

**PROSTITUTION CONTROL BILL 2003**

*Consideration in Detail*

Resumed from an earlier stage of the sitting.

Debate was interrupted after schedule 3 had been agreed to.

**Schedule 4: Consequential amendments to other Acts -**

Mrs C.L. EDWARDES: One of the objectives of this Bill is to ensure that sex workers are afforded rights in the Industrial Relations Commission and under the Industrial Relations Act and the Workers' Compensation and Rehabilitation Act, and to provide safe workplaces.

The DEPUTY SPEAKER: Members are making it very difficult for the Hansard reporter to fulfil her role and for others to hear the member on her feet. If they want a conversation, I suggest they have it outside the Chamber.

Mrs C.L. EDWARDES: However, the Occupational Safety and Health Act is not referred to. If the brothel owners pay taxes, as I know most of them do, there is no restriction whatsoever on WorkSafe inspectors investigating the premises. They should do so if concern is expressed about any of those occupations.

Mrs M.H. Roberts: Given that they would be party to a contract of employment, the provisions of the Occupational Safety and Health Act would apply to them anyway.

Mrs C.L. EDWARDES: Under section 19 of the Occupational Safety and Health Act nothing limits WorkSafe inspectors from investigating a premises. Will the minister clarify proposed section 22(2) on page 141, which reads -

If a worker who is employed to act as a prostitute fails to comply with a provision of the *Prostitution Control Act 2003*, that failure amounts to serious and wilful misconduct for the purposes of subsection (1)(c) unless the claimant proves that there was a reasonable excuse for the failure.

Mrs M.H. ROBERTS: I understand that the WorkCover principle was that brothels might not comply with health conditions, which would impact on workers compensation and rehabilitation.

Mrs C.L. EDWARDES: Does it mean, for instance, that if a sex worker contracted a sexually transmitted infection because she had not used a prophylactic, she could not claim workers compensation?

Mrs M.H. ROBERTS: That is right.

Schedule put and a division taken with the following result -

Ayes (28)

Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Ms J.A. Radisich
Mr C.M. Brown	Mr J.C. Kobelke	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Carpenter	Mr R.C. Kucera	Mr N.R. Marlborough	Mrs M.H. Roberts
Mr A.J. Dean	Mr F.M. Logan	Mrs C.A. Martin	Mr D.A. Templeman
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr M.P. Murray	Mr P.B. Watson
Dr J.M. Edwards	Mr J.A. McGinty	Mr A.P. O'Gorman	Mr M.P. Whitely
Dr G.I. Gallop	Mr M. McGowan	Mr J.R. Quigley	Ms M.M. Quirk ( <i>Teller</i> )

**Extract from *Hansard***  
[ASSEMBLY - Thursday, 26 June 2003]  
p9442b-9453a

Mrs Michelle Roberts; Mrs Cheryl Edwardes; Mr Matt Birney; Speaker; Mr Paul Omodei; Mr John D'Orazio

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Noes (18)

Mr C.J. Barnett	Mr J.P.D. Edwards	Mr A.D. Marshall	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr B.K. Masters	Dr J.M. Woollard
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr R.N. Sweetman ( <i>Teller</i> )
Mr J.H.D. Day	Mr M.G. House	Mr P.G. Pendal	
Mrs C.L. Edwardes	Mr R.F. Johnson	Mr T.K. Waldron	

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Pairs

Mr S.R. Hill	Mr M.F. Board
Mr P.W. Andrews	Mr J.L. Bradshaw

Independent Pair

Dr E. Constable

**Schedule thus passed.**

**Preamble -**

Preamble put and a division taken with the following result -

Ayes (28)

Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Ms J.A. Radisich
Mr C.M. Brown	Mr J.C. Kobelke	Mr A.D. McRae	Mr E.S. Ripper
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Noes (17)

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Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr B.K. Masters	Mr R.N. Sweetman ( <i>Teller</i> )
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Independent Pair

Dr E. Constable

**Preamble thus passed.**

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**Title thus passed.**

*Third Reading*

**MRS M.H. ROBERTS** (Midland - Minister for Police and Emergency Services) [4.56 pm]: I move -

That the Bill be now read a third time.

**MRS C.L. EDWARDES** (Kingsley) [4.56 pm]: The Liberal Party is concerned that the Labor Government's Prostitution Control Bill 2003 fails to properly take into account concerns that currently exist within the industry, and creates a legal environment in which an illegal sex industry will flourish and a legal sex industry will continue to grow. This legislation does not meet community expectations and regulatory objectives - that can be seen from the clause imposing brothels on unwilling communities. Brothels are to be a permitted land use in industrial areas, because the minister does not want the "not in my backyard" approach that prevails in Victoria and Queensland, which is the real difference between our legislation and that in Victoria and Queensland. This means we will see a growth of brothels - not a control - within Western Australia. That is the really serious part of this legislation. It legalises the sex industry, it will not contain the sex industry, and it will not meet many of the Government's stated objectives as outlined in the Bill.

