

PROSTITUTION AMENDMENT BILL 2003

Second Reading

Resumed from 7 May.

HON DERRICK TOMLINSON (East Metropolitan) [11.04 am]: Once again the Parliament is being called upon to bail out this inept Government. The Opposition does not mind bailing out this inept Government. It has become inured to it over the past two years.

Several members interjected.

Hon DERRICK TOMLINSON: No, inured to it. I see a look of bewilderment on the part of the Minister for Racing and Gaming.

The PRESIDENT: Order, members! It may just be that the minister cannot hear the comments.

Hon Nick Griffiths: I am really surprised that Hon Derrick Tomlinson is being political in the Legislative Council. It is most unbecoming.

Hon DERRICK TOMLINSON: Not at all, Mr President. I am simply stating a self-evident truth; that is, once again the Parliament is being asked to bail out an inept Government.

Hon Kim Chance: I am sure you will tell us why eventually.

Hon DERRICK TOMLINSON: The ineptitude is quite simply that we are being asked, with the Prostitution Amendment Bill 2003, to amend the Prostitution Act 2000 by repealing section 63 of that Act.

Hon Nick Griffiths: Correct.

Hon DERRICK TOMLINSON: Exactly. That is all it is about. It is very simple, but the reason is not.

Several members interjected.

The PRESIDENT: Order! Members will constrain themselves from using physical violence in the Chamber!

Hon Nick Griffiths: He was trying to stab Hon Simon O'Brien in the back!

Hon DERRICK TOMLINSON: Do not worry about that; I have plenty of knives in my back to share around! All the Bill requires us to do is repeal section 63 of the Prostitution Act, which currently reads -

This Act expires on the third anniversary of the day on which it comes into operation.

The third anniversary of the day on which it came into operation is 29 July 2003. The Act, as originally assented to, reads -

This Act expires on the second anniversary of the day on which it comes into operation.

It was amended on 28 June 2002 by Act No 9 of 2002 to replace the word "second" with "third". Now there is another need to extend the life of the Act, but this time the Government has decided not to change the word "third" to "fourth", but to repeal the expiry provision altogether. In other words, the Government is now saying that the Prostitution Act will stand indefinitely. Why? The Prostitution Act was to expire 12 months ago, but it was extended. Why? It was extended because the Government was committed to the Prostitution Control Bill. The Prostitution Control Bill was not even presented to Parliament before 29 July 2002; therefore, to ensure that the provisions of the Prostitution Act continued until such time as the Government was able to draft and introduce to the Parliament its Prostitution Control Bill, it requested the Parliament to extend the provisions of the Prostitution Act for 12 months. The Prostitution Control Bill has now been drafted and, I understand, is being debated in another place, and may or may not get to this place in the next sitting week. Given the time before us, it is unlikely, again without some goodwill on the part of the Opposition to assist this inept Government, that the Bill will be enacted before 29 July 2003. That is the ineptitude of the Government. It cannot get its legislation in order. It cannot get its legislation into the House in time to meet deadlines. It cannot manage the business of the House and constantly comes back to the Parliament and says, "Please sir, I want some more". Unlike the beadle, we will not say "More!"; we will say, "Okay, you may have more". The Opposition will not oppose this; it will assist this inept Government. However, I make one request: that before the Government proceeds with other initiatives to extend temporary measures, it considers the consequences or effect of those temporary measures.

The second reading speech of the Bill introduced into this House by the then Attorney General, Hon Peter Foss, on 25 November 1999 states -

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

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.

At another point in the speech the then Attorney General said -

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.

I do not know and cannot comment on whether that legislation has affected the involvement of children in prostitution. I sincerely hope that it has. The advice I received from the Police Service before that Bill was introduced in 1999 was that, to its knowledge, no children were engaged in prostitution. Anecdotal evidence suggested that children were involved in prostitution, particularly young males and females in public places and street prostitution. I hope that the legislation has had that effect. With regard to the other intention of the legislation to regulate the activities of prostitutes and potential clients in public places, has any work been done to determine whether the legislation has been effective? I understand that the Minister for Police and Emergency Services made a statement to the effect that she had received no complaints about the effectiveness of the Act.

We have all been solicited by people trying to persuade us one way or another on the Prostitution Control Bill, which is now before the Parliament. One such group is, of course, the Sex Worker Action Group. I am sure members have met with Chantal Caruso. If any members have not, I strongly recommend that they do. She is a very intelligent young lady. She presents what might to some people be a provocative point of view. She struck me as being a person who has thought deeply about this issue and conducted some interesting preliminary research. The preliminary research that Chantal Caruso did was presented by SWAG as a submission on the green paper on the Prostitution Control Bill, and is available on the web site. The copy I have was downloaded from the web site and is titled "The Effects of the Prostitution Act 2000 - Preliminary findings from 51 case studies: The adverse impacts of the Prostitution Act 2000 in eight key areas". I emphasise that this is preliminary research. It involves 51 case studies. I believe it is not sufficiently robust to make any reliable predictions about the effects of the Act. However, it provides some interesting preliminary observations from those directly involved with the Prostitution Act. Of the 51 people interviewed by Chantal Caruso, 15 were workers from the community sector representing eight organisations, one was a police officer, nine were local residents, and one was a member of the South Sydney City Council. The South Sydney City Council has a very interesting, and I think enlightened, policy on prostitution control. The report on the preliminary investigation considers the effects of the Prostitution Act 2000 on local residents, sex workers, police powers, and occupational health and safety. I will refer to some of them. The summary of findings with regard to local residents and community issues is listed on page 12 of the report. Finding No 1 states -

The Prostitution Act 2000 does not promote the safety of residents or people working in the sex industry. Local residents are still being harassed by kerb crawlers and are also concerned by the way the street based sex industry has been driven underground.

