

**PROSTITUTION CONTROL BILL 2003**

*Second Reading*

Resumed from 2 April.

**MRS C.L. EDWARDES** (Kingsley) [4.32 pm]: I advise that the Liberal Party will oppose this Bill, which is about the legalisation of brothels. There is no evidence that the legislation will achieve any of the Government's stated objectives. There is no evidence that it will control the growth of prostitution or brothels, prevent children from being involved in prostitution, prevent sexually transmitted diseases from spreading throughout the community, reduce the incidence of drug use or keep out the criminal element.

The Government has already made one attempt to amend the legislation - the Green Bill - before it introduced this legislation. That attempt has failed even those people in the industry. I put it to the Government that this legislation is far worse than the Green Bill. The Government's best option, on the advice from a wide range of people - in fact, we cannot find anyone who supports this legislation - is to scrap the Bill and go back to the drawing board and start again.

The Bill is euphemistically titled the Prostitution Control Bill. The Government has not explained how prostitution will be controlled. Legalisation - this is not about decriminalisation - has failed in Victoria and Queensland and decriminalisation has failed in New South Wales. The Government has not explained how physical or psychological violence against sex workers will be avoided, how the use of drugs in the industry will be eliminated or even curtailed or how it will make it impossible for organised crime gangs to infiltrate the industry and effectively control brothels. Most importantly, the Government has not explained how children will be completely protected from prostitution. In addition, the Government has ignored its responsibility to the people of Western Australia by taking away from local councils the power to make planning decisions on the location of brothels.

The community may accept that some level of prostitution is inevitable. However, that does not mean supporting anything that might result in more brothels and more prostitutes. It certainly does not mean tacit endorsement of a system that could send a wrong message to young women that prostitution is a desirable career option. The onus is on the Government to demonstrate how each of those issues, which it outlines under the principles of this legislation - I have previously identified some of those - will be dealt with fully and firmly before the Government can expect any level of support for this legislation from the community. The legislation may include tough penalties for allowing children to act as prostitutes; however, there is no provision in it for support services such as counselling for children, young men or women. There is no indication of how the Government plans to deter organised crime from being involved in prostitution. Words alone will not keep out the criminal element. Under this legislation, prostitution is to be legalised and more illegal brothels will operate, yet there is no indication in the legislation of how the Labor Government plans to ensure that STDs will not spread throughout the community. Simply talking about the dangers of unprotected sex will not stop it. Later, I will highlight that although there is a very strong health ethic among sex workers, that is not the case in all the brothels and certainly not among street workers.

Despite the legalisation of brothels in Victoria and Queensland and the decriminalisation of brothels in New South Wales, prostitution is flourishing in those States. Indeed, in Queensland the Prostitution Licensing Authority's annual report identified that urgent legislative review was needed. The report states -

The PLA is firmly of the opinion that legislative review of the Prostitution Act is required if the Act is to achieve its objectives, harness illegal prostitution and entice those involved in it to become subject to the operation of the Act. The PLA goes as far as to say that unless there is legislative review, the prospects in the longer term of substantially affecting illegal prostitution are minimal. The additional risk is that the licensed industry will falter and become even less acceptable because of an inability to cope with unfair competition.

This legislation is very firmly based on a mix of Victorian and Queensland legislation. Indeed, one of the reasons the minister gave for not introducing this legislation earlier was that the Government wanted to see how the Queensland model was going and to make relevant changes. I cannot see that those changes have been made. We will deal with that in the consideration in detail stage.

In Queensland, New South Wales and Victoria, the people involved in the industry are talking about the two tiers of prostitution - legal and illegal. In Victoria, figures from the Coalition Against Trafficking in Women Australia indicate that the level of prostitution has exploded since legalisation. The biggest growth has been in the illegal sector. In New South Wales, decriminalisation has led to a massive illegal industry and the trafficking of Asian women on a vast scale.

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I will give a brief history of the sex industry in Western Australia. It is certainly by no means comprehensive. It was very difficult to find a study that fully outlined the history of the sex industry in Western Australia. Indeed, it was very difficult to find an adequate evaluation of the sex industry in Western Australia. A number of things must be carried out before considering the management of prostitution in Western Australia. I will refer to a couple of those studies later, as will the member for Murdoch. In 1995 Elaine McKewon wrote a report titled "Town Planning Recommendations on Prostitution Law Reform". It states -

State and local authorities . . . first became involved in the 'planning' of prostitution's location in 1914, when the Kalgoorlie Town Council and local police authorities co-operated to establish the Hay Street red-light district.

The following year, police authorities in Perth began restricting prostitution to Roe Street . . .

That process of restriction remained in place for some 40 years. The report continues -

In 1958, the Police Commissioner suddenly announced the end of the Containment policy in Perth, citing the Roe Street brothels' presence in an up-and-coming industrial area, and prostitution's sudden 'lack of relevance' in the Perth community. This policy change did not apply to Kalgoorlie.

Information relating to prostitution in Perth is scarce and often incomplete for the years 1958 - 1970. None of the arrest documents can be located for the year 1958-1959 . . . although 37 women were known to have been arrested that year for keeping a brothel. No men were known to have been involved in the industry at that point.

It later states -

It is also compelling that in the years immediately following the end of police 'tolerance' in Perth, the rate of STD infection increased by almost five hundred percent.

That is relevant information, because Queensland and Victoria are saying that they do not have the capacity to monitor and carry out their proper powers and responsibilities because the growth of the legal industry is so great. When that happens, as has happened in the past, the STD infection rate rises. In 1975 brothel madam Shirley Finn was fatally shot. In 1976 a royal commission into prostitution was carried out by Commissioner Norris because of community concerns about police involvement in Shirley Finn's death. That inquiry exonerated the police, although there is some suggestion that a high ranking public servant who ran a brothel - which was subsequently confirmed - was not mentioned in that inquiry.

The report continues -

The policy of Containment was re-introduced in Perth by police authorities in 1982, providing criminal immunity to the premises of sixteen brothels in Western Australia: twelve in the Perth metropolitan area, and four on Hay Street . . .

At present -

That is, in 1995 when the report was written -

eleven of these brothels continue to operate under Containment: eight remain in the Perth metropolitan area, three in Kalgoorlie.

Those numbers are significant. The member for Kalgoorlie will further highlight the issues dealing with police, the other problems associated with that angle and the containment policy in Western Australia.

In Western Australia today it is against the law, under section 65 of the Police Act, to loiter for prostitution; the penalty is summary conviction of \$500 or six months imprisonment. It is also illegal to keep premises for prostitution - the penalty is \$100 or 12 months imprisonment - in any public place, to persistently solicit for immoral purposes, to knowingly live wholly or in part off the earnings of a prostitute, or to be the occupier of premises frequented by prostitutes or to be a person who habitually consorts with prostitutes. Section 191 of the Criminal Code deals with procurement of a person to be a prostitute. Section 209 deals with boarding houses, and an offence committed against it results in a misdemeanour and makes the offender liable to imprisonment for three years. Section 213 deals with a person acting as a keeper of boarding houses. Interestingly enough, that law still refers to people under the age of 21 years, when we know - by reading the personal columns of the daily paper - that 18-year-olds are offered at some places. An offence against section 191 of the Criminal Code is a misdemeanour and makes the offender liable to imprisonment for two years. Some people have said that those penalties are inadequate. If the penalties are inadequate to carry out the job that needs to be done, they should be increased. The Prostitution Act brought in other offences dealing with streetwalking, advertising and children. All those provisions are incorporated into the new Bill. The Misuse of Drugs Act and the Health Act also deal with a couple of other aspects that fall under this legislation. Those provisions should probably be strengthened

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rather than create a new piece legislation. Another aspect to consider is organised crime. Last year we passed the exceptional powers legislation, which raises the question: what other powers do police need to deal with organised crime and drug trafficking? On the topic of trafficking, I understand further amendments to the Criminal Code are before Parliament. These have been brought forward by the Attorney General and will create a new offence in terms of sexual slavery.

