengali - we can call him what we will - the pimp who is living off the child and make it reasonably probable that there will be a conviction.

Having said that, a person who is living in the same house in which a number of people may be residing and who genuinely has no connection with the child and her behaving as a prostitute will be able to stand up in court and say so, produce evidence and, consequently, not be convicted. It is not a provision that says that a person is guilty, and that is it. It says that the person must explain himself adequately, otherwise he will be found guilty.

Clause put and passed.

[Wednesday, 24 November 1999]

3763

Clauses 53 to 66 put and passed.

Schedules 1 and 2 put and passed.

Title put and passed.

Third Reading

Bill read a third time, on motion by Mr Prince (Minister for Police), and transmitted to the Council.

PROSTITUTION BILL 1999

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Attorney General), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [5.25 pm]: I move -

That the Bill be now read a second time.

The Government is introducing legislation that it considers will give police increased powers better to control child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship. The delay in presenting a Bill is not a result of any lack of commitment on the part of this Government to pursue the reform of prostitution laws in Western Australia; indeed, the delay has been occasioned by the need to achieve a position on this issue, which, at the end of the day, is not only acceptable to the community generally but also, in terms of effect, enforceable.

It is intended that the Bill will ensure the regulation of the activities of prostitutes and potential clients in public places and eliminate the involvement of children in prostitution. Therefore, the Bill precludes children from being prostitutes and prevents their exploitation for sexual gratification; protects the community by creating offences relating to health; and introduces offences to make street soliciting and kerb crawling illegal, regardless of who initiated the action, whether a prostitute or a client.

The Bill addresses the majority of the concerns expressed by members of both Houses concerning street and child

prostitution and, in so doing, endeavours to provide a unified approach to ensuring that this conduct is no longer tolerable within this State.

The Prostitution Bill includes provisions that not only make this conduct unlawful, but through the imposition of strict penalties, including forfeiture, are directed at empowering police more effectively to curtail this activity. In general terms, it will be an offence to be involved in street soliciting, irrespective of whether the person is a prostitute, a client or an agent; that is, a person who seeks to procure another for prostitution. Similarly, any person who in a public place seeks another to act as a prostitute or to be the client of a prostitute will commit an offence. It is intended that the effect of this provision will be to bring about a reduction in the demand for street prostitutes by targeting in the first instance those persons seeking the services of prostitutes - that is, kerb crawling - for which a penalty of a maximum of two years' imprisonment will apply. In reducing the demand for services it is reasonable to assume that supply will also diminish.

Research has indicated that a number of women soliciting in this manner are often looking to support a drug habit or to make a living. They are most susceptible to exploitation. Hence, a lesser penalty of a maximum of one year's imprisonment will apply to the prostitute. A greater penalty will apply where the offence involves a child.

I remind the House that a significant number of government and non-government agencies in the inner city and Northbridge areas have responsibility to work together to provide an appropriate welfare response when young people under the age of 18 years are found working as prostitutes.

In relation to public health, the sexual transmission of life-threatening infections such as HIV/AIDS and other forms of sexually transmitted diseases has been addressed through the inclusion of specific offences. For example, a person who knows or who could reasonably be expected to know that they have a sexually transmitted, life-threatening infection who acts, or offers to act as a prostitute, will on conviction be subject to a penalty of imprisonment for a maximum of 20 years. On the other hand, where that conduct involves a sexually transmitted infection that is non-life threatening, a lesser penalty of a maximum of five years' imprisonment will apply.

One of the most offensive and visible adjuncts to prostitution is found in public advertising. The Bill will prohibit anyone from publishing any statement promoting employment in prostitution or from entering into a sponsorship arrangement which promotes prostitution. In reflecting the seriousness with which this issue is viewed, a penalty of a \$50 000 fine has been provided. In addressing the issue of advertising, I take the opportunity to thank the *Sunday Times*, *The West Australian* and Community Newspapers of Western Australia for their efforts in working with the Government to deliver a code of conduct that will limit the content of advertising for the purpose of prostitution. While the Government intends to monitor this accord, with a view to ongoing self-regulation by the parties involved, I take this opportunity to commend them for adopting this position on the issue.

While the exploitation of women is a serious issue, the community generally is appalled by those within society who would see fit to exploit children for the purpose of the sexual gratification of others, as has been the case in relation to the Asian sex tours and the steps taken to address that issue. As a consequence, a child - being a person under the age of 18 years - will be prohibited from involvement in or from being exploited for the purpose of prostitution. The Bill makes it an offence for any person to -

Cause, permit or seek to induce a child to act or continue to act as a prostitute or do anything with the intention of inducing a child to act or continue to act as a prostitute;

Receive any payment, in money or any other form, knowing that it or part of it has been derived, directly or indirectly, from a child taking part in an act of prostitution, whether as a prostitute or client; or

Enter into, or offer to enter into, an agreement under which a child is to act as a prostitute, whether for that person or any other person.

A penalty of a maximum of 14 years' imprisonment will apply to these offences. In addition, where a person takes part in an act of prostitution, whether as a prostitute or client, knowing that a child is present; provides acts of prostitution where the client is a child; or allows a child to enter or remain on premises where acts of prostitution are carried out, that person commits an offence for which appropriate penalties are provided.

However, there are occasions when the person acting as a prostitute or seeking the services of a prostitute, is himself or herself a child and therefore it is essential that the actions of a child in these circumstances should constitute an arrestable offence. This will empower police to take appropriate action in removing the child from further risk and to place that child in the care of an appropriate authority, such as Family and Children's Services.

To strengthen the effect of the Bill it is necessary to provide police with new powers of search and seizure and to provide for the undertaking of covert operations - subject to appropriate guidelines - to meet the evidentiary requirements necessary to ensure a conviction and to police the provisions of the Bill, particularly those relating to children and health. These powers have been developed by drawing from existing powers in the Criminal Code, the Misuse of Drugs Act 1981 and the Censorship Act 1996, and have been adapted to meet the unique situations likely to be faced by police when dealing with prostitution and the investigation of related offences. This includes -

A power of entry without warrant, at any time, to any place from which a business involving the provision of prostitution is or is suspected of being conducted. This provision enables the timely investigation of suspected prostitution offences relating to children or health and empowers police to detain and search all persons found on such premises.

Powers relating to seizure, retention and disposal of property. This provision allows for the seizure, retention and disposal of property during an investigation of any offence under the Bill. This is consistent with the powers contained in section 28 of the Misuse of Drugs Act 1981 and those which have been included in the Weapons Act 1999.

A new search warrant similar to that in the Misuse of Drugs Act 1981 has been created to enable searches of any place which may reveal evidence connected to prostitution. The warrant allows for the searching of any person on those premises and the gathering of evidence as to the commission of an offence under this Bill.

The Bill will allow police officers to operate covertly in order to obtain evidence of the commission of an offence. Statutory protection from prosecution will be provided for certain offences committed by undercover officers in the performance of that duty. Examples of the offences which may be committed by undercover officers in order to obtain evidence are the use of a false name; soliciting sexual services in public; or seeking sexual services at a business involving the provision of prostitution.

These powers have been provided as an interim measure until the criminal investigation (covert operations) Bill is finalised.

In addition to the offences relating to street soliciting, police officers will be empowered to issue a move-on notice where they suspect that a person is committing, or is about to commit a soliciting offence. The move-on notice will enable police to direct a person to move away from a specified area. The notice will prevent a person from returning to the area for a period set by police - maximum of 24 hours. Additionally, when a person is convicted of a soliciting offence or an offence relating to a move-on notice, the courts will be empowered to issue restraining orders prohibiting that person from returning to a specified area or engaging in a specified course of conduct. These provisions are detailed in part 6 of the Bill and have been drawn from the current Restraining Orders Act 1997.

Part 7 of the Bill contains evidentiary averments in relation to certain offences created by the Bill. These averments have been included to overcome the evidentiary difficulties likely to be encountered, by placing the onus of proof on the other parties with regard to prostitution-related offences.

The issue of street and child prostitution is not for any one state government body to resolve in isolation as it is accepted that a number of agencies have a key role to play. The Bill therefore provides the powers and protections necessary to enable the relevant instrumentalities to work together and to coordinate their actions and resources in addressing this very issue.

As a consequence, the Bill allows for the exchange of information between relevant state authorities that may be required to deal with prostitution and other related issues; and provides protection of a person who, in accordance with the provisions of the Act, provides confidential information to an authorised state authority. In addition, regulations may be prescribed by the Governor on matters required or permitted by the Bill.

This Bill represents another major step in the commitment of the Government to law and order. In particular, it provides the Police Service with modern and more effective powers to enable police to deal adequately with the issue of street and child prostitution. In addition, it provides an assurance to the community that the Government is listening to community concerns relating to prostitution and is prepared to act to curb the incidence of street soliciting and kerb crawling, and the exploitation of children for the purpose of prostitution.

I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

PROSTITUTION BILL 1999

Second Reading

Resumed from 25 November.

HON N.D. GRIFFITHS (East Metropolitan) [4.46 pm]: The Prostitution Bill 1999, as it stands, is an affront to anybody in our community who has any respect for any reasonable notion of civil liberties. The minister's second reading speech said that the Government was introducing legislation that it considers will give police increased powers - and this is the purpose of the legislation - better to control child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship. The Australian Labor Party agrees that a Bill should be before this House that would enable child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship with respect to prostitution to be dealt with. This Bill goes much further. When those words were used by the minister in his second reading speech, they did not accurately describe what was contained in the Bill. We in the Australian Labor Party agree with what is said to be the purpose of the Bill, but we do not agree with much of what is contained in it. I give notice that the Australian Labor Party will seek to have the Bill dealt with by the House so that it properly reflects what the Government says the Bill is supposed to do, rather than what, on any rational reading of the Bill, it seeks to do.

The Prostitution Bill 1999 in its current form does not regulate some aspects of prostitution as much as prohibiting prostitution. In particular, this Bill goes further than dealing with matters to do with prostitution on streets with respect to prostitutes and customers. The involvement of juveniles in the role of street prostitutes has received much publicity. On its face, this Bill intrudes into areas far beyond street prostitution. It certainly deals with places which are not ordinarily considered to be public places. It deals with brothels, hotels and a variety of locations, notwithstanding misleading words used by those who promote the Bill as dealing merely with street prostitution and matters incidental to that, as I have described.

The Bill is framed in wide terms. It seems that is the Government's intent. One need only note its genesis. It purports to be a reaction to a Bill which emanated from the Australian Labor Party. It goes much further than being a mere reaction. It is a Bill which has been hanging around for some time. In part, it has been excised from some other Bill. It is a document which comprises what many quite reasonably would see as a police powers wish list; that is, "Please give us what we have wanted for so many years." In terms of public misbehaviour, the Bill does not deal with murder, mayhem or the sale of drugs for profit. We are talking about the oldest profession in the world, about something which has been and always will be with us. The usual phrases come to mind, including that we are using the Bill as a sledgehammer to crack a nut. The Bill is over the top and the penalties it sets out illustrate that. They are absolutely out of kilter with what is proposed in other jurisdictions, and in this jurisdiction, to deal with similar misbehaviour.

One of the worst aspects of this Bill is that it creates offences of which the substantive part will be dealt with by way of regulation. It creates an offence that is not something that is petty. It cannot be petty, because in one case the offence to be created by regulation carries a maximum penalty of 20 years' imprisonment. This sort of legislation is unknown to any comparable jurisdiction in the English-speaking world. It is alien to the way we behave. It is the sort of legislation that one would have expected in eastern Europe prior to 10 years ago, or in parts of western Europe prior to May 1945. It is outrageous legislation. It is outrageous to present before a House of Parliament in a Westminster system a proposition that by regulation we can create an offence which can carry a maximum penalty of 20 years' imprisonment. I know that these matters do not worry the Attorney General because he has no concern for civil liberties. However, as one goes through the Bill, one sees a reversal of the onus. The Bill contains the lovely words "conclusive presumption". We will have a regulation that will create an offence that carries a maximum penalty of 20 years' imprisonment. We are offered a reversal of onus and a use of language not well known to our courts, the language of conclusive presumption, in a Bill before the Legislative Council of Western Australia. If we are any sort of House of Review we must look at this legislation very carefully. Frankly, it must be amended so that it can deal with what the minister in his second reading speech said it was supposed to deal with - that is, street prostitution, matters relevant to street prostitution pertaining to children, kerb crawlers and some aspects of advertising and sponsorship. A number of categories of offence are capable of being substantially created by regulation. One involves a maximum penalty of up to 20 years' imprisonment; others have lesser penalties of imprisonment for five years and two years. This is anathema to the way we as a Parliament have always conducted ourselves.

I do not know who was responsible for this legislation. I have heard members opposite talk about the processes of their party room. Either they have no consideration whatever for civil liberties or they were all asleep. I do not know which ministers, if any, were involved in the preparation of this legislation - perhaps they were all asleep; I do not know. Whoever they are, they have no regard whatever for civil liberties.

I note that an aspect in this legislation deals with the issue of hindering of police. We are talking about prostitution. Aspects of prostitution can be serious. The Police Act deals with hindering of police, and it does not consider hindering a police officer to be a very serious offence. An exception to that is contained in the Misuse of Drugs Act, which refers to two areas of hindering; one carries a maximum penalty of three years' imprisonment and one a maximum penalty of two years' imprisonment. However, we are dealing here with prostitution. In the Police Act, which deals with hindering of police, across the board the maximum penalty is six months' imprisonment. The Government has gone overboard. The Bill will give the police a wide range of powers that they do not have and should not have for what is a minor area of public misbehaviour which will be carried on anyway, and which the Minister for Police says will be carried on anyway; although, when the minister says that in his public pronouncements, he gives the lie to the black letters on the white paper in this Bill.

We have before us a measure which will make people liable to a term of imprisonment for two years for failing to produce a document. So much for the right to remain silent! I do not know whether members opposite have any appreciation of or regard for our traditions - frankly, I do not think they have. I do not know how on earth they can go along with a proposition that people are not to refuse to answer a question or otherwise give information when required to and, if they fail to do that, will go inside for two years. Do members opposite not have any understanding whatever of our traditions, our common law and our parliamentary traditions? Do they not have any knowledge whatever of the sixteenth century and, more particularly, the seventeenth century and the constitutional changes which have occurred and which have brought into place assemblies such as this? This sort of provision in a Bill is an absolute affront to our civilisation. If we go along with this measure, we do not deserve to be here. It does not belong in this century, let alone in the next, and it certainly does not belong in this jurisdiction.

One of the points I note about this Bill is that a person cannot be prevented from refusing to answer a question or otherwise give information or produce a document or other thing because the answer or information would relate to, or the document or thing contains, information in respect of which the person claims legal professional privilege. That sums it up: Whoever is responsible for this document belongs in another time and another place. If this Bill as it stands becomes law, so many of our public health arrangements which have been in place for such a long time, and which seem to have worked very successfully, will be put at risk. The Health Act of 1911 contains a code that deals with the issues of sexually transmissible diseases.

We have a proper regulatory regime. There has been much publicity in recent times about street prostitution, kerb crawlers and so on. However, there has been no publicity about the regulatory regime in the Health Act 1911 not working. In fact, the only publicity we have seen and heard in recent times, since this Bill was introduced, is to the effect that the sections regulating that behaviour in the code will be put at risk.

[Questions without notice taken.]

Hon N.D. GRIFFITHS: Before question time I was talking about those who disobeyed the new proposed police powers being liable for a period of imprisonment of two years, and about the Government putting at risk longstanding public health measures dealt with in the Health Act 1911 under a regime which has not been the subject of criticism. This Bill reinforces a containment policy which had been in existence in Western Australia for a number of years. A few years ago it fell apart - I am no defender of that containment policy because I do not like hypocritical arrangements - and the prostitution industry became widespread under this Government, perhaps because of social and economic conditions. That containment policy is selective law enforcement on the part of the Police Force. If this Bill is not amended, that will continue to be the case.

I note that only police officers can bring complaints, notwithstanding the fact that we are dealing with simple offences as well as crimes. There is another containment policy and in some ways it is a more insidious containment policy, because the public of Western Australia have been made aware of the containment policy for which the police have been criticised for many years and they have been made aware of that by the actions of the Press. I note that in the second reading speech the minister said -

The Bill will prohibit anyone from publishing any statement promoting employment in prostitution or from entering into a sponsorship arrangement which promotes prostitution. In reflecting the seriousness with which this issue is viewed, a penalty of a \$50 000 fine has been provided.

I suppose that is well and good. The minister went on to say -

In addressing the issue of advertising, I take the opportunity to thank the *Sunday Times*, *The West Australian* and Community Newspapers of Western Australia for their efforts in working with the Government to develop a code of conduct that will limit the content of advertising for the purpose of prostitution. While the Government intends to monitor this accord, with a view to ongoing self-regulation -

For "self-regulation", read "containment" -

by the parties involved, I take this opportunity to commend them for adopting this position on the issue.

Therefore, the police are above the law and those good media organisations are also above the law. It is interesting to note that the media which seek to inform us of what goes on in the State of Western Australia have not bothered to tell us about the accord that has been developed. They have not publicised the fact that they have been involved in some deal with the Government of the day to protect their advertising revenue. So much for fearless reporting in Western Australia and so much for containment policies. We shall have not one, but two containment policies under this regime. I will ask the minister a question about that later on.

This Bill seeks to provide police powers in an area which the Government says is dealing with only street prostitution and matters pertaining to that, as I mentioned earlier. Of course, those who said that elsewhere lied about it. They deluded others and told lies, and that is fairly typical. Those powers are very wide and they refer to the police requiring something for the purpose of performing any function under the Act or any function in respect of an offence under the Act. A police officer can require the production of a document or other thing in the possession or control of a person. A police officer can inspect that, retain it and make copies of its content. A police officer can require a person to give that police officer such information as the police officer requires, and to answer any question put to that person. The Bill deals with how those requirements can be made but there are no proper safeguards. One area of the Bill which probably deals with the issue of street prostitution, with which the Bill purports to deal, is that where the police may direct a person to move on. Provided that is scrutinised properly, it may do the job that the Bill says should be done. So much of what is contained in the Bill goes beyond that. That particularly applies to the proposition that somebody can be detained, searched and seized without warrant, and that someone can enter and seize without warrant. Very wide search and, frankly, brutal seizure provisions are involved by which police officers can use force. This does not matter to the Attorney General, who, along with his colleagues, is probably the author of this rubbish.

We then have the interesting undercover officer provisions, the safeguard for which is the authorisation of the Commissioner of Police. Interestingly, that authorisation can be delegated. Therefore, the safeguard is the commissioner, but that is done away with through the powers of delegation. I suppose it is reasonable that a power is provided for a restraining order to be made; that is, to invite somebody in a positive way not to re-offend. It is almost certain that these people will re-offend, but I suppose something positive may be found in this provision. However, the Bill's wording extends far beyond that intent and leaves too much to be defined by regulation.

The Bill contains some fascinating evidentiary provisions. Every time prostitution is mentioned, the cry is heard: "It is hard getting evidence." It is hard to get evidence if one does not try to get evidence. This is a problem with policing, rather than evidence. The question of evidence has been overstated in the past, and it continues to be overstated. This relatively novel Bill needs to be scrutinised very carefully in that regard.

Draco would be proud of some of the Bill's other interesting provisions. A couple of weeks ago the House properly passed the Acts Amendment (Police Immunity) Bill 1999 with the agreement of all concerned. As the lead opposition speaker, I criticised the Government for the delay involved with that measure. It seems that the Government did not really want to pass that Bill, as then clause 5, and now section 137 (5), reads -

The Crown is liable for a tort that results from -

- (a) anything done by a member of the Police Force, without corruption or malice, while performing or purporting to perform the functions of a member of the Police Force, whether or not under a written or other law;

- (b) anything done by a person, without corruption or malice, in assisting a member of the Police Force who is performing or purporting to perform the functions of a member of the Police Force, whether or not under a written or other law.

Would it not be interesting if, in the course of considering the Prostitution Bill, a clause were discovered which contradicted that provision which we passed a couple of weeks ago? Would it not be interesting if the House reflected on that matter and came to the firm view that such contradiction was a mark of great incompetence? How would a Government be judged if it recently passed a Bill and then introduced a measure which in large part contradicted that Bill? So much for consistency! Frankly, the Government is incompetent. This is a very bad Bill drawn up by incompetent opportunists who have no regard for civil liberties or the state of civilisation in Western Australia.

If this Bill were substantially amended, it could do something worthwhile about street prostitution and related difficult matters which regrettably are prevalent in certain parts of Perth; therefore, the Australian Labor Party will agree to the Bill being second read.

HON GIZ WATSON (North Metropolitan) [5.45 pm]: The Greens (WA) cannot support the Bill in its current form as it has all the appearances of being hugely rushed in its preparation. I am adamant that it requires enormous amendment if it is to be salvaged in any shape or form. I place our position on this matter on the public record: The Greens (WA) acknowledge wholeheartedly the concerns of people affected by streetwalking in their neighbourhoods. A number of people have contacted my office, and I have engaged in extensive conversations with them about those concerns, which the Greens share. We agree that not only is it disruptive and unpleasant to have streetwalking occurring adjacent to one's house, but also an associated risk is involved for members of the public, particularly younger people, with such antisocial behaviour.