The Bill is based on a 1980s model - it is outmoded - that has proved to be unsuccessful on the eastern seaboard. The minister can point to a number of differences in this legislation, but the legalisation of brothels and prostitution in other places in Australia and around the world has not met what we regard as the very laudable objectives outlined in the Bill. This Bill legalises the sex industry based on a licensing system, which is a very expensive model. The minister indicated that it will be a small office. If so, how will it do its work? Has a costing been undertaken? No preparatory work has been done - despite the fact that the legislation has been introduced into Parliament - to determine how that office will work in terms of secondments, inspectors and investigations. The office will be able to do all the mix and match work in respect of organisations - health, police and the like - but no costing has been done. The minister would be aware that every new agency that has been established in the public service in the past 30 years has always had a blow-out in its budget and has always grown in size in its first year of operation. It is a fact of life that there is always empire building within organisations. The board will be an expensive operation.

Brothel owners and operators have told me that there will be little incentive for brothels to become legal, because they are more profitable under an illegal system. In their view under this proposal the majority of brothels will operate more profitably outside the law. That means that there will be serious problems in meeting the stated objectives of the legislation. We do not believe, and neither do people in the community believe, whether they be in the sex industry or outside the sex industry, or in local government, that this will be an appropriate model

Mrs Michelle Roberts; Mrs Cheryl Edwardes; Mr Matt Birney; Speaker; Mr Paul Omodei; Mr John D'Orazio

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for regulating the sex industry in Western Australia. Members will note that I used the word regulate. We are concerned about the legitimising, normalising and legalising of the sex industry in Western Australia as provided for under this legislation. There will be no restriction on the growth of the sex industry in Western Australia.

This model will not enable other community concerns about the sex industry to be dealt with successfully by the Police Service, the Department of Health and the employment protection agencies. The Bill will not deal with the illegal side of the sex industry, such as organised crime and drugs. Public health and safety are other key issues that will not be dealt with by the Bill. Nuisance and town planning matters cannot be enforced effectively within an illegal industry. Very little control will be given to local councils, and there will certainly be no veto by local councils, over any of the recommendations of the Prostitution Control Board. The Bill will leave the community and sex workers vulnerable to myriad problems. The Bill will not overcome the problems that the minister has identified. The minister is setting up an expensive system that has been proved not to work, rather than seeking to improve the existing laws. The minister should put in place a framework for regulation but retain a level of containment, if that is the word we want to use. Control is a better word to use. However, although the minister has put controls over the industry, she will not be able to control the industry. The community wants the sex industry to be controlled. The community accepts, as we do, that prostitution takes place. What the community does not want is to have prostitution in its face. The community wants to have a say. The community certainly does not want the illegal activities and violence that are associated with the sex industry to continue. The community wants programs to be put in place to tell women, and I should say also men and children, that the sex industry is not a nice industry to be involved in and that it is harmful and degrading. Any member who has talked to sex workers who have left the industry or who want to leave the sex industry will have found their lack of self-esteem and self-confidence, and their recognition of their drug problem and the need to overcome it, very distressing. The sex workers who want to leave the industry but have not quite made that decision say that the carrot that keeps them there is the money. They do not know how to take the next step and how they will survive without that money to support themselves. That matter needs to be addressed in trying to encourage these men and women to get out of the sex industry.

There is nothing nice about the sex industry. Why would we want it to grow? We do not want our children to be involved in the sex industry because many adverse effects flow from being involved in the sex industry. The consequences for the health of sex workers are enormous. I must admit that I have not spoken to a male prostitute in any specific detail about the consequences for a man's body, but the consequences for a woman's body are enormous. Women who have been in the sex industry for some time often have to seek advice and support from their general practitioners. That is not surprising when we think about it, but it is alarming that there are those enormous consequences for a woman's health. Those consequences do not disappear when the woman leaves the industry. Quite apart from any sexually transmitted infection that the woman may have contracted, the problem of incontinence may remain with her for the rest of her life. Although incontinence does not affect only sex workers, it is much more prevalent among sex workers. Hepatitis B is also much more prevalent among sex workers. If a sex worker has contracted hepatitis B while she has been engaged in the industry, there is nothing she can do about it. Sex workers often have to live for a long time with the consequences of having been involved in the sex industry. It does not matter then whether the industry is legalised or not.

Some people might wonder where a woman has been for the past five or 10 years and what she has been doing. Members should see the looks on the faces of these people when the woman explains that she has been working as a prostitute. Such women do not say, "I have been a sex worker" - the current in-vogue term used to make it sound better. Why do these women go into the industry? Is it because of drugs? They may have been taking drugs in a small way. Usually they are captured by the sales pitch about the large amount of money they will earn and decide to give it a go for a couple of weeks. They work at the brothel for one or two weeks, which then becomes six months and then five years. By that stage they do not know how to get off the treadmill. We need to put something in place today to stop this. We do not need this legislation to put in programs -

Mrs M.H. Roberts: They become addicted to earning such good money. Many women don't have the capacity to earn anything like that elsewhere -

Mrs C.L. EDWARDES: That is exactly right. Therefore, what alternatives can we put in place for them? It may involve re-skilling, building confidence and developing self-esteem. These women may have been abused as children. We should be doing far more for them than legalising an occupation that we would not want our daughters or sons involved in. We accept that the existence of the industry is inevitable because there is a demand; if there is a demand, we meet that demand. I am sorry, but this is back-to-front. We must look after these women and children.