I return to the events in Northbridge that provoked the previous Government to introduce this legislation, which was a section of draft eight of the Prostitution Control Bill 1999 that it had worked on. This section of the draft Bill was introduced into the Parliament as an interim measure with a two-year lifespan. It was intended to protect the people of Northbridge who were concerned about the incidence of street prostitution in the residential area in which they lived and, more importantly, the effect upon their quality of life of the so-called kerb crawlers. I refer to them as solicitors. Why do I refer to them as solicitors? According to the Oxford Dictionary, to solicit is to ask or try to obtain something from someone. What does a solicitor do? He drives down the street, leans out the window and says, "G'day love, what's your name? Do you do it? How much?" Quite simply, that is asking somebody for something. It is to solicit. Therefore, a person who solicits is a solicitor. Last week I happened to walk past the television when my son was absolutely splitting his sides laughing. He was watching a current affairs report that the police working in this area of Northbridge in a particular week had identified 30 working girls and 1 500 solicitors. My son laughed and said, "By golly, these girls must be one of either two things: rich or sore." The program reported 1 500 kerb crawlers in one week. One fellow had driven down the street 20 times. He must have got his rocks off just passing by the street workers. The police stopped him. Can members guess what they did? They gave him a caution and told him not to come back again. My guess is that he simply got his rocks off somewhere else. That story is merely anecdotal.

This legislation requires some hard research and some hard evidence. Legislation that the Government brings into the House should be based at least on robust information. This legislation will not promote the safety of residents. I return to the preliminary findings of this interesting research. One finding under the heading "1.1 Summary of Findings: Local Residents and Community Issues" states -

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

6. The Prostitution Act 2000 has resulted in less crimes being reported by people working in the street based sector of the Sex Industry due to fear of arrest. Local residents are unhappy that perpetrators of violent sexual crimes may be . . . aware it is unlikely they will be brought to justice.

I turn now to the effect on the community. One finding at page 20 under the heading “2.1 Summary of Findings: The Community Sector” states -

3. Health and welfare workers . . . have expressed concern that the Act has pushed sex workers away from health and support services in the inner city. A significant reduction in the number of clients who identify as sex workers has been observed by health and welfare workers following the introduction of the Prostitution Act 2000.

What is the consequence of that? One of the benefits of having welfare operators in the precincts where girls are soliciting - I presume boys are also soliciting - is the direct contact they have with each other. I suppose working girls call into a welfare agency's premises for a rest, a drink, advice or free condoms. Free condoms are most important; having a drink or a break is one thing, but getting free condoms is something else. One thing that the sex industry promotes is safe sex practices. The Prostitution Act 2000 stipulates that sex workers must use condoms. Now that sex workers are not contacting welfare agencies, where they had access to free condoms, does it follow that they are not requiring their clients to use condoms? I hope that is not true, but it is a consequence that may follow from this finding. Another finding under the community sector heading states -

4. The conditions of restraining orders actively prevent street based sex workers from accessing health and welfare services, as most agencies are located within the restrained zone. This trend has placed a burden on the limited resources that support agencies have. A reduction in ‘drop in’ clients means outreach workers must actively go out, for example on home visits or on street outreach, in order to find their clients.

Their clients, in turn, are very reluctant to identify themselves or be identified because of the fear of harassment.

In reading these findings I observe that every time issues about police powers are raised, somebody shouts “corruption”. I am sceptical about that, but I make that observation. The findings under the heading “3.1 Summary of Findings: Police Powers” state -

1. Under the Prostitution Act 2000, there is evidence of police corruption and misuse of powers.
2. Workers in the sex industry, the community sector, and local residents have been witness to or victims of police misconduct.
3. Under the Prostitution Act 2000, there is evidence of police sexual assault against sex industry workers.
4. Violent crimes are going unreported under the Prostitution Act 2000. Sex industry workers risk discrimination, intimidation and prosecution by reporting incidences of violent crime against them. As a result, trends in crime statistics and accurate figures are impossible to gauge. This poses problems to the community.
5. Under the Prostitution Act 2000, police interaction with sex industry workers, outreach workers, and local residents whom police suspect to be working, has involved aggression and threatening behaviours including verbal abuse and physical intimidation.
- . . .
8. Research demonstrates a pronounced gender bias in the police response under the Prostitution Act 2000. A significantly disproportionate number of charges have been laid against street based sex workers compared to -

It should be compared with -

clients. While sex workers are being “terrorized out of the area”, ‘kerb crawlers’ and violent offenders are being ignored by police.

If the ratio mentioned in the television program of 1 500 to 30 is an indication, there should be at least the same proportion of offences. If the number of charges laid for the mischief that the Act tried to prevent - that is, the harassment of local residents by solicitors and kerb crawlers - is disproportionate to the number of male solicitors, as the research indicates it is, the Act has been counterproductive.

Hon Peter Foss: Or else it is not being properly used.

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

Hon DERRICK TOMLINSON: That is the language of the report. I will use the language of the report, which continues -

9. Research suggests that the Police Minister has lied in relation to receiving “no negative feedback” on the effects of the Prostitution Act 2000. A wide range of groups have registered strong concerns over the Prostitution Act 2000 during public forums and private meetings attended by the Ministers’ advisors. The Minister has also publicly refused to accept the presentation (by SWAG) of over 100 letters which provide negative feedback on the Act from the public.

Therefore, there has been negative feedback. Has that negative feedback been taken into account, not merely in the plea in this Bill to extend the powers of the Act, but also in the framing of the Bill that is now before another place? I hope so. One finding under the heading “4.1 Summary of Findings: Occupational Health and Safety” states -

6. The criminalisation of street based sex work has had a negative impact on the Occupational Health and Safety of people still working in the street based sector, particularly in relation to strategies which were shared between street based sex workers in relation to health and safety.