I now outline the policy or position of the Greens (WA) on the sex industry and prostitution: We would dearly love this industry not to exist. An enormous number of issues arise in the sex industry with the exploitation of women and the impact of such activities on workers and clients. We acknowledge that we will never be able to get rid of this industry. For me, this debate is not dissimilar to the debate on abortion which occurred in this place not long ago: We all agreed that we would dearly love abortion not to be necessary; likewise, we wish that there were no sex industry, but there will always be a sex industry.

The objective of any legislation to regulate the sex industry must be to treat it as a health issue, including occupational health and safety. The Greens (WA) are very much concerned about the rights and health of people who find themselves working, or who choose to work, in that industry.

A core concern which developed when I began examining this Bill is that it severely curtails the basic human rights of people working in this industry. The other issue which became apparent when I met various representatives who wanted to tell me their concerns about the Bill is that it is supposed to address only the issue of streetwalkers. It is important to realise that street workers in the sex industry are virtually a separate group from those working from premises or brothels. In fact, I am told that almost 99 per cent of those working on the street do so to get money for a drug habit.

This Bill is a reaction to a phenomenal increase in the number of people working on the streets, one of the underlying causes being that the issue of drug use and abuse is not adequately addressed in this State. Another cause is that those workers cannot get jobs in a brothel because the management will not employ people who have a drug habit. I am not saying that is right or that is wrong. We are trying to deal with a problem that is much bigger than the issue of people working on the streets. Unless we address the underlying causes for people turning to such a high degree of drug use in this State, we will never adequately tackle the issue of street prostitution; we will merely displace it to another more out-of-sight area. One acceptable alternative way of dealing with the issue is to go the way of a number of other States; that is, allocate an industrial area to be used legitimately for street prostitution.

My concern is that if we bring in heavy penalties and fines for street workers, those workers will be forced to turn to other activities to raise the money they need for their drug habit. It was suggested that street prostitution is a victimless crime, although nobody wants it in their area and everybody agrees there are problems and dangers associated with it; whereas drug users, who are put under extreme pressure to stop working on the streets, will find other ways of getting the money that they inevitably need, by housebreaking and bag snatching, for example. These are very difficult issues on which to take a right or wrong stance. One of the impacts of cracking down on street prostitution might well be an increase in other types of crime which, unfortunately, have victims. Apart from the connection with drug use of people working on the streets, there are also obvious issues of poverty and inequality that drive people to work in the sex industry. One of the fairly sobering aspects of prostitution is that by far the majority of women working in the sex industry have suffered sexual abuse as children. I am not saying that is true of all sex workers but there is a very frightening correlation in that area. We must increase the provision of services that are necessary to prevent people from choosing to work in the sex industry, in particular street sex workers.

This Bill is a very rushed piece of legislation and the inevitable result of a lack of a holistic approach to prostitution in this State. The current government policy of containment patently does not work. It leads to corruption and selective policing, and also erodes the ability to monitor the industry. The lack of a written policy has created a huge problem. It is very difficult for the police and those people involved in the industry when there is no legal framework in which they can work. One of the recent phenomena was the estimate of between 400 and 500 sex workers in this State in 1990-91; now it is estimated at more than 3 000. That figure comes from a government report on the draft prostitution control Bill of 1998. The report used those figures to show that the numbers of sex workers in Western Australia had increased rapidly. One must question whether those figures relate also to economic hardship.

Interestingly, an organisation called Phoenix, which represents sex workers, estimates that 3 000 is probably half of the real figure. We are therefore looking at an enormous number of people who are actually earning a living in this way. I guess the spilling out onto the streets is one result of the increased number of sex workers operating in WA. The objective of limiting or prohibiting people working on the streets has merit. A recent issue of violence towards and the disappearance of sex workers has created enormous concerns, among not only the general public but also those workers themselves. Those are extreme examples but most sex workers never report incidences of violence. An estimated 80 per cent of violent attacks on sex workers are unreported. A lack of protection for women, particularly on the streets, makes it even more dangerous to be working there. As I said, the problem is that those workers would be unable to get employment in the more protected environment of a brothel because the majority of them are drug users.

One of my key concerns about the Bill is that the whole approach of the Government is to leave the regulation of prostitution in the hands of the police rather than to treat it as an occupational health and safety issue. The main concerns that have been brought to me have come from members of organisations such as the Family Planning Association of WA and the Australasian College of Sexual Health Physicians, who took the time to write to me expressing their concerns on behalf of a range of health professionals providing services in this area. These people in their work obviously see a number of people, particularly workers in the sex industry. They have expressed concerns to me that the Bill will result in the approaches to limit the spread of disease and promote safe sex practices in the sex industry being set back drastically. The provisions in the Bill will result in the reluctance of those workers to come forward for health checks or consultations with any health professionals because of records being made available under the legislation or health professionals being required to provide the information on request to the police. One of the interesting myths about sex workers is that they all have a rampant rate of sexually transmitted diseases and are a health hazard. The reality is that most sex workers have a low record of sexually transmitted diseases compared with an average member of the public.

Sitting suspended from 6.00 to 7.30 pm

Hon GIZ WATSON: Before the suspension I was about to elaborate on one of the misconceptions that people working in the sex industry are more likely to spread sexually transmittable diseases among the unsuspecting general population. I received a letter from Dr Heather Lyttle, a sexual health physician and Chairperson of the WA Chapter of the Australasian College of Sexual Health Physicians, which reads -

In its current form -

She is referring to the Bill -

- it appears punitive and unworkable. Sexually Transmitted Diseases in the community are spread far more by the general population than sex workers who consistently use condoms. In Australia in the 1990's Sex workers have a lower incident of condom-preventable diseases than the general public.

That highlights one of the major concerns with the Bill.

The provisions requiring certain information to be made available will impinge on achievements within the industry, such as increased rate of practising safe sex and the use of condoms, which play a major part in reducing the spread of sexually transmitted diseases.

From speaking to people such as Dr Lyttle, the Family Planning Association of WA and the AIDS Council, irrespective of the intention of this Bill with respect to sex workers, I believe its implementation will have a retrograde impact on the advances made in sexual health within the industry.

In outlining some of the history that led to the introduction of this Bill, I refer to the failure of both major parties to introduce a comprehensive approach to prostitution in this State.

Hon N.D. Griffiths: And the Greens.

Hon GIZ WATSON: We have not had an opportunity to do anything until now.

Hon N.D. Griffiths interjected.

Hon GIZ WATSON: In 1990, the State Labor Government reviewed this issue by establishing a community panel on prostitution. Probably the overriding recommendation from that panel was that the best way to address prostitution was by decriminalisation. Since then there has been a lack of will to go that far.

Hon Peter Foss: Not lack of will; we do not agree.

Hon GIZ WATSON: Or lack of agreement, that is fair enough.

Another concern that has been raised about this Bill is the lack of consultation with health care professionals and workers in the sex industry. It seems that only in the past week or so have a number of health professionals and their organisations had an opportunity to realise what this Bill is proposing. They have responded very vigorously with their concerns. As a result, the House will be contemplating some major amendments to the Bill. We will be supporting the bulk of those amendments. I certainly think that they are pulling back a lot of the issues that looked as though they would go as far as to impinge on people's rights and set back dramatically the health agenda in this industry.

Another state government community panel recommendation is that one of the ways in which to have better regulation of the industry is to encourage responsible behaviour in sex workers and their clients, to encourage the free flow of information and education and to alleviate some of the stigma associated with those working in the industry. What is so fundamentally

wrong in the approach of this Bill is that it runs counter to all of those initiatives for encouraging responsible behaviour in workers and their clients. The Bill stands at the moment as an impediment to that flow of information and whatever efforts for education have been made to date. The Bill certainly does nothing to alleviate the stigma associated with the industry.

An extraordinary irony is that in *The West Australian* approximately three weeks ago, when an American aircraft carrier came into Fremantle - about the time of the discussion on whether a Bill on prostitution would be introduced into the Parliament - there was a picture of three very scantily clad young women at the port "welcoming" the sailors in. I thought that there we had double standards. We all think that prostitution is a terrible thing but when the sailors arrive it is just a bit of entertainment for those women in bikinis or whatever to sell their services to the sailors! It is one of the aspects I find appalling, because not only do these vessels come into our ports carrying nuclear weapons but also their sailors exploit our women. The community has an extraordinary double standard when it comes to what is acceptable and what is not.

Hon Ray Halligan: Are you suggesting that the community should condone it?

Hon GIZ WATSON: I am suggesting that sort of behaviour is seen in a different light from streetwalkers in Perth.

Several members interjected.

The PRESIDENT: Order! I remind Hon Ljiljana Ravlich that it is not question time. Hon Giz Watson has the floor, and I am trying to listen.

Hon GIZ WATSON: Thank you, Mr President, I will try not to be distracted in my presentation on this matter.

The industry makes an enormous contribution to the economy. Another double standard is that although the industry is illegal, those working in it are required to pay tax.

Several members interjected.

The PRESIDENT: Order! Hon Nick Griffiths should be aware that I am trying to listen to Hon Giz Watson. As I have said before, she is in probably one of the most difficult places in the House from which to hear somebody speak.

Hon GIZ WATSON: I came across an article in the *Western Review* from December 1994 which stated that the estimated earnings from prostitution were between \$22.7 and \$63.3m annually. It is obviously an industry that contributes to the Australian economy in a major way. The article contains other interesting statistics. Again, I raise this to point out some of the double standards in our community regarding prostitution. It claims that seven out of 10 adult males have some direct experience of prostitution. I am pleased the Bill addresses the issue of prosecuting fines. In the majority of cases, regulations and punitive action are directed at the sex worker, rather than the client. I have found that to be exceedingly unreasonable. I acknowledge that the Bill makes some efforts towards penalising the client.

I will reserve the bulk of my comments concerning the detail within the Bill and what the legislation is supposed to achieve for the committee stage. We will be able to address the clauses in some detail then. In general, this legislation is intended to address kerb crawling and street prostitution. I acknowledge the need to address that issue and the impact it is having on the people living in North Perth, in particular.

Another intention of the Bill is to protect public health by reducing the likelihood of prostitutes who become infected and who subsequently infect clients, before the prostitutes realise they have an infection. There is a problem in terms of the exact time at which people know they have become infected with a disease; for example, people could go to a health professional and be told that they are okay and an hour later could have a contactable disease. It is a very difficult area in which to prescribe laws. With HIV AIDS there is a window of up to three months during which people can carry the infection, but it will not show up in any tests. To try to make provisions that prove people should have known they had a disease is very difficult. It is less likely that people will visit a health care professional because of the onus on them that, once they had the check-up, they might be liable under the new legislation.

Legislating to provide access to information is also difficult. I am not comfortable with these proposed changes. As I understand it, this provision will remove the excuse of legal professional privilege so that members of the medical profession will be required to give access to medical records if requested to do so by the police. That is unacceptable and would be an extremely retrograde step in the health of not just the sex workers but also their clients.

Hon Cheryl Davenport interjected.

Hon GIZ WATSON: I have not had the opportunity to check that out thoroughly, but it has been said that it is likely to contravene issues like privacy legislation.

We applaud the move to address the issue of under-age people being involved in prostitution. The question is whether the proposals under this Bill are the best way to deal with that. However, we acknowledge that existing laws probably are not adequate to address the specific issue of children being involved in prostitution. The Bill is reasonable on that score.

The next point which has raised major concerns is the provision of police powers to enforce the Act and to stop and search to obtain information. The whole suite of powers proposed under this Bill are totally over the top and are an enormous additional power. For example, under this legislation, police will have powers to stop, detain and search without a warrant and to confiscate anything that will afford evidence of the commission of an offence. If someone were stopped in the street and happened to have a packet of condoms in his or her back pocket, would that mean that that person would be suspected of either soliciting or seeking a prostitute? I hope that a large majority of the people who go out on a Saturday night have condoms in their back pockets, because that is one of the messages that safe sex education has promoted. It worries me when

the Bill states "anything that will afford evidence as to the commission of an offence". That could easily capture a lot of people who were being very responsible and were not about to solicit or seek out a prostitute.

The powers of entry and seizure without a warrant are extraordinary. The Bill proposes to give police the power to enter without a warrant and also to search and seize with reasonable force, which includes searching premises other than those at which a prostitution business is being carried out. That leaves a broad power to enter any other premises as well.

The Greens (WA) also have concerns about the issue of entrapment. We note that there is an amendment in the name of Hon Norm Kelly on this issue and we do not support the use of entrapment procedures and the authorisation of undercover operations. In the area of police relations with the sex industry, there is a pre-existing degree of mistrust and suspicion of police, and the use of entrapment should not be supported. I do not support it, in the context of sexual offences, in this way.

My final point on the detail of the Bill concerns the exchange of information between state authorities. Dealing with the disclosure of information in respect of juveniles, the issue has been raised with me that the Bill, as it is drafted, will override a section in the Young Offenders Act which states that anyone who discloses the fact of a juvenile's conviction commits a crime. The fact that it overrides that section worries me greatly, because obviously that provision was included to protect juveniles. Again, this is an indication that this Bill is exceedingly heavy-handed and punitive in its approach. I look forward to the debate in the committee stage, because some detailed matters concerning the clauses need thorough debate.

The Greens (WA) seriously doubt that they can support the Bill in its current form. We see it as being hastily put together. It is positively dangerous in some of the powers that it seeks to provide to the police. If the Bill were allowed to proceed, it would have an impact on safe sex messages and issues concerning the health, not just of the sex workers, but also their clients, and it would cause a major disruption to outreach programs and other initiatives which involve street workers and other workers in the sex industry and which seek to promote positive health messages and to manage the activities in a way that protects both the clients and the workers. In conclusion, it is unfortunate that prostitution law reform is tackled in this piecemeal way. We look forward to a comprehensive and holistic approach to the issue of prostitution in this State, rather than the politically motivated piecemeal approach that this Bill represents.

HON CHERYL DAVENPORT (South Metropolitan) [7.53 pm]: As Hon Nick Griffiths indicated, the Opposition supports the second reading of this Bill, but it will seek to amend it during the committee stage. Hon Nick Griffiths has covered in some detail concerns which have become apparent since the Bill was dealt with in the other place. At that time, as *Hansard* reveals, the Bill sought to deal with three specific issues: First, it sought to provide offences for street soliciting for both prostitutes and clients, who have effectively become known as kerb crawlers. This essentially is an attempt to deal with the visible problems that are currently being experienced by many residents and business owners in the Northbridge area. I am sure that many members have been contacted by those local residents, as I have. Secondly, the Bill sought to prevent children from being involved in prostitution and to prevent their exploitation. Thirdly, the Bill sought to empower the Police Service to deal effectively with prostitution, public health issues and the involvement of children in street soliciting. It is fair to say that when the Legislative Assembly passed this Bill in the last parliamentary sitting week, a number of significant consequences of this legislation were not well known. Those consequences have since become major issues of community concern. Like many other members of this House, I have been contacted over the past week by a range of organisations and individuals with genuine concerns about the Bill. We must acknowledge the vigilance of those people for doing the detailed study which none of our colleagues in the Legislative Assembly was able to do before the debate.

I will make a couple of observations about the Government's handling of the legislation from that perspective. It is a long-awaited Bill. It has already been mentioned that my party failed to tackle the issue when it was in Government, despite reports done at the time. However, this piece of legislation has been in the drafting process for the best part of two years and it now seems to be an attempt, cobbled together, to deal with three specific areas. It is nothing short of a disgrace. If ever a piece of legislation ought to be dealt with by the Standing Committee on Legislation, this is it. I know the difficulty of debating and dealing with issues of moral law reform after our experiences in this place last year. The way to deal with a Bill like this is to submit it to a committee and allow public hearings so that the groups and organisations that deal with this issue on a daily basis and the people who work in the industry can have some input. We could at least tease out what the problems are and try to deal with this legislation in a much more calm and rational way. There is no doubt this is important legislation. We all know that matters such as prostitution and abortion law reform are difficult public issues to deal with. As legislators, we are sometimes far more conservative than the general community. The general community is seeking leadership from us in issues such as this. It wants us calmly to put forward rational legislation that is not dealt with in the rush of the last weeks of the parliamentary session before the Christmas break. I am sorry we have to deal with the legislation in this manner. It would have been much better to have more scrutiny and access to information by referring the Bill to a parliamentary committee. The Standing Committee on Legislation could deal with this in an appropriate way. I feel very sad that the facilities of this Parliament have not been made available to allow this Bill to be dealt with properly. I blame the Government because it and the parliamentary management could have prevented this Bill from getting to this stage.

The Bill provides the Police Service with extraordinary extensions of powers. In my limited ability to read this Bill, those powers seem punitive. I think there are few, if any, preventive measures in the Bill. Some of the organisations that contacted me over the past week want specific issues raised. I felt it was appropriate to bring some of those concerns to the attention of the Parliament. I first refer to a letter I received from Family Planning Western Australia. That organisation not only deals with issues of reproductive health, but also now provides, in a very proper way, counselling and medical services for many Western Australian sex workers. I shall read into the record some of the issues raised by Family Planning, which it regards as serious issues that this Bill cannot adequately deal with. The letter addressed to me states -

The Bill directly contravenes a number of national and international recommendations regarding the maintenance of optimal sexual health and prevention of sexually transmissible infections.

Hon Giz Watson has dealt with that aspect adequately. The letter continues -

It makes no provision for occupational health and safety measures.

It then refers to STD and HIV health prevention strategies and says that the Bill contravenes the individual rights of HIV-infected persons to have sex. It also sets back HIV-AIDS campaigns which have been in force since 1980. None of us has any illusion about the millions of dollars that were ploughed into those campaigns, and which have made a positive difference in the incidence and spread of HIV-AIDS in this country. The letter alludes to the fact that the minister said in his second reading speech that numerous government and non-government agencies in the inner city and Northbridge area have responsibility for providing an appropriate welfare response. The association argues that in its current form -

This legislation makes the capacity to provide any welfare or health services impossible.

The letter then refers to the issue of confidentiality -

This Part of the Bill is to the detriment of sex workers and their clients who will be reluctant to access health services for HIV and STD testing in the event that the information may be used to prosecute them. The implications will be that the industry will be forced underground and outreach health workers will find it impossible to access workers. This will do nothing to encourage testing, seeking information or any activities that support health promotion activities.

The legislation overrides confidentiality legislation requirements for health providers and places them -

That refers to health providers and not workers in the industry or those seeking to be their clients. It continues -

- in an ethical and legal dilemma.

The letter continues and refers to police powers as follows -

The legislation gives unwarranted powers to police with no accountability requirements. Entrapment activities have the potential to compromise police integrity. Police offences against street workers are already a serious problem. Section 31, Provisions about searching a person, is ambiguous. What would police be looking for on someone's person? Evidence about STDs or child prostitution?

The letter concludes by saying that workers fearing entrapment will not be prepared to speak to outreach workers, and this compromises the capacity of health and welfare organisations to provide the services for which they have been funded by the State. These are real concerns for Family Planning, which deals with sex workers on a daily basis.

I also will read into the record a small raft of concerns from the WA Aids Council. It argues that the Bill -

- (i) contravenes tried and true Public Health strategies, undermining the HIV/AIDS and Sexually Transmissible Diseases response;
- (ii) contravenes basic human rights through draconian entrapment, investigation and imprisonment measures;
- (iii) contravenes anti-discrimination legislation at the Federal level and appears to be in direct contravention of Australia's Human Rights treaties;
- (iv) provides unwarranted powers to police with no apparent accountability requirements;
- (v) makes impossible the capacity to provide any welfare or health services;
- (vi) overrides confidentiality requirements for health providers . . .

Both organisations have similar concerns.

I refer now to a telephone call I received from Mr Garth Eichorn, who is the metropolitan representative on the Safer Western Australia Council outlining two major concerns about this legislation. First, he argues that the approach to streetwalkers is particularly punitive, and secondly, that the Bill seems to be restricted primarily to the Police Service rather than involving other agencies. He told me that a basic tenet of the Safer WA Council is to coordinate an interagency approach to services dealing with problems within the inner city area. He sees this legislation as not a positive approach to managing the industry in that area. He also stated that the Safer WA Council had input into the Minister for Police's original prostitution Bill, but had not been consulted on the new legislation. That lends truth to the suggestion that this Bill has received little consultation outside the Police portfolio.

I had a long conversation with Mary-Anne Kenworthy, a brothel madam in Western Australia, who raised a range of matters, but her chief concern was that this legislation will give police absolute control over the sex industry. Her observation was that the Government, through this legislation, will bring back the whole notion of the containment policy. Also, she believes the potential exists for the number of brothels in Western Australia to be reduced to between nine and 11. She argues that Perth currently has 50 to 70 sex businesses, which she termed as "best practice" for anywhere in the world with a population of the size of Perth's. She also raised a number of concerns about the Kalgoorlie situation, to which I will refer in more detail later. I will raise some questions on behalf of the member for Kalgoorlie, who requested that I do so as she was unable to be present during debate in the Legislative Assembly.

Ms Kenworthy also raised the issue of the involvement of younger women, particularly those under 20 years of age, in the sex industry. A reason for that involvement is the difficulty accessing work and the money that can be earned through prostitution. A younger person may earn about \$300 a week in other employment areas, but she might earn \$700 to \$1 000 a night as a prostitute. The potential for earning is quite amazing. Having said that, Ms Kenworthy also stated that young women do not make the decision lightly to enter the sex industry; they consider it for a long time. As an employer in a sex outlet, she is very careful when interviewing younger women and women coming into the industry and counsels them against it if she picks up the fact that they might be feeling nervous and may be unsure of whether that is the way to go. She said that one of the essential aspects in dealing with the issue is the necessity for training on how to deal appropriately with clients as technically, as we all know, the profession is illegal. It is very difficult to be able to provide that kind of training now. She went on to tell me that in the 15 or 16 years in which she has owned operations in Western Australia she has never had a health inspection check, been provided with fire standards information or received requests from councils that she provide adequate parking - all of the things to which proper legislation would attend. It is wrong to allow this legislation effectively to be run by the police because a range of other things must be considered when providing adequate and appropriate business.