Let us not forget that large numbers of children are heavily involved in this industry. Given what has happened on the eastern seaboard, once legalisation of this sort comes in an increased number of children will become involved in the industry. I do not understand the dynamics of that; I have just looked at the statistics. Yes, those

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States have put in place strong legislation or offences, but we already have that. We do not need this Prostitution Control Bill to protect children. If there are provisions in this Bill that are not covered by current legislation, we should amend the Child Welfare Act or whatever Act is required to do that.

The minister has admitted that the Police Service already has the power to enter premises. Yes, police might need to have some suspicion before they can enter premises, rather than just being able to go into a place and inspect records and the like. However, the police are very innovative people. If the Government is willing to support them, they will take the necessary action. However, this Government said that it would bring in prostitution legislation. It is therefore no wonder that there has been a relaxation of the approach taken by the Police Service and a huge growth of the sex industry in Western Australia. People from this State have been saying, "Come on in!" The Government has said that all brothels established prior to a set date will not have to go through the ordinary planning approval process; they will get automatic approval. Yes, they still need to get a licence, but as they have been operating - even if they are close to a childcare centre, a church, a school or residential areas - they can stay there. Do members know the value of those places now? No wonder people have been coming from the eastern seaboard to Western Australia to invest in an industry that is about to be legalised. People are already looking at growth prospects. Okay, I admit that there may very well be a certain level above which an industry will not grow. For instance, Coles-Myer stores have only so many stores in Western Australia, but it continues to want to grow, as do the Harvey Normans and the local delis. Everybody thinks they can make a buck. The sex industry is a very lucrative cash industry. Not only that, it is an ideal industry in which drugs and organised crime can flourish. Police already have the powers to close down those sorts of operations and take action under the exceptional powers legislation, which will soon be replaced by the Corruption and Crime Commission legislation.

Rather than introduce a new Bill and bring all the legislation together in that Bill to legalise the sex industry, the Opposition would prefer to work with existing laws that pertain directly or indirectly to this industry. If there are gaps in the current law and some confusion, we should fix them. We should not legalise the industry and allow it to grow. The Opposition believes that the problems can be rectified through appropriate amendments to existing laws. Any changes would be based on an agreed set of objectives. I will go through the objectives covered by the legislation shortly. Those objectives can be established in consultation with all the interest groups. One of the concerns raised was that that was not done by this Government prior to introducing this legislation. It did not take into account all of the concerns mentioned.

One area of concern for the Police Service was its inability to deal effectively with organised crime in the sex industry. To the extent that the police are unable to address organised crime using their current powers, I do not believe they would require any more powers other than those found in the exceptional powers legislation, which will soon be replaced by the stronger Corruption and Crime Commission legislation. If they need more powers to deal with the unique problems associated with organised crime in the sex industry, their powers could be revised and enhanced. The Government should fix that problem. It should not create a legalised system that will allow the industry to continue to flourish and make money from people who live off the degradation of women and children. This legislation will allow not only for it to continue to happen, but also for the industry to normalise and grow.

I will now go through the many Government-stated objectives that this Bill will not be able to achieve. The first objective is to safeguard public health and wellbeing against the adverse effects of prostitution. The legalisation of prostitution throughout the world has led to the two-tiered legal and illegal approach. When it is made too difficult for an industry to become legalised, there is a huge growth of that illegal industry. If it is too expensive for the industry to become legalised, it is cheaper and more competitive for it to stay illegal. This is an illegal industry. It is already out there. Does it make any difference to the people in the industry? They have already been operating for some time in an illegal environment and will continue to do so. When it is legalised, the ability to maintain proper health and medical checks as well as a safe working environment is reduced. Western Australia has been in a unique situation. Prostitutes who have worked in Western Australia, on the eastern seaboard and in New Zealand say that because the Western Australian industry has been kept small, it offers them a better working environment than that found elsewhere. Is that not amazing when the industry has been legalised and encouraged elsewhere! That is a common view of the girls working over here. Small has been better! Why do we not continue to work on that basis and ensure that public health is improved.

The second objective is to protect prostitutes from exploitation. Again, if there is a two-tiered system, we will not be able to deal with that and the women will be even more exploited.

The third objective is to protect and control the social and physical environment of the community by controlling the location of brothels. At the end of the day, we have seen the "not in my backyard approach" - the community does not want brothels in its area - totally overridden by this Government. The mere fact that that has stopped brothels from being established and legalised in Victoria and Queensland has given this Government

the excuse to be different from those States by legalising brothels. There is value in that arrangement as it stops the two-tiered system. However, at the end of the day there will be a growth in the number of illegal brothels and of the location of those brothels. By taking on that role, the Government is totally overriding the views of the community. People will always oppose many things that are to be established in their community. Certainly, they have a right to a say, particularly on this subject.

The fourth objective is to prevent children from being involved in prostitution. The power to prevent that is already in place under the Prostitution Act 2000, which we have just put back through this House.