I will provide a brief snapshot of the sex industry. It is not a very pretty picture. I will put on the record some of the facts about today's industry. This legislation is proposing that the industry be legalised. If the examples of what has occurred on the eastern seaboard are anything to go by, these problems that I am outlining today will increase five-fold. They will have a huge effect. Therefore, we cannot deny that what is being proposed today has not worked elsewhere and will not work in Western Australia.

Over the past 100 years members would have seen a marked change in the prostitution lobby, from the days of Josephine Butler through to the lobby groups of today. The Women's Electoral Lobby - feminists - has long been associated with the sex industry lobby group. However, it would be wrong to say that all feminists have the same view of prostitution. I suggest that many members of the community have similar views to those held by many feminists. On the one hand, feminists will argue that prostitution is demeaning and is very much violence against women. Many people in the community would say exactly the same thing. On the other hand, prostitution is simply work. It is a job like any other job. Therefore, the opinions of the community cover a broad spectrum. Sex workers come from all walks of life. They can be any age and be male, female or transgender. They enter the industry for a wide range of reasons. The main reason is economic. They need to feed and clothe their children and keep them warm in winter. They may need to pay their own way through university or to support a drug habit. They may need the money at a particular time for a particular goal. They want something and see that working in the industry provides quick and easy money and they decide to do it. Some may work for only a few months to get back on their feet and some may work for 15 or 20 years. Some will do it for just a day for quick cash. Some are travelling and are away from home in another State or country, and therefore feel less frightened about being caught out or identified. A lot of workers, particularly those forced into such work by circumstances beyond their control, have very little respect for the work they do. Indeed, I suggest they have very little respect for themselves. They work in a variety of places such as brothels, nightclubs, massage parlours, escort agencies, homes and on the streets. It is estimated that there are 3 500 prostitutes in Western Australia, of whom 300 are street workers. The Police Service identified approximately 300 to 400 street workers when Elaine Dowd conducted her research. Phoenix confirms that was the number the police gave at the time.

Mr C.J. Barnett: What about the number for males?

Mrs C.L. EDWARDES: I do not have the figures. Phoenix estimates that the number of street workers has fallen to 100 since the Prostitution Act 2000 was passed. I cannot confirm whether that has happened since the Prostitution Act was passed because no work or analysis has been done on the effectiveness of that legislation. Despite that, the legislation is incorporated in the Bill before the Parliament. When the minister was in opposition, she was absolutely adamant about a two-year review, which was extended by a year last year, taking the review date to 31 July this year. The reduction from 300 or 400 to 100 as a result of the passage of the Prostitution Act 2000 makes a lot of sense, but have those other street workers moved elsewhere? Where have they gone? Are they still in the industry? Are they getting health checks and support? Western Australia has approximately 50 brothels, 15 escort agencies and five cooperatives, totalling 70 sites. Of the 3 500 prostitutes, approximately half work from home or from a unit as self-employed sole operators. In addition to working from home, some sole operators also work in brothels. In the personal columns in the newspaper, a busty blonde called "Christy" may very well turn out to be a not so busty brunette with a different mobile telephone number. It cannot be deduced from the personal columns who is who because workers have different personas.

Dr Heather Lyttle, a sex health specialist at Royal Perth Hospital since 1998, has provided some excellent statistics. In April 1999, she established a sex workers clinic at the premises of Phoenix. Phoenix was established to support sex workers in Northbridge. Dr Lyttle has treated many hundreds of sex workers. She states that 100 per cent of the sex workers whom she has seen use condoms for vaginal and anal sex with clients and over 50 per cent use condoms or dental dams for oral sex. That is a major issue for the sex workers and one that they would like to take up. The proposition that Dr Lyttle and others put forward is that there is a much lower incidence of sexually transmitted infections in the sex industry than there is among the general public. It is not hard to work out that that has occurred since HIV became a problem. There is a far greater use of condoms in the sex industry than there is in the general community. We can compare passion on the back seat of a car on a third date when a girl is not sure she will see her partner again - her partner may forget to use a condom - with a contract for sex for money.

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Mr C.J. Barnett: Too much information!

Mrs C.L. EDWARDES: Yes. Current statistics for HIV are quite disturbing. Young people, who were not around when HIV was first identified and did not see the grim reaper advertisements, are not using condoms as often as they ought to. There is concern in the medical fraternity about the increasing levels of sexually transmitted diseases in the younger population.

Condoms are not used 100 per cent of the time in the sex industry because there is a much lower percentage of use by street workers. Street workers have a greater dependence on drugs. Annie Cai of International Playhouse was fined for unsafe sex practices and drug usage at her East Perth premises. Unsafe practices continue. As I indicated, up to 50 per cent of brothel workers are undertaking oral sex without using prophylactics. The figure is quite concerning because STDs can be transmitted in that way.

Another theory is if we believe we have an STD, it is more likely that we would go to our general practitioner than to an STD clinic. It is highly unlikely that members of the general public would go to an STD clinic. Therefore, the figures may be skewed a little. It may make the situation worse. The STD clinics and Phoenix do not cover all the prostitutes in Western Australia. Some prostitutes work outside the central business district. Some work in the outer metropolitan area and regional areas and visit their local GPs. A full and complete study of the existence and number of STDs in the community, including sex workers, should be conducted.

A comparison of notifiable disease cases at Phoenix and Royal Perth Hospital indicates that fewer patients attended the Phoenix clinic with HIV, chlamydia and gonorrhoea than routine patients attended RPH. The incidence level for hepatitis B was the same with a higher incidence level of hepatitis C, which is consistent with a higher proportion of intravenous drug usage in the Phoenix population. The member for Murdoch will go through some of the other diagnoses.

There is concern about the mobility of the industry. People move in and out of the industry and are not easily identified for some time. For how long will they have protected sex outside the industry? It is well-known that sex workers are more likely to have unprotected sex with their partners than they do when working in a brothel. They are more likely to contract an STD from their partners or from someone in the general community than they are from working in a brothel. The issue needs to be dealt with.

There is a higher level of mental health problems among sex workers. As much as she tries to put a gloss on the industry, Mary-Anne Kenworthy estimates that one in two sex workers suffers from mental health problems. She has suggested that the board could put in place some educational support services for those with mental health problems. She was very dismissive of the impact of the occupation on the mental health of workers in the industry. It is a physically and mentally demanding industry. Apart from the use of illicit drugs, there is widespread use of licit drugs. Some girls told me that they need licit drugs to perform. However, one also said that many people in the community also need medication to help them perform and to get through their day. That is anecdotal evidence, because no studies have been carried out on licit drugs or, indeed, on illicit drugs. Again, such studies must be done in order to determine what support services need to be put in place.

I turn to the level of violence perpetrated against the girls. This includes rape, assault, murder, robbery with violence and sexual violence. Unfortunately, a street worker was recently murdered. We should not just consider the facts and figures; it is a great concern that the safety precautions that the girls are advised to take in the literature provided by Phoenix, must be undertaken just because of the occupation in which they engage.

The ugly mugs list provides the names and details of those who have perpetrated violence against sex workers. Private workers in not only homes, but also hotels and other rental accommodation are the most vulnerable. Sixty-five per cent of all violent acts listed on the ugly mugs list are perpetrated against girls in this group. Those statistics come from a Queensland report. Again, similar statistics are not available for Western Australia.

Children are still working in brothels. Indeed, there was a recent case that involved a 13-year-old who said she turned to prostitution to buy drugs such as heroin, ice and cannabis. It was reported that the brothel owner ummed and ahed over her age and then asked her to bring in her identification the following night. The 13-year-old earned \$700 on her first night. Obviously child prostitution is still going on in Perth. Two other massage parlours were investigated for child prostitution the year before that case. Despite the legalisation of prostitution on the eastern seaboard, prostitutes from those States maintain that underage girls continue to obtain false ID and work in not only illegal brothels, but also legal brothels. Those children are victims, not criminals. Children who are caught up in prostitution should be given the same level of health care, support and protection as is given to any other child in need. Child prostitution is a child protection issue. This Government's legislation will punish children for offences relating to prostitution. I was absolutely amazed and disbelieving when I read that under the Government's legislation a child who seeks the services of a prostitute, even as a client, will be punished by a fine, to a maximum of \$6 000. What public policy benefit is there in charging and fining a child who seeks the services of a prostitute as a client? I know that the Government is attempting to stop children

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from seeking prostitutes for third parties and the like. However, the legislation clearly refers to services as a client. I hope the minister will tell us why she will punish children who seek the services of prostitutes when an adult will not be punished for doing so. Adults are punished in Sweden and Norway, but here in Western Australia we will punish children. I do not know what the public policy on that issue will be.