As I said, Mary-Anne Kenworthy also raised the issue of the Kalgoorlie situation, which has certainly become known since the legislation was passed in the other place. I will deal briefly with some of the other concerns raised with me by the member for Kalgoorlie who is a lawyer and has read the legislation. She pointed out to me that there are existing provisions in the current Child Welfare and Police Acts which are not being used to control underage and street prostitution. She also cited the leaked report from the WA Police Service last year which was prepared in response to the New South Wales Wood royal commission and which demonstrated that the Western Australian child abuse unit does nothing to prevent or prosecute those people involved in child prostitution, mainly due to the lack of resources available to do so. That is another area in which there has been little debate and which could be covered by this Bill. Specifically in relation to the Kalgoorlie-Boulder situation, the member for Kalgoorlie believes that the Bill in its current form makes provision to charge skimpy barmaids, some of whom actually engage in physical contact; strippers; and the prostitutes who work in the three brothels which operate under containment in Kalgoorlie. She believes these activities would be picked up in the current legislation under the definition of "a public place".

I want to refer to two articles from the *Kalgoorlie Miner*. The first article carried a response from the Minister for Police and the second article in today's edition carried a response from the police superintendent in Kalgoorlie. I will read those articles into the record because it would be useful if the minister were able to respond to those articles when he sums up the second reading. The first article entitled "New law may not apply in Hay Street - Prince" reads -

Police Minister Kevin Prince admitted yesterday that legislation designed to control Perth's street prostitution problem could impact on Kalgoorlie-Boulder's historic "starting stall" brothels, although that was not the intention of the Bill.

But Mr Prince said he expected Kalgoorlie police would exercise their discretion when applying the law and would allow the century-old tradition of prostitutes displaying themselves in public view at the three Hay Street brothels to continue.

The article says further on -

Mr Prince said he did not expect police would want to change what had become an accepted practice in Kalgoorlie.

"It is possible to suppose . . . that somebody might try to stretch (the legislation) to cover the starting stalls", he said.

"But I think that that is unlikely and I would certainly not as a matter of policy like to see that done because that is not the practice that this law is designed to stop."

Although we know that the potential exists under this legislation for people to be caught by it -

Hon Peter Foss interjected.

Hon CHERYL DAVENPORT: I know and I agree, but the definition of "public place" would ensure kerb crawlers were caught.

Hon Peter Foss: It will not make it any wider.

Hon CHERYL DAVENPORT: No, but I am seeking clarification on this issue. As I said, it is obviously of concern. I defy anyone here who has been to Kalgoorlie to say they have not been to see Hay Street in Kalgoorlie. I suspect it is a tourist attraction. Certainly there is potential for the Bill to cause concerns for those workers in the industry and for any person seeking to be a "client". Even someone driving up the street who shouts raucously could be caught because they could be suspected of seeking to be a "client".

Hon Peter Foss interjected.

Hon CHERYL DAVENPORT: I acknowledge that is a problem that has been ignored under the existing legislation. However, this legislation has drawn attention to it and it has become a problem due to the perception that the powers the Bill provides to the police could cause them to crackdown in some of those areas.

On 4 December the *Kalgoorlie Miner* reported that the Australian Family Movement was seeking to stamp out prostitution altogether, which is somewhat unrealistic in this day and age.

Hon Peter Foss: In any day and age.

Hon CHERYL DAVENPORT: That is their view which no doubt many people in the community may share, but I am sure they are in a minority. The *Kalgoorlie Miner* of today reported some comments made by the superintendent of police, which read -

Speaking on the issue for the first time yesterday, Kalgoorlie's new police superintendent Haydn Green said the Bill would not end the century old practice of prostitutes publicly displaying themselves in the "starting stalls".

But, he said current arrangements would be "firmed up" to ensure prostitutes remained within the confines of their stalls and did not venture outside to solicit clients.

He said a line would be drawn in the sand and if prostitutes chose to cross it, they could expect to be charged.

"My view is that if they stay within the stalls, that's fine. But if they come out and meet prospective clients on the street then it won't be allowed", Supt Green said.

I understand what he is trying to say, and although that may not affect the prostitutes, the "clients" on the other side of that line may be caught under this legislation. As I said earlier, I ask the Attorney General to give his view on that.

I have tried to outline why this legislation could have been improved had it been dealt with by the standing committee process. As I said earlier, issues of moral law reform are difficult to deal with; nonetheless, as politicians we have a responsibility to grapple with this issue. I look forward to debating the issue in its entirety before too much longer. By dealing with only one small aspect of prostitution we are ducking an issue that must be dealt with.

HON LJLJANNA RAVLICH (East Metropolitan) [8.20 pm]: In supporting the Bill, I want to put on record my concerns and, I feel, the concerns of many people in our community about this legislation. I am surprised that the Government has brought before this place this legislation to deal with kerb crawlers and street prostitution, because I would have thought that dealing with those aspects of the sex industry could have been much simpler than the Government's proposals in this Bill, which are very draconian. The Bill will do little more than drive the sex industry underground. I have grave reservations about many aspects of the legislation. The Australian Labor Party will be moving a number of amendments.

I started my research by having a look at the second reading speech, which is not a bad way to start. When one compares the second reading speech with the Bill, one quickly finds that the devil is certainly in the detail. I accept that street prostitution and kerb crawlers, particularly in the inner city, constitute a problem that needs to be dealt with. However, I am not convinced that what is proposed here will necessarily be effective in producing a desirable outcome. In the second reading speech the Attorney General comments on the delay in presenting this Bill to the Parliament. He states that the delay is not the result of any lack of commitment on the part of this Government to pursue reform of prostitution law in Western Australia. I do not know who the Attorney is trying to kid, but the bottom line is that it does not take six years to deliver prostitution legislation to this Parliament. In fact, the delivery of the legislation occurred only after it was made public that the Australian Labor Party was drafting a Bill to address this issue. The Government very quickly cobbled together this piece of legislation. I have grave concerns about the speed with which it was done and with which the Bill proceeded through the other place. The Bill was on the Table of the other place for a matter of about only 24 hours before it was debated. The Bill was pretty much rammed through the other place by the Government's use of its numbers. I guess, therefore, it is beholden on this House to go through the detail of the legislation and act in the interests of all Western Australians to ensure that what we end up with is a piece of legislation that is workable and equitable in treating all Western Australians fairly.

The Government said that the delay in introducing the Bill was occasioned by the need to achieve a position on this issue which at the end of the day is not only acceptable to the community generally but is also enforceable. Although most Western Australians know that legislation is before this place to deal with prostitution, they certainly do not have any idea of the detail of the legislation.

Some of the contents of the Bill are quite scary. One is the question of the unlimited powers given to the police under clause 27: The power to search without a warrant, to detain without a warrant, and to seize without a warrant. I am not a lawyer, but, in practice, the police require a warrant for most areas of their operations, particularly when they take people into custody, or charge them, or undertake any other processes of their work. It begs the question of why this is an exception. I will be interested to hear the comments of the Attorney General in that regard and also to hear under which other circumstances we have legislated for police to undertake their activities without the requirement for a warrant.

When I got to the bottom of the first page of the second reading speech, I thought this is not such bad legislation because the Bill aims to do three things: First, to preclude children from being prostitutes and to prevent their exploitation for sexual gratification. No member in this place would have any objection to that, and we see it as being a very good outcome of the legislation. I do not have a problem with it and I do not think anyone in the State would either. It is a very positive intent. The second objective is to protect the community by creating offences relating to health. On the face of it, that appears to be a good objective, as does the third objective, which introduces an offence to make street soliciting and kerb crawling illegal, regardless of who instituted the action - the prostitute or the client. Most Western Australians would accept that is fair and reasonable. It shifts the burden of responsibility for this activity. It is equally the responsibility of the client, as it is of a prostitute.

In real terms this Bill does much more: It creates a new class of citizens for whom the normal laws of this State do not apply; these people are an exception under this legislation. I refer here to sex workers. It also creates a situation in which, under certain circumstances, police have pretty much unchecked powers. That would be of major concern to most Western

Australians. That is one of the major problems of this legislation. My colleagues have already said that this Bill has not had much community consultation, which is evidenced by the fact that so little of the detail in the Bill is known. My view is that it is a very heavy-handed piece of legislation and has been likened to using a sledgehammer to crack a walnut. In my view, it goes further: It is like using a sledgehammer to crack a peanut. I am sure many people will concur with my sentiments in that regard.

The decision on what to do about prostitution is a very important one. I guess the question is very much dependent on the views one has about prostitution per se. I hardly thought about prostitution because I did not have much cause to do so; however, I did think about it when this legislation became public. I have some mixed feelings about prostitution because in a perfect world we would not have prostitution, but we must accept that it is not a perfect world. As legislators, we have a responsibility not to bring our prejudged views and prejudices to this place. However, we have a responsibility to the community as a whole to come out with good, workable legislation which is in the interests of all parties concerned. The fact that prostitution is closely linked with people's morality makes it even harder to deal with this complex matter.

At the end of the day, it is fair to say that we can deal with health and safety issues in the prostitution industry, and I am disappointed that that is not the focus of this legislation. Our aim should be to have a well-run, contained sex industry and to take prostitution off the streets. Given that it is the oldest profession in the world, in a modern and democratic society it is unlikely that we will ever get rid of prostitution. It will not be outlawed, so the best way we can deal with this very vexed issue is to ensure that we manage it properly. The real question before us tonight is whether the legislation before us puts in place the mechanisms by which we can best protect the community, street prostitutes and their clients. From my reading of this Bill the answer is no. The legislation will lead to a new set of problems, because principally this legislation has been done on the run. Prostitutes, particularly street prostitutes, are some of the most vulnerable people in our community. Before us we have a piece of legislation which will make them even more vulnerable.

I was interested to hear Hon Giz Watson say that there are now approximately 3 000 sex workers in this State. I am sure that number has grown since last year and probably the year before that, and it is a number which will continue to grow. One of the fundamental issues that must be addressed is why individuals go into this industry, and this legislation does not do that. Clearly, there is no high regard for the industry or for sex workers. Although that may be the case, as legislators we must ensure that when we legislate, we do so in the interests of all members of our community, and that includes sex workers. Hon Giz Watson made a pertinent point in that these people also make a contribution to our society, and there is little in this Bill for them. In fact, under this Bill they are pretty much guilty until they are proved innocent. One need only look at clauses 54 and 55. Clause 54, which is headed "Intention presumed in some cases", states -

- (1) A person loitering in or frequenting a place in circumstances giving reasonable grounds for suspecting that the person had an intention described in section 5(4)(b) or 6(3)(b) is to be presumed to have had that intention unless the contrary is proved.

This is fundamentally opposed to what we should be about in a democratic society. Surely, under the law as it currently stands - maybe Hon Peter Foss can explain this to me - we are all presumed innocent until such time as proved guilty. However, in this situation, a group of people who are sex workers are guilty until such time as they are proved innocent. That represents a grave concern. Apart from anything else, people who are in the sex industry and working as sex workers are often destitute. They are people without financial means, who are often dependent on other people; that is, their pimps, or the people who control them or work them, or whatever the term is. At the end of the day, the most vulnerable people in our community will be made scapegoats, because I would bet my bottom dollar that most of those sex workers will not have the financial means, the contacts or anything else to be able to give themselves an even break or an even chance to prove their innocence. They will not be in a position to do that. Given what has happened to legal aid funding in this State since the present Government came into power, they will have even less of a chance.

Hon Peter Foss: It has gone up since we have been in Government.

Hon LJILJANNA RAVLICH: This is a disgrace. How on earth can the Government put in the legislation that somebody is guilty until proved innocent? I will be waiting patiently and listening intently, for a change, to what the Attorney General has to say about why these people are presumed guilty until such time as they are proved innocent.

Hon Peter Foss: They are not.

Hon LJILJANNA RAVLICH: This is contained in clause 55 of the Government's legislation. I will be waiting for the Attorney's explanation of this clause, as I will be with many other clauses.

Hon Peter Foss: Get your facts right about legal aid.

The PRESIDENT: Order! Let us not worry too much about legal aid unless it relates to the Bill. Let us move on to the Prostitution Bill 1999.

Hon LJILJANNA RAVLICH: Thank you, Mr President. I agree with the President on that matter. What some members here fail to realise is that sex workers are not just sex workers.

Hon Peter Foss: They are prostitutes.

Hon LJILJANNA RAVLICH: Listen to that - what a pathetic interjection! The point I am trying to make, which the Attorney General would not understand, is that sex workers happen to be the daughters and sisters of somebody, and they often happen to be the wives and mothers of somebody. They are not just prostitutes. What an absolute disgrace. Most of them are in very serious need of help. Because most of them are in a predicament in which society has failed them and they

are at the point at which many of them do not know how to deal with the problems or issues confronting them, they are into a cycle in which they fail themselves. There is nothing in this legislation for any of these workers.

Hon Peter Foss interjected.

Hon LJILJANNA RAVLICH: They are. There is nothing in this legislation for these workers. It is all punitive. This Government has done absolutely zip in the past six years to address why these women are going down the path of prostitution. It has done nothing about that, and now 3 000 people are working in this industry. It is a trend which will continue to grow. Rather than take any positive action which goes to the source of the problem and which tries to analyse why women and men who end up as sex workers go down that path, and consider preventive solutions, the Government has come out with something which is punitive and which at the end of the day will be bad for society as a whole.

Hon Bob Thomas: Does Hon Ljiljanna Ravlich think the Bill will cure prostitution?

Hon LJILJANNA RAVLICH: No, this Bill will drive prostitution underground.

Hon Ray Halligan: Does Hon Ljiljanna Ravlich want the prostitutes on the streets? What does she mean by underground?

Hon Peter Foss: She wants people to become child prostitutes.

Hon LJILJANNA RAVLICH: The Attorney General should not be so absurd.

Hon Ray Halligan: Hon Ljiljanna Ravlich should explain herself.

Hon LJILJANNA RAVLICH: My research officer today made contact with some people who have some involvement with sex workers. One of the people contacted was Mr Graham Brown, the Acting Executive Director of the AIDS Council of Western Australia. Mr Brown said that in other parts of the world where police have wide-ranging, heavy-handed powers similar to those in this legislation, street crawling has not stopped and sex workers have just become clever and stopped carrying evidence of their trade. Rather than having the police suspect them of being sex workers and finding them with condoms and whatever else might indicate they were sex workers, they just became smart about it. The sex workers started to leave the condoms at home. As a result, the incidence of sexually transmitted infections increased. There is a lesson in that: When health issues are mixed with the Criminal Code, as the Government has done with this Bill, the questions of what is more important and how health issues relating to sex workers are dealt with are lost.

Mr Brown is also concerned that this legislation undermines the "safe sex" message. He believes - and I have also heard this, although I am not a medico - that people can have safe sex even if they are HIV positive, provided that a condom is used and there is no exchange of body fluids. I do not advocate that HIV positive people service clients, but this legislation is focused on sexually transmitted diseases and HIV.

Hon Mark Nevill: The same thing can happen with hepatitis C.

Hon LJILJANNA RAVLICH: Yes. This legislation is sending out a mixed message. The AIDS Council is telling people they can have safe sex if they are HIV positive and the legislation says that people could end up with 20 years of imprisonment if that happens. I do not know how much consultation has occurred, but I share Mr Brown's concerns. There are some genuine concerns. The legislation should provide that it is an offence for infected sex workers not to disclose their infection or to have unprotected sex. There is nothing in the legislation about unprotected sex. That would have been a good place to start, if the Government really wanted to reduce the incidence of sexually transmitted diseases and HIV. I understand most sex workers have protected sex, because they want to protect themselves. Many sex workers are married, have partners or boyfriends. I am sure that most, or all, of them do not want to infect anybody else. The sexually transmitted diseases and HIV provisions in this legislation are draconian. I do not know that they will have the effect that the Government thinks they will have. I think this legislation will cause more problems than it will solve. My understanding is that street work is already illegal - perhaps someone will correct me down the line. If that is the case, we can say that the police have not been effective in dealing with that illegality. Is it legal?

Hon Peter Foss: You obviously have done no research on the topic until today otherwise you would know why the police were not able to take action against street workers.

Hon LJILJANNA RAVLICH: Instead of giving them some restricted access or powers, the Government proposes to give them unlimited powers so that they can go into doctors' surgeries.

Hon Peter Foss: You are wrong; you obviously have not read the Bill.

Hon LJILJANNA RAVLICH: I have read the Bill and I am not wrong. I look forward to the committee stage of this Bill because I will put to the minister, clause by clause, the concerns I have about this legislation.

Hon Peter Foss: You are welcome to debate it, but you are wrong.

Hon LJILJANNA RAVLICH: Everybody who has a view which is different from that of the minister is always wrong.

Hon Peter Foss: No, but you have not researched it.

The PRESIDENT: Order! If Hon Ljiljanna Ravlich will address her comments to me, I will not interject and we can get on with the debate.

Hon LJILJANNA RAVLICH: There has been a problem with the police not having sufficient resources to move streetwalkers off the streets. The Government is now proposing to give them carte blanche in the whole area rather than give

them some additional powers. My interpretation, which may be wrong but I do not think it is, is that fewer police officers will have much more power. I do not think that is an adequate substitute for providing more police officers with a better framework of proper checks and balances in place to deal with the issues relating to sex workers.

I find many clauses in this legislation offensive. I have major difficulties with the clause allowing a person with a sexually transmissible infection to act as a prostitute. Clauses 9 and 17 provide that people with certain health conditions may not use prostitutes. I have problems with that provision. Also the legislation contains provisions whereby clients who infect prostitutes are subject to heavy penalties. I am interested to know how the Government will ascertain that a client has a sexually transmissible infection. How will the Government in practical terms track down these people, and what will it do when it finds them? Will it go to Mrs Smith, ask to have a word with her husband and take him to the police station to test him for a sexually transmissible disease? I do not know how this proposal will work in practical terms and I do not think the Government has worked that out. Because this legislation has been put together so quickly, some of the practicalities have not been thought through. Interestingly, clause 10 deals with employment in the prostitution industry. One will not be able through clause 10(b) -

The PRESIDENT: Order! The member should not go through the committee stage now. Nothing was wrong with skimming over clauses 9 and 17 in referring to health matters. However, Hon Ljiljanna Ravlich seem to be dealing with the detail of clause 10. She can mention clause 10 regarding promoting employment in the prostitution industry, and talk about it in broad terms. However, she cannot go into detail at this stage.

Hon LJILJANNA RAVLICH: Thank you for your guidance, Mr President.

Clause 10 provides that no advertising can occur for the sex industry. In fact, it states that one can incur a penalty if one publishes a statement which is intended, or likely, to cause a person to seek employment as a prostitute or a position in a business associated with prostitution. My interpretation is that if I applied for a position as a receptionist in a brothel, I would be in breach of that provision. That is a matter of great concern to me and many people.

Members know that extensive advertising is found in *The West Australian* on Saturdays; members opposite are real killjoys as many people look forward to those advertisements! This legislation will result in no more such advertisements, which is another example of the Government not considering the practicalities of its legislation. For the life of me I cannot work out how it will be applied. *The West Australian* of Saturday, 4 December contained three or four pages of such advertisements. How will the Government work out which ads are for what? The Government will need to set up a special unit to do nothing other than call all people who have advertised in the newspaper to question them about their ads. How else will it be determined whether these are advertisements by sex workers for the purposes of prostitution? I will read a few advertisements to members to highlight the complexity of this legislation. The Attorney General does not know his legislation. I refer to one advertisement for GoldFinger International, where one can get "unlimited services". I am not breaching standing orders am I, Mr President?

The PRESIDENT: Not at all.

Hon LJILJANNA RAVLICH: It outlines that one can receive -

Sexy Bi Babes, Toys, Lingerie Silk 'n' Lace Hot Mutual French! Steaming XXXX Striptease ★ Roleplay, Greek and Shower Couples, Fantasies.

Anything you Want! Anytime At All!

Hon Mark Nevill: They pay three times as much for those ads as ads placed to sell a motor vehicle.

HON LJILJANNA RAVLICH: Indeed. *The West Australian* will not be happy with the Attorney General!

Hon Peter Foss: It is big money for them.

Hon LJILJANNA RAVLICH: It is an issue. The Bill provides that no advertising should appear for anything to do with procuring sex.

Hon Peter Foss: That is not what it says.

Hon LJILJANNA RAVLICH: The Attorney General can explain his point of view later.

Hon Peter Foss: You have misinterpreted the clause.

Hon LJILJANNA RAVLICH: Do not interrupt me. The Attorney General can make a speech later; this is my contribution to the second reading. My interpretation of the clause is that it will be a nightmare for the Government to track down people advertising with a view to sell sex, or indeed to advertise for positions within the sex industry, such as a receptionist in a brothel. It will be a big job. This is further evidence that the Government does not know what its legislation contains.

Hon Peter Foss: You certainly don't know.