The last Government-stated objective I will refer to is to deter organised and other crime that has a connection with prostitution. How weak is that? The objective is to deter it because of the basic recognition that it cannot be stopped. Former New York Mayor Rudolph Giuliani worked on the broken window theory; that is, a broken window can be fixed by taking action to do so. In other words, dealing with the issue of low-level crimes will eventually deal with high-level crimes. This Bill acknowledges that organised crime and drugs exist in the sex industry and all the Government can do is try to deter it. Is that what we do, Mr Speaker? How many police followed a group of bikies from Broome to Wyndham and Kununurra? How about following them into brothels? We should not wait until the bikies go to Broome for a nice Sunday drive; we should go to where they are working today. Today they are connected with the sex industry in Western Australia and all this Government can do is deter them because of the basic recognition that they are in the community. The Government's attitude is that they are involved and all we can do is deter them. That is not good enough. The legislation should be stronger than that. The police should go into brothels and close them down. If the police need stronger laws to obtain evidence to do so, the Government should give it to them. I am not sure what can close them down if the exceptional powers legislation cannot close them. If the Government needs legislation that is more specific to the sex industry, it should tell us and we will pass it immediately. However, we should not legalise the sex industry so that organised crime can continue to grow. Why should we accept that? We do not accept organised crime in the sex industry and we are not happy to let prostitution in the community grow.

There are serious deficiencies in the Government's objectives. Given the damaging effect of prostitution on women and families, the best thing this Government could do in a legislative framework would be to deter the number of people from going into the sex industry in Western Australia. Instead of that, it has encouraged them. It does not want local communities to stop the sex industry because it is out there; therefore, it will continue to allow it to grow until the demand is met.

The minister has suggested from time to time that we are the bugbears to passing this legislation. I suggest to the minister that the process in this Bill to control prostitution is based on a belief in fairies at the bottom of the garden. There are no fairies at the bottom of the garden. This legislation will not make the sex industry a pretty industry and it will not achieve the Government's stated objectives.

I have said before that it is important that appropriate policies be in place to support a regulatory framework. The Government must take that approach. The Government has said that the containment policy supported an illegal industry. We acknowledge that it did that, but the Government ran with the previous Government's proposed legislation because it met the objectives of its election promises. The legislation that the Government says was our legislation was draft legislation that never got cabinet approval, for a very good reason.

Mrs M.H. Roberts: Why did the member for Darling Range issue a press release to the effect that he was about to bring it into Parliament?

Mrs C.L. EDWARDES: He had been working on it for some time and the police wanted legislation. They deserved legislation to deal with the problem. We must give them legislation to deal appropriately with the problem; we should not legalise the industry and grow it.

Mrs M.H. Roberts: Why did Kevin Prince say throughout the second half of 2000 that he was only a couple of weeks away from introducing legislation?

Mr M.J. Birney: I think the better question is why didn't he introduce it?

Mrs C.L. EDWARDES: The draft legislation did not come into Parliament. It would never have received approval. This legislation is about growth, not containment. We are not talking about real control or real restraint; we are talking about growth. The containment policy worked pretty well. There were allegations of police corruption and the like, and we should have mechanisms to protect police on that issue.

This Government has allowed organised crime to take over the sex industry. Not only will prostitution grow, but so also will money laundering, organised crime, drugs and the like. The member for Girrawheen said that people would buy a delicatessen or a video shop instead of buying into the sex industry. I would prefer that they bought a deli or a video shop than a brothel, considering the damaging effects that the sex industry has -

Mr J.C. Kobelke: They already own the brothels, because they bought them in your time in government.

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Mrs C.L. EDWARDES: They have grown enormously since this Government came to power.

The appropriate policies would include the enhancement of health and safety objectives by ensuring sex workers had ready access to health and information services and the provision of assistance in exiting the sex industry.

Tonight, Linda's House of Hope is holding a function to raise funds to continue the good work that it does. If the Government wants to do something serious about its objectives, it will put money into Linda's House of Hope - or some other organisation if the Government does not want to support the Catholic Church - to ensure that it is doing something positive, not negative, for the sex industry.

**MR M.J. BIRNEY** (Kalgoorlie) [5.26 pm]: I will make a brief contribution to this debate, because it feels like Christmas Eve to members of Parliament tonight, given that it is the eve of a six-week parliamentary break.

Last week I visited Bunbury at the kind invitation of my friend the member for Mitchell. I had a very productive meeting there. I met with all manner of people, including police officers, police management, people involved in the council, businesspeople and everyday residents of Bunbury. I had a full agenda in Bunbury and my visit was a particularly rewarding experience. One thing that came through loud and clear to me in my time there was that the people of Bunbury do not want this legislation. As I have travelled around the State, the majority of people I have spoken to have not been in favour of this legislation, but I was overwhelmed by the strength of feeling against this legislation in Bunbury. The message was not ambiguous; the message from all and sundry in Bunbury was that they do not support this legislation or the expansion of the existing prostitution industry. Clearly, evidence from the eastern States indicates that the prostitution industry expanded when it was legalised. One year after prostitution was legalised in Victoria, the number of brothels there increased from 54 to 80, and a further 90 had applications before its prostitution control authority. That is why the people of Bunbury made it very clear to me that they do not support this legislation and they do not support prostitution expanding into the suburbs. Everybody with whom I spoke in Bunbury was against this legislation. They spoke to me in the earnest hope that their two local members, the member for Mitchell, Dan Sullivan, and the member for Bunbury, Tony Dean, would not support the Bill. If I were the member for Bunbury, I would be particularly nervous about the passing of this legislation. He should be under no illusion about the sense of the feeling in his electorate.