I will make one final quotation from this report because it underlines some uncertainty about the impact of the Prostitution Act 2000. At page 24, it states -

Though a large number of charges have been laid against women working in the street based sex industry, and police officers conducted two operations to entrap clients with a result of 45 charges being laid, the problems related to ‘kerb crawling’ still exist. This was confirmed by Det. Sgt Steve Dorae, an officer from *Operation Bounty* when he spoke to local residents at the Forest Precinct Meeting one year after the Act was implemented. A local resident asked:

Is it (Street work and *Operation Bounty*) happening in other areas?

To which he replied:

Girls have moved into Mt Lawley, Leederville, the main congestion area has spread out. It is not confined to the Highgate area. If complaints from residents are received then the police will act . . . More staff are needed. There has been no reduction in kerb crawlers.

Not only has there not been a reduction in kerb crawlers, but also there has not been a reduction in working street workers - they have simply moved. People who break the law do not want the inconvenience of being arrested; it simply inhibits their opportunity to make a dishonest living. If a person wants to make a dishonest living she operates where the police are not. If a person knows that the police are working in Stirling Street that person does not offer her wares in Stirling Street, she goes to Aberdeen Street. If the police are in Aberdeen Street that person will then move out to Leederville where the action is. The police will chase the prostitutes all around town. In the meantime, there is still a demand for their services, and the 1 500 kerb crawlers a week are still out there offering cheap sex.

The Opposition will vote for the repeal of section 63, as the Bill indicates, but I commend to the Government and government advisers this piece of work by Chantal Caruso. It is nothing more than preliminary findings from the interviews of 51 people who are involved, in one way or another, in the sex industry. Very serious thought, research and informed decision making needs to precede further extension of repressive legislation of this kind. Repressive legislation simply moves problems from one place to another, as we have seen this week. I commend the Bill to the House.

HON GIZ WATSON (North Metropolitan) [11.33 am]: The Greens (WA) oppose this Bill. We opposed the original Prostitution Bill when it was debated in this place in 1999. I well remember the debate about that Bill. That Bill was introduced by the Attorney General of the previous Government, and a lot of very vigorous language was used, particularly by Hon Nick Griffiths, who said how outrageous it was and how he could not believe that we were about to debate such draconian measures and police powers. Having said that, he made some amendments that took out some of the worst excesses of the Bill, allowing it to pass. The Greens were extremely disappointed that the then Opposition decided that this sort of legislation should be brought into law.

Basically, this Bill repeals the sunset clause so that the Act will continue indefinitely. When we had that debate in 1999, as much as the Labor Party made some noises about protecting civil liberties and excessive police powers, how this was a piecemeal approach and what we needed was full and adequate legislation, I thought to myself that when there was a change of Government the Labor Party would make this law permanent. Guess what; here we are!

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

This legislation provides police with increased powers. In 1999 Hon Nick Griffiths stated in his second reading contribution that it is -

. . . better to control child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship.

I note the comments of the previous speaker. It is impossible and wrong to argue against legislation that protects children. In our view there was no evidence of children working in prostitution in this State, and neither is that the case at the moment. I cannot comment on whether that aspect has been effective or otherwise, particularly as it was not an issue anyway. Of course, it is very popular to raise issues of child protection - I am not denigrating the objective - but it is an easy point-scoring exercise. I am yet to be convinced that it is a major issue in relation to sex work in this State.

This legislation, which we are about to ensure remains more permanently on the statute books, contains very heavy penalties for street-based sex work, powers of search and seizure, and more extensive provisions for covert operations and entrapment. The Bill allows entry without warrant at any time and at any place if it is suspected that prostitution is occurring. It also allows the issuing of move-on notices.

The point was made in the original debate on this Bill that it was criminalising an activity that prior to the passage of that Bill was not illegal. This legislation criminalises street-based sex work, whereas it allows the mess that is the informal containment policy to continue. This stopgap measure was put in place following a lot of community concern about street-based sex activities around the Northbridge and Highgate areas. I have every sympathy for the people in those areas who were experiencing that sort of activity, and I agree that nobody would want the level of antisocial behaviour that was occurring there to continue. However, we should now look at what has happened since that Act came into operation.

Initially there was some reduction in kerb crawling in the areas where it had been occurring, and also some reduction in the antisocial behaviour associated with that sex work, particularly to do with drug dealers and drug taking. However, it is interesting to note that since December the incidence of kerb crawling in Highgate has again increased. About a month ago I attended a public meeting in Highgate that was called by the residents. It was heavily promoted by the member for Perth who sent out a flyer, inviting people to the meeting, which contained a fair degree of inaccurate information to stir up residents.

Hon Derrick Tomlinson: Mr Hyde does not do that! He does not have the hide!

Hon GIZ WATSON: Surely not! I think the flyer said that the prostitution legislation would be stalled in the upper House and, if so, we would then revert to the bad old days. Fortunately, Hon Cheryl Edwardes and I were at the meeting to point out that, with the support of the Liberal Party, the Bill would pass through the upper House and that the information on the flyer was not true.

It was interesting to hear the report from a police officer who had been operating in that area - I think his first name is Darren - about what is happening on the ground and his assessment of how the policing effort is progressing under the existing legislation. He said that there will never be a time when street-based sex work can be stopped. He acknowledged that it is simply a matter of containment; that is, reducing it or trying to curtail it. However, as the previous honourable member said, the police officer acknowledged that the result of this legislation would be to simply displace the activities into other areas and, perhaps for a little while at least, make it less visible or less of a nuisance for a particular set of residents. The use of move-on notices has had that effect.