Hon LJILJANNA RAVLICH: Do not worry - I will get the chance to ask the Attorney General about his legislation. If I had introduced legislation, I would know what it contained.

Hon Peter Foss: You should read it for a start.

Hon LJILJANNA RAVLICH: I have read the legislation, and it is horrific stuff. At this point I am not allowed to go into it clause by clause; I will leave that for the committee stage. The Attorney General need not worry, as I will be asking the

right questions. I will go through the detail of the legislation. Suffice to say that I have grave concerns that what the second reading speech highlights as being the case, in some ways is not a true reflection of the detail of the Bill. I have grave concerns for the people working in the sex industry. My biggest concern is about the unchecked power to be given to the Police Force. The Australian Labor Party will be moving amendments to deal with those matters.

HON MARK NEVILL (Mining and Pastoral) [8.56 pm]: I do not want to exaggerate my comments on this Prostitution Bill but it is the worst piece of legislation I have seen come into this House in 16 years and I will be opposing the second reading. I know that is a forlorn action but I believe the Bill is beyond repair and I will be supporting many of the amendments in the committee stage.

The Bill has resulted from what I call political games. Street prostitution has been a huge public issue in recent months. The Opposition brought in a Bill and there was a bit of one-upmanship, with the Government coming back with a Bill a few weeks later. The Opposition played along with the issue and feels obliged to support the legislation. What do we get? We get a mess. It is legislation made on the run. Privately many members have said they are very embarrassed by this Bill, and they should be, because it is an embarrassment to this Parliament.

I thought members would have learnt a lesson about making legislation on the run. In 1992, Carmen Lawrence, the then Premier, introduced the Crimes (Serious and Repeat Offenders) Sentencing Bill. The Bill came into the Parliament in record time when there were large rallies for justice of 20 000 or 30 000 people outside Parliament House. The Bill looked good and made all the right noises but it was a disaster. We spent the next two years trying to patch it up and repair the damage that had been done. When we make legislation on the run we usually get into trouble. This Bill is an even worse example than that 1992 Bill, which I opposed in the Caucus. I do not make a habit of reading second reading speeches because usually they do not have much to do with the Bills. I always read the Bill.

I have not read the second reading speech in this debate but I read the Bill last Thursday, as one of the madams made an appointment to see me at Parliament House about the legislation. I read the Bill about half an hour before she arrived and the hair on the back of my neck was bristling. I just could not believe that this Bill had passed through the other place. I read the *Hansard* and there was one speaker after another welcoming the Bill, chanting about its benefits and championing its cause.

I was interviewed on ABC television last Wednesday or Thursday of which only one or two grabs were used, and I identified just about every problem in this Bill about which I have heard subsequently. I think the ABC used my criticism of the police powers and the fact that clauses 5 and 6 and the definition of a public place would put out of action the three brothels in Kalgoorlie. That town is my stomping ground. The Bill appears to be drafted by someone who has little practical knowledge of anything outside the metropolitan area.

Other issues that I identified when I first read this Bill were access to medical records and penalties, which I think are over the top. I think the Criminal Code provides for a penalty of 10 years for someone practising sex who knows they are HIV positive.

Hon Peter Foss: Practising sex with someone who has HIV is 20 years.

Hon MARK NEVILL: I do not think it is anything like 20 years. Many of the provisions in this Bill are in other legislation.

Hon Peter Foss: That is true. Some of the criticisms about the legislation are funny because much of it is not new law.

Hon MARK NEVILL: That is true. The focus in the Bill on imprisonment is appalling. Most of the women involved in street prostitution are addicted to drugs. They need alternatives to custody. Jailing them will not do much good. They need to be put on drug rehabilitation programs.

Under this Bill, if I were to ask a young woman in the street the time, I could be jailed for two years, although I acknowledge that is a rather facetious example.

Hon Peter Foss: What do you think should be the appropriate penalty for a person who solicits an innocent person walking along the street?

Hon MARK NEVILL: I would not put the person in jail for two years; I would consider a fine.

Hon Peter Foss: That is obviously what the court would do in the first instance, but what if the offender did it again?

Hon MARK NEVILL: I would consider alternatives to custody, such as impounding his vehicle if he were a persistent kerb crawler. Why cost the taxpayers \$66 000 a year by keeping those people in jail?

Hon Peter Foss: All of those penalties are available. A judge can impound his vehicle.

Hon MARK NEVILL: I am not sure whether some of our magistrates know that. I am not sure they even know what rehabilitation courses are available. I understand the Government is working on that.

I have had a fair bit to do with madams over the years because I have an office in Kalgoorlie and they have often told me that I am the only politician to whom they can talk, but I do not know exactly what that means. Over the years, most of them have told me that women working in brothels should be over the age of 21. It is a difficult lifestyle to cope with and the more mature women can handle it much better than the younger women.

Hon Peter Foss: The Democrats have suggested an amendment be moved to bring the minimum age to 16.

Hon MARK NEVILL: I will not support that, except in one case in which a prostitute solicits a male. The Attorney General will see later how I vote on that. I am opposed to women under the age of 21 working as prostitutes. I remember when Les Ayton, who is now the champion of freedom of information, used to sit on information when he was in the Police Force. He was one of the most secretive policemen I knew. He never answered any of the questions I asked. He seems to have recently undergone a road to Damascus conversion. When he was in the Police Service he came to Kalgoorlie and announced that the girls in the brothels must be 21, but those doing escort work could be 18. I cannot imagine a more stupid policy. A lass in a brothel has much more protection than an 18 year old doing escort work and going out to mining camps. That was the sort of nonsense with which he carried on.

I have covered most aspects of the Bill. We must be very careful because when we crack down hard on something like this phenomenon that has seemed to develop in the past two or three years, it appears in some other form somewhere else very soon. We might get rid of street prostitutes this week, but those people have drug habits and need money. We may find that the problem will reappear and we have merely shifted the problem. The same applies to home invasions and bag snatching. The number of burglaries has been dropping in recent years. Perhaps street prostitution is going up in sympathy with that drop in burglary numbers in the sense that it provides a source of money, but that is pure speculation.

I am not exaggerating when I say that this is the worst piece of legislation that I have seen. It is beyond repair, but the Australian Labor Party is probably a bit embarrassed about the Bill getting under its guard. Normally where Labor members would vote against a Bill at the second reading stage, I suppose they will try to amend the Bill to be something less offensive.

Hon Peter Foss: They assured us of bipartisan support through the whole of the Parliament.

Hon MARK NEVILL: The Bill has not got my support. There are better ways of tackling these problems. I feel that the amendments I have seen on the Notice Paper will improve this Bill, which I find very offensive. I will be opposing it at this second reading stage.

HON NORM KELLY (East Metropolitan) [9.07 pm]: It is extremely disappointing to see that after three years of waiting and of the Government's promises to introduce legislation for the sex industry, this is the best the Government can come up with. The Bill was part of a bigger draft Bill which has been torn apart and now part of it has been introduced into the Parliament to deal with the immediate focus on street prostitution. The Australian Democrats support initiatives to deal with the problems involved in street prostitution and also support the need to address problems of child prostitution and the like. However, we are extremely disappointed that the Bill does not extend to the broader sex industry, because it is very difficult to come up with a policy and statute which address the sex industry when the Bill is addressing only about 5 per cent of the overall sex industry. Street prostitution is very much the tip of the iceberg. It is the very visible part of the sex industry. In our estimation, it would probably account for only 100 to 200 workers amongst up to 3 000 workers in the sex industry in this State.

It is difficult to support the Bill in its current version. The Australian Labor Party has said that it will support the Bill through this stage. Prior to the ALP expressing that support, the Democrats looked very closely at the Bill when it was introduced and realised there was a need for massive change to it. After listening to the comments of ALP members in the other place and hearing the ALP policy position, we were amazed that they would give such support for - as Hon Mark Nevill said - a lousy piece of legislation. We appreciate that the ALP has done more work on the Bill since that debate and it has seen the need for changes. I encourage the ALP to look at the Democrats' proposals. We believe that the ALP has not fully addressed all of the issues. Many of Hon Nick Griffiths' amendments and mine which are contained on the Notice Paper are identical, although the two of us do not always agree on various matters.

Some of the problems with the Bill are obvious and that is probably why there is commonality in the amendments on the Supplementary Notice Paper. For the past few years the Government has said that there is a need to regulate the sex industry in Western Australia; yet it is still unable to introduce such legislation. We hear of the dangers to and the infringements of the legal rights of sex workers; yet the Government is willing to address only that tip of the iceberg. Workers are being assaulted and raped, and even murdered in recent times; yet the Government still will not introduce thorough legislation for this industry.

It is an industry which is willing to embrace a proper form of regulation. This is especially so for the brothels and escort agencies; they do not want to remain under a containment policy which has been abused over the past few decades. Likewise, police officers do not want to enforce this containment policy, or not enforce it, as the case may be; they want to get rid of this policy as well. I quite regularly receive reports from my contacts in the industry regarding abuses by police officers in their job of regulating the sex industry. Successive Governments have given them the job of managing organised crime in this State, and that is what it is. The police do not want that role, but are forced to take it on. Quite often we hear of police officers demanding free sex, assaulting workers and the like. It is very difficult to lay complaints against these officers, because they are the very same people who control the livelihood of the sex workers.

Hon Peter Foss: There are very few complaints against them. Unlike with the drug squad, there are few complaints against the vice squad.

Hon NORM KELLY: The vice squad is organising the sex services from brothels. That is a very different matter. Drug squad officers do not control the livelihood of drug runners and the like; whereas the vice squad officers necessarily are controlling the livelihood of these sex industry workers. It is a very difficult problem to resolve. As I say, we are very disappointed that it appears that the Government does not have the capability to legislate for such change.

Earlier speakers referred to some of the consultation they had had on this issue. One of the stark differences in the approach

taken by this Government and by others in coming up with other legislation is its lack of consultation in formulating a reasonable piece of legislation that is agreeable to all sides. Earlier this year I asked the Attorney General about consultation on this issue. He revealed that there had been none, that the Government was relying on the Beryl Grant report of nine years ago as the basis of its information, and that there had been no subsequent consultation to formulate the legislation.

Hon Peter Foss: We spoke to Sierra about it, and Phoenix.

Hon NORM KELLY: How many years ago was that? A question in the Parliament showed that there had been consultation in the past few months -

Hon Peter Foss: I spoke to them earlier.

Hon NORM KELLY: I remember that the Attorney General answered a question in his capacity of representing the Minister for Police. The answer was no, and then the Attorney General elaborated on his discussions.

Hon Peter Foss: This would have been in 1996.

Hon NORM KELLY: The fact that the Minister for Police had had no dealings with groups such as Phoenix -

Hon Peter Foss: He wasn't the police minister in 1996.

Hon NORM KELLY: No, but he has been the Minister for Police for over a year, and has undertaken no consultation with the industry in developing the legislation.

We have consulted with various groups, and I will firstly refer to the Law Society of Western Australia, which is currently considering this Bill. It referred me to a report about the changes which should be made to the legislation in this State. The report states -

The objects of any legislation controlling prostitution should include -
to safeguard public health . . .

This Bill fails to do that. Even though clauses relate to sexually transmissible infections, these clauses will be counterproductive to good public health. It also states -

. . . to protect children from exploitation in relation to prostitution . . .

The Bill works towards that and we support the Government on that. It continues -

. . . to protect the social and physical environment of the community by controlling the location of brothels . . .

There has been no progress on that matter. It continues -

. . . to promote the welfare and occupational health and safety of prostitutes . . .

There has been absolutely no progress on that matter. The Law Society goes on to say that legislation should provide for things such as a licensing or registration system. There has been no progress on that matter. There has been no progress on the licensing authority, nor has there been progress on the registration of all prostitution businesses, unless the Government considers this containment policy as a way of selective registration. A good point is self funding of the licensing system. The establishment of a prostitution board or something of a similar name could easily be a self-funding body which would, with work, have the trust and respect of people in the industry and benefit the industry in that way. The report also refers to the control of advertising relating to prostitution. The Bill of course acts on that matter. Absolutely nothing has been done about licensed premises meeting minimum health standards. Even though the Bill contains some aspects in relation to public health, the Government still has completely ignored any actions which would improve the health standards or ensure minimum health standards in brothels in this State. It is totally inadequate legislation. In last week's media release by the Western Australian Aids Council, its executive director, Chris Carter, stated that the Bill contravenes and true public health strategies, provides unwarranted powers to police and makes impossible the capacity to provide any welfare or health services. There is a very real concern that this legislation will drive people away from those services that they have been able to access quite readily and with the knowledge that the information would be kept confidential. That is why we have one of the lowest rates of sexually transmitted diseases in the sex industry compared with other States. This Bill seeks to undermine that build-up of trust. Mr Carter is reported as saying -

This Bill is ill-conceived, poorly advised, and undermines the basic health of every Western Australian . . . this Bill only creates more problems in what is a complex social matter.

Family Planning Western Australia highlights the problems with the Bill. It states -

This Bill is a punitive rather than a preventative response to the community's concerns about prostitution.

The Bill directly contravenes a number of national and international recommendations regarding the maintenance of optimal sexual health and prevention of sexually transmissible infections.

The provisions for health measures in this Bill go over the top. The penalties do not relate to existing penalties in the Criminal Code and the Health Act. There is no comparability with what is trying to be achieved here. It would appear that, in a general sense, the police have been given a free run to get into this Bill any powers they have requested, because those powers are also over the top. Family Planning goes on to state that the part on confidentiality is "to the detriment of sex workers and their clients who will be reluctant to access health services for HIV and STD testing in the event that the information may be used to prosecute them". It also states -

This legislation overrides confidentiality legislation requirements for health providers and places them in an ethical and legal dilemma.

There is a real concern that this legislation will drive a lot of the work underground away from those services, increasing the risk of the spread of sexually transmitted diseases. Family Planning Western Australia goes on to say -

Our concern is that workers fearing entrapment will not be prepared to speak to outreach workers. This compromises health organisation's capacity to provide the services they have been funded by the State to provide.

This is understandable feedback that we are getting on this Bill. It is feedback of which the Government would have been aware had it had the decency to ask these people. I want to hear from the Attorney General in his response about the consultation the Government had on what turned out to be the final draft of this Bill before introducing it into Parliament, or whether there was a knee-jerk reaction to try to get something into the Parliament prior to the summer recess.

A few weeks ago I moved an urgency motion in this place on issues relating to street work and prostitution. In the same week, the Government gave notice that it would introduce this Bill, and the Australian Labor Party, through the member for Midland, introduced its Bill to deal with street work. When I examined the Government's Bill and the ALP's Bill, I thought that the ALP's Bill was an overly simplistic and hastily drawn-up attempt to deal with what can be a complex issue. I thought that maybe the ALP did not look at the problems within the Australian Capital Territory's Act. Having examined the Government's Bill, I saw that it was far broader in its implications. However, when I started to pare it back and take out all the clauses which were unreasonable, I found that it was getting closer to the ALP's Bill. That is why it is difficult to decide whether this Bill is redeemable. As I said, given the ALP's position of support, it is important to ensure that if this Bill does progress, it does so with significant amendments, which take away the draconian police powers and the negative impact on public health but which keep intact those provisions relating to child prostitution and street work for which the Government said it introduced the Bill in the first place.

A significant problem in the Bill relates to the definition of "public place", because it is that definition in its current form which extends this Bill to impact upon brothels in this State. I am aware that the Government's opinion and the police legal department's opinion is that that is not the case. However, I have not been able to find any other opinion to support the Government or the police on that basis. The various legal opinions we have sought confirm our belief that the definition of "public place" in this Bill enables the Bill to go far beyond what the Government states is its intention. For that reason, it is best to look back at what is contained in the Health Act with regard to public places. That Act deals extensively with sexually transmitted diseases.

The definition of "prostitution" in the Bill is also fraught with problems as to the extent to which sexual services constitute prostitution and where the line is drawn. After reading the Bill and trying to imagine the various scenarios, it is apparent it contains loopholes which streetwalkers could exploit if the current definition is retained. I put one such scenario to some workers and other people involved in the industry, which was the case of a streetwalker offering stripping services to a client. The client could masturbate. There would be no physical contact between the two and it would not be regarded as prostitution under the definition in the Bill. It would be difficult to pick up offenders because they would not be offending under this Bill.

Hon Peter Foss: Is Hon Norm Kelly suggesting they should be picked up?

Hon NORM KELLY: I am suggesting it is a simple loophole that could be exploited.

Hon Peter Foss: It is not a loophole. We have been working on this for five or six years. The Government must look at the consequences of everything it puts in the Bill. The Government has gone much further than defining prostitution.

Hon NORM KELLY: We will be applying the definition of prostitution to only one scenario. The Australian Democrats would much rather see a Bill that encompasses the sex industry in its entirety.

Hon Peter Foss: That may be so, but this definition of prostitution was argued for years.

Hon NORM KELLY: It was argued only by certain members of the Government and the Police Force; it has not been argued in the broader context or about how it will apply in Western Australia.

Hon Peter Foss: If the definition is extended, more people will be caught. Those little parlours where people strip and the men sit -

Hon NORM KELLY: Like peepshows?

Hon Peter Foss: If the member wants to -

The PRESIDENT: Order! Attorney General, we can discuss at length the meaning of the word "prostitution" when we get to the committee stage.

Hon NORM KELLY: There will always be that question as to where to draw the line on these definitions. However, we believe there are deficiencies in the definition for the purpose this Bill seeks to cover; that is, street workers. The Bill, the Government's statements in the second reading speech and other comments connected with the Bill clearly show that the Government is not addressing the issue of why there are street workers at all. The Government sees street workers as criminals, as people who should be locked away. It is not investigating the underlying reasons why these people, predominantly women, are walking the streets in the first place. The Bill does not address issues such as poverty, homelessness or drug dependency. Those issues must be addressed if we are to make a change and improve these people's lives.

There is a need to address the concerns of the residents whose lives have been impacted upon by streetwalkers. Those residents are experiencing a legitimate problem. Earlier this year, the residents around Hyde Park, in Glendower and Palmerston Streets, suffered problems which were relieved because of police action. The sex workers moved down to Stirling and Pier Streets and started working there. The problem was transferred from one residential area to another. It is interesting that the Minister for Police said he would consult with those residents prior to the introduction of any legislation. I received a telephone call today from a person I dealt with earlier this year. He asked what had happened to the Government's promise. He expressed his concern about the Bill. Various matters could have been better addressed in the Bill if the Government had consulted. The move-on powers in clause 26 are significant and could be very effective in controlling street prostitution.

Hon Peter Foss: Do you not think street prostitution actions should be more against clients than against prostitutes?

Hon NORM KELLY: Yes. It is very important to target clients more than workers and that is why we believe there should be a scale of penalties so that the kerb crawlers are more heavily penalised than the workers. There are some difficulties in the Bill whereby workers are subject to the same penalties as their pimps or controllers. We believe pimps and the like should be more heavily penalised than the workers. Sending these workers to Bandyup Women's Prison is not the answer to the Government's problems, and that is why the Australian Democrats oppose the use of custodial sentences for the workers. The women's prisons are already significantly overcrowded and this proposal will add to that. At the same time, no response has been received from the Government on how it will address the significant overcrowding that is already apparent. The custodial sentences will make women double victims and will increase the chances of recidivism, so they are not the answer. The Democrats will move amendments to change the custodial penalties to monetary penalties. We do not believe that is necessarily the answer but we must reduce the penalties for those victims.

Hon Peter Foss: You will cause them to go back on the streets to earn the money to pay the fines.

Hon NORM KELLY: That is why I believe monetary penalties are not necessarily the answer. I hope magistrates will use their discretion when imposing penalties and ordering programs for these people.

The move-on powers are significant and they could be very effective. They could also quite easily be abused. There should be proper regulation of this legislation to ensure that abuses are minimised. In the discussion paper released by the Australian Democrats a few months ago, reference is made to safe houses in red-light districts as a way of regulating street work. Street workers would have somewhere to take their clients; the safe houses could be self-funded; and they would allow access to the workers to provide them with assistance and counselling. That is not the Democrats' policy but it is an initiative that we believe should be more widely discussed. The proposal was included in the paper to generate public discussion. We have received many responses from various sectors of the industry about the way in which that proposal would work. There are still problems but it should be contemplated.

Reference is made in the Bill to a person who could reasonably be expected to know that the prostitute had a sexually transmissible infection. I would like to hear the Government's interpretation of reasonable in that context.

Hon N.D. Griffiths: It would have no knowledge of reasonable.

Hon NORM KELLY: It gives a little indication about the introduction of mandatory testing; that is, a mandatory requirement for testing for sexually transmitted diseases to meet this reasonable test. That is an unfortunate change, as mandatory testing is resisted by the industry. Regular testing is already established within the industry, and the idea of mandatory testing would not necessarily achieve anything. I have a copy of the Royal Perth Hospital's sex health clinic's screening protocol. It indicates that the ordinary protocol for voluntary testing is for four-weekly swab testing, and 12-weekly blood testing.

Hon Peter Foss: The main reason for opposing the imposition of compulsory testing is that it would not be payable under Medicare.

Hon NORM KELLY: Is that against mandatory testing?

Hon Peter Foss: If it were made compulsory, one would not receive a refund of the costs under Medicare.

Hon NORM KELLY: We already have widespread voluntary attendance for testing, so I am not sure that the Attorney General's argument stands up.

Hon Peter Foss: I am telling you the main reason why they oppose it.