It is clearly saying that he should not vote for this legislation. Now is the time for the member for Bunbury and others in the Labor Party to make clear whether they support the position of the Labor Party or the position of their local electorates. I am very pleased that the member for Bunbury is in the Chamber. I ask him to cross the floor and, with the Opposition, vote in favour of his electorate. Is he prepared to do that? Is the member for Bunbury prepared to do that? Is the member prepared to cross the floor and vote in favour of his electorate?

The SPEAKER: The member for Kalgoorlie can ask the question as many times as he likes, but the member for Bunbury does not need to answer. The member for Kalgoorlie will move on with his speech.

Mr M.J. BIRNEY: Let the record show that the member for Bunbury failed to answer the question. I take it from his silence that he will support his political party, the Labor Party, at the expense of his electorate of Bunbury. That is an absolute disgrace. Somebody like the member for Bunbury -

The SPEAKER: I do not think it is quite cricket to criticise a member for not breaking standing orders and interjecting. When a person does not want to answer a question, it is wrong to goad him into breaching the rules.

Mr M.J. BIRNEY: I was simply assuming - I think I will be proved correct -

Mr J.B. D'Orazio: At the last state election the then member for Bunbury circulated material that named me and accused me of promoting the position put by the minister. Can the member tell me who won the seat of Bunbury?

Mr M.J. BIRNEY: I can tell the member that I spent an entire day talking to the local council, police officers, businessmen and members of the community. The strength of feeling in Bunbury is absolutely against this legislation. Why will the member for Bunbury not cross the floor and vote with us? I am still hopeful that he might. He has remained silent.

Mr D.F. Barron-Sullivan: It is because Labor Party rules tie him to a caucus decision.

Mr M.J. BIRNEY: I thank the Deputy Leader of the Opposition for that comment. That is a very good reason to not vote Labor. A vote for a Labor candidate is effectively a vote for the party line. It is not a vote for somebody who is prepared to stand up for his electorate. That is the key difference between the Liberal Party and the Labor Party. I would like to know what the member for Bunbury personally thinks about this legislation. A picture in a *South Western Times* article shows him standing alongside the Anglican archbishop. I think we can assume that the member for Bunbury is a man with some morals.

Mrs C.L. Edwardes: He is a bishop, not the archbishop.

Mr M.J. BIRNEY: I stand corrected. I am sure the Anglican archbishop would not like to stand alongside the member for Bunbury.

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When a local community votes for a political candidate, it rightly expects that person to respect the rights of the community and to vote with regard for it rather than his political party. That is how it works in the Liberal Party. The member for Mitchell will vote with regard for not only his political party but also his conscience. A vast contrast can be drawn between the member for Mitchell and the member for Bunbury. I am sure that message will not be lost on the people of Bunbury.

I talk about why the Liberal Party opposes the Bill. One of the serious problems the Liberal Party has with this Bill is that when prostitution is legalised, it becomes uncontained. I accept and recognise that prostitution has been with us for a hundred-odd years, and that it will probably be with us for a hundred more years. It would be in nobody's best interests if prostitution were completely legalised and the industry spread throughout the State. I would hate to think how many industrial areas are in Western Australia, because, with the passage of the Labor Party's legislation, they will all be potential locations for new brothels. There are so many holes in this Bill that I would be frightened to vote in favour of it.

I notice that the member for Bunbury has now taken the Chair and assumed a different role. I hope that does not prohibit him from participating in the vote on this legislation. I am sure he would rather ask somebody else to take the Chair than be absent from the vote. It would be a shame if he could not participate.

Put simply, the Liberal Party does not support the propagation and expansion of prostitution, and it will vote against the legislation. Sadly, the Labor Party has not spoken with us in an attempt to reach some form of compromise. Obviously, there are issues about how the Police Service should be required to regulate the prostitution industry. This minister has simply rammed this legislation through. I do not think she is really serious about getting it through. If she were, she would have knocked on our door to find out if any common ground existed. We would have told her that we do not support the uncontained spread of prostitution throughout Western Australia, and nor should anyone else.

**MR P.D. OMODEI** (Warren-Blackwood) [5.36 pm]: I commend the member for Kingsley for her contribution to the debate, which I believe has been outstanding. She is a former Attorney General and Minister for Family and Children's Services. She has great empathy with families and children in Western Australia.

This legislation has been around for a while. As has been discussed, nine drafts of legislation to control prostitution had been prepared by the time the Labor Party came to power.

Mrs M.H. Roberts: It was about nine or 10.

Mr P.D. OMODEI: Yes; give or take one or two. I was a member of the cabinet standing committee that took part in the discussion about prostitution legislation. The reason such legislation was not introduced into the Parliament was that we could not reach agreement in either the Cabinet or the party room. I think that legislation once got as far as the party room. It did not receive the assent of the previous Government for some very good reasons. The proposal to legalise prostitution in this way was not accepted by the vast majority of Liberal and National Party members. This legislation is about the exploitation of women, drugs, organised crime, sexually transmittable diseases and range of other things. I do not think the legislation before the Parliament is supported by any group in the community except the Labor Party. It seems to be the quick fix. The Government introduced it into the Parliament knowing full well that it will be rejected by the upper House. It will then try to claim to the community that it attempted to fix the prostitution situation in Western Australia.