Organised crime is involved in Western Australia's sex industry, not the least of which involves the outlaw bikie gangs which have been the subject of much debate in this Parliament. The sex industry is a cash industry and is good for laundering money. It is also good for drug distribution. How many times will police officers raid a room in which the sexual, and, I suggest, drug transaction, is carried out in private? Sex workers in legalised brothels on the eastern seaboard tell us none. That is why organised crime and outlaw bikie gangs become involved in this lucrative business. In association with gangs from the eastern States, Western Australian organised crime syndicates are involved in the trafficking of women. Often a female immigrant is promised a job and, after she arrives in Australia, her passport is taken from her and she is forced to work as a prostitute to pay off her debt. The personal columns in newspapers often contain ads from Asian women who have recently arrived in Australia. They can be identified quickly. These girls often work and live in the same premises and are very isolated. Again, not many studies have been carried out on this subject in Western Australia. However, it is a major problem in Sydney, and some of those girls never repay their debt and it continues to grow.

I turn to a paper titled "10 Reasons why Prostitution law reform won't work". It identifies some of the problems that have occurred as a result of legalisation on the eastern seaboard, problems that we can expect in Western Australia.

The document reads -

**1. The size of the industry will expand**

There has been a vast increase in both legal and illegal prostitution in Australia. Prior to legalisation in Victoria, there were 50 illegal brothels. There are now around 90 legal brothels, . . . and an estimated 100 illegal brothels.

*Sydney Morning Herald* (1999) said the number of establishments in New South Wales more than tripled after prostitution was decriminalised in 1995, to between 400 and 500. There are an estimated 10,000 prostitutes in NSW.

**2. The number of illegal brothels will not decrease**

The number of unlicensed brothels in Melbourne trebled in 9 months . . .

. . . the number of illegal brothels still outnumber those that are licensed.

Melbourne's *Herald-Sun* reported . . . that illegal prostitution is now twice the size of legal prostitution.

In New South Wales, there are 400 illegal brothels, on a par with the legal number.

**3. It will not remove prostitutes from the streets**

Street prostitution became so bad it led to a street protest by St Kilda residents in 2001.

That was after legalisation was introduced.

The document continues -

**4. Decriminalisation will not reduce the number of under-age children working the streets.**

I have already identified that.

It continues -

A Christchurch School of Medicine study found that nearly two-thirds of Christchurch street prostitutes were under the age of 18. (Girls as young as 12 years have been picked up by police around Latimer Square.)

A Save the Children report (1999) revealed that in Australia, despite legalisation, at least 3700 children under 18 were selling their bodies for sex - 1800 of them came from Victoria.

Again, Canberra and Queensland have similar problems.

The document further reads -

**5. Violence against prostitutes will increase**

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The document states that Western Australian psychologist Tony Chicello has confirmed a Swedish researcher's study that all prostitutes suffer deep psychological damage.

The document also states that -

Former Perth madam Linda Watson, who has had 20 years in the sex trade, says every prostitute she has known has been damaged, either physically or psychologically.

Sheila Jeffreys states that legalisation and decriminalisation are institutionalising, promoting and teaching the abuse of women. There are also a number of other studies.

The document continues -

**6. Drug use will saturate the industry**

The head of Drug-Arm in Christchurch . . . says that drugs and prostitution are inextricably linked.

**7. The rate of sexually transmitted diseases will increase.**

The NSW Health Department says the rate for gonorrhoea has soared in Australia since 1995, when brothels were legalised.

**8. There will be an increase in illegal immigrants and 'slavery'**

A number of reports have dealt with that. It further reads -

**9. There will be an increase in control by gangs and organised crime.**

New South Wales police in 2000 reported 40 shootings in 3 months as part of a struggle between rival groups for control of prostitution.

The Herald-Sun reported (April 2000) that "Victoria's booming sex industry is operating almost free from regulation . . . the lack of policing means brothel bosses can flout the law by employing drug addicts and under-age workers."

Advertising and recruiting will become more blatant. They are clearly saying that there must be a better way than this Government's approach, which has failed on the eastern seaboard.

I will summarise some of the submissions to the minister on the Green Bill. The Western Australian Council for Civil Liberties, after examination of the New South Wales, Victorian and Queensland legislation, and the failure of those States' attempts to halt the advance of organised crime into prostitution, said that if the Labor Party had any intention of retaining respect as a political party that had in the past supported the Western Australian family unit as the cornerstone of social responsibility, it would withdraw this draft Bill. While some changes have been made to address the concerns of the Council for Civil Liberties, it is still opposed very strongly to this legislation. Councillor Mike O'Brien from the south ward of the City of Joondalup also mentioned the failure of Queensland, New South Wales and Victoria to retard the advance of organised crime into bawdy houses. He said that this Government was embarking on a hallucinatory, electorally self-destructive and suicidal political path. Mike O'Brien has been very strongly supportive of the Labor Party in the past. He made a number of recommendations in his summary. Local government has no control, and he is totally opposed to the fact that local councils have no right of veto. City of Joondalup councillors Chris Baker and Mike O'Brien said on 15 October 2002 that councils should send a clear message to the State Government that prostitution was not an activity that would be welcome in family-friendly municipalities, such as Joondalup, if the State Government wished to proceed with its relaxation of prostitution legislation.

The Catholic Archbishop of Perth the Most Reverend B.J. Hickey said that prostitution should not be legalised and treated as just another industry. While accepting the practice of prostitution, we should be seeking to stop those who benefit from the prostitution of others. That is the law today. People do not want it in their face. They do not want it in their street, or next door to their houses. They do not want to see it when they open up the newspapers in the morning. When the newspapers go down to the kindergarten to be used for painting, they do not want their children to see the advertising of sexual services. They do not want prostitution in their face. While the community may accept that the practice of prostitution will not go away, people do not want it to grow. The archbishop says that this legislation will enrich pimps, madams, brothel owners and organised crime figures at the expense of the life and wellbeing of prostitutes. Legalisation expands the trade, creates a two-tier system of legal and illegal brothels, and increases drug use, child prostitution and slavery of illegal immigrants. The Catholic Archbishop of Perth made a number of very clear recommendations for the Government to follow.

The South Australian Festival of Light says that on 17 May 2001 the South Australian Legislative Council firmly rejected the Prostitution (Regulation) Bill, which would treat brothels as legitimate businesses, after considering the evidence from the eastern States, where similar legislation had caused an increase, rather than a decrease, in

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prostitution problems. The Festival of Light asked who was pushing for legal brothels, and who would benefit from them. The theory is that women freely choose to be prostitutes, that all health problems are avoided due to the use of condoms and that sex workers earn lots of empowering money. As we well know, that is not the case in all instances. The Festival of Light also says that prostitution was one of the first problems tackled by the United Nations when it was constituted after World War II. Licensing had been tried in Europe, and was a spectacular failure from all points of view. It is very hard for a girl to get out of the prostitution track if she has been put on the public record.

The Western Australian Association of Heads of Churches has gone through the 1990 report of Beryl Grant's panel on prostitution, and indicated that it has some major concerns. The principles on which the Bill is based, according to the association, are seriously flawed on moral and practical grounds. Legalisation will give legitimacy, and will mean that pimps and madams can operate with a degree of respectability. The worst aspect of the industry is that others benefit, and do not necessarily do the right thing by the girls. Experience in Victoria has been that once brothels became legal businesses, police do not go near them under normal circumstances, making legal brothels safe havens for drug dealing, money laundering and other crime.