Hon NORM KELLY: It is in place. A case management unit adequately deals with people who are regarded as a threat of spreading disease.

Clause 60 of the Bill refers to the transfer of information to and from various departments, which would be totally counterproductive; that is, it would drive people away from the testing for fear of being targeted and the information being given to police officers. Therefore, the Australian Democrats will oppose that clause.

The "Final Report of the Community Panel on Prostitution" of 1990 stated on page 15 -

... evidence suggests that sexually transmitted diseases amongst prostitutes are not common, nor are they common amongst clients. "Within Australia the incidence of HIV infection amongst sex industry workers is currently the lowest in the world."

The last 15 years of public health initiatives have worked very well on a voluntary basis, yet the Government wants to apply punitive action to try to make it out to be a bigger problem than it really is.

Hon Peter Foss: Murder is pretty rare too.

Hon NORM KELLY: The Attorney General refers to another problem with this Bill: Existing legislation could apply to crimes outlined in the Bill through the Criminal Code and the Health Act. These measures could adequately deal with people who spread such infections. Another problem in our research in the past two weeks has been to cross-reference various Acts with the Bill to see which areas are already covered. This Bill is often a duplication. In many cases, a minimal change to an existing Act would be sufficient to meet an offence outlined rather than creating new offences in this Bill.

Hon Peter Foss: It is helpful to have them in one place, don't you think?

Hon NORM KELLY: It is extremely helpful to have them in one place; in fact, the Government has promised to have police search and seizure powers in one piece of legislation. When the Police Amendment Bill is enacted, search and seizure powers will be found in one piece of legislation. Until then, such powers will be found in places like the Prostitution Bill, the Misuse of Drugs Act, the Weapons Act, the graffiti implements legislation and other measures. However, these powers are not uniform as some are pre-arrest and some post-arrest, which makes it difficult for police officers to think about different Acts each time they wish to initiate a search and seizure. I agree with the Attorney General that it is wrong to have search and seizure powers in this Prostitution Bill because it goes directly against the Government's policy. We have been waiting years not only for a Prostitution Bill, but also for other amending Bills to the Police Act 1892, which the Government promised in order to consolidate these various powers, but still they have not appeared.

Several members interjected.

The PRESIDENT: Order! The member has limited time. I happen to be interested in what is being said and members are preventing me from hearing.

Hon NORM KELLY: Thank you, Mr President. It is crazy to continue making ad hoc amendments to every single Bill that comes before this place. That is the reason that the Australian Democrats will support the removal of the police powers contained in this Bill. The powers should go into the Police Act where they are needed. The Australian Democrats did not support the reversal of the onus of proof in the Police Amendment Bill last year and we will not be supporting it this year in this Bill either. We remain consistent in our position in that regard.

In regard to public health, it has been brought to my attention in the past week or so that medical records have been shredded in fear of this Bill being enacted. The medical profession fears the powers that the police could have to search premises and obtain medical records and like information as they will not be required to obtain search warrants. Clauses in the Bill refer to searches without warrants. Why would police bother to obtain a warrant if they have the option to search premises and seize documents without one?

Hon Peter Foss interjected.

The PRESIDENT: Order! The Attorney General should not interject, because I am trying to listen. There are five conversations going on in the Chamber at the moment.

Hon NORM KELLY: The Australian Democrats are also concerned that the Bill contains no accountability measures for the broadening of these police powers. At the same time that police will be able to use these powers relating to street work and the power to enter brothels and search them without a warrant, they also have control of these very same brothels by way of the containment policy. Combining the fact that the police have to contain criminal activity in brothels with the wider power of being able to search them without a warrant will exacerbate the already stated problems - which are very much in the minority of complaints - of police abusing those powers against workers in those establishments.

Clause 37, which relates to undercover officers, deals largely with the possibility of entrapment and the extent of the authority of the Commissioner of Police to control the way in which undercover officers can operate. Basically, they can have sex with one of these workers and then charge that worker with the offence of having sex. That is totally bizarre. If there must be such powers, there should at least be a limitation on the extent to which the powers can be used. It would be irresponsible for the House to support such powers without ensuring there was some form of restriction or the ability to say to what degree such powers should be used.

Hon Nick Griffiths referred to the limitations on liability contained in clause 59. I am not sure whether that was included in ignorance of the recent Bill passed in this place.

As I said before, the move-on powers, together with the restraining orders, are probably sufficient for the police to deal effectively with the problem of street workers. However, I understand that move-on powers for kerb crawlers and the like also exist. That is a significant power, which must be carefully used; nonetheless, it could be effective.

The penalties throughout the Bill are excessive. As I said, custodial penalties for sex workers are unwarranted. A penalty of \$50 000 for advertising prostitution is bizarre. I would like to hear the Attorney General's rationale for that amount.

Hon Peter Foss: You have already told me how much they are making out of publishing.

Hon NORM KELLY: I did not.

Hon Peter Foss interjected.

Hon NORM KELLY: Does the Attorney General think it is fair for a local community newspaper to be fined \$50 000 for running a small advertisement?

Hon Peter Foss: How much do you think they earn from advertising?

Hon NORM KELLY: I find it interesting that the ability to pay in a general sense is a benchmark for setting that limit on the penalty.

Hon Peter Foss interjected

The PRESIDENT: Order! When the Attorney General replies, he can let us know how much he thinks they are earning from it, because that is the appropriate time for him to tell us.

Hon NORM KELLY: Thank you, Mr President. The Democrats believe that the clauses covering custodial sentences for children are also badly thought out. They will not achieve any benefit for those people. If we are referring to children who are workers - there is also an argument to differentiate between children below the age of 16 years and 16 and 17 year olds - custodial penalties are not warranted. Proper care and work with those people is necessary and will help them. Custodial sentences will not help them.

The Attorney General was wrong when he interjected earlier about what the Democrats believe should be the minimum age for sex workers. We do not have a policy on age. From consultation, we found that it is generally believed within the industry that 18 is a reasonable age and that people younger than 18 should not be working in the sex industry. Some people believe the minimum age should be 21. It is rare to hear people agreeing that 16 is old enough for someone to work in the industry. However, a 16 or 17 year old who is a client of a prostitute should not necessarily attract the penalties in this Bill. It would be bizarre if boys aged 17 years and 10 months were subject to a possible jail term for visiting a brothel. Likewise, this has been ill thought out. What is driving such penalties for such offences?

Hon N.D. Griffiths: It would be interesting to know where that idea came from.

Hon NORM KELLY: Exactly. Also, if the Government had conducted research, it would have realised that is not an issue in the industry. The number of 16 and 17 year olds attending brothels and the like constitutes a very small percentage. I do not have the figures with me but it is only a couple of per cent or so.

It is difficult to say that this Bill is redeemable. The Australian Democrats' position is that it would be far better for this Bill to be defeated at the second reading stage and for the Government to go away, do some work over the summer recess, conduct some proper consultation and come back with a better thought out and more comprehensive Bill with which to regulate the sex industry. However, given the likelihood that the Bill will progress past the second reading stage, we will be doing our utmost to move our amendments to make the legislation stronger and fairer. We encourage all members in this Chamber to consider all of our amendments to make the Bill as strong as possible. As I have said, we are very disappointed that the Government has not taken the bit between its teeth and come up with thorough, comprehensive legislation to address the issues in the sex industry and as such, we are unable to support the Bill at this stage.

HON J.A. COWDELL (South West) [9.52 pm]: I support the second reading of the Bill. Some commendable initiatives are fully outlined in the Attorney General's second reading speech, particularly the goals. The Bill proposes to preclude children from being prostitutes and prevent their exploitation for sexual gratification. It protects the community by creating offences relating to health and introduces offences to make street soliciting and kerb crawling illegal, regardless of who initiated the action, whether a prostitute or a client. The Attorney General went on to outline the worth of these initiatives for curbing street prostitution, curbing sexually transmittable diseases, limiting sex advertising and providing for greater child protection. These are commendable initiatives. However, by the time one gets to page 6 of the Attorney General's speech, doubts start to arise where other matters are outlined. The Attorney General stated -

However, there are occasions when the person acting as a prostitute or seeking the services of a prostitute, is himself or herself a child and therefore it is essential that the actions of a child in these circumstances should constitute an arrestable offence.

The minister then went on to refer to the fact that the child being at risk, it would be appropriate to place that child in the care of an appropriate authority. I am not quite sure how this equates with clause 21 which states -

- (1) A child is not to seek another person to act as a prostitute.
Penalty: Imprisonment for 6 months.

This is the start of a number of clauses of the Bill which raise severe doubts about what the Bill is proposing to do.

The minister then outlined the power of entry without warrant, at any time, to any place from which a business involving the provision of prostitution is, or is suspected of, being conducted. I foolishly considered that this provision had something to do with street prostitution, but I cannot see the relevance of this clause in that regard. Then there is the clause, which the minister outlined, enabling police officers to operate covertly in order to obtain evidence of the commission of an offence. Surely we have enough natural offenders on the streets, without getting the police into the act as well. I recall some years ago, when I was the Assistant Secretary of the Australian Labor Party, being called upon to act in my capacity as a justice of the peace next door at Curtin House. A standard procedure of the police was to send an attractive policewoman into the nearby park to entrap elderly, ethnic gentlemen and to charge them. After a number of these occasions, I indicated to the police officers that although they might want to indulge in these things, I did not want to waste my time to aid and abet them in this activity. We are enshrining that sort of activity in this legislation. My impression of this legislation, although it has some commendable initiatives, is that it is a Christmas tree Bill - everything the police ever wanted for Christmas is tacked onto this legislation. We have entry, search and seizure without a warrant. We have entrapment.

Hon Barry House: The same as for the fisheries inspectors.

Hon J.A. COWDELL: Indeed. The police have always been envious of the fisheries legislation.

Hon Simon O'Brien: The apple and pear board inspectors.

Hon J.A. COWDELL: The police are in catch-up mode!

Hon Mark Nevill: I think you should apply it to the dog catchers.

The PRESIDENT: Order! More importantly, members should apply themselves to the Prostitution Bill, which is what we are talking about.

Hon J.A. COWDELL: It contains a list of powers which have been tacked onto the first convenient Bill to go by. It covers entry, search and seizure without a warrant; entrapment; reversal of evidentiary provisions; the definition of a public place to include brothels; disproportionate penalties - some are higher than those for willful murder, I suspect; abolition of confidentiality of health records; and a huge level of police discretion, as admitted by the minister in his media statements. I suggest this is part of the problem with the current regime, and this new Bill merely perpetuates the police discretion.

Many of the provisions contained in this Bill are appropriate only to a public order or state of emergency Bill. I expect they would be appropriate if we were dealing with the Ulster emergency, or perhaps the threat of the Bader Meinhoff group. I hardly think they are appropriate to deal with the curbing of street prostitution. I look forward to the passage of this Bill, minus the extraneous provisions which are not warranted in the initiatives we seek here.

HON PETER FOSS (East Metropolitan - Attorney General) [9.58 pm]: The first thing I make quite clear is that prostitution legislation is not moral legislation, and never has been. A difficulty we have had -

Hon Ken Travers interjected.

The PRESIDENT: Order! The Attorney General has been speaking for 23 seconds. I ask members to let him get on with the reply to the second reading debate, and then they can interject during the committee stage.

Hon PETER FOSS: As I was saying, that is a difficulty people have had. It is extraordinary to hear Hon Cheryl Davenport saying that this is moral legislation. Many people have been opposed to any action being taken in regard to prostitution in the mistaken belief that we have moral legislation for prostitution; whereas anybody with any knowledge of the law relating to prostitution will know that none of the current regulation of prostitution has any moral ground to it whatsoever. It is based purely on the question of public order; for instance, soliciting is illegal because of the effect it has on everyday life. Members need only talk to the people in Palmerston Street and around Hyde Park to know that it is a substantial public order problem. Another area of control was living off the earnings of prostitution. Again, that is plainly a public order offence because it is a way in which women have been traditionally exploited. Prohibiting living off the earnings of prostitution was a way in which that exploitation could be prevented. The third area of control was keeping a bawdy house. Such houses were regulated not for moral reasons but because bawdy houses, by the very name they were given, had a tendency to attract a large amount of noise and undesirable characters. Living next to a bawdy house was not pleasant, because it used to be very loud and disturbing. Each of those offences relating to prostitution which are currently in the law were not related to the morality of prostitution. The civil law has always frowned on prostitution and it has always been considered an unlawful act. However, the reason behind the offences in our current law are not related to morality; they are related to public order.

Debate adjourned, pursuant to standing orders.

PROSTITUTION BILL 1999

Second Reading

Resumed from 7 December.

HON PETER FOSS (East Metropolitan - Attorney General) [5.57 pm]: When debate was adjourned last night, I was saying that the legislation relating to prostitution is not moral legislation. One thing that has plagued enactment in this area is that as soon as this question is discussed, people start to raise the fact that any tinkering with the legislation is likely to lead to moral issues. As I said, none of the legislation to date is based on morality; it is based on public order.

Hon Ken Travers: We are waiting for the legislation that deals with the moral issues. You have not yet brought it in.

Hon PETER FOSS: I hope that we never have legislation that is based on morality, because we are here to govern. One of the important things that we must do is bring in legislation that deals with the issues that we have. It concerns me that any suggestion of whether we regulate or do not regulate prostitution as a moral issue is clouding the matter.

Hon Ken Travers: Why is there not legislation in the Chamber to do that?

Hon PETER FOSS: Does the member want to hear anything?

Hon Ken Travers: Yes, I do.

Hon PETER FOSS: Right. Just listen.

Hon Bob Thomas interjected.

Hon PETER FOSS: No, just listen.

The PRESIDENT: Order! Members may not wish to listen, but I do.

Hon PETER FOSS: As I said, the people who turn it into legislation based on morality are those who will stop legislation from being enacted. To hear the Opposition ask why it has not seen the legislation is rather interesting. It has been nearly 100 years since there has been any legislation on prostitution in this Chamber. There certainly was not any legislation during the 10 years of the Labor Government.

Hon N.F. Moore: It promised it several times but found it was too hard.

Hon PETER FOSS: Yes, many promises were made. The most extraordinary thing is that we have heard nothing but support for this legislation from the Labor Party in the lower House, and we still have that support. We have the utmost assurances from the Labor people in the other place that they support this legislation. However, when it gets through to this House, we suddenly find a different view. One wonders why there may be difficulties in bringing legislation forward. The Labor Party cannot even agree between the two Houses.

Sitting suspended from 6.00 to 7.30 pm

Hon PETER FOSS: Before the suspension I said that it is rather curious to hear criticisms of the delay in bringing forward the legislation when Labor Party members are having difficulty agreeing amongst themselves even now. The Government has heard from members in the other place that they are still very supportive of the legislation - they certainly were very supportive when it passed through that House - and yet members in this House have concerns.

Hon Ljiljanna Ravlich: We are saying that we are supportive of the legislation, subject to amendments.

Hon PETER FOSS: No, there was no such qualification in the other place. Nor is there any such qualification from the Labor Party's shadow spokesperson. It is strange to hear criticism of a delay when it is clear that the Labor Party itself is having considerable difficulty dealing with this rather limited legislation. The fact remains that it is one of those areas that leads to a degree of -

Hon Ljiljanna Ravlich: How long did the Labor Party have to address this issue down there? It was on the Table for 24 hours and then rammed through and you know that. There was insufficient time to properly analyse it.

Hon PETER FOSS: It was not rammed through. I do not know that it is relevant, but I make the point that the legislation is still supported by Labor members in the other place. It was not rammed through.

Hon N.D. Griffiths: Stop alluding to debate in another place.

Hon PETER FOSS: I am trying not to. Not only did the Bill not have any opposition -

Point of Order

Hon N.D. GRIFFITHS: I understand we have a standing order about alluding to debate in another place, and the Attorney General is picking up a copy of *Hansard* and off he goes.

Hon PETER FOSS: I have not alluded to it yet.

The PRESIDENT: Order! That is the point I make to Hon Nick Griffiths. At the moment all I can see is the Attorney General holding an open copy of *Hansard*. The Attorney General knows the standing order that precludes any member from alluding to debates in the Legislative Assembly, and I am sure he will observe that standing order.

Debate Resumed

Hon PETER FOSS: I certainly will. The point which I was trying to make, and which Hon Ljiljanna Ravlich seems to want to provoke me into continuing, is that the Bill was not rammed through and it was given enthusiastic bipartisan support. The Government has been informed that the Bill continues to have that bipartisan support. The point I make is that the criticism that it has taken some time to bring forward the legislation is hardly justifiable, when it is so obvious from the dissension within the Labor Party's ranks that they are having difficulty grasping some of the issues.

Several members interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich has spoken in the second reading debate, and her further questions and other comments must wait until the committee stage. The Attorney General is now replying to the second reading debate.

Hon PETER FOSS: What I have said is on the record, and I do not need to say it again. One of the problems is that some people have come to this debate very late. The classic example was the statement by Hon Ljiljanna Ravlich, who almost admitted during her speech that she started her research that afternoon and was, therefore, a full bottle and able to give a most learned commentary on the whole matter. That is what she does on every issue. She informed us that streetwalking was a problem because the police were not trying -

Hon Ljiljanna Ravlich: They obviously are not trying hard enough; otherwise, they would have fixed it.

Hon PETER FOSS: The member said it again! Her logic is that streetwalking is a problem because the police are not trying to solve it. I tell Hon Ljiljanna Ravlich that the police have been trying, but the difficulty is that over the years the approach taken by the courts regarding soliciting has changed considerably. Once upon a time, it was sufficient merely to show the behaviour of a person as observed in the street to convict a person of soliciting. A person being seen in the street approaching a number of males in succession was enough to convict. The courts have said over time that one must show much more as evidence, and it is now almost impossible for the police to show what is required.

I will not tell the House the full benefit of the briefing I received from the police in outlining the difficulties they have in obtaining the evidence upon which the courts now insist.

Hon N.D. Griffiths: Did you not know that beforehand?

Hon PETER FOSS: What?

Hon N.D. Griffiths: Did you not previously know about the problem of evidence - that about which you know now?

Hon PETER FOSS: I knew about the problem, but I went with the police and they showed me in more detail the problems they confront. I heard it directly, not only through hearsay.

Hon Norm Kelly: Did they tell you about the problems they have with resources as well?

Hon PETER FOSS: No, they did not. They told me the single problem they had in obtaining convictions was with the

courts. They made that point clear.

Hon N.D. Griffiths: Police always say that, of course.

Hon PETER FOSS: That is true, but they gave evidence outlining why that was the case. The member knows that the requirements of the courts have changed. A number of cases have made that provision of evidence very difficult.

Hon N.D. Griffiths: The reality, as you know, is that when Parliament was made aware of the difficulty in an area, the police started enforcing the law and the problem was resolved in that area.

Hon PETER FOSS: It was not resolved in that area - it moved on. The police still cannot get convictions.

Hon N.D. Griffiths: Yes, they did.

The PRESIDENT: Order! We do not need a running commentary from Hon Nick Griffiths. He will have an opportunity in committee to say what he wants, as many times as he requires, to which the Attorney General will respond. The Attorney General is currently answering questions on issues raised in the second reading debate. I do not want to keep interrupting as I am starting to bore myself. The honourable member should do me a favour and stop interjecting.

Hon PETER FOSS: It is not a simple matter of merely saying that the police are not trying. The law has changed over the years. An interesting aspect of this Bill - and to some extent this has been the subject of complaint - is its intent to restore the evidentiary provision which used to exist. It is not a matter of changing the onus of proof so people must prove their innocence. People must prove a set of circumstances which were the circumstances which had to be proved in the past to establish the offence. That was before the courts changed the law. Strangely, courts can change the law because somebody makes a decision. However, Parliament does not seem to be able to change the law back because as soon as the courts change law it becomes sacrosanct. It has been suggested by those people who oppose the Bill that we cannot restore the former situation. It seems that when judges change the law it becomes sacrosanct, but it is not sacrosanct when Parliament seeks to do so. We must learn that it is far better to have a system of law in which significant policy changes are made by Parliament rather than by the courts.

Hon Mark Nevill: Who has suggested that it should be otherwise?

Hon PETER FOSS: As soon as we try to return the law to the way it was, it is as though the judicial change is holy writ. Hon Norm Kelly virtually suggested that what we were doing was something that no Parliament should ever contemplate doing, whereas it was the law before the courts started to change it. The Government is saying that it does not like the changes that the courts have made and it wants to take the law back to what it was before, because then it was much easier for the police to enforce the law. Changes in the law made by courts should be easily reversible by Parliament. That is one of the things that Parliament should be able to do. It should not be a matter that, because judges have changed the law, we cannot. It should be the reverse and if judges change the law and we do not like it, we should put it back as it was. I do not see why members are so upset about it.

Hon N.D. Griffiths: We are upset about the abuse of civil liberties.

Hon PETER FOSS: It is not an abuse of civil liberties.

Hon N.D. Griffiths: You should read your Bill.

Hon PETER FOSS: I have read it.

Several members interjected.

The PRESIDENT: Order! Members asked the questions that the Attorney General is now offering to answer. They should just listen.

Hon PETER FOSS: We will get into the detail of the Bill during the committee stage. I am making the statement - it is an important statement - that this Bill seeks to change the law back to the evidentiary situation that existed prior to the courts insisting on what I believe is an unreasonable standard of proof for the type of offence about which we are talking.