As I said during the second reading debate, the truth of the matter can be easily stated as, "Vote Labor and have a prostitute locate near you". To a great extent, that is what will happen in rural Western Australia.

Several members interjected.

Mr P.D. OMODEI: The member for Ballajura protests a little too much. He knows from his local government days that local government is vehemently opposed to the way in which this legislation came into the Parliament. There was a lack of consultation with the third tier of government; indeed, right across the board. Submissions made by not only local government but also the Roman Catholic Archbishop of Perth were not taken into account by the Government before the legislation came to Parliament. That is a fact.

Illegal brothels have mushroomed in Victoria and New South Wales, which have similar legislation to that before the House.

Mrs M.H. Roberts: Our legislation is totally unlike that in New South Wales.

Mr P.D. OMODEI: I meant Victoria and Queensland - I stand corrected. I know from material I have sighted that brothels, including illegal brothels, have mushroomed virtually out of control in those States, particularly in Victoria. Police officers trying to control this situation indicate that prostitution is virtually out of control and that a serious review is needed.



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Those eastern States have a 200-metre buffer around brothels, and the Western Australian legislation refers to a 300-metre buffer. What about the host of country towns that have no industrial area or opportunity to locate a brothel under the legislation? This will encourage single operators to start up in those places. What power does local government have to control the situation? It is zero under legislation. The powers of local government, the third sphere of government, under the structure of a town planning scheme will be taken away completely.

Mrs M.H. Roberts: That's not true. You were not here for the consideration in detail stage. You have not read the Bill.

Mr P.D. OMODEI: I have taken a good look at all the submissions made on the legislation. People I have consulted do not want this legislation in Western Australia. It is not the claimed panacea. The Government says that prostitution will always exist in some form. This legislation will not fix the problems. A large number of groups believe the legislation is wrong and should not have been put in place. This is a feeble attempt by the Government to pass legislation through this Chamber knowing full well it will be thoroughly scrutinised in, and probably rejected by, the other place. If by chance it passes Parliament, it will foist on the public of Western Australia a situation in which prostitution will be almost impossible to control. On that basis, I will oppose the legislation inside and outside this Parliament.

**MR J.B. D'ORAZIO** (Ballajura) [5.43 pm]: In making closing comments on the third reading, I place on record some of my background in dealing with this issue. I spent 17 years as the Mayor of the City of Bayswater. I am a pharmacist who operated in the vicinity of a number of brothels, and I have had dealings with a number of people involved in the industry through my pharmaceutical capacity. I also was a member of the community panel the Government set up in 1992 to look at prostitution. I was planning spokesman for local government for seven or eight years, and I was a planning commissioner. In all those capacities, this issue has arisen repeatedly.

I congratulate the Minister for Police: she is the first politician to have the courage to come into this place and make a genuine attempt to resolve a ludicrous situation that has existed for a number of years. It is untenable for the people involved, the local authorities and the entire community.

Mr P.D. Omodei: All she has done was take legislation that was already drafted and unacceptable to the previous Government, and rubber-stamp it.

Mr J.B. D'ORAZIO: I will deal with the member; I have not finished with him yet!

People involved in the industry do not have three heads, four arms or six legs. Normal people are involved in the industry. The panel for prostitution travelled around the State, including to Kalgoorlie, and received an enormous number of submissions from the public and talked to a large number of people involved in the industry. I refer to workers, owners of establishments, those who would like to be owners, community groups and the churches. People had an opportunity to have an input, and everyone to a man said that the current situation was totally unacceptable.

This legislation does not relate to abnormal people as normal members of the community are in this industry. It was interesting that the member for Kingsley started to generalise. She outlined that people claim, "I started in prostitution because I was on drugs, and I extended that involvement."

Mrs C.L. Edwardes: It was only one example I used.

Mr J.B. D'ORAZIO: My point is that no generalisations are applicable to the industry. The member would be surprised by the different people involved who came into my business. How did I know they were involved? Some people in the industry must pay 20 per cent tax. Even though it is not supposed to be a legal activity, the federal Government taxes them 20 per cent of their earnings.

Mr P.D. Omodei: And the rest.

Mr J.B. D'ORAZIO: No. They are charged 20 per cent. When they buy pharmaceuticals, such as make-up and stockings, they are given a formal receipt so they can claim a tax deduction. It is a ludicrous process. Talking to these people indicates they are normal people with normal challenges. Some are in the industry because they need the money, some are from broken families and others have a drug problem.

Mrs C.L. Edwardes: There is a dysfunction there somewhere.

Mr J.B. D'ORAZIO: Not necessarily. Some people formally put it to the community panel that they were in this industry because it was easy money, and that they could not earn that sort of money doing another job.

Mrs C.L. Edwardes: What are the consequences in years to come to their health?

Mr J.B. D'ORAZIO: We are not making the moral judgment with this legislation about whether this activity is right or wrong. I do not want to make that judgment.

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Mrs C.L. Edwardes: I refer to the health of those women. They are normal women, as you say; there just for the money. What are the consequences on their bodies in years to come?

Mr J.B. D'ORAZIO: It would vary from person to person - people have different reactions. I strongly support health programs to encourage people not to go into the industry. Morally, it is not a savoury occupation - that is my belief. Nevertheless, I do not want to use my moral judgment on this legislation. This Bill tries to protect a group of people who, to this point, have been absolutely vulnerable.