A resident - I think - at that public meeting said that the most effective measure he saw for reducing the number of clients cruising around the streets was when the names of a number of people who had been prosecuted were publicised in *The West Australian*. That had had a dramatic impact.

Building on the comments of Hon Derrick Tomlinson, it is clear that the operation of this legislation has been primarily aimed at the sex workers and not their clients. I agreed with the legislation that was passed through this place in 1999 that made it an offence to seek a prostitute. I thought back then that at least we were seeing some equality on this issue because if sex workers did not have clients, then there would be no sex work. If a person disagrees with the law, at least he should argue that it be applied even-handedly.

One of the residents at that meeting also said that prohibition has not worked and that it had simply criminalised street sex workers. Many of the street sex workers have received penalties and now have criminal records. A number of them have gone to prison. It is a law that has been applied heavily to sex workers, whereas the clients are not receiving the same attention.

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

Another concern is that the criminalisation of street-based sex work has increased the health and safety risks of those workers. The activities of the police are also affecting their health and safety. I do not have concrete evidence of police harassment and abuse of street-based sex workers but I have heard of many incidents. One study indicates that up to 50 per cent of street-based sex workers have been physically threatened or abused by members of the Police Service. The assault of street-based sex workers is an ongoing problem and, quite recently, another street-based sex worker was murdered. All the street-based sex workers who have been murdered were working in the same area, which is of enormous concern.

Making street-based sex work a criminal offence will drive it underground, and workers will be less likely to seek help from the police or from advocacy agencies that can offer them assistance. Having said that, however, I was very impressed with the police officers I met at that public meeting and I am in no way critical of their efforts. I was very impressed by their compassionate and balanced view, particularly about the level of drug use by street-based sex workers.

Many members of the public at that meeting acknowledged that their major anger and objection was to the clients and to the providers of drugs. A number of them said that they have cordial relationships with the workers who they often know by name. It is important to acknowledge that by and large the community's experience and complaints are directed at the clients and the associated hangers-on, and not so much at the workers - although some people did make direct complaints about them.

I will add to comments by Hon Derrick Tomlinson about the impact of restraining orders and move-on notices. Those orders often make it difficult for workers living in the area in which they work to go back to their homes or to do the shopping because as soon as they are on the street, they are in breach of that order. They are also unable to access the services operating in the area of Perth in which they work.

We all know that comprehensive legislation is needed to deal with the issues around sex work in this State. Unfortunately, the previous Government was unable to introduce comprehensive legislation to address the management of sex work in this State. More disappointing though is the fact that this Labor Government and its minister have failed to introduce a Bill that has gained support from any political party in this Parliament. I am not so sure about One Nation but for different reasons the Government has failed to gain the support of the Liberal Party and the Greens (WA). It is extraordinary that in addressing this contentious area of prostitution - I was going to say social activity - the Government acts in a manner that is out of line with contemporary attitudes.

Hon Frank Hough: Entertainment.

Hon GIZ WATSON: For some people it is work, and for other people I suppose it is entertainment.

Hon Derrick Tomlinson: It's a service industry.

Hon GIZ WATSON: We will settle for that term. The Government has failed to provide a Bill that is in line with contemporary attitudes about sex work. It has ignored submissions made by a broad range of groups on problems in this area. I will not discuss another Bill on this subject that I anticipate we will debate in this place in the future, but I link it to some extent to the Prostitution Amendment Bill before us. A most fundamental flaw with the Government's approach - I refer to the minister in particular - is its stubborn refusal to consult people working in sex worker advocacy agencies or those in direct contact with sex workers. If anything has prevented the minister from providing a workable Bill that will not further drive the sex industry underground, it is that she has not listened to those who work as advocates or provide health services for the sex industry. Instead, this Government has recently launched an extraordinary attack on the sex work advocacy network. I have asked some questions in this place about the minister's de-funding of Phoenix. I remind members that Phoenix is a program under the Family Planning Association of Western Australia that provides exceptional outreach services to street-based sex workers. Phoenix has done so for over six years, and this was partly under the previous Government, which had no problem with the program, its publications and how it spent its money. This Government launched an attack on the organisation and removed its funding even though an independent audit found nothing to indicate that the organisation should be de-funded. Such attitudes will continue to fuel the dilemma about how people relate to sex work in this State.

Also, the Government has attacked the Greens (WA) and the Liberal Party for not supporting its push for comprehensive legislation. However, the minister offered me a briefing on the Prostitution Control Bill only two days ago, which is extraordinary considering my strong interest in this subject - I have been commenting on it for a long time.

The Greens will not support this Bill to make the Prostitution Act a permanent feature of the Western Australian statute book. It was wrong when it was first debated in this place, and its operation has not achieved its claimed intentions. It has resulted in more people, predominantly women, being criminalised for behaviour that the bulk of the community, I argue, do not regard should attract criminal penalties. Meanwhile, sex workers who fall

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

under the containment policy - which does not really exist, but we all know is merrily carrying on its own way - do not attract criminal penalties. That is extraordinary. This Bill no doubt will pass through this place, street-based sex workers will continue to be heavily penalised and women will continue going to jail. Sometimes I wonder which century we operate in in this State.

The issue of street-based sex workers is difficult. It must be worked out with the input of residents, local authorities, the police and the State Government. It is wrong to pretend that somehow this Act will fix the problem. The problem will fester away whatever Government is in place until we sit down together and consult sufficiently to reach a consensus on legislation to decriminalise sex work in this State and to give some health and safety rights to people involved in sex work. It must be acknowledged that street-based sex work will not go away, and it must be regarded as a placement issue. It is tackled in other States through acknowledgment that certain zones must be used by street-based sex workers so that the activity does not impinge on people living in residential areas, whom, I agree, should not experience antisocial behaviour. I spent five years living in London a short distance from Kings Cross. Everybody knew it was a red-light district. Part of me thinks, I wish we would just get over it. It is just part of inner city living. We will never stamp out this activity with laws that infringe on the rights of those who choose to seek out prostitutes or those who choose to work as prostitutes. The Prostitution Act has moved us backwards with an attitude that is out of step with that found in the modern day community. The Greens (WA) oppose the Bill.