A sex worker, Sharon, also wrote in. She currently operates from a home other than her own. This is a major issue in this legislation, which she regards as completely unworkable, opening up opportunities for even more corruption than under the containment policy, complete mayhem, and much taxpayers' money being poured down the drain. As she is a taxpayer, she is not very happy with her money being poured into a prostitution control board. For a sex worker who works from a home not her own, this legislation is damning, from a safety point of view. This legislation requires Sharon to operate from her place of residence.

[Quorum formed.]

Mrs C.L. EDWARDES: Being required to work from home puts this sex worker in a difficult position. She does not want people knowing where she resides. She wants her place of residence to be her own personal space.

Janelle Fawkes represents the Coalition for the Decriminalisation of Sex Work, and is also the president of the Scarlet Alliance, the national peak body of sex workers, projects and organisations in Australia. It is just one of the 30 organisation, health agencies, union groups and individuals that make up the Coalition for the Decriminalisation of Sex Work. It includes Charles Watson from Curtin University, the president of the United Nations Association of Australia (WA), Nancy Hudson-Rodd, the Women's Electoral Lobby, UnionsWA, the Western Australian Substance Users Association, Family Planning Western Australia, the East Metropolitan Population Health Unit, the Western Australian AIDS Council, the Liquor, Hospitality and Miscellaneous Workers Union, Phoenix, the Centre for Research for Women, the Sex Worker Action Group, Street Worker Outreach Project, Greens (WA), the Perth Inner City Youth Centre, Human Rights WA, the Scarlet Alliance, the Australasian College of Sexual Health Physicians, Dr Heather Lyttle, and the Australian Services Union. Quite a strong body of people are opposed to this legislation, on the basis that it creates a two-tier system of legal and illegal brothels. In Victoria, it is said that 80 per cent of the brothels are illegal. In Queensland only 10 legal brothels exists, and it has cost the Government \$1.8 million in two years. The coalition also suggests that a problem exists with this model. Licensing models are expensive to operate and administer. Low compliance means police ignore either this or other areas of crime. This legislation does not address police corruption, nor reflect the submissions to the Minister for Police, and will result in poor public health outcomes. That is a summary of a comprehensive response to the Government's Prostitution Control Bill. Essentially, it sums up that the Government should throw out the Bill and start again.

I attended a summit on this Bill with a number of members at the City of Joondalup on 5 April. The speakers at that summit were Inspector Russell Williams representing the Minister for Police; Linda Watson of the House of Hope; counsellor Mike O'Brien from the City of Joondalup; Janelle Fawkes of Phoenix; Mary-Anne Kenworthy of Langtrees; Reverend Peter Abetz of the Western Australian Association of Heads of Churches; Margot Boetcher representing the Sex Worker Action Group; Mary Jenkins, Secretary of the Underemployed People's Union of Western Australia; and Denis Smith, chief executive officer of the City of Joondalup. Not one of those speakers supported the legislation being passed. The churches are on the same side as the unions and the Greens (WA) on this issue. A variety of groups have come together on this legislation because it is wrong and unworkable. They are saying that the industry will grow with legalisation, that legalisation has not worked elsewhere, that the legislation does not achieve the laudable objectives it set out to achieve, and that the Government should start again. The Western Australian Local Government Association is also upset because it will be legislated out of the process. WALGA's resolution on the Prostitution Control Bill includes the recent statement by Queensland's Prostitution Licensing Authority that -

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*In short, the Prostitution Act, as currently enacted, cannot achieve either its stated objective or those objectives which underpin the legislative initiative for the regulation and control of prostitution . . .*

WALGA does not believe that the stated objectives of the State Government can be met through the legislation as it is currently proposed. Its resolution contains a number of parts. The member for Greenough will go through the planning and local government aspects in far greater detail than I will.

*Life News* also identified that it was opposed to the legalisation of prostitution, and stated that it has failed elsewhere. The article headed "Opposing the legalisation of prostitution in WA" in its April 2003 issue states -

- Legalisation has failed to reduce the problems associated with street prostitution.
- Legalisation has increased child prostitution.
- Legalisation contravenes two United Nations conventions to which Australia is a signatory.
- The Prostitution Bill 2002 is a fatally flawed piece of legislation.

In a letter to me dated 12 December 2002, the Christian Democratic Party WA indicated that it -

. . . is realistic enough to admit that prostitution will never be totally removed in this State or anywhere else in Australia. However, . . . any new legislation should aim at assisting the girls currently trapped into the sex and drug cycle.

Prevention, rehabilitation and counselling should therefore be the key elements of any new laws touching this difficult subject. Licensing does not work and has never worked in any other State.

I am not sure whether the minister has read all these submissions. These are just a handful of the hundreds of submissions that went to the minister. The City of Joondalup also made an extensive submission. It is concerned about the lack of local government involvement in the preparation of the Bill and the limitations of a public consultation period during the holiday period, when local governments have limited staffing resources. One concern was about town planning principles, in that the legislation provides no discretion for local governments to prohibit prostitution land use activities. When it comes to home-based, sole operators, the home business extract from district planning scheme No 2 identifies that an occupation carried out under this category -

- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;

A number of other issues relate to operating times and the like. The concern is that the lack of consultation has put local government in a very difficult position on the location of brothels and the issue of sex operators who work from home.

One principle that the minister put forward to support the necessity for the legalisation of prostitution was that sex workers required the protection of employment, workers compensation and occupational safety and health laws. If the minister checked the relevant legislation and precedents, she would find that these laws already apply. She does not need to listen to me. Rob Guthrie is someone whom both I, as a former minister for labour relations, and the current minister have some time for in terms of his expertise in this area. He has concluded that all it basically needs is the willingness of the Government to apply the occupational health and safety laws. All we need now is for WorkSafe inspectors to get out there. They can do it under the current legislation. That is the case, because this Bill does not amend occupational safety and health laws. The laws already apply. All it needs is the willingness of the new inspectors to get out there. I understand from Rob Guthrie that all the Government need do on workers compensation issues is to be willing to send WorkCover officers to collect the premiums and ensure that people know their rights. Of course, unfair dismissal cases have been taken to the Industrial Relations Commission.

I turn to the issue of advertising. Numerous web sites indicate the location of brothels and/or individuals, and contain wonderful photos. So far all attempts to nanny the net have been in terms of pornography. It has never attempted to look at the whole issue of sexual advertising on the net. Some of the girls who worked at Langtrees were a bit upset about their photos appearing on the Langtrees web site and they subsequently lost their jobs. Some were concerned about the manner in which their photos and the special services they offered were displayed. Mary-Anne Kenworthy said that it was a part of their contract, that the advertising would expand the business, and that if they were not happy about it, they could get out. Advertisements also appear in the *Yellow Pages*. Leila's of Joondalup advertises its massage services under the section on massages. Leila's also advertised in last Friday's personal column in *The West Australian*. As we know through a private investigator's report, it provides anything from straight massage to sexual intercourse; it is not simply a massage parlour. There are many such advertisements in personal columns. The Parliament has received a number of petitions from people seeking a ban on sex industry advertising. Essentially, petitioners say that a ban should be placed on



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advertisements that promote violent and abusive acts as sexually exciting or incite adults to view persons of a childlike appearance and demeanour as sexually desirable, and that the availability of sexual services adverts be restricted to adults only publications. I ask members to re-read what has been said about sex industry advertising. A group from the coalition of sex workers came to see me. Many of those people have kids and do not want the personal columns to be thrust in the faces of their kids. There must be a better way. The restrictions provided in this legislation do not get there. The voluntary code of practice by the newspapers does not get there either. A submission to the Advertising Standards Board from Community Action Against Sexual Services Advertising stated that a sex worker was -

... described in terms which make her sound like a small child. ...

There is considerable community concern about adults who show inappropriate sexual interest in children.