A representation has been made that the changes in the law are changes across the whole range of police powers. However, if one reads the Bill carefully, the changes relate to particular offences that are contained in the Bill. The Bill comprises four areas, but members need to be aware of two major areas about which the public are currently concerned. The first area is street soliciting, and the offences that relate to street soliciting. Many of those offences are no more severe than they were before. The important point about the Bill is that it draws all of those offences into one Bill. Some of the criticisms of this Bill have been about provisions which are already in the law. Strangely enough, other people have criticised them because they are already in the law. I cannot understand when people say that they do not like this provision because they find it draconian, and other people say, "We already have this provision in law so why are we enacting it?" We have good reasons. We have drawn into this Bill, which will become an Act of Parliament, all of the provisions that are relevant to the offences with which the public has concern about public order, and we have given the police power in respect of those offences. The police will not have this power for every offence in the criminal statutes or in the Police Act. The police will have these powers for a particular set of offences, and those offences need to be addressed as a matter of public order at this stage. I would like members to reflect on what those offences are. Street soliciting has become a major public order issue. It always was banned on the basis of public order, and not on the basis of morality. One of the important things that we have done is to increase the penalty so far as the clients are concerned. Why is that? Member saw what happened in Palmerston Street when the police moved police on. All that happened was that they moved elsewhere. That does not get rid of the

demand for those services. The people who are creating the public order problem are the kerb crawlers. I have spoken to people in Glendower Street who say that the biggest problem is not so much the girls but the clients. They not only turn the place into a major thoroughfare because there are trucks coming through and people passing by on their way to the tip on Saturday afternoon but also harass the women who live in the area. A woman who gets off a bus and walks to her home in Glendower Street is propositioned every inch of the way by clients.

Hon Ken Travers: That has been going on for two years; we agree with you.

Hon PETER FOSS: Good, I hope members of the Labor Party support the Bill and the evidentiary provisions that are required to achieve prosecutions. There is no point in our passing draconian provisions to deal with the issue if it is not possible to get a conviction. If members opposite remove the guts from the legislation, as it appears is suggested, they will simply be doing what Parliaments have been inclined to do from time to time thinking they will solve the problem. They pass laws saying it will not happen because it is illegal, but they do not deal with the problem of how someone will be convicted.

The aim is to include the important matters in one Bill and to deal with it as a matter of public order. In the process we will provide the evidentiary provisions which go with those offences and which are related to that Bill. In addition, we will give powers to the police related to the offences in that Bill. That process will contain the issue and work on the problems. It is a public order Bill.

Strictly speaking, the people we are talking about are the streetwalkers. The police have made it clear that they will target the clients. If we cut off the demand, it makes it hard to provide the supply. In fact, if we cut off the demand, women walking up the street are not the major problem. The public order problem today is the importuning of respectable citizens by kerb crawlers, and this Bill deals with that issue. It includes a serious offence and evidentiary provisions to enable people to be prosecuted despite the changes in the law that have occurred since the original public order offences were created in the Police Act.

If those provisions are removed, the efficacy of the Bill will be removed. People criticise it because they are ignorant of the fact that the law already exists, but without the penalties that the Government has included, or because it already exists. I do not know which way to turn. Perhaps the two groups of critics should get together and agree whether it is a drastic new law or the old law with increased penalties.

Hon Ljiljana Ravlich: Perhaps it is just a mess.

Hon PETER FOSS: It is not a mess. The biggest mess is the fact that members of the Labor Party cannot get their heads around the issue and agree to an approach. The Labor Party has a police spokesperson who supports the legislation, lower House members who have supported it throughout and upper House members who appear to have gone out to lunch.

As I said, one of the issues being dealt with is street soliciting. Another major issue being dealt with is child prostitution. I do not know what we would need to find as an offence before we said that it was sufficiently serious that it justified the exercise of significant powers. I think we all agree that some terrible offences are committed, and exploiting children for the purpose of prostitution would have to rate pretty high on that list. If members were asked to produce a priority list of offences that they find most detestable, using children as prostitutes would be one of the first on the list. To me it is more drastic than many other offences which have been used to justify some of the powers that have been given. We have allowed stop, detain and search powers for the misuse of drugs and weapons. However, horror is expressed when we talk about it being used to prevent child prostitution. For example, the police were called recently by the father of a child who was engaged in prostitution. He had information that indicated that the child was engaged in prostitution in particular premises. The police, acting on the information, obtained a warrant. As one knows, obtaining a warrant takes time. By the time they arrived at the premises the child had left. I ask the members: Is it not appropriate, when information is received from a parent that his or her child is being exploited for prostitution in certain premises, that the police go directly into the premises and arrest the people?

Frankly, if I had to compile a list I would certainly put it before fisheries and chicken meat offences and I think I would put it before the misuse of drugs and weapons. That is one of the areas in which we are providing that right. Yet it is being suggested by the Opposition that it is not appropriate. I will give the House another example which was given to me by the police. We are seeking to ensure that children are not on premises while prostitution takes place. In this instance, a prostitute was engaged with a client and the client offered the prostitute an extra \$1 000 for a 12-year-old child to join them on the bed, which happened. Unfortunately, the police have had some difficulty in prosecuting that offence but that is the sort of circumstance that makes it necessary for children to not be on premises. We do not believe that the police should have to chase around for evidence after the event. They should be able to enter premises as soon as information is received. If a child is present while prostitution is taking place, it should be an offence and it is the sort of offence that one does not wait to do something about until a warrant is obtained. I do not know how long some members take for sex but I will bet them that it would take less time for them to complete the act than it would take to get a warrant. Members of the Opposition can boast about taking a long time for sex. However, I can assure the House that by the time one gets information, in most cases the sex would have concluded. The fact is that when one gets this sort of information one has to move quickly.

Hon N.D. Griffiths: This is a House of Parliament and I wish that you would speak with some dignity.

Hon PETER FOSS: Hon Nick Griffiths wants me to speak with some dignity but the fact is he has been making these statements without considering the reality of what the Bill is dealing with. He suggests that child prostitution is such an insignificant crime that it does not warrant the opportunity to go into premises and deal with it.

Hon Ken Travers: You can enter premises without a warrant.

Hon PETER FOSS: How?

Hon Ken Travers: If there is reasonable suspicion of a crime being committed.

Hon PETER FOSS: The member reckons so, does he? He should try doing it and see how far he gets. I know it can be done when there is belief a crime is being committed. However, no-one has the right to enter premises without a warrant when it is suspected that a crime is being committed. There has to be reasonable cause to believe that it is actually taking place. I believe it should be sufficient if one suspects it. The member knows the practicalities of that. If the member thinks there is no difference between the two then what is the objection? If the member thinks that what exists currently is the same as what we have, what is the member's objection to it being put in the legislation in respect of child prostitution? If the member does not think it is the same, I am not quite sure why he is objecting to it.

Hon N.D. Griffiths: Did you draft it?

Hon PETER FOSS: I did not draft the legislation.

Hon Norm Kelly: Why duplicate it?

Hon PETER FOSS: It is not duplicated. It gives greater power to enter than currently exists.

The Government has been asked why it has not legalised prostitution. The Government has no intention of legalising prostitution at any time. It has never been suggested that the Government would legalise prostitution. It has always been the Government's intention to deal with the problems by regulation or the creation of other offences.

We are also dealing with the health issues. Interestingly enough, when this legislation was announced, the Australian Medical Association sent a letter to the Government congratulating it for its intention to deal with these issues. The sexual health provisions were written in consultation with the Health Department and the Executive Director of Public Health.

Hon Giz Watson also suggested that street soliciting was a victimless crime. I am sorry, we have just been through that; street soliciting is not a victimless crime. It leads to many victims who tend not so much to be the kerb crawlers but the people affected by them. It is fairly cynical to suggest that streetwalking is a victimless crime. Members should talk to the people in North Perth and ask them if they think it is a victimless crime. I am sure they would disagree with that statement.

Hon N.D. Griffiths: I don't think you have talked to them.

Hon PETER FOSS: I have talked to them. I regularly walk through North Perth and talk to these people.

Hon Norm Kelly interjected.

Hon PETER FOSS: No, I walk through rapidly on my way to work in the morning.

Several members interjected.

Hon PETER FOSS: I must say I find it rather difficult because there do not seem to be any of them around in the early hours of the morning. I have never seen one. I probably would not recognise one.

Hon Ken Travers: Do you get propositioned?

Hon PETER FOSS: I have never been propositioned at that hour of the morning.

Several members interjected.

Hon PETER FOSS: This probably indicates the Opposition's attitude. Members opposite seem to think that what the people of North Perth are putting up with - being propositioned - is something to laugh about. If members talked to those people, they would find that they consider it to be a considerable public nuisance, as it is.

Hon N.D. Griffiths: Your own back bench was laughing.

Hon PETER FOSS: No, they were not.

Several members interjected.

The PRESIDENT: Order! We are trying to deal with the Bill. If it is such a joke, we might as well move on to the next bit of legislation and forget about this. All members have had the opportunity to speak; some took that opportunity and others did not. The second reading chance has passed. Members should wait until we get into committee to crack their jokes.

Hon PETER FOSS: I was concerned that in the contribution of Hon Cheryl Davenport we appeared to get an extensive quotation from Miss Kenworthy. We should consult some people and we have consulted them. However, there are other people to whom we do not need to pay a considerable degree of attention. One such group is brothel owners. We can have sympathy for prostitutes. There are all sorts of reasons why women end up in prostitution. It may be that not all such women deserve sympathy; they may have made the choice willingly. However, generally speaking, many of the women who end up working as prostitutes do not necessarily do so by choice. We cannot say the same thing about madams. There is no altruistic interest which we should be following there. The last people who should be consulted are the madams.

Hon Mark Nevill: You obviously have not met Sally.

Hon PETER FOSS: No, I have not met Sally. Is Hon Mark Nevill suggesting she is altruistic?

Hon Mark Nevill: At times, yes.

Hon PETER FOSS: Good. However, being a madam is not a form of altruism. I am sorry about that. Although I can accept that one can have considerable sympathy for a person working as a prostitute, one can have no sympathy whatsoever for the person who has ended up as a brothel madam.

Hon Norm Kelly: Surely if you are serious about regulating the brothels you would still consult the madams on their views.

Hon PETER FOSS: Not necessarily. That would only be if one wished to make sure that they did not avoid the law. In the same way, I do not go to Casuarina Prison to check with the murderers, rapists and robbers what would be an effective method of amending the Criminal Code. It may be that I should be doing so according to Hon Norm Kelly.

Hon Norm Kelly interjected.

Hon PETER FOSS: What is the member talking about? We are not talking about regulating, but this legislation. I do not believe that this legislation, which creates criminal offences, should be checked out with criminals prior to bringing it in. If that is what the member is suggesting, he may, as a logical extension, say that we should ask murderers, rapists and robbers when we next amend the Criminal Code to make certain that we are not causing them any inconvenience. It is almost like those people who suggest we should have a Criminal Code right throughout Australia for the convenience of criminals, so that when they move from State to State, they do not have to find out what the new laws are. I have always found it rather strange that whenever we talk about a model Criminal Code, people say that we should have a uniform Criminal Code.

Hon Ljiljana Ravlich queried whether there are any other powers to stop, detain and search in existing legislation. There are many. Some examples are the Misuse of Drugs Act, the Fisheries Act, section 49 of the Police Act and the Weapons Act. The power is usually for particular purposes. Here it is for the particular purpose of dealing with offences under this proposed Act. I notice on the Supplementary Notice Paper an amendment to add the words "under this Act" at various places after the word "offence". That wording is not necessary because all offences relate to offences under this proposed Act.

I note also the concerns that Hon Norm Kelly had with medical check-ups. I do not necessarily agree with his concerns but I have put on the Supplementary Notice Paper an amendment which I hope will address those concerns. If there is any validity in the concerns he expressed, I trust the amendment will deal with them. We spoke to prostitutes at quite an early stage about the question of medical checks. All prostitutes have medical checks. One of their requests was not to make medical checks compulsory because they like to get their money back under Medicare. Once the State Government makes a medical check compulsory, it ceases to be reimburseable under Medicare.

Hon Mark Nevill: It becomes health screening.

Hon PETER FOSS: Yes.

Hon Norm Kelly: It should be a state cost if the State is imposing it.

Hon PETER FOSS: We are not making it compulsory. The prostitutes had other objections to medical checks and said that they had them any way. One of the justifications they gave was that they would have to pay for the checks if we made them compulsory. We are not suggesting that they be made compulsory but I am prepared to put into the Bill an amendment which gives them greater exemption if they do undergo medical checks.

Concerns were expressed about offences relating to being a prostitute while having a communicable disease. It would certainly be a massive imposition on ordinary members of the public if we were to say that while they had a communicable disease they could not have sex if there were some method by which another person could be protected from that disease if they acted consensually and knew the risk. We have criminal offences relating to intentionally infecting people with disease. However, the reason we have a provision here is that there is a difference with people who act as part of their way of earning money and not as part of a consensual relationship in which people enter into an arrangement knowing what the situation is and with full understanding. It is just unacceptable to have people who are infected with such diseases. That is the current rule. If we are trying to get best practice in the industry, that is the way to do it. When people have a communicable disease, they do not have sex. That is the way best practice works. All we are saying is that those who observe best practice have nothing to fear from the legislation. For those who do not, it will now be an offence.

Hon Norm Kelly interjected.

Hon PETER FOSS: I think it would be unduly bureaucratic and complicated. The member is thinking that people who have HIV AIDS can have sex only with other people with HIV AIDS. That is an interesting proposition.

Hon Norm Kelly: In many ways that would not exacerbate the spread of the disease.

Hon PETER FOSS: If the member is prepared to move an amendment, I am prepared to consider it. It is an interesting point.

Hon N.D. Griffiths: I think you would need a French correspondent to draft it for you!

Hon PETER FOSS: I thank the member for that! A suggestion was made about the allegation that the police abused powers, and that there had been no complaints of the police abusing powers because they have control over the area. The interesting aspect is that they have no control over a very large part of the sex industry. One of the current problems is the containment policy, which has totally broken down. Some brothels operate as being contained, but the majority do not. There is no

power over escort agencies or massage parlours. There is no form of police control over them. The suggestion that there have not been complaints of corruption because they have some form of control is incorrect. I see no reason to make a distinction.

The complaints are said to be on the basis that the police have control over the drugs and seek to exercise control over the drug industry. I specifically asked the Anti-Corruption Commission whether it had any complaints. It had only one complaint in this area. The ACC certainly did not see it as a problem area. People can make an anonymous complaint; there are all sorts of ways to get a complaint to the ACC. I find it rather hard to believe that the member can say there are problems, when there has not been a raft of complaints, in the same way as there has been in other areas of police operations.

Hon Norm Kelly: You are saying that the police have no control over brothels and massage parlours, yet the Government still is not taking any action to give them control. It is slightly hypocritical to say that we must bring in the legislation to give police control over one aspect of the industry, but will not bring it in to control the rest.

Hon PETER FOSS: Nobody has ever suggested that legislation has been brought down that handles absolutely everything that must be dealt with in prostitution. I look forward to the day someone comes in with perfect legislation that works. We have looked at the legislation in practically every -

Hon Norm Kelly: There is pretty good legislation floating around in the east.

Hon PETER FOSS: There is some pretty bad legislation floating around. Let us take the example in Victoria when it introduced brothel legislation. There were two very undesirable effects of that legislation, which was supposed to legalise prostitution: First, organised crime came into the ownership of brothels, which the previous containment process had kept out; secondly, because it was so difficult to obtain local government approval, which was necessary for a legalised brothel, most of them were closed, and most of the prostitutes were thrown out onto the street. Victoria went through a period in which the number of street prostitutes skyrocketed. All the women who had previously been in contained brothels ended up on the street. I have yet to find anywhere any legislation which people can say has done all the things which it intended to do. Generally speaking, the legislation might do one or two things that it intended to do and at least as many that it did not intend to do. If members can show me some prostitution legislation that is working brilliantly, and if they ask people details about it and cannot find a lot of unintended consequences, I would be very surprised. People have told me that I must look at the Australian Capital Territory legislation. The ACT has other problems which are considerable. Every piece of legislation that has been written has some positive aspects, but it also has some negative aspects. We have never said that we would be the first nation on earth to come up with satisfactory legislation which deals with all the problems of prostitution. Prostitution is not the oldest profession without reason. It is something that will always be there and it will always cause problems. What we can do is seek to regulate it and to deal with those problems that, at any particular time, are identified as significant problems. There is no doubt that the two most significant problems at the moment are child prostitution and streetwalking. I do not think anybody would deny that they are the two most significant problems and must be addressed most urgently. Perfection takes a little longer, but we believe we can address the problems. I do not think anybody in this House would suggest that we should not be addressing at least child prostitution.

Hon Ljiljana Ravlich: How many children are involved in prostitution?

Hon PETER FOSS: The Minister for Police has given me some figures, but I do not know how accurate they are. Perhaps we should wait until the committee stage.

Hon Ljiljana Ravlich: What did he tell you?

Hon PETER FOSS: I have been told there are between 12 and 30 child prostitutes, but that is purely an estimate. Even one is too many.

Hon Ljiljana Ravlich: Absolutely.

The PRESIDENT: If the Attorney General addresses me, other members who clearly want to ask questions will not interject. I feel that I am being unfair to some members by letting a chitchat show go on.

Hon PETER FOSS: The issues which are dealt with in this Bill include street soliciting, which is a current public order problem; child prostitution, which we agree is a matter of concern to all members in this House; and health issues. We believe some brothels observe the rules that are contained in this Bill. However, others do not have that sort of control. We believe there should be a punishment for those brothels which do not observe best practice and there should be no punishment for those which do observe best practice.

The fourth part of this Bill, and it is an important one, is the provisions which will allow the police to prosecute. Without those provisions, the rest of the Bill is a waste of time. In a large measure, to one degree or another, some of the offences are there, but they cannot be dealt with effectively because of the change in the way evidentiary provisions are now dealt with by the courts. It is also difficult for police to gain entry to places to which they could previously gain entry, and that is a concern, particularly in the area of child prostitution. We have placed the offences in one Bill because that has the effect of limiting and containing those extra provisions. We believe that by putting them in one Bill, it will be appreciated by the Parliament. By limiting those powers dealing with the offences in this Bill, Parliament is not giving open slather to the police but is saying that when dealing with these matters, the police can use these powers.

Some strong statements have been made which are not justified by the Bill, and I hope when we get to the examination of the Bill they will be seen to be not justified. I realise that there can be different views, and the fact that there are extremely different views within the Labor Party is an indication of that. As we work through the clauses of this Bill, we will be able to come up with a satisfactory result that deals with these issues which are of considerable concern to the people of Western

Australia and which should not be dealt with lightly.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: The Attorney General made an interesting comment earlier today about my delaying the House by occasionally speaking for half an hour. I note what time we have moved into the committee stage on this Bill.

Clause put and passed.

Clause 2: Commencement -

Hon NORM KELLY: It is felt that this Bill has been rushed into the Parliament in an attempt to rush it through because of the concerns of certain Perth residents. I am sure those residents would be interested to know when this Bill is likely to be proclaimed. I would also like to know how much time will be needed for police training and to set up police procedures so that the provisions in this Bill can be used.

Hon PETER FOSS: Some matters are obviously dependent on what happens to the Bill in its passage through Parliament. Some processes have been already put in train, but the ultimate determinations cannot be made until we know what the law will be and the regulations we will be capable of making. If we assume that the Bill passes without major amendments, it will be in place by Christmas.

Hon N.D. Griffiths: What year?

Hon PETER FOSS: It will be Christmas 1999, although it will take longer if major amendments are made.

Hon NORM KELLY: Assuming that the other place will not sit until 21 December, the police must already be putting in place procedures in anticipation of the Bill's enactment. I imagine that this would definitely satisfy people's concerns.

Hon PETER FOSS: It depends upon what will happen to the Bill in its passage. I assume it will pass in a form acceptable to the Government, and that it will pass through the other House. We will proceed on the basis that it will pass the other House. If changes are made, establishment will depend upon the training required. A squad of people will be trained, not the entire Police Force. The drafting of notices and matters of that nature have started, but this may need to start again if big changes are made. If things go as expected, we hope it will be in place by Christmas.

Clause put and passed.

Clause 3: Definitions -

Hon NORM KELLY: The definitions of "client", "prostitution" and "prostitute" each have slightly different wording. Perhaps the wording could be changed in the other place to make them consistent. I move -

Page 2, line 26 to page 3, line 10 - To delete the lines and substitute -

"public place" has the meaning given to that term by section 3 of the *Health Act 1911*.

The Australian Democrats believe that the Bill's current definition of "public place" is far too broad, particularly paragraph (c). Our legal advice indicates that it would extend this Bill into brothels, massage parlours and the like. We propose that a public place be given meaning by section 3 of the Health Act 1911, which states -

"Public place" includes every place to which the public ordinarily have access, whether by payment of fee or not.

We have the option of incorporating that wording into the Bill or making that reference to the Health Act - it is much of a muchness. Given that the Democrats believe that this legislation should be covered by the Health Act and the Minister for Health rather than the Police portfolio, it is workable to use the Health Act definition. In light of some concerns raised about the operation of houses in Kalgoorlie, the definition may need to be extended slightly. However, changing the definition to that found in the Health Act covers difficulties with paragraphs (a) and (c) and will get rid of (c), which is beyond what is necessary in this Bill.