HON FRANK HOUGH (Agricultural) [11.58 am]: I appreciate not getting the call straight after Hon Derrick Tomlinson. I followed him the other night and my daughter, who was sitting in the public gallery, said after I spoke, "You're very boring, dad. Is that fellow related to Orson Welles?" I said, "Maybe Orson Cart but not Orson Welles!"

Hon Derrick Tomlinson: I thought you said I was a Shakespearean actor.

Hon FRANK HOUGH: I did. I said to my daughter that I would take lessons from Hon Derrick Tomlinson's tutor - that would be good.

One Nation supports the Government's Prostitution Amendment Bill 2003. However, I have a couple of questions. The second reading speech states -

If that be the case, the potential for the current provisions that protect the community from street soliciting and children from prostitution will be lost. These provisions will be restored only with the passage of the Prostitution Control Bill 2003 . . .

I did some study on prostitution, although I do not have any great interest in it. I have one concern with the current situation.

Hon Derrick Tomlinson was quite correct in saying that prostitution is the oldest profession in the world. It will never be stamped out. Every time the police or the authorities become active about stamping out prostitution, street walkers simply move to another location. A document titled "Notes on Roman Prostitutes, Brothels and Prostitution" refers to the situation in 150 BC and states -

There are two basic instincts in the character of the normal individual; the will to live, and the will to propagate the species. It is from the interplay of these instincts that prostitution took origin, and it is for this reason that this profession is the oldest in human experience, the first offspring, as it were, of savagery and of civilization.

We can do things to look good, but the only thing we can really do is try to make street walkers safe. We will never get rid of them. If we harass them, they will simply relocate elsewhere. Prostitutes frequent the casino. I was recently there. My wife had let me have a night out. I was sitting at a keno machine, and a woman slipped in beside me and said, "Would you like some fun for fifty bucks?" I said, "I am having a lot of fun here for a dollar at a time." I stuck to the keno, and walked out with winnings.

Prostitution is normal. We often hear Governments claim they will stamp out prostitution. However, it is a normal part of life. I am told that streetwalkers represent about two or three per cent of the prostitution industry. Women and boys or young men work in this area. Streetwalkers can be categorised as drug addicts who need a quick buck. One of the quickest ways to make a quick dollar is on the streets. There is always someone willing to spend a dollar - or fifty.

Something else made me rather concerned. Mary-Anne Kenworthy told me last Friday -

Hon Peter Foss: Was that at the premises?

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

Hon FRANK HOUGH: No, it was on the telephone outside. She said that following the renewed pressure on street soliciting, 20 men were arrested without first being issued with a move-on notice. She said that was devastating for several of those people and their families, and caused break-ups etc. Apparently at lunchtime groups of professionals drive through Northbridge for a quickie. We are lucky: we can go to the parliamentary bar and have one in there - we can have a beer, but people have different ideas.

Hon Kim Chance: Have I been missing something?

Hon FRANK HOUGH: I am saying that we can go to the bar for a beer or, in the case of the speaker, a lemonade. However, I am told that professionals who have an extremely high sex drive and want variety go to Northbridge at lunchtime or in the afternoons. This a regular occurrence.

Hon Derrick Tomlinson interjected.

Hon FRANK HOUGH: Some different people do. There are many forms of prostitution. We tend to think of streetwalkers as women, but boys and men also work in that area. I was quite surprised a couple of years ago to learn that a fellow I know quite well is a gigolo. He is not a handsome bloke by any means. When I told my wife, she laughed.

Hon Dee Margetts: Men are not the best judges of that.

Hon FRANK HOUGH: Very well said. I suppose I cannot judge everyone by me.

Hon Peter Foss: We would all look pretty good!

Hon FRANK HOUGH: The fellow who was a gigolo charged \$350 a go. He had a regular client in Mt Claremont - I am not putting Mt Claremont down. She met him through his work. Her husband used to go away. He had to dress in a dark suit, white shirt and tie. He said that he would go around to her home and have a shower. I was rather interested in this. When he told me, I asked what the woman looked like. He said that she was absolutely beautiful. I looked at him and thought, "Gee!"

Hon Derrick Tomlinson: How often does the husband go away?

Hon FRANK HOUGH: I was wearing a dark suit at the time! In going through the process, he would have a shower and a bottle of wine. She would then wander over and take his tie off very slowly. He would get a bit excited and remove her garments. Then she would tear his jacket off and it was on for young and old.

Hon Derrick Tomlinson: After a bottle of wine?

Hon FRANK HOUGH: Yes.

Hon Derrick Tomlinson: Good god.

Hon FRANK HOUGH: I am only relaying the story. He did not say what went on, but afterwards he would get dressed, get his \$350 and go home.

Hon Ed Dermer: Should *Hansard* be a restricted publication?

The DEPUTY PRESIDENT (Hon Simon O'Brien): The question is that the Bill be read a second time. Although short, it deals with a range of very important issues. Members need to concentrate on the relevance of their argument to the Bill.

Hon FRANK HOUGH: You are quite right, Mr Deputy President. The second reading speech states -

Furthermore, the success of the current legislation can be measured by the significant decrease in incidents of street soliciting and kerb crawling in the Northbridge area and surrounding districts.