The community panel on prostitution heard a great deal of innuendo about the police, but we saw no evidence of any untoward activity by the police. Everywhere we went, we heard the innuendo that things were happening under the table. Why was that? The containment policy was arbitrarily put in place and controlled. As elected members, we must ensure that police officers are not put in that position. It is not right to abrogate our responsibility and say, "It's too hard for us. You guys deal with it the best you can, even though, supposedly, it's not happening." It is stupid. This is the first real attempt to bring legislation to this place to address the fundamental issues.

I was the Mayor of the City of Bayswater for 17 years and everybody knew a certain landmark in Bayswater. Whenever I tell people how to get to my chemist shop in Bayswater, and I say go to the intersection of Garrett Road and Guildford Road and turn right, they say, "Where's that?" If I said it is 200 metres past Happy Haven on Guildford Road, everybody knows where it is. That is the reality. We all know prostitution is there, we know it exists and we all condone it in some form or other, but no-one wants to face up to the reality that we need a sensible enforcement code. In 17 years, only one complaint was made about Happy Haven. That is indicative of the situation. The stupid part was that even though the operation of that establishment was illegal and to all intents and purposes was not operating, the Bayswater health surveyor went there every week to undertake an inspection. During my time on the Bayswater City Council I saw a planning application to build a magnificent looking building that included 10 rooms each with an ensuite, but it was not supposed to be anything untoward. It was a ludicrous situation. The council could not reject the application on the ground that it would be a premises for a brothel. As a building, it conformed to the standards, but approval was required to build it. In another instance, the council could not close a brothel operating in the Bayswater residential area because prostitution was not listed as an illegal item under the Bayswater town planning scheme.

Mr P.D. Omodei: You did not amend the scheme.

Mr J.B. D'ORAZIO: The council relied on the police to close it. Those are examples of how ludicrous the situation can get.

Mr R.C. Kucera: That is the second complaint. Somebody stole the sign from Happy Haven and hung it on the then new Bayswater Police Station.

Mr J.B. D'ORAZIO: I will not go there. This legislation is not a panacea for all the problems in the industry but it will go a long way towards ensuring that local authorities have some authority over the establishment of brothels. It will give them the ability to exercise discretion in residential and commercial areas. The only areas over which people can argue are industrial zones, and I think brothels would be appropriately located there. It is untrue that councils will be unable to discuss the location of brothels with the community. Town planning schemes are advertised to enable the community to have input.

Mrs C.L. Edwardes: And then the schedule will override it.

Mr J.B. D'ORAZIO: Hang on a minute; the member for Kingsley should let me finish. Even though brothels might be able to operate in industrial zones, councils can apply various criteria to their use so that they must comply with council requirements. Other areas might be zoned for XX use or AA use and, therefore, require special approval. When special approval is required, councils have the ability to vary requirements, and if those requirements are not met, the councils can reject an application. Councils can also involve the community if they want to; it is not up to the Government. That is the position of the Western Australian Local Government Association, of which the member was president and of which I was a member for at least seven years. Two and a half years ago, when I left the council, that was the unanimous position of local government, and I reiterated that position at a number of conferences. I wrote the position paper, so I know what was in it. That exact position is proposed by the Minister for Police and Emergency Services. It is a good compromise.

I have never said publicly that, prior to the last election, the member for Warren-Blackwood and my predecessor, Rhonda Parker, telephoned me to talk about clauses in the local town planning scheme in the same form as those that the minister is proposing. I chose not to make that a political issue because this issue is above politics. This debate is about regulations that should be implemented now. Officers from each member's electorate asked me to explain how the planning scheme operated. I was happy to work with them to achieve an outcome similar to

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the objectives contained in the Bill. Members opposite might have balked at the introduction of this Bill, but I am sure that if they had been re-elected to government -

Mrs C.L. Edwardes: We balk at the fact that it will allow growth of the sex industry and organised crime.

Mr J.B. D'ORAZIO: This debate is about providing the people in the industry who have the least amount of protection with some protection.

Mrs C.L. Edwardes: You believe in fairies at the bottom of the garden.

Mr J.B. D'ORAZIO: Absolutely not. I am probably more pragmatic about this issue than most other members in this Chamber.

Mr P.D. Omodei: You might have a conflict of interest.

Mr J.B. D'ORAZIO: In relation to what?

Mr P.D. Omodei: Owning a pharmacy next door to a brothel.

Mr J.B. D'ORAZIO: Not quite; that was about nine years ago.

The member for Kalgoorlie commented about my honourable colleague the member for Bunbury. During the last election campaign, I received a pamphlet that contained the words "Labor candidate John D'Orazio supports brothels. Support the Labor Party and there will be a brothel next door to you." Ian Osborne ran that campaign in Bunbury.

Several members interjected.

Mr J.B. D'ORAZIO: Excuse me, who won the seat of Bunbury?

The SPEAKER: If the member for Kalgoorlie wishes to interject, and I hope he does not, he must do so from his own seat, not from where he is now seated.

Mr J.B. D'ORAZIO: I do not want to prolong this debate, but it is an issue in which I have passionately believed for a long time. I was disappointed when the Lawrence Government did not introduce a Bill of this nature.