Some advertisements promote unsafe sex. An advertisement in the *Sunday Times* of 17 June 2001 stated -

SUZI'S FRENCH Best in West

Because Suzi . . . . . 's 24 hours

Of course, they have been investigated and counselled about what they do. It is quite clear that unsafe sex is being advertised in an inappropriate way. Community Action Against Sexual Services Advertising is an excellent group of people who have been vigilant in seeking changes to advertising. I commend Gail Giffard for her work as coordinator of that group.

*The West Australian* last year indicated in one of its editorials that brothel regulation was overdue when it stated -

... there is no reason prostitutes should have less protection than other workers. In fact, many prostitutes probably need more protection than other workers because they are in circumstances in which they are more likely to be exploited.

We abhor violence against women. A violent sexual act against a female sex worker is still a violent sexual act against a woman. Sex workers are not receiving the necessary protection, and this legislation will not provide it at all. An editorial in *The West Australian* the other day made a quite telling comment on the prostitute guide, which is not the issue I want to raise, when it stated -

... the Government has been incredibly lax in allowing public money to be used in a way that implies not only official endorsement of the industry but also encouragement.

That is the critical issue. Are we, by legalising prostitution, encouraging prostitution to be looked on as merely another job? I can go through all the debate on the models and on which have worked and which have not worked, and on the theories on prostitution, from its being degrading, demeaning and involving violence against women to its being just another job; however, at the end of the day serious facts are being ignored. This legislation will not address those many serious facts.

*The West Australian* conducted a poll in December in which it asked, "Should the Government change social laws to keep pace with community attitudes?" Some 69 per cent of participants overwhelmingly said yes. When asked, "Do you agree with legalising prostitution?", 75 per cent said yes. Those people do not know what the consequences are. They may accept that prostitution will never go away and as a result they endorse the legalisation of prostitution, but they certainly will not be very happy with this Government when organised crime and the use of drugs grow.

Mr J.N. Hyde: Are you saying that 75 per cent of people are wrong?

Mrs C.L. EDWARDES: The question is wrong because the responses that are needed are limited. I am sorry that the member has not been present for the whole of the debate.

I will finish with a good news story. It concerns Linda Watson and *The Power of One*. Linda worked in the sex industry for 20 years, and slowly came to realise the extent of the abuse and degradation that accompanies it. She has seen first-hand that brothels and massage parlours are used as drug havens, and foster cravings for and addictions to both drugs and alcohol. Those enslaved by these addictions become tragic victims of abuse who are unable to break away. When no longer productive for their owners, they are forced to work the streets to pay the pimps and drug dealers. Linda had hope. She believed that if she could establish an open house that would help those women to leave the industry and escape their debasing work forever, she could help them to rebuild their lives with dignity and compassion. To accomplish this vision, Linda sought help from many quarters but each time she was turned away. Linda then met the Most Reverend Barry Hickey, the Catholic Archbishop of

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Perth, who has helped to establish Linda's House of Hope. The organisation does not receive any government funding. Even if the Government did not wish to fund a church-based organisation, it is certainly the type of facility that needs support. It is a proven organisation and house for the recovery of prostitutes. I encourage the Government to support Linda's House of Hope.

There is no indication that this legislation will achieve any of the Government's stated objectives; that it will control the growth of prostitution, prevent children from being involved, reduce the incidence of drug abuse or even keep the criminal element out. We may not be able to eliminate prostitution, but we must make sure we do not fall into the same trap as people have elsewhere, in which legal and illegal brothels have flourished since the passing of so-called control laws that have enriched those who seek to benefit from the degradation of others. The proposed legislation fails on all the key tests and on the basic principles that the Government would seek to have the legislation meet.

**MR M.J. BIRNEY** (Kalgoorlie) [5.37 pm]: I oppose the Bill, and I do so for technical reasons. I am not proposing that prostitution be eradicated completely and utterly in Western Australia; I am not proposing that we send in the storm troopers and arrest all and sundry who are involved in the prostitution industry; rather, I am reflecting on the very poor nature of this Bill. I wish to highlight later in my speech some of the great anomalies in this Bill. It is important that members understand that this is a particularly ill-thought out Bill that might even be considered to be something of a mess.

I understand there have been eight or nine drafts of this Bill. That in itself tells us that trying to legalise prostitution is a very difficult proposition. Sadly the Labor Party in my view, and certainly in the view of the Liberal Party and others, has not come up with the right formula for the legalisation of prostitution; in fact, this Bill has more holes in it than a pair of fishnet stockings. It is ill-conceived, poorly thought out and basically a mess. It creates more problems than it solves. It is important for people to understand that.

The pragmatists amongst us would say and believe that prostitution has been around in Western Australia for the best part of 100 years and more than likely will be around for the next 100 years. How do we adequately deal with the issue? I do not think that this Bill is the way forward; in fact, I am sure it is not.

Mr J.N. Hyde: It is your coalition Government's Bill from 2000.

Mr M.J. BIRNEY: It is the Bill that we did not introduce because we recognised that many of the provisions in the Bill were ill-thought out and ill-conceived and should not see the light of day in this Chamber. Sadly, the Labor Party upon ascending to office immediately threw prostitution in with its so-called social agenda, and it could not get the Bill into this place quickly enough. That has been reflected in the Bill before us today.

Mr J.N. Hyde: That is because your Government put in a sunset clause.

Mr M.J. BIRNEY: Notwithstanding old gum banger in the background, I have a couple of points that I want to make. There is no magic wand for the issue of prostitution. Even though the containment policy has now been abandoned, it had some merit. I will just refresh members' memories of the containment policy as it existed in Western Australia. It had been around for quite some time until the Commissioner of Police abandoned it. It had about five or six key points. The first was that anyone engaging in the prostitution industry could not have an undeclared financial backer. That basically meant that those who wished to financially support a brothel would have to declare themselves. Of course, in doing so, they would open themselves up to scrutiny, particularly police scrutiny. Of course, the inference was that organised crime would then stay out of the industry.

The containment policy also ensured that children were not allowed on the premises of any brothel in the State and were not involved in the act of prostitution.

Mr J.N. Hyde interjected.

Mr M.J. BIRNEY: The containment policy ensured that drugs did not play a significant role in the prostitution industry. Managers of brothels caught with drugs on the premises were given short shrift by the police. That attitude applied equally to alcohol. One of the key points of the containment policy was that men could not be involved in the running of brothels. I understand that dated back some years to those times when men commonly known as pimps lived off the earnings of prostitution. Of course, some of those pimps were particularly oppressive people who had very little, if any, understanding of women's issues and women's problems. They were basically slavedrivers. The containment policy ensured that men could not be involved in the industry, particularly in a managerial role. Another key point of the containment policy was that prostitution was contained within certain areas, such as Hay Street in my electorate of Kalgoorlie and Northbridge in the member for Perth's electorate. It was also contained in one or two other areas around the State. The key point

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was that prostitution was contained and could not spread unfettered and unchecked throughout Western Australia.

However, the problem was that the containment policy was not a formal, written policy of the Police Service. The police commissioner had not been given any legislative direction to carry out that containment policy. Therefore, he last year abandoned it. This obviously presented a number of problems for legislators and the people of Western Australia as brothels continued to exist across the State despite there being no formalised policy allowing them to do so. There was a very clear need for elected representatives to give the police some guidelines. Their boss is the Minister for Police and Emergency Services, and they turned to her for those guidelines. However, in introducing this legislation, the Labor Party seems to have upset everybody. I have met with a significant number of people from what is loosely termed the sex industry. I have met with people who are in favour of the legalisation of prostitution and I have met with people who are against the legalisation of prostitution. I have not come across a solitary soul, organisation or group that is in favour of the legislation as the Labor Party has presented it to this Parliament. In short, it has made a mess of it. It has managed to upset everybody who purports to be involved in the sex industry and who might be considered to be on the periphery of the sex industry, such as Linda from Linda's House of Hope, to which the member for Kingsley referred. At the other end of the spectrum are some church and religious groups that are opposed to prostitution anyway.

Mr J.N. Hyde interjected.