That means that the activity has simply moved around the corner, down the street or into another suburb. The second reading speech further states -

I note also that police have advised the Minister for Police and Emergency Services that since the introduction of the Prostitution Act 2000, 576 charges have been laid, 1 524 move-on notices issued and 14 restraining orders preferred under its provisions.

I said earlier that Mary-Anne Kenworthy told me that 20 men were arrested - they may be part of the 1 500 who drive around - without first receiving a move-on notice. People will probably smile, but I did not realise so many hookers operated as streetwalkers in Northbridge. One day, I decided to drive over and see what it is like. I am serious. However, I am glad that I did not visit that area of Northbridge. I thought to myself later that if I had driven slowly down the street and had been mistakenly dragged into the police station, it would have been an absolute tragedy for me and my family.

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

Hon Derrick Tomlinson: You would have been in the headlines the next day.

Hon FRANK HOUGH: I probably would have been. The tragedy would have occurred, even though I was seeking to satisfy normal human curiosity by having a bo-peep at what goes on. It is human instinct to be curious about these things. The consequences of taking that action would have been dreadful. The web site that contains a history of prostitution is www.fg-escorts.com/history2.htm.

Hon Bruce Donaldson: Do you think a parliamentary pass would have helped in seeking evidence like that?

Hon FRANK HOUGH: The point I am making is that prostitution is a fascinating industry. It relies on men and women seeking to satisfy their natural instincts. It is unfortunate that there is no magic formula surrounding this issue. I wonder whether people think the Prostitution Amendment Bill 2003 is a magic formula. A paragraph from the "History of Prostitution" on the web site to which I just referred reads -

Brothels from as early as the 6th century have been excavated. People were writing legislation on prostitution before we even discovered the moon.

The notes on Roman prostitutes, brothels, and prostitution to which I referred earlier also state -

When Fate turns the leaves of the book of universal history, she enters, upon the page devoted thereto, the record of the birth of each nation in its chronological order, and under this record appears the scarlet entry to confront the future historian and arrest his unwilling attention; the only entry which time and even oblivion can never efface.

Hon Peter Foss: Is this all from the Internet?

Hon FRANK HOUGH: No, I am sorry, Hon Peter Foss, this is from "Notes on Roman Prostitutes, Brothels, and Prostitution" from the *Satyricon* by Petronius Arbiter. No matter what we do, we will not eradicate prostitution. What a stupid thing to say - I can say "never", unlike Bob Hawke, who said there will never be poverty again.

Hon Bruce Donaldson: He said no Australian child would live in poverty.

Hon FRANK HOUGH: Yes, he said that no child would ever live in poverty again.

Hon Kim Chance: Never, never was said by John Howard about the GST.

Hon FRANK HOUGH: I thank the Leader of the House for that. I will make a prediction more certain than either of those made by Bob Hawke and John Howard: we will never, ever eradicate prostitution. I will be acknowledged one day as a great speaker for saying that. Long after I have gone, someone will pull out a copy of *Hansard* and say, "What a great speaker Hon Frank Hough was after he followed Orson Welles and said there will never, ever be eradication of prostitution".

Hon Peter Foss: Who said there has been?

Hon FRANK HOUGH: There never will be eradication of prostitution; all we can do is contain it.

Hon Peter Foss: Nobody has ever said otherwise.

Hon FRANK HOUGH: We are trying to eradicate it or relocate it. As I said initially, One Nation supports the Bill. However, One Nation is concerned that the police and the people involved think they are getting on top of the problems surrounding prostitution. I do not think they are; they might be moving it out of one area, but it will pop up elsewhere. I conclude with the warning that that issue should be addressed.

HON PETER FOSS (East Metropolitan) [12.15 pm]: I support this legislation. However, I feel I should correct a few statements made by a number of people. First, Hon Giz Watson said that the prostitution 2000 legislation was responsible for criminalising street prostitution. That is incorrect. The law on prostitution has never been adopted on any moral basis. It has always been on the basis of whether it is a public nuisance. One of the offences relating to prostitution has been the keeping of a bawdy house because of the nuisance it creates for the neighbours. Another offence is street soliciting by prostitutes because it creates a public nuisance if respectable people are approached in the street and solicited by prostitutes. Another offence is living off the earnings of a prostitute because it is considered that it leads to the exploitation of women by men, usually pimps. Prostitution legislation has never been adopted on the basis of disapproval of prostitution on a moral basis. It has always been for the purpose of dealing with real public order nuisance problems. To this day, it is a problem to live next door to a bawdy house, to have men in particular living off the earnings of a prostitute and for honest people to be approached in the street by women soliciting. We cannot stop those practices being issues that must be addressed through legislation.

Hon Giz Watson: The problem is the clients soliciting; not the sex workers.

Hon PETER FOSS: Exactly; although the sex workers soliciting is a problem.

Extract from Hansard
[COUNCIL - Friday, 13 June 2003]
p8763b-8774a

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

Hon Giz Watson: No, it's not.

Hon PETER FOSS: I was going to say that, over time, men soliciting women has become the bigger nuisance, which was not previously the case. That was dealt with in that legislation.

Hon Giz Watson: It is not being enforced.

Hon PETER FOSS: Precisely. Over time, the larger problem has become men soliciting prostitution from women - not so much women soliciting favours from men.

Hon Derrick Tomlinson: That was the major mischief that the original Bill tried to address.