Reference was made to the fact that this legislation is based on a Liberal draft. Most of the recommendations in the 1992 report on problems in the prostitution industry are encompassed in this Bill. I congratulate the minister and the Government for having the courage to at least attempt to regulate this industry. At the end of the day, if the Opposition wants to bury its head in the sand again and leave it up to the police to maintain a containment policy, it will not be successful. More people in the industry will be exploited. This legislation will enable transparency and accountability and will ensure that the police, the workers and even the brothel owners are protected. The licensing authority will be able to influence the process. The Opposition's stand is farcical.

I congratulate the minister and the Government for having the courage to do this.

**MRS M.H. ROBERTS** (Midland - Minister for Police and Emergency Services) [5.57 pm]: I thank members for their contributions to what has been a very lengthy debate. Debate commenced well over a month ago and the House has spent more than 13 hours debating the Bill. I realise that it is a sensitive and contentious issue for many members. However, they have maintained good humour and participated in the debate as rationally as possible. Although I do not agree with everything that has been said - I probably violently disagree with a number of comments - I acknowledge members' right to present their arguments. That is what parliamentary debate is all about. I especially commend the members for Kingsley, Kalgoorlie, Ballajura, Hillarys and Greenough. I even acknowledge the member for Warren-Blackwood, although his contribution was a little disappointing.

I am disappointed in the Opposition's position. It is taking a head-in-the-sand approach. Members opposite continue to assert that this Bill is a model for growth, when clearly the only model for growth is a do-nothing approach. The best estimate of the number of prostitutes working in Perth in the early 1990s was about 1 000. The best estimate available when the member for Darling Range introduced legislation was about 3 000. Over the coalition's eight years in government the number of prostitutes increased threefold and potentially more. The number of brothels also increased over that period. If we do nothing, growth is exactly what will occur.

The member for Kingsley asked a number of questions about how the licensing office would work. She well knows that similar offices operate in other States. The Government has contacted the appropriate people in those States and it is aware of how their authorities work and the resources they need. When we get some agreement from members opposite or, alternatively, from the Greens, we will work out a much tighter budget for that office. I reiterate that people in other States do not consider that their legislation has created a horrendous

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situation or that the legislation does not work. I visited Victoria, New South Wales, Queensland and the ACT and all the people I spoke to believe that it is much better to have legislation in place than to have no legislation at all and that the scenario in their States is better than that in this State. In many instances they would like their legislation to be improved, and most of the improvements they would like in their legislation will be made to our legislation.

The member for Kingsley suggested that this is really a failed 1980s model. That is better than a failed 1950s model. Unfortunately, if this legislation is not passed in the upper House, there will again be no regulation or control of brothels, which will allow people involved in organised crime to continue to be involved in this industry. It will also mean that police will have to put up for a longer period with the untenable situation that currently exists, and that is unacceptable. Police Union (WA) president Michael Dean was reported in an article by Grahame Armstrong in the *Sunday Times* on the weekend to have said -

... it was frustrating that after 30 years of political debate police officers still did not have clear direction on the issue. ...

Mr Dean said: "This is a burning issue for police and the public. We are being asked to manage an area we shouldn't have to manage.

We strongly believe that this should be managed by the Prostitution Control Board; it should fall under the control of the Minister for Health; and police should deal with policing issues. Police should not have to determine who can run a brothel and who cannot; that decision should be made by an independent authority. On 25 June 2003, the Commissioner of Police, said in an interview with Liam Bartlett on ABC radio station 720 -

... well, what we do is that we concentrate, in terms of ensuring that in policing brothels that we look at issues like children in brothels, drugs in brothels, organised crime in brothels, women being held there against their will. So we put that priority on that there. But, as I come back to the Minister's comment, we would like the new legislation to go through so that we go into a regulatory regime that's actually sensible and easy to enforce.

I rest my case with those remarks. The fact is that if this legislation does not go through, the only winners will be organised crime and those people involved in illegal drug activities. If the Liberal Party members do not support this legislation in the upper House, it will indicate they are soft on drugs and organised crime and that their heads are firmly entrenched back in the 1950s.

Question put and a division taken with the following result -

Ayes (25)

Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr N.R. Marlborough	Mrs M.H. Roberts
Mr C.M. Brown	Mr R.C. Kucera	Mrs C.A. Martin	Mr D.A. Templeman
Mr A.J. Carpenter	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Mr A.J. Dean	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk ( <i>Teller</i> )
Mr J.B. D'Orazio	Mr J.A. McGinty	Mr J.R. Quigley	
Mrs D.J. Guise	Mr M. McGowan	Ms J.A. Radisich	
Mr J.N. Hyde	Mr A.D. McRae	Mr E.S. Ripper	

Noes (16)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr M.G. House	Mr P.G. Pandal
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr R.F. Johnson	Mr T.K. Waldron
Mr M.J. Birney	Mr B.J. Grylls	Mr A.D. Marshall	Dr J.M. Woollard
Mr J.H.D. Day	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr R.N. Sweetman ( <i>Teller</i> )

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Pairs

Mr S.R. Hill	Mr M.F. Board
Mr P.W. Andrews	Mr J.L. Bradshaw
Dr G.I. Gallop	Mr B.K. Masters

Independent Pair

Dr E. Constable

Question thus passed.

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Bill read a third time and transmitted to the Council.