Hon PETER FOSS: When various amendments were placed on the Notice Paper, I sat down to see whether I could produce something to satisfy the needs of prosecution and the concerns notified by way of the foreshadowed amendments. I have noted those concerns. For example, Hon Nick Griffiths was concerned about paragraph (c) in the definition of "public place". I go through the definition's various parts. Hon Nick Griffiths accepts paragraphs (a) and (c) as appropriate places where soliciting should not take place. Paragraph (c) was included because of places called squats. People are squatting in areas of East Perth which are currently unoccupied and operating as prostitutes. Paragraph (c) in the definition of "public place" specifically deals with squats. However, I could see difficulties with that and I propose to move an amendment to (c) which, first of all, makes (c)(i) a little clearer. It refers to a privately owned place that is unoccupied or is occupied by a person who is not the owner and who does not have the authority of the owner. That picks up squats and takes out (c)(ii) altogether, which most people have a concern with. One of the difficulties of bringing in the Police Act definition of soliciting is that it deals not only with public places but places that are within the view or hearing of a public place. For

instance, if we were to take out the definition, as suggested by Hon Nick Griffiths, and leave the offence as it is, a person could completely escape the law by soliciting from just inside somebody's front garden. I suspect that the people of North Perth would be upset if prostitutes stood in their front gardens and solicited, thereby avoiding the law altogether, because we deleted the Police Act offence and created an offence that did not pick up matters of this nature.

The other concern that was expressed related to the Kalgoorlie starting stalls, which are illegal, but the law is not enforced at the moment because they are not within view or hearing of a public place.

Hon Mark Nevill: Like two-up, the stalls are a part of our heritage.

Hon PETER FOSS: Hon Mark Nevill pointed out that like two-up they are part of our national heritage and to take action against them would not only be unwise but also in breach of some heritage legislation. Hon Nick Griffiths has also placed an amendment on the Notice Paper, which may have meant to deal with that issue; that is, a public place was not a public place if it had been defined by regulations as not a public place. I consulted with parliamentary counsel in the light of the other proposed amendment to the offence, which refers to a place which is in view of a public place. The suggestion is that it be placed in a regulation-making power. The last amendment I will move is to insert new clause 64(3) -

The regulations may exempt a place described in the regulations from being a place that is or is in the view of a public place for the purposes of this Act or for any particular purpose.

I have tried to account for everybody's objections, and at the same time make sure that we do not end up liberalising the law and encouraging starting stalls in Perth. The starting stalls in Hay Street, Kalgoorlie may have an acceptance in the local area, so that they are no longer considered a public nuisance, but to start them in Hay Street, Perth might not gain quite the same acceptance from the local population. It is important that we maintain the capacity to deal with soliciting that is taking place off the public way but within view of the public way. I propose to adopt to some extent the amendment foreshadowed by Hon Nick Griffiths, but to insert instead a new paragraph (c) which picks up squats. On Supplementary Notice Paper 21-4 amendments 73/5 and 74/6 will add the words "or in the view of" and finally amendment 76/64 will insert the exemption power. I hope that those amendments have dealt with the objections that each person has made, but at the same time does not liberalise the law, and will be enforceable.

Hon MARK NEVILL: I intended to support Hon Norm Kelly's proposed amendment. However, I will support the Attorney General's amendment if he can guarantee that the regulation-making power contained in proposed amendment 76/64 to insert new clause 64(3) will exempt the three houses in Hay Street, Kalgoorlie.

Hon PETER FOSS: I have discussed this with the Minister for Police and it is his intention that, and I undertake on behalf of the Government, the regulations will exempt "as a place in view of a public place" the Kalgoorlie starting stalls. In other words, they would not be able to go on to the street outside.

Hon Mark Nevill: Or the footpath.

Hon PETER FOSS: I can give that assurance.

Hon NORM KELLY: I refer members to the possibility of street workers being able to operate within the front fence of a property. Section 81A of the Police Act relates to penalties imposed on persons trespassing on enclosed land and section 82B relates to unlawfully remaining on premises. The police already have powers to act in those instances. It is not directly related to soliciting as such, but those powers can lessen the chance of that being used as a loophole.

Squats in East Perth may be a legitimate concern, but surely that is beyond what we are dealing with here. The issue is why people are accessing those unoccupied houses. It is not necessary to have that provision for what is an extremely minor part of an already minor part of the overall industry.

The establishment of starting stalls in Perth brothels or houses is remote. If that were to occur, we already have provisions preventing the keeping of houses. If the police had proof of offences -

Hon Peter Foss: Individual prostitutes would be entitled to do it. We are not intending to loosen the law but to tighten it. If you did this, an individual prostitute could sit in the equivalent of a Kalgoorlie starting stall and solicit.

Hon NORM KELLY: That may not be a bad thing. At least they would be out of the way. I do not know whether this Government has looked at other possibilities. It condones the maintenance of brothels and regulates them through the containment policy.

Hon Peter Foss: It need not be a brothel.

Hon NORM KELLY: We could have private individual workers operating out of premises.

The provision for making exemptions by regulation is probably worthwhile but it is also limiting until the Government assures members about the exemptions that will be allowed. Those assurances are necessary before the Bill is passed.

Hon PETER FOSS: I am horrified at the suggestion made by the Australian Democrats that they intend to liberalise the law relating to streetwalking.

Hon Norm Kelly: I did not say that.

Hon PETER FOSS: The member said it might not be a bad thing.

Hon Norm Kelly: I was talking about addressing the laws relating to the industry.

Hon PETER FOSS: The current law provides that a person may not solicit in a public place or within sight or hearing of a public place. If we remove those words from the definition and we do not amend the offence, the net effect will be that someone will be able to solicit from a front lawn. One may be able to charge the person with being unlawfully on the curtilage, but that is another offence. We are trying to deal with the offence of soliciting and we do not want to encourage people to do it from people's front lawns, because it is a different offence with a different penalty. The last thing we want to do is to encourage people to go onto other people's front lawns.

The other suggestion was that it would not be a bad idea to have starting stalls with single operators.

Hon Norm Kelly: I did not say that.

Hon PETER FOSS: The member said it might not be a bad idea.

Hon Norm Kelly: I said I wondered whether the Government had considered it.

Hon PETER FOSS: I can say that we have considered it and we would not agree to have starting stalls for individual prostitutes in Hay Street, Perth. That is the possibility that the member is opening up. It does not take long to consider that. I can give the answer right now: We are against it. The fact is that it is not illegal to be a single prostitute but it is illegal for a prostitute to solicit for business within view or hearing of a public place. I can just imagine it - one could be a single operator, open up in Hay Street, Perth, buy a nice loudspeaker like those available in some of the \$2 shops, sit in the window in a negligee and say, "Come on and get it!" - all courtesy of an amendment by the Australian Democrats. The Democrats would certainly get an awful lot of party funds because there would be an enormous amount of support by the single prostitute industry. Single-handedly the Democrats would set it up in business. If Hon Norm Kelly wants to know whether the Government has considered it, I considered it just then and I have rejected it. I am trying to address the member's problem and I understand the problems that both Hon Nick Griffiths and Hon Norm Kelly raised. I am trying to address them without creating new ones. I want at least to be able to say the offence is no less than it was before, because if we do not do that I think we have a problem.

Hon NORM KELLY: The difficulties the Australian Democrats have with this definition, and will have continually, with the Bill is that we are addressing only a small part of the sex industry and sometimes it can be difficult working with limited legislation without having unintended consequences on the greater part of the industry.

Hon N.D. GRIFFITHS: I do not want to speak at length on this matter, particularly with respect to the amendment that has been moved by Hon Norm Kelly, but I note what a public place is said to be under the Health Act, excepting Part IX B, which relates to smoking regulations that were brought in last year. A public place "includes every place to which the public ordinarily have access, whether by payment of fee or not". I look at that definition and compare it with that of a public place as defined in the Bill before us in paragraph (a). I am interested in the definition of a public place if it were to be restricted to paragraph (a) with either the amendments I propose subsequent to that or the amendments the Attorney General proposes subsequent to that; or if none of those is successful and we compare paragraph (a) with what Hon Norm Kelly proposes, I would like to hear from Hon Norm Kelly briefly as to why what he suggests does the job better than paragraph (a).

Hon NORM KELLY: I believe it is a better definition if one reads paragraphs (a) and (b) in conjunction so that the definition under the Health Act embraces paragraphs (a) and (b) of the definition contained in this Bill.

Amendment put and negatived.

Hon N.D. GRIFFITHS: I move -

Page 3, lines 4 to 10 - To delete the lines.

I note what is proposed to follow from that. There is no inconsistency; this amendment will make matters clear and I do not propose to delay the House. However, in the interests of speeding matters up because we are getting bogged down on this clause, and noting the current statute law under section 59 of the Police Act, if, as the Attorney General stated, he proceeds with his amendment on page 11 of Supplementary Notice Paper 21-4, I will not proceed with the amendment I foreshadowed; namely, to enable the minister by regulation to exempt any public place. The Attorney General's foreshadowed amendment picks up that and as we are interested in being bipartisan on this important issue, the Labor Party will accommodate that amendment. Although we are not dealing with it yet, I am not sure that with amendment No 72/3 on proposed new subclause (c), we need to extend the law given what is already in the Police Act. Before we vote on that amendment, and we can deal with that in a moment, I would like to hear from the Attorney General on where the Police Act is deficient in that regard.

Hon PETER FOSS: I support the amendment. However, is my and Hon Nick Griffiths' assumption correct that we can move to amendment No 72/3 without any inconsistency?

Hon N.D. GRIFFITHS: I do not want to mislead the Attorney General in any way. I have moved an amendment and the Labor Party will be voting for my amendment. However, I have not agreed to the new subclause (c) proposed in amendment 72/3. I am not proposing any recommittal but I want to hear from the Attorney General when we reach that amendment.

Hon Peter Foss: That is okay. I just did not want to go to recommittal.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 3, lines 4 to 10 - To insert the following lines -

- (c) a privately owned place that is unoccupied or is occupied by a person who is not the owner and does not have the authority of the owner;

We are trying to assemble in one place all laws relating prostitution and to use this Bill as a means of enforcing the law against prostitution rather than using laws which are not related to prostitution. There are a number of good reasons for that. There is a lot to be said for having all the provisions in one Bill for everybody concerned. Also, we will then have consistency in the application of penalties. The penalty under the Police Act for being unlawfully under curtilage is not very much.

Hon Norm Kelly: It is \$100.

Hon PETER FOSS: It does not have the necessary seriousness. Another important thing is the offence has some technicalities related to it. It is not an offence to be on the curtilage but only an offence when someone is told to leave the curtilage and does not go. It would not be a soliciting offence. If someone is soliciting on a curtilage and a policeman comes along, the only way in which that person would be liable to any form of penalty is if the person was told to leave and did not leave. The person would not be capable of being prosecuted for the soliciting that took place beforehand. It does not deal with the situation that we would have, because we would have a person soliciting on the curtilage, a policeman coming along and saying to the person to get off, and provided the person got off, as soon as the policeman left, the person could go back to soliciting on the curtilage again. I believe that enforcement would be impossible because as long as a person moved on when told to, a policeman would not be able to apprehend that person for soliciting on the curtilage. Even if the person refused to move off and consummated that offence, it would only result in a \$100 fine.

Hon N.D. GRIFFITHS: I note that the relevant current law is section 82B of the Police Act. It has been some time since I have had anything to do with a complaint in respect of someone being unlawfully on the curtilage. The word "curtilage" does not arise section 82B of the Police Act.

Hon Peter Foss: It is an old-fashioned word.

Hon N.D. GRIFFITHS: It is a lovely word. It was used when complaints were drawn up when I had cause to look at them. Save for the efforts of defence counsel at the time, the police had no difficulty in dealing with it. Are the police experiencing difficulty in prosecuting people under section 82B of the Police Act? I would be very surprised if they are. On the face of it, I would have thought that section 82B would be fair enough. People engaged in soliciting are behaving in an unlawful way. Why not warn them off? We do not want to clog up the courts, and the name of the game is to discourage people.

Hon Peter Foss: They can keep doing it.

Hon N.D. GRIFFITHS: Other provisions would deal with that. Section 82B of the Police Act, in the absence of something stronger from the Attorney General, seems to deliver the goods. On the face of it, I do not think it is necessary or desirable to extend the power in the way the Attorney is proposing. We have the full resources of the State bringing this before the Parliament. I will not allude to the debate in another place. This amendment is on the Supplementary Notice Paper. This is the sort of provision I would want to reflect on over a greater time than has been given.

Hon Peter Foss: It is only on the Supplementary Notice Paper because of your amendment.

Hon N.D. GRIFFITHS: Section 82B on the face of it seems to deliver the goods. What is wrong with a police officer saying, "Come on, it seems to me that you are behaving unlawfully. Go away." We do not want to tie up the Police Force with a provision which in the normal course of events would apply to unoccupied properties, such as a squat, which is something pretty minor in the general scheme of things. Unless the Attorney can demonstrate unequivocally that section 82B of the Police Act is not delivering the goods, the Australian Labor Party will oppose that amendment.

Hon PETER FOSS: One thing one can guarantee in this world is that if it is not a big problem, as soon as we pass this law and leave a loophole, it will become a big problem.

Hon N.D. Griffiths: It is not a problem now.

Hon PETER FOSS: It is a problem although not the biggest of problems. I can guarantee that the moment we pass this legislation and leave that loophole, it will be exploited. I am happy to stay with what we had before. I am doing this to deal with members' concerns. None of the amendments is a late thought on my part to change what was originally proposed. I am seeking to address the concerns indicated by the Opposition and the Australian Democrats in their amendments. It is not my preferred position. It is there to try to meet those problems and address their concerns. They should not accuse me of its being a late addition to the Supplementary Notice Paper. It is there because I got the amendments of those opposite, and I could move them. I would hate to think I will be accused of hastiness because I have responded to the concerns being expressed by the Opposition.

Hon N.D. Griffiths: It is not a matter of overreacting. If the Labor Party is to support it, it must be demonstrated to us that, without equivocation, section 82B of the Act is not working, and so far the Attorney General has not done so.

Hon PETER FOSS: Section 82B says that a person shall not, without lawful authority, remain on any premises after being warned to leave those premises. It cannot be used until people are warned off. All they have to do is move on to the next place. It does not mean we can stop prostitution taking place in the squats. They are becoming a problem in East Perth and will become an even bigger problem, and we will be back here with more legislation. I ask Hon Nick Griffiths to look at what the Labor Party said in the other House.

Hon N.D. Griffiths: I do not allude to those debates in the other place.

Hon PETER FOSS: I ask the member to think about what his party said on the matter. As I understand it, there is a bipartisan attitude to our tackling the identified problems; that is, squats.

Hon Mark Nevill: That is simplifying it a little.

Hon PETER FOSS: If they are a problem now and if, in these measures, we leave out the squats, I can assure members that squats will become an even bigger problem. We have told those opposite that the police are concerned that squats are becoming a serious problem. I can guarantee that if they are left out of the legislation, they will become a more serious problem. Section 82B is not an answer. It is not an offence for people to be on a squat. The police must go there and warn them off. These people can keep coming back as often as they like. They do not have to leave there and then, so there is no offence. They can go to another squat. It only frustrates the police because they have to keep going back time and again in the hope that one of these days someone will refuse to leave the squat. Then the police can prosecute.

Hon N.D. Griffiths: The job of the police is to keep public order. They have done that by having people move on. Their job is not to throw the people inside.

Hon PETER FOSS: It is up to the Labor Party. It can tell the public why it has decided squats are a good idea and that there are other ways of dealing with it. It will be interesting to see the result of that.

Hon NORM KELLY: The decision we must make here is whether the Government is willing to address why these squats are a problem. It is a choice of whether the Government is willing to say that the police should use section 82B of the Police Act to give people a warning, to move them on; or whether it wants to capture them under the provisions of this Bill and lock them up for a couple of years. Those are the choices people face under this legislation. We are trying to avoid at all costs having people locked up for those sorts of offences. Here we are potentially creating a mechanism through which the police are seen to be effective because they arrest a lot of people for the offences contained in this Bill. It does not address the underlying reasons for street prostitution being a problem.

The penalty under section 82B of the Police Act, \$500 or six months' imprisonment, is quite substantial. It is simply a matter of a police officer or even a person in charge of the premises giving a warning, and if the person decides to remain on those premises, that person can then be charged under section 82B. That is a preferable outcome if those people complain of being harassed by police. If they are continually asked to move on, they will quickly get the idea that it is not worthwhile for their work to remain in the area. If they move onto public land, they are automatically covered under the provisions already existing in the Bill. I would be very wary of supporting such an amendment when this Government is doing nothing about addressing the underlying reasons why these squats may be a problem in the first place.

Hon LJILJANNA RAVLICH: I seek some clarification from the Attorney General about the legal implication of ownership in the event, for example, that somebody owned a property that became a squat and the implications of that private property being defined as a public place under this Bill. Is there any implication as a result of that?

Hon PETER FOSS: It is a public place only for the purposes of this Bill. That means that a person who carries out prostitution there is carrying it out in a public place and, therefore, would be caught under the Act.

Amendment put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle
Hon Max Evans
Hon Peter Foss

Hon Ray Halligan
Hon Barry House
Hon N.F. Moore

Hon Mark Nevill
Hon Simon O'Brien
Hon B.M. Scott

Hon Greg Smith
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Noes (12)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport

Hon N.D. Griffiths
Hon John Halden
Hon Helen Hodgson

Hon Norm Kelly
Hon Ljiljanna Ravlich
Hon Christine Sharp

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Pairs

Hon B.K. Donaldson
Hon M.D. Nixon
Hon Dexter Davies
Hon Murray Montgomery

Hon Tom Helm
Hon Tom Stephens
Hon J.A. Scott
Hon E.R.J. Dermer

Amendment thus passed.

Hon N.D. GRIFFITHS: The next amendment on the Supplementary Notice Paper under my name is to insert paragraph (d) -

but does not include any public place which the Minister responsible for the administration of the *Police Act 1892* may, by regulation, exempt

The Attorney General has said he will move an amendment to clause 65 of the Bill to include a new subclause (3) -

The regulations may exempt a place described in the regulations from being a place that is or is in the view of a public place for the purposes of this Act or for any particular purpose.

That being the case, I will not move that amendment because the Attorney's proposal deals with the matter, having particular regard for what is contained in the Police Act. I move -

Page 3, lines 11 to 15 - To delete the lines.

This covers the definition of "sexually transmissible infection". There are two aspects to it. One is a sexually transmissible life threatening infection, and as one reads the Bill the relevance of that becomes apparent. The Criminal Code has the offence of grievous bodily harm. The second aspect of this definition is -

any other infection that is prescribed by regulations to be a sexually transmissible infection for the purposes of this Act;

There are public health considerations which have been dealt with in the second reading debate. There is also the very offensive characteristic of this part of the clause, particularly paragraph (b), whereby an offence can potentially result in a maximum penalty of 20 years and the substance of the provision is to be contained in a regulation. For those reasons, I have moved my amendment.

Hon PETER FOSS: I agree with Hon Nick Griffiths that the matters in contention have been dealt with in the second reading debate. However, one aspect - the penalties - can be dealt with when we get to the offence; that is, if there is concern about the size of the penalties. The Government argues that this definition should be included to provide that offence, because it is best practice within the industry at the moment. The difference is that those who observe best practice will not be caught by this, and those who do not observe best practice will be caught. The other amendments I foreshadowed in items 68/55 and 69/55 on the Supplementary Notice Paper deal with the other concerns raised.

Hon NORM KELLY: As members can see from the Supplementary Notice Paper, I also listed an amendment to delete these lines. As I said last night, the Australian Democrats do not believe any of these provisions in the Bill relating to sexually transmissible infections should be included. However, if the expressed desire of the non-government parties remains consistent as we progress through this Bill, and if a provision is retained in the Bill relating to sexually transmissible infections, I wonder whether it will be more appropriate to delete these two definitions as a consequence of actions taken on later clauses of the Bill, rather than delete the definitions prior to addressing the reasons for the definitions in the first place. It seems that we may be doing this arse about, to use a colloquialism.

The CHAIRMAN: Members will be aware that standing orders allow them to move deferral of consideration of certain clauses if they wish to do so.

Hon PETER FOSS: If we were to move the amendment and then delete the subclauses later, we would need to recommit. I would rather we dealt with it here and moved on.

Hon GIZ WATSON: The Greens (WA) also support the removal of these definitions, and the removal of "sexually transmittable infections" from this Bill, which should appropriately be dealt with as a health issue. My attention was drawn to the problem of using the term "life threatening infection". In correspondence from the Australasian College of Sexual Health Physicians, Heather Lyttle pointed out to me that the terminology of "life threatening" is misleading and problematic. She states -

Medication now means that HIV positive patients can live healthier and longer lives. Alternatively, syphilis, hepatitis A, hepatitis C . . . if left untreated can cause complications resulting in death.

A fundamental problem arises in trying to define a disease as life threatening in a medical sense. The Bill poses a problem as it stands.

Hon PETER FOSS: That is why it is referred to as being prescribed by regulation. A life threatening status depends to a large extent on the state of medical skill at any time. If something is life threatening, it will be prescribed as such. If not, the other part of the provision will apply. We currently know that a large number of venereal diseases are categorised in that way. However, that does not mean that the list is closed as they change from time to time as new sexually transmitted diseases come along and we need to prescribe more diseases. The consequences of a sexually transmitted disease can change as a consequence of what we learn, and what we can do, about it.