Hon PETER FOSS: That is exactly the point. This has come about partly because of what the courts require to prove that women are soliciting. It became almost impossible to prove that a prostitute had been soliciting for the purpose of prostitution unless the act of prostitution occurred. That, in some ways, is nonsense. If soliciting was carried through to the act of prostitution, the soliciting was not a nuisance because the person was willing to be solicited and did not find it a nuisance. If a woman solicited a person who did not want to participate in prostitution, based on the way the courts were interpreting the law, they could not be prosecuted. That change to the law occurred not because of legislation but because the courts started interpreting the law in a different manner. It made the whole issue stupid. On the other hand, the increased mobility of people in cars, which enabled them to drive from anywhere in the metropolitan area and cruise around certain areas, meant that it became a significant problem. Once it was known that a particular area was a standard location for streetwalkers, people would come from everywhere and bother not only the prostitutes but also every single person in the area. Women were particularly bothered because they were solicited by men the whole way home from the bus stop. It was hardly pleasant to be in a back street of Northbridge with a procession of trucks and cars going around the block night and day. There was plainly a nuisance that required the intervention of the law. The only new offence introduced applied to men soliciting the services of a prostitute. The logic was exactly as Hon Frank Hough said: if the law addressed the people creating the nuisance, it had a better chance of doing something about it. There is no doubt that prostitution or street walking will never disappear. Nobody went into debate on this legislation with the stupid belief that that would be the consequence. The aim was simply to suppress some of the nuisance that prostitution created. If the streetwalkers do move somewhere else, so long as they are sufficiently scattered so that no area becomes a known beat when it is not wanted, there is no problem. If an area does not become a concentrated beat, with cars and trucks parading around every night and streetwalkers plying their trade, people will not be too bothered about it. They are objecting to the intensity of the nuisance being caused by this activity, and they are right to object. They are entitled to be protected by legislation. They are also entitled to believe that the police will enforce that law.

This is not the first occasion on which the police have not really followed the intent of Parliament. I have previously mentioned in this House what the previous Government did with the Bail Act. The police were complaining about the revolving door, but on investigation it turned out that the revolving door was at the front of the police station. The main people continuing to give bail to multiple offenders were the police. When the Government brought in a measure to stop them doing that, the police asked for more resources to check whether these people had offended before. We could not stop policemen not only letting people go but also complaining about the fact that the courts were letting them go, when it was not the courts at all. The prostitution law started off reasonably well. Many people were prosecuted and their names were put in the newspaper. Why did that stop? Why are we seeing statistics like those provided by Hon Derrick Tomlinson? Only the police can talk about that.

This provision is in the Act to deal with the people we saw creating the nuisance that the people of Northbridge were concerned about. We are all happy, to some extent, that the problem is in Northbridge. I live in Mt Lawley, right next door, where some of the prostitutes were supposedly meant to go once the law was enforced. I have not noticed any, and while that continues to be the case, I do not object to it. If Mt Lawley were to become the new Northbridge, with trucks and cars cruising day and night down my street, I would also object and expect the police to enforce this law. There is one very important measure in this law that needs to be enforced, and I urge the Government to follow up the statistics provided by Hon Derrick Tomlinson and to ask, as Professor Julius Sumner-Miller would, why is it so? If everybody knows that those men are cruising Northbridge, and this law is in place, why are the women being arrested? I agree with Hon Giz Watson that it is wrong. The simplest way of addressing it is to arrest the men. The punishment is not only the penalty imposed in dollar terms but also the publishing of their names in the newspaper. That is one of the most effective penalties I can think of.

Prostitution itself has never been illegal. It has always been civilly unlawful - and I believe that that should continue - but it has never been illegal. The nuisance that results from prostitution has been illegal, and should remain so. People should not have to put up with living next to a bawdy house. We as a society should not

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

agree to the exploitation of women, to which they are extremely vulnerable as prostitutes. The police keep wanting to have prostitutes meet a character test. The prospect that a woman cannot be a legally registered prostitute unless she is of good character is an absolute nonsense. By definition, it is not an occupation of good character. The law should prevent their activities causing a nuisance in the way that has always been objected to. Prostitutes will always be associated with people of poor character, and as such they are vulnerable to those poor characters showing even more poor character. Despite the fact that the prostitutes are seen to be a source of some of the nuisance, they are vulnerable and deserve to be protected.

However, when people are solicited, whether they are solicited by a man seeking sex with a prostitute or by a prostitute seeking clients, it is a nuisance. The fact that soliciting by men has become a greater problem merely reflects a change in our society. Once upon a time, prostitutes tended to hang out in red light districts, and the only people likely to go to such districts were those who wanted prostitutes or those who were on their way somewhere else. Now, with increased mobility and other changes, prostitutes are to be found in areas that are not red light districts. Northbridge and Highgate are not red light districts, but they have become areas for street prostitutes. The residents of those areas do not want them turned into red light districts. They want them turned back into residential areas. Therefore, legislation is required to be not only passed but enforced.

One thing that has come clearly out of this debate, apart from the availability of large quantities of Latin history on the Internet, is that there is something wrong with the enforcement of this law.

Hon Derrick Tomlinson: Perhaps there is also a problem with the interpretation, because if the women are being prosecuted, the unintended consequence is that prostitutes are criminalised.

Hon PETER FOSS: I agree, and one thing that is important is that, when legislation is passed, the mindset of the enforcers must change. The police have always seen women as the problem. The second problem was that they could never prove it because the magistrates were getting harder to persuade. That is probably because the magistrates were not persuaded that the women were the problem, and they were probably right. The problem was that the magistrates' refusal to enforce the law meant that there was virtually no law. When Parliament passed the Bill, it made it easier to prove soliciting by a prostitute, but that was not really an indication that the prime target was the prostitute. Quite clearly, the prime target was the client. The Government needs to re-emphasise the policy of the Bill, which means creating a new offence that makes it possible to prosecute the clients. In that way, there will be an effect on the overall trade. It will never be suppressed totally, but it may well be possible for it to end up occurring in a much more scattered fashion so that it is not a nuisance, or it may be driven to some place where nobody minds. I do not know where that place would be, but it probably would not be near any houses because if it occurred outside people's houses, they would object. It would either be dispersed or concentrated in a more acceptable area, but either way is preferable to allowing it to continue where it is currently happening. The criticism of Hon Frank Hough and Hon Giz Watson that we would merely disperse the activity is not a criticism to some extent.