Mr M.J. BIRNEY: Again, I do not propose that prostitution be completely eradicated in Western Australia. I do not propose that those people involved in the industry be arrested at will and that existing brothels be closed down. Rather, I propose that it be contained, as it has been for many years. When we contain prostitution, we stop the spread of prostitution. I do not think that anybody in this Chamber, except perhaps the member for Perth, who appears to be rather vocal on this issue, would argue that prostitution should spread unfettered throughout the suburbs of Perth and the towns and cities of rural and regional Western Australia. I am certainly not proposing that. Sadly, that will be the net result of the passage of this legislation because that is what it allows for.

Mr J.N. Hyde: Why did the police commissioner abandon containment? Why in 2000 did the Liberal Party agree with the Labor Party and local government mayors like me and pass a Bill? Why are we debating legislation now? It is because containment has not worked. Residents know it has not worked. This Bill will give powers to containment.

Mr M.J. BIRNEY: In a year, when brothels start popping up in their neighbourhoods, people will realise that this legislation has not worked.

Mr J.N. Hyde: The legislation excludes it in residential areas.

Mr M.J. BIRNEY: It does not preclude sole operators.

Mr J.N. Hyde: It precludes sole operators from causing environmental problems such as noise.

The ACTING SPEAKER (Ms K. Hodson-Thomas): Order, members!

Mr M.J. BIRNEY: In smaller country towns an industrial area can be right next to a residential area. The difference between the two areas could be one kilometre or half a kilometre. There must be a border between the two, so in many cases a residential property is right next to an industrial area. Who is to say that a brothel will not pop up on the border of an industrial area? This Bill will promote the introduction of brothels. Members need only look at the Victorian experience. There were 50-odd brothels prior to the legalisation of prostitution in Victoria. One year after the legalisation of prostitution, there were 84 brothels, with another 90 going through the approval process. There is no doubt that when a seriously profitable industry is made legal, as opposed to remaining illegal, the industry is promoted. That of course entices more people into the industry. At least one brothel in Perth earns about \$100 000 a week. Half that money goes to the house, and the other half goes to the working girls. That is a pretty bloody good business. If the industry were legal, a helluva lot more people would be attracted into it. It is not in anybody's interests for prostitution to be propagated throughout Western Australia. As I said, the pragmatists amongst us realise that prostitution has been here for 100 years and will probably be here for another 100 years, if not longer. Simply closing down the industry is not an option. Containment of the industry is in the best interests of the Western Australian public. The Government wants to introduce rubbish legislation that is full of holes and will ultimately result in prostitution being propagated throughout Western Australia. That is not in anybody's interests. This will come home to roost for the Labor Party at the next state election.

Members should have a good, solid think about this. I do not recall this strong lobby beating down a door to the office of the Minister for Police and Emergency Services to argue that prostitution in Western Australia should

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be legalised. However, I sat up and took notice of the many church groups, religious organisations and other people with a moral conscience who are absolutely opposed to this legislation in its current form. The member for Perth wants to talk about the politics of the matter. The people who are against this Bill are vehemently against it, and the people who are in favour of it are ambivalent about it. We should not worry about the politics of this. The anti-prostitution lobby is stronger than the pro-prostitution lobby. I want to be clear about that.

I briefly turn to a number of points that are contained in the Bill that I consider to be problematic or troublesome. The Bill contains some unexplained anomalies. First, someone who is caught living off the earnings of a child prostitute will face a penalty of one year in jail. However, someone who is caught asking a child if he or she wants to become a prostitute could be sentenced to two years in jail. The act of simply asking a child to become a prostitute will earn a person two years imprisonment, but the act of living off the earnings of a child prostitute will result in a one-year jail term. That is the first of many anomalies in the Bill.

The Bill imposes a legal age limit of 18 years upon people who seek to become involved in the prostitution industry. That applies to people who work as prostitutes and to owners and managers of brothels. Theoretically, a brothel could be owned by a couple of 18-year-olds. I am not comfortable with the thought of a couple of 18-year-olds owning a brothel and perhaps employing other 18-year-olds. Their age ensures that they are very close to people who are technically considered children. Eighteen-year-olds probably knock around with 17 or 19-year-olds. There is every chance that they would know 15 or 16-year-olds, because that is the demographic with which they associate. If an 18-year-old ran a brothel, it would lend itself to all sorts of problems regarding child prostitution. That is a significant problem. Eighteen-year-olds are not the most responsible people in society today. I would hate to think what sort of other trouble might arise from a brothel that was run basically by a group of university students. Would massive amounts of drugs and alcohol be consumed in a brothel run by 18-year-olds? I suspect that might be the case.

There has been some debate regarding the role of local government in this matter. As I understand it, local governments do not have the right to refuse an application for the establishment of a brothel unless it does not comply with planning laws and those types of technicalities.

Ms S.E. Walker: I draw the Acting Speaker's attention to the state of the Chamber.

[Quorum formed.]

Mr M.J. BIRNEY: I thank my colleague the member for Nedlands for bringing me an audience. We now have an audience in the Chamber.

Several members interjected.

The ACTING SPEAKER (Ms K. Hodson-Thomas): Order, members! It is very hard for me to hear the member for Kalgoorlie, which I find extraordinary given his strong voice. It is highly disorderly to have conversations across the Chamber, and I remind members not to do that.

Mr M.J. BIRNEY: Thank you for your protection from the rabble opposite, Madam Acting Speaker.

Although I will probably regret it, I will deal with a couple of interjections made by the member for Perth. He talked about a Bill that was introduced a couple of years ago. Was the member talking about the streetwalker Bill? That Bill had broad public support. This issue is about public decorum. If streetwalkers solicit their wares and drive people in public areas mad, particularly in cafe strips, and curb crawlers look to solicit sex from prostitutes, clearly there is an issue of public decorum. That is why the coalition Government reacted to that issue and put it to bed very conclusively. That is why that legislation had broad public support.

I will refer to a couple of other points in the Bill. A key point of which members should be aware is that the Bill contains no requirement for mandatory health checks for people involved in the prostitution industry. I repeat, there is no requirement for people involved in the prostitution industry to have mandatory health checks.

[Leave granted for the member's time to be extended.]

Mr M.J. BIRNEY: If the Government is to take the risky political path to legalise prostitution, the Bill should provide for sex workers to have mandatory health checks. What a wonderful flag the Government would have to fly while it deflected all the other criticism about the legalisation of prostitution. The one flag the Government could fly in this debate is one that said it would require prostitutes to undertake mandatory health checks. There is a real public interest in doing that, and this is a glaring anomaly in this legislation.

Mr J.N. Hyde interjected.

Mr M.J. BIRNEY: One of the very few reasons that the Government might consider passing this legislation through Parliament is to ensure that sex workers undergo mandatory health checks. However, my friends opposite have totally and utterly ignored that problem.

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Mr J.N. Hyde interjected.

Mr M.J. BIRNEY: That is a very serious issue.

The ACTING SPEAKER: I formally call the member for Perth to order for the first time.

Mr M.J. BIRNEY: It sounds as though he is speaking English, but I am not sure.

Another problem with the Bill is the draconian penalties in some of the provisions. For instance, an owner of a brothel who does not have the required licence would receive 14 years in jail. Who thought of this rubbish? In some cases, rapists and murderers do not get 14-year jail terms, yet if someone runs a brothel without a licence, he will cop 14 years in jail. I am not for a moment proposing that people should be allowed to run a brothel without a licence; penalties should be in place for that offence. However, the penalty should not be a 14-year sentence. That is ridiculous and draconian.

Mrs M.H. Roberts interjected.

Mr M.J. BIRNEY: I hear the Minister for Police saying that she will have to check that. I hope she does.

Mrs M.H. Roberts: I said I think it was a Liberal Party committee during the last term of government that came up with that proposal.

Mr M.J. BIRNEY: We did not introduce the legislation. The Minister for Police might as well ask why we did not. The Government could have 10 drafts of a Bill on the desk. If it decided not to introduce the Bill into Parliament, it would mean that it was not happy with it. That is exactly what happened in the last term of government.

Mrs M.H. Roberts: I am saying that the proposal probably came from Liberal members of the previous Government.