Most importantly, the regulation making power in clause 64(2) outlines that it can only be prescribed in those terms on the recommendation of the executive director of public health.

Hon NORM KELLY: The Attorney General spoke last night about the need to consolidate similar provisions into one statute. It is handy for the Attorney to look at section 310 of the Health Act as an example of a measure addressing diseases and prostitutes. Section 310(2) refers to a women who is a prostitute in relation to venereal diseases.

Hon N.D. Griffiths: It is also in the code; it has it covered.

Hon NORM KELLY: There are other examples. I do not say that section 310 addresses what the Government is trying to achieve with this Bill, but many examples can be found of why such issues should be addressed in health legislation rather than in the Bill before us.

Amendment put and a division taken with the following result -

Ayes (13)

Hon Kim Chance

Hon J.A. Cowdell

Hon Cheryl Davenport

Hon N.D. Griffiths

Hon John Halden
Hon Helen Hodgson

Hon Norm Kelly
Hon Mark Nevill

Hon Ljiljana Ravlich
Hon Christine Sharp

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (12)

Hon M.J. Criddle
Hon Max Evans
Hon Peter Foss

Hon Ray Halligan
Hon Barry House
Hon N.F. Moore

Hon Simon O'Brien
Hon B.M. Scott
Hon Greg Smith

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pairs

Hon Tom Helm
Hon E.R.J. Dermer
Hon Tom Stephens
Hon J.A. Scott

Hon B.K. Donaldson
Hon M.D. Nixon
Hon Dexter Davies
Hon Murray Montgomery

Amendment thus passed.

Hon N.D. GRIFFITHS: I move -

Page 3, lines 16 to 19 - To delete the lines.

Those lines define "a sexually transmissible life threatening infection" to mean an infection that is prescribed by regulations to be a sexually transmissible life threatening infection for the purposes of this Act. I have referred to reasons for the amendment in the course of the second reading debate, and what I have said about the previous amendment also has relevance to this motion.

Hon PETER FOSS: I am disturbed by the concept that virtually says that it is all right for prostitutes to have diseases.

Hon N.D. Griffiths: No, we are not saying that. It is covered in the Health Act.

Hon PETER FOSS: No, this amendment says it is all right for prostitutes to have diseases while they are engaged in prostitution. At the moment that is not understood by the sex industry to be the case. We are now about to send them a wrong message that they can even have a sexually transmissible life threatening disease. It seems extraordinary that we should be contemplating that.

Hon NORM KELLY: The Attorney General has not perhaps thought about the fact that Perth has the lowest rate of STDs in the sex industry anywhere in Australia. That is a result of the development of programs over the past 10 or 15 years which have encouraged voluntary testing and encouraged public health services and outreach services to assist sex industry workers. Unfortunately, the Government does not adequately acknowledge the work that has been done. I am not saying it is okay for sex workers to have STDs. However, the Government is not acknowledging the way this is already dealt with on a voluntary basis.

Amendment put and passed.

Hon NORM KELLY: I refer again to the definition of "public place". Would a van parked in a public street, but with the interior not visible from outside, be regarded as a public place or would other provisions capture the possibility of people working in such a situation?

Hon PETER FOSS: The rule applies that if the public cannot enter, it is not a public place. We will be dealing with the view of it shortly. If a person is in a vehicle and the public cannot enter, it would not be a public place.

Clause, as amended, put and passed.

Clause 4: Prostitution -

Hon NORM KELLY: I refer to the extent to which prostitution can go under this definition. Would this apply to, for example, skimpies working in the public bar of a hotel? Customers often place a \$5 note in the worker's knickers. Does the definition also cover people indulging in sadism and masochism?

Hon PETER FOSS: The intent of the definition is to draw a distinction between voyeurism and physical contact to stimulate the client. There would be some interesting case law on how far one would go. However, skimpies are not covered and it would not cover the booth to which we referred because there would be no physical contact. It does pick up massage parlours, in which there is sexual stimulation, and any services in brothels such as bondage. It is a wide-ranging definition, but it is not intended to pick up voyeurism. Obviously there would be situations leading from voyeurism to some form of physical stimulation. That would be an interesting definition.

Clause put and passed.

Clause 5: Seeking prostitute in public place -

Hon PETER FOSS: I move-

Page 4, line 4 - To insert after "in" the words "or in the view of".

Due to the changes we have made to the definition of "public place" we now need this amendment so that we do not lose the offence we previously had under the Police Act.

Hon N.D. GRIFFITHS: Labor Party members propose to vote with the Government on this to be consistent with what we have done and what has been promised down the track.

Hon NORM KELLY: The Attorney General mentioned earlier about addressing the scenario of a vehicle in a street. I was not sure whether he meant he would address it now that we are talking about people being in the view of a public place.

Hon PETER FOSS: Yes, it would. A person in view in a kerb-crawling car would be caught by this.

Hon MARK NEVILL: I think that a term of imprisonment for two years for seeking a prostitute in a public place is really going over the top. For what one might call a normal first offence, what would the Attorney General think would be an adequate penalty? Certainly I would think a fine or perhaps a warning to move on would be appropriate. Could the Attorney General give us an idea, for the benefit of someone reading the debate, as I think two years for a first offence is over the top.

Hon PETER FOSS: It is obviously up to the magistrate involved, but the statistics show that even for repeat offences the penalties tend to be a quarter of the maximum. I would not expect anyone to get two years unless the person had done something considerably aggravating, even for subsequent offences. Normally if a person shows good character, it is a first offence, he did not realise the impact of kerb crawling, and will not do it again - all the usual excuses - I would expect he would get a section 669 dismissal or probably a spent conviction and may be ordered to pay costs and so forth. It would depend on the attitude adopted and whether the offence occurred in the early days of the legislation or later. Take the situation of there being a lot of kerb crawlers in a particular area and people get prosecuted and kerb crawling still continues; in that situation I think we would find that the penalty would start to creep up because the warning had been given, the public had been notified and the offence had continued. A first offender would certainly not be sent to jail.

Hon N.D. GRIFFITHS: Where does the period of two years come from, noting that, under the Police Act, for many of these types of misbehaviour the penalty is six months' imprisonment? It has now been put up to two years at a time when Western Australia has the highest imprisonment rate in the country. The Government has decided that the maximum should be increased in general terms from six months to two years. I am not dealing with the crime aspect but with the simple offence. What is so magical about two years? Why was it not left at six months to have consistency between this and the Police Act? Are we looking at the growth area of our economy being prison building?

Hon PETER FOSS: Under the Police Act the penalty is six months. We considered that the public concern was such that a higher penalty was justified for a prostitute, so we increased that penalty from six months to one year. We thought it was most important to indicate clearly - and this is definitely the area which is intended to be enforced - that the client was more of a problem. A better method of dealing with the problem is to deal with the clients rather than the prostitutes. We must have a penalty and it must be significant but we believe working on the clients and taking away the demand is a more effective way of dealing with the problem. The penalty was originally six months and we have increased that and doubled the penalty for the client over what it was for the prostitute.

Hon MARK NEVILL: I would like the Attorney General to comment on whether it is the intention of Parliament for this section to be used when streetwalking is a public nuisance or if there is some intention to use it in a wider sense by putting an undercover prostitute outside a pub at 10 past 10 at night to catch some rather lonely intoxicated young lad wandering around. Will it be directed only at the areas where streetwalking is a public nuisance or in other areas as well?

Hon PETER FOSS: Obviously this is a matter of policing policy but the intention is to address the problem where it is. We are responding to the fact that a public nuisance is being created. For that reason, we also decided the better way was to prosecute the clients rather than the prostitutes. We think that is a more effective method of doing it and one which deals with the more concerning area of public nuisance. However, we also intend to ensure that if, after being effectively prosecuted in one area, these people move into another area, the police move rapidly into that new area and deal with the problem where it arises rather than wait until it gets to the stage that people are so aggravated that they are saying something must be done. The policing policy would be to attack the areas where there is currently a problem, and if it appears that a problem will emerge somewhere else, the provisions will be used there. It is not intended to be used by police to wander around looking for people who are streetwalking when there is not a public nuisance problem. The Government sees this legislation as being public order legislation, dealing with matters which can be of concern to the public if allowed to go unchecked.

Hon LJILJANNA RAVLICH: My interpretation of clause 5(3) is that if an individual is a public nuisance and is deemed to be so because he is seeking another person to act as a prostitute -

The CHAIRMAN: Order! Now that the member has raised the point, I took a liberal view of the amendment currently before the Chair which is at page 4, line 4. We should consider that before we get to other more general matters, given that the member has identified another specific clause. There will be an opportunity to comment on that matter shortly.

Amendment put and passed.

Hon LJILJANNA RAVLICH: I have some concerns about clause 5(3) because my interpretation of it is that a person in a public place or in view of a public place who seeks another person to act as a prostitute commits an offence, and the penalty for a simple offence is up to two years' imprisonment. I am interested in how we would define the crime. My interpretation is if the person has proceeded and participated in a sex act, he is likely to be charged and face the possibility of being imprisoned for seven years.

Hon Peter Foss: That is only the child.

Hon LJILJANNA RAVLICH: That is the clarification I sought.

Hon NORM KELLY: The terminology of subclause (4)(b) and clause 6(3)(b) states "loiters in or frequents a place for the purpose, or with the intention of". Is there any difference between "for the purpose of" and "with the intention of" or do they mean the same thing?

Hon PETER FOSS: We are not quite sure what the difference is but the wording has the benefit of having been used frequently and being understood, so rather than having the risk that it will make a difference, we have left the wording as currently stated.

Clause, as amended, put and passed.

Clause 6: Seeking client in public place -

Hon PETER FOSS: I move -

Page 5, line 7 - To insert after "in" the words "or in the view of".

I move this amendment for the same reason.

Amendment put and passed.

Hon NORM KELLY: I move -

Page 5, line 13 - To delete "child" and substitute "person whose age is less than 16 years".

Members need to consider the next three amendments to this clause which are standing in my name. Subclause (2)(a) refers to the prostitute's client. We believe that the seeking of a person of the age of 16 or 17 years to be a client of a prostitute is not worthy of such a heavy penalty. This should not be confused with other provisions in this Bill relating to child prostitution because that is not what this clause refers to. The clause refers to clients who are legally deemed to be children. We want to specify that we have no problems with maintaining offences for those people under the age of 16 but we want more of a differentiation between people below the age of 16, those people who are legally old enough to have sex at the age of 16 and 17 and those who are legally adults. If members look at the three amendments we are seeking to put into this Bill, they will see that we are proposing an adequate range of penalties commensurate with a client's age.

Hon N.D. GRIFFITHS: My reading of this clause is that we are talking about people who are pimping children.

Hon Norm Kelly: No.

Hon MARK NEVILL: No. I support the amendment. As I said earlier, I do not think that any registered prostitute should be under 21 years of age. It is very different when a woman might find a young male of 16 or 17 years. A lot of these kids carry forged identities to get into pubs and other places. I do not know how someone will determine whether someone is 16, 17, 18 or 19 years of age. If a person is aged 15 years, it is bad luck for the prostitute. Under this Bill, 16 year olds and 17 year olds will run a terrible risk of facing three years' imprisonment. It is absurd. I would be happy if the other amendment were carried for a penalty of \$2 000. The definition of a child in the Bill is a person aged less than 18 years. In this case, 16 years for a client is realistic and gives some protection to a woman who, under this draconian Bill, would get up to three years' jail. I support the amendment.

Hon PETER FOSS: We have some confusion as to what we are doing!

Hon N.D. Griffiths: It seems to me that we have somebody going out there and introducing a prospective client to a child.

Hon Norm Kelly: Not necessarily.

Hon N.D. Griffiths: No, the offender is involving a child in prostitution, but for the purposes of this legislation, the child is under 18 years.

Hon PETER FOSS: We have tried to keep children off any place where prostitution will take place. We will get to that provision later. A real concern I have relates to young male prostitutes. One of the realities is that male prostitutes tend to be young; whereas we may get female prostitutes to a reasonable age. In talking about child prostitution, we are concerned about young male prostitutes. I am a little concerned that we will never find a young male prostitute; that we will always find a young male client. This will always be the excuse: I am not a prostitute; I am a client on the premises. We must be consistent in our view of whether we do, or do not, have a concept that children should not be associated with prostitution. That is the premise on which this is based. Some people may say that we should take a young bloke out to the brothels and make him a man by doing so. I regard that as being an old-fashioned and inappropriate attitude.

Children should not be associated with prostitution in any way. We have tried to make it that there is no excuse for children - that is, those under the age of 18 years - to be on premises where prostitution is to take place; whether they are there as innocent bystanders, in which case they get prosecuted, or when the excuse is offered of their being there as a client. I realise it is difficult. A person who, in a public place, seeks another person to be a prostitute's client commits an offence under this proposed section.

Hon N.D. Griffiths: The person can be a pimp, a child.

Hon PETER FOSS: That is right.

Hon N.D. Griffiths: The person may say, "Child, come along; I have a prostitute for you."

Hon PETER FOSS: That is right.

Hon N.D. Griffiths: It is a pimping clause.

Hon PETER FOSS: Yes. I certainly do not think we want to encourage young pimps.

Hon Mark Nevill: Is my interpretation of this clause wrong?

Hon PETER FOSS: This clause has nothing to do with the prostitute.

Hon Norm Kelly: It is not about the age of the pimp.

The CHAIRMAN: Order! This is not a general discussion.

Hon NORM KELLY: It is something members must read slowly. I may have confused the issue by asking members to look at the following amendments. Looking at the person who commits the offence of seeking another person to be a prostitute's client can confuse the issue. Clause 6(2) states -

A person who commits an offence under subsection (1) is liable -

(a) if the person whom the offender seeks to be a prostitute's client . . .

We are talking not about the offender, but about the person who is to be the prostitute's client; that is, a person younger than 16 years of age rather than a child. If the prospective prostitute's client is 16 or 17 years of age, we feel that is more reasonable and should carry a lesser penalty. It is not pimping; it is talking about the client.

Hon Peter Foss: It is.

Hon Ljiljanna Ravlich: No, it is the person who is the pimp.

Hon PETER FOSS: If a pimp gets a person who is a child, he receives the big penalty. If the pimp has a client who is over 18 years of age, he receives the smaller penalty. Hon Norm Kelly's change would mean that if a pimp gets a 16 year old, he would receive the lesser penalty; however, if he gets a 15 year old, he receives the higher penalty. I do not think it is appropriate for pimps to actively seek young boys or girls to be the clients of prostitutes.

Hon N.D. Griffiths: It is school children for the most part.

Hon PETER FOSS: That is right. It is not the prostitute who is caught by this; it is the pimp.

Hon Norm Kelly: The prostitute can be caught by this.

Hon PETER FOSS: If the prostitute solicits a person, he or she would get caught; that is if the prostitute actively seeks people, but we do not want prostitutes to seek people.

Hon MARK NEVILL: The Attorney General has amended subclause 6(1) by inserting the words "or in the view of". I thought he was putting that in the Bill for the Kalgoorlie situation. I thought he would be referring to the woman soliciting a person on the streets. I am confused by it all.

Hon PETER FOSS: We must be careful. Although Kalgoorlie can be caught, it does not mean that Kalgoorlie is all that is caught. We do not want people pimping or soliciting just off the main street but in view of it. Moving from Kalgoorlie to Perth, we do not want somebody in the mall soliciting people or pimping for them from just off a public place. For a particular purpose, we can say that Kalgoorlie does not get caught as a place which is affected by this. We can even deal with it selectively with regard to the purpose of that amendment.

Hon NORM KELLY: I do not want members to be confused about our position on pimping. Ideally, we do not want pimping to occur at all. However, we are drawing a demarcation on the age of the clients. We feel that the demarcation should be at the legal age to have sex. If members look at our further amendment, they will see that we want to hand out to pimps a custodial sentence as a penalty; whereas if the offender - the prostitute - is caught by this clause, it is a non-custodial penalty. That is what we are trying to achieve. First, we are trying to have a demarcation on the age of people who are being sought as clients.

Hon N.D. Griffiths: That is the first issue.

Hon NORM KELLY: That is the first issue in the first amendment. We then look at the issue of pimps and prostitutes in the later amendment. This first amendment is purely about penalties relating to the age of the client. For example, a guy may pull up in his car and there is no way of the street worker knowing whether he is 18 or 17 years of age. Under the clause in its present form, the street worker would be subject to a maximum penalty of three years' imprisonment if that person was only 17 years of age. That is my understanding of the clause. If the person is 17 years of age, I believe the penalty should be reduced to one year's imprisonment, but it should be a monetary penalty if the offence relates to the prostitute. The Democrats do not believe that the difference between the custodial sentence and the monetary penalty should be related to whether the client is 17 years of age or 18 years of age. That is the crux of the matter.

Hon LJILJANNA RAVLICH: I have read this clause five times and it is no clearer to me. I am stuck at subclause (1), because it could refer to the pimp or the prostitute. That is where Hon Mark Nevill is as confused as the rest of us. That would impact on the comments made by Hon Norm Kelly about whether we are dealing with the actions of the pimp or the prostitute. I seek clarification from the Attorney General about the intent of this clause because it is as clear as mud.

Hon PETER FOSS: The Government's intent is clear; but other people's intent is harder to discern. The Government certainly intended to pick up pimps, but made no distinction between pimps and prostitutes when they are soliciting clients. It is not to be compared with people sitting in a brothel when someone comes in; it relates to people on the streets trying to get people to become prostitutes. We do not believe anyone, whether a pimp or a prostitute, should be allowed to approach school aged children. I accept that it may pose a practical operating difficulty for prostitutes when soliciting in the streets, but we do not believe that the public policy means we must go away from the basic intent that prostitutes and pimps should not solicit children. The provision does not pick up a prostitute in a situation in which a person of legal age to have sex, but still a child, walks into a brothel and says he wants sex. However, we do not believe that anyone should pimp or solicit children. Without this provision, children walking along the street, perhaps in school uniform, could be solicited by a prostitute, and the lesser penalty would apply. We do not believe it is a problem.

Hon LJILJANNA RAVLICH: Reference is made to imprisonment for three years.

Hon Peter Foss: It is not compulsory.

Hon LJILJANNA RAVLICH: Is that penalty for the pimp, the prostitute or the child?

Hon PETER FOSS: The person who seeks another person to be a prostitute's client commits an offence. It certainly picks up the pimp and the prostitute. Importantly, we are dealing with soliciting, not a circumstance in which a person wanders in off the street and says, "I want a prostitute."

Hon Norm Kelly: That is dealt with in other later clauses.

Hon PETER FOSS: Yes. A penalty of three years' imprisonment applies for the two more serious matters, and this is where the courts come into effect. If the offence is that a child aged 16 and a half years in a school uniform walking along the street was approached by a prostitute and a pimp and was solicited, and then picked up by the police and arrested, he or she would go before the magistrate. If a child aged 17 years, 11 months and 29 days in his vroom, vroom wagon pulled up alongside a woman in the street and was solicited by her, and he was picked up by the police, he would go before the magistrate. He would be picked up anyway, regardless of age. The magistrate may then take a slightly different view as far as the pimp and prostitute are concerned if the person involved was aged nearly 18 years and had all the appearances of a mature and adult person, as opposed to a person aged 16 and a half years. That is why we have courts, and we set maximum sentences and not minimum mandatory sentences.

Hon N.D. Griffiths: Not too often, anyway.

Hon PETER FOSS: Yes, not too often. The problems we worry about today are the little matters for which the judicial system adjusts. Parliament should set policy. I reiterate that I do not believe that people should be soliciting or pimping children for prostitutes. A wide variety of things will be covered by that notion. The principle to be set by Parliament is clear: We believe that pimping and the soliciting of children is of a different character from pimping or soliciting people aged 18 years or over.

Hon NORM KELLY: At least everyone is becoming clearer about this matter. The Attorney referred to a person aged 17 years and 11 months and another person aged 16 years. One must also consider the penalty to apply to a person aged 18 years and one day. It is erroneous to consider only one side of the equation. The offence relating to a person aged 17 years would still carry the far higher maximum penalty. Also, it was a little misleading to talk about a 17 year old walking into a brothel as he would be caught up in later provisions of the Bill.

Amendment put and passed.

HON NORM KELLY: I move -

Page 5, line 14 - To delete the words "in any other case" and substitute -
if the offender is not the prospective prostitute

Page 5, after line 14 - To insert the following -

(c) in any other case, to a penalty of \$2 000.

We have the first amendment out of the way and I now put the case for the next two amendments on the Supplementary Notice Paper, which go together. The Australian Democrats simply wish to differentiate between a pimp and a prostitute. We do not necessarily want to give the prostitute this custodial sentence. If a prostitute is soliciting a person aged 16 or 17 years, he or she would still be subject to three years' imprisonment. We have agreed that that is fair enough. These amendments will ensure that the pimp will receive a heavier penalty than will the prostitute. It is wrong, as the Bill stands, to provide the same penalty for the pimp and the prostitute as this would send out the wrong message. The pimp should have a heavier penalty than the prostitute, not a heavier penalty than is already provided. By differentiating between pimp and prostitute we will effectively reduce the penalty for the prostitute and will maintain the penalty for the pimp. The next amendment will reduce the penalty if that person is a prostitute.

Progress reported, pursuant to standing orders.

House adjourned at 9.56 pm