Hon Giz Watson: What about the safety of the workers who may be murdered?

Hon PETER FOSS: The workers are being murdered where they are now. Unfortunately, ours is an increasingly mobile and violent society. It is a product of that trend rather than prostitutes being dispersed. Some of the early murders were in Highgate when people were picked up near Hyde Park. Therefore, it has not been a consequence of the dispersal but rather of the known availability of prostitutes in those areas.

Hon Giz Watson: They would argue that if a number of them are working together, they have a much safer environment than if they are dispersed and there are only one or two of them.

Hon PETER FOSS: They might have to go to an alternative area that is not so populated. That was one of the things it was hoped would occur. There are some suggestions that it would be better for streetwalkers to go to places where there are already brothels.

Hon Giz Watson: The brothel managers do not like them being around.

Hon PETER FOSS: I am sorry, but if there is one group that I do not accept have a legitimate complaint about the nuisance caused by prostitution, it is brothel owners. Brothel owners are busily causing a problem.

Hon Giz Watson: Do you not think harm could be done to prostitutes in those circumstances?

Hon PETER FOSS: I am sure people could do harm to prostitutes wherever they are, but that is another problem.

I do not believe we should say to the people of Highgate that it is their problem. Prostitution has been a problem for centuries. We will never get rid of it. People will be able to tell that I am following *The Hitchhiker's Guide to the Galaxy*. I have been listening to an interview with Douglas Adams. The whole story starts off with Arthur

Extract from Hansard
[COUNCIL - Friday, 13 June 2003]
p8763b-8774a

Hon Derrick Tomlinson; President; Hon Giz Watson; Hon Frank Hough; Deputy President; Hon Peter Foss; Hon Nick Griffiths

Dent having his house demolished because of a bypass. He was told that he should not complain about it because bypasses must be built and he should have looked up the notice, which was, of course, in a locked cupboard in a room without a light at the bottom of a non-existent staircase. Nobody shows any sympathy to Arthur Dent. Suddenly a Vogon destructor fleet materialises and Earth is about to be destroyed for a hyperspace bypass, and then the entire Earth is snuffed out. Suddenly everybody understands the predicament that Arthur Dent was in. If people do not happen to live in Highgate, it is very easy for them to talk in complacent terms about the ever-present problem of prostitution and how it always has been and always will be. However, if they happen to live in Highgate and prostitutes are on the streets and people are cruising up and down the streets, that philosophical and historical approach is not very satisfying.

Hon Derrick Tomlinson: People do not have to live in Highgate.

Hon PETER FOSS: That is fine if someone does not already live in Highgate. If someone is living in Highgate, it is not a very good solution. If a person wants to sell his house in Highgate, he will have to get people in through the throng of kerb crawlers. He is not likely to get very much money back for his house.

Hon Derrick Tomlinson: House prices have increased by 26 per cent.

Hon PETER FOSS: Even more in other places.

I support the legislation. I rose to correct what I thought was an inappropriate analysis of the legal situation. I urge the Government to look into the statistics read out by Hon Derrick Tomlinson because, on the face of them, they indicate an uneven enforcement regime. It may be that the police are finding it difficult to enforce prosecutions against men. We may have to look at the legislation to see what might be required. Whatever the reason, whether it is a failure of the legislation or a failure of the enforcement authorities, it is a matter that must be addressed. All speakers have agreed that the impact of this legislation on kerb crawling needs to be looked at. I urge the Government to make this legislation effective. If it cannot be done by an administrative act, the legislation should be brought back to this House.

HON NICK GRIFFITHS (East Metropolitan - Minister for Racing and Gaming) [12.36 pm]: I thank members who have spoken. I note with interest the matters raised by Hon Derrick Tomlinson. I will refer them to the Minister for Police and Emergency Services for her consideration. I note the views of Hon Giz Watson. I know that she opposes the legislation; so be it. I regret that she saw fit to criticise the role of the police. She balanced that by making reference to the police officers she had met in the course of her making inquiries on this matter. Members touched on a number of areas dealing with the general issue of prostitution. Perhaps they may have the opportunity of contributing further when another Bill comes before this House. I thank Hon Frank Hough for his support of the Bill. I also thank Hon Peter Foss for his observations, which means, in part, that I do not have to say as much as I would otherwise have to. I look forward to the passage of the Bill.

Question put and a division taken with the following result -

Ayes (24)

Hon Alan Cadby	Hon Adele Farina	Hon Frank Hough	Hon Ljiljanna Ravlich
Hon George Cash	Hon John Fischer	Hon Barry House	Hon Barbara Scott
Hon Kim Chance	Hon Jon Ford	Hon Robyn McSweeney	Hon Bill Stretch
Hon Bruce Donaldson	Hon Peter Foss	Hon Norman Moore	Hon Derrick Tomlinson
Hon Kate Doust	Hon Nick Griffiths	Hon Simon O'Brien	Hon Ken Travers
Hon Paddy Embry	Hon Ray Halligan	Hon Louise Pratt	Hon Ed Dermer (<i>Teller</i>)

Noes (5)

Hon Dee Margetts	Hon Christine Sharp	Hon Giz Watson	Hon Robin Chapple (<i>Teller</i>)
Hon Jim Scott			

Question thus passed.

Bill read a second time.

Leave granted to proceed forthwith to the third reading.

Third Reading

Bill read a third time, on motion by Hon Nick Griffiths (Minister for Racing and Gaming), and passed.