Mr J.N. Hyde: I worked with two of your ministers on the nine drafts.

The ACTING SPEAKER: I remind members that I will have no hesitation in calling them to order.

Mr M.J. BIRNEY: Thank you, Madam Acting Speaker.

The point I was about to make also relates to draconian penalties. Another clause in the Bill provides that a manager of a brothel - as distinct from the owner of a brothel - would receive a five-year jail term if he did not have a current manager's licence, despite his running a legitimate, legal business. Home burglars do not get sentenced for five years. Very few home burglars get sentenced for more than three or four years, yet someone who runs a brothel without a manager's licence will be sentenced to five years imprisonment.

I will present members with a scenario whereby I am the owner of a brothel and have other business interests. Suppose I was out of town and left the running of the brothel to another manager who had a manager's licence but who was unable to tend to the business because he was sick - sometimes people get sick and cannot go to work. What would happen then? Would I appoint the next senior person as the manager and possibly subject him to a five-year jail term, or would I close the business for a night and a day because the manager was sick? That is one possibility that this legislation presents. That is one of the many reasons that we will not support the Bill; it has too many holes in it.

I raise now the particularly important issue of men being allowed to manage brothels. Under the containment policy, men were prohibited from managing brothels.

*Sitting suspended from 6.00 to 7.00 pm*

The SPEAKER: Order! The member for Kalgoorlie has seven minutes left.

Mr M.J. BIRNEY: Thank you, Mr Speaker. I do indeed have seven minutes left, although I do not think I will take up all of that time. I was concluding my remarks on some of the anomalies that I believe exist in the Prostitution Control Bill and was outlining some of the reasons that have led me to oppose the Bill. Under the containment policy, men were prohibited from taking part in prostitution businesses. That was for very good reasons. Some of those reasons were historic. For example, some of the men involved in prostitution businesses became very oppressive and had no, or little, understanding of women's issues and problems and worked the girls to death. It also led to pimps becoming involved in the industry. Sadly, with the passage of this legislation the potential exists for pimps to return to the prostitution industry, because there will no longer be a prohibition on men managing brothels. It follows, therefore, that men may become the managers of brothels employing 10 or 12 women. History tells us that that may lead to a situation in which violence and intimidation become the order of the day and women are worked almost to death with absolutely no regard for their personal health. It

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would be a very sad day if men were to return to the prostitution industry. However, regrettably that message is lost on the Labor Party in this legislation.

Another problem with this legislation is that prostitution will no longer be contained and brothels will be allowed to spread across Western Australia and into regional cities and towns. That will not be in anyone's best interests. Under the containment policy, brothels were contained to certain areas; one area was Hay Street in my electorate, and another area was Northbridge. I think that had general acceptance from the community. What will not have general acceptance from the community is the general propagation of brothels throughout the suburbs and into regional towns and cities.

The Bill contains a number of other anomalies that I would like to bring to the attention of members. One issue about which I am particularly concerned - and I am sure that when members think about it seriously they will be equally concerned - is the requirement that a sole operator prostitute shall work from her principal place of residence. A sole operator prostitute may be raising children and have a spouse. This requirement will effectively rule out the current practice whereby some sole operators work from a hotel room or unit away from their principal place of residence and then return home to their children and families. To require a sole operator to work from her principal place of residence has all sorts of social implications. For instance, a single mother may turn to prostitution during the day while her children are at school and may make a conscious decision to stop work at three o'clock in the afternoon when her children return home from school. Sadly that message will be lost on some brothel clients, because it follows that some men will knock on the door at 10 o'clock or 11 o'clock at night, or at midnight, on their way home from the pub half charged or fully charged, seeking the same services that they would receive during the day from that premises. It will put young children and families in a terrible situation if a client were to thump on the door at that time of the night because he had got the opening hours wrong, so to speak.

Mr A.D. McRae: That is happening now.

Mr M.J. BIRNEY: No, it is not, because the situation that exists now is that sole operators can and do work from another place. They may hire a hotel room -

Mr J.N. Hyde: Have you been to a park in Mt Hawthorn when there are kids in the playground -

Mr M.J. BIRNEY: I learnt a long time ago that we should never argue with idiots, because they drag us down to their level and beat us on experience every time. That is why I will not engage in an argument with the member for Perth, suffice to say that at the moment some sole operators work from another place, such as a hotel room or a rented unit, and they then return to their family home, at which they may well have young children. A lot of single mothers have sadly and tragically turned to prostitution as a means of supporting their children. With the passage of this legislation, they will have to undertake those duties from the family home in which they raise their children. As a result of the Labor Party's legislation, people will be knocking on the door of these premises at all hours of the night and terrorising young children who are probably at school during the day while their mother is working as a prostitute. What a stupid and utterly ridiculous provision that is.

I am also concerned about the proposed penalty of a two-year jail term for a person who seeks the services of a prostitute in a public place or in view of a public place. That will also cause some problems. I oppose the Bill because it is very poorly written. We need to formalise and strengthen the containment policy to ensure that prostitution does not spread into the suburbs and into regional cities and towns.

**MR A.D. MARSHALL** (Dawesville) [7.08 pm]: As I make this speech on the Prostitution Control Bill, I wonder about the priorities of this Labor Government, because at this very moment the Legislative Council is talking about the legalisation of cannabis. We are in a sorry state when at this very moment both Houses of this Parliament are debating matters that in the eyes of the community in the other arena are not a high priority. The Prostitution Control Bill 2003 legalises prostitution in Western Australia and will increase the illegal opportunities in the sex industry. At the moment the sex industry is regulated and controlled - I emphasise the word "controlled" - but this legislation to legalise prostitution will allow organised crime and the use of drugs to grow. Trafficking in women will increase as will the number of brothels. There will be different styles of sex workers. More under-age youngsters will be introduced to the so-called game and there will be an increase in incidents of violence to women. *The Age* in June 2002 - just after Victoria had legislated prostitution - said that 80 per cent of the industry operated illegally and that police resources were drained checking the reform. It has happened in Queensland and in other States of Australia. However, we are not prepared to learn from what has happened on the east coast. That is disastrous and shameful. The only thing we are allowed to steal in life are ideas, and we, in our research, should have looked deeper into this matter rather than jump into what this Government thought was a good act, because it is wrong. The same thing will occur to illegally operating prostitutes in Western Australia. The number of prostitutes will compound and so too will socially transmitted

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diseases. I am older than most of the members in this place. When I was a youth, the one thing that stopped us from going to a brothel was the fact that we might pick up a disease. Everyone knows about the urge when a bloke is in a football team and everyone goes out celebrating on a Saturday night and window shopping - as it used to be called. I was pretty pleased about my mother's scaremongering because now, at the age of 70 next year, I can look anyone in the eye and say, "I, with the name of Marshall, which is a Scottish name, was too miserable to pay for it." I used my own initiative and made sure I won whatever I wanted on my own ability. However, that did not stop me from understanding what the game was all about. When a bloke mixes with men, he understands their needs, their education and what goes on in their life. However, the one important point was what disease might a person pick up at a brothel. That is what I am concerned about. This legislation will increase the number of prostitutes in this city and this State. This legislation will then allow irregular health checks and a surge of sexually transmitted diseases. The false belief is that a person is safe using condoms. Most of this debate will be about convincing the Government that what it is doing is wrong and that the belief that condoms are safe is not correct. A study entitled "Safety in the Sex Industry" by Fleming et al states -

It should be noted that 'correct and consistent' use of condoms does not always accurately characterise condom use by sex workers.

In any case, studies relevant to the sex industry do not consistently show that increased condom use is associated with a decrease in STIs. Most studies demonstrate a reduced incidence of selected infections with increased condom use. But some studies which demonstrated significant increases in condom use over time also showed -

Members should please note this and tell this to their grandchildren. It continues -

- increase in genital anal warts among prostitutes in Sydney
- no association between condom use and gonorrhoea . . . genital herpes in London prostitutes -

I am not just citing incidents in Australia but worldwide just to let members know that they might get a few itches in those countries. The study continues -

- persistently high rates of chlamydia . . . infection rates among commercial sex workers in Japan
- condom use could not be isolated as a reason for decline in STIs including HIV, among Zairian prostitutes
- the presence of STIs was not associated with number of clients, duration of prostitution, or condom failures but with age and increasing number of non-paying partners among prostitutes in London

That is a worldwide summary. In conclusion, there is no definitive evidence that condoms can prevent sexually transmitted diseases, including HIV, but that condoms can reduce the risk of HIV infections.

I oppose this Bill because prostitutes are subject to physical, social and sexual abuse. An article states -

Brothel workers experienced objectionable behaviour of the following form from clients: objection to condoms 9.7%; obsessive desire for a particular worker 53.2%; menaces and threats 12.1%; nuisance phone calls 21%; harassment without violence 21%; robbery without violence 4%; robbery with violence 4%; rape at work 6.5%; bashing or stabbing 7.2%. Previous research showed much higher rates, with 20% of sex workers being raped at work, and 33% otherwise assaulted.

A member from across the floor asked where this came into it. Surely, there must be some compassion for the worker or the women out on the streets. If we are going to encourage legislation that then encourages more people to be working on the streets, surely the conscience of members must prick a little to think that there are physical, social and sexual abuse concerns to the people out there, which will only be magnified under this legislation. The study later states -

A . . . case could be made for expecting the psychological health of sex workers to be poor . . . The authors of one study came to the following conclusion about the relationship between mental health and 'safe sex' behaviour: "Poor mental health and drug dependence may undermine the motivation and ability of these sex traders to adopt safer sex behaviour".

Prostitutes experience other health problems including -

. . . stress 60.5%; chronic fatigue 28.2%; emotional anxieties 33.1%; depression 36.3%; feelings of isolation 20.2%; loss of sexual pleasure 31.5%; bad diet 54%; lack of exercise 30.6%. It has also been observed that "the stress and stigma associated with sex work are likely to take a heavy toll on marriage and personal relationships."

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Who would want to be in the sex trade, and why is the Government so hell-bent on increasing the numbers? The sex industry is one marked by a high level of inherent harm that has remained despite efforts to legalise the trade in other States. Sexually transmitted disease must be a consideration when hiring a prostitute. Condoms are not the answer. Someone said that if men wear a condom, they would be safe, but that is incorrect information. Here we are trying to promote prostitution in this State but not promoting the safe side of it, which is the area with which I am concerned in my short speech.

The following letter, which was published by the *Camden Courier Post* in the United States on 26 January 1993, states -

The Governor's Council on AIDS recently recommended the distribution of condoms in New Jersey public schools.

If the intent is to reduce the spread of this disease, the Council's advice is ill conceived. The high failure rate of condoms in the prevention of pregnancy alone argues against their use for preventing the contraction of a fatal disease.

Because the AIDS virus is 450 times smaller than sperm, the effectiveness of condoms for AIDS prevention is actually much worse than for conception. It is well established that latex rubber contains inherent flaws, which are at least 50 times larger than the AIDS virus. "Inherent" means the flaws are naturally occurring.

Another article that I have under the title "Condoms won't stop hepatitis C" states that while the Hepatitis C Council of Victoria fully supports the existing public health policy on the wearing of condoms and safe sex, these measures will do nothing to reduce the spread of hepatitis C.

The following quotes from medical practitioners must be mentioned. In a letter to Mr Neil Ryan on 12 March 1997, Margaret Jenkins, Health Education Coordinator for Ansell International states -

Unfortunately, no method of protection can be considered 100% effective, during sexual activity.

I hope members opposite tell their children about these figures. An assessment of research papers outlines -

The Center for Disease Control has reluctantly, but accurately, questioned the effectiveness of condoms in protecting against sexually transmitted diseases, noting that the failure rate for condoms can be as high as 15% . . .

The pro-abortion Allan Guttmacher Institute (AGI) notes a condom failure rate as high as 17.6%.

That is not very encouraging. Then there is the case of the leaky condom. The "Safe Sex is Really Safe" publication reads -

One of the main reasons that condoms cannot guarantee safety against pregnancy and STDs is that some of them leak. The Department of Health and Human Services reports: "One in every five batches of condoms tested in a government inspection program in the past four months failed to meet the minimum standards for leaks."

These are quotes from the experts that must be considered. Pregnancy is not the greatest danger posed by condom failure, bearing in mind the risk of HIV and other sexually transmitted diseases. An AIDS virus is 450 times smaller than a sperm. I hope people on the other side of the House who are anxious to push the legislation through the Chamber to promote prostitution have done the same amount of research into the problems that I have done.

In conclusion, legislation for prostitution will not prove to be as successful as the system operating at the moment; the way it is regulated and controlled at the moment is the way to go. The legislation will increase the number of prostitutes, the risk of contracting sexually transmitted diseases, organised crime, drug use and the number of youngsters going into the trade, and it will definitely increase violence against women. I wholeheartedly oppose this Bill.

**MR J.N. HYDE (Perth)** [7.22 pm]: I very strongly support this legislation. It is important that we discuss this matter in a non-passionate and intelligent way tonight. It has been said already that 75 per cent of Western Australians, even on a conservative polling basis, support legislation to decriminalise prostitution in this State. People in Western Australia clearly know that the current situation does not work, and that for 110 years we have grappled with the issue of prostitution. Successive conservative Governments and some Labor Governments have tried to sweep prostitution under the table. At some stage, we ended up with the containment policy. Interestingly, a number of Liberal members tonight said they would like to go back to the containment policy; however, they then brought in the exceptions, one of the greatest of which was the lack of mandatory



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testing and health testing under the containment policy. They want containment but also want testing carried out for this, that and the other. It is important that we deal with a number of issues.

I say at the outset that on this occasion I certainly oppose people on the right - I refer to those with a more conservative basis. The Liberals and Nationals in many ways have dealt themselves out of meaningful control of prostitution in the State by stating that they oppose the legislation. My fear is that on the other side of the spectrum, the Greens in the other place will deal themselves out of the equation by stating that they are not prepared to look at what the Government has put forward after a great deal of consultation.

Mr R.F. Johnson: Maybe you've got it wrong, my friend.

Mr J.N. HYDE: My electorate has not only the majority of sex workers in this State living as residents, but also the largest number of non-sex workers in this State affected by the environmental excesses of street sex workers, such as parking and noise. Residents in my electorate certainly want decriminalisation. They do not want street sex work to be allowed -

Ms K. Hodson-Thomas: How many have you surveyed?

Mr J.N. HYDE: I will come to that. There are many sex workers in my electorate. There would not be an electorate in this State in which sex workers do not live and vote as equal members of our community. A lot of what has been said tonight is prejudiced, stereotyped and unfair to many people in our society. I accept that many members on moral grounds do not accept prostitution and a number of other natural activities that have occurred during and since Jesus Christ's time and will occur ad infinitum.

Mr R.F. Johnson: There's not one group of people in the community that agrees with your legislation. Name one group of people that has come out and said it agrees with the legislation.

Mr J.N. HYDE: The fact is that 75 per cent of people agree with the decriminalisation proposed by the state Labor Government. Every community group and every residents group, containing a vast array of people in our society from a variety of political and other occupations, support the legislation. They do not want kerb crawlers.

Several members interjected.

The SPEAKER: Order, members!

Mr J.N. HYDE: Let us look at my electorate. For the first time in Western Australia, instead of attacking sex workers - the people working on the streets - the Government and council dealt with the issue of kerb crawlers in the town of Vincent. The blokes from a number of electorates of members opposite were causing environmental problems for not only sex workers, but also local residents. Rather than stigmatising sex workers, the Government and council attacked the demand side of the equation. By minimising the environmental detriment of kerb crawling, it has been successful in attacking the issue in the right way. Nowhere else in Australia, apart from my electorate, has achieved a decrease in this activity. The models adopted in Queensland and Victoria have not achieved a decrease in activity. A couple of us last week were in South Sydney, which is a mess. People in South Sydney, including those on the council, do not support the model applied there. People in South Sydney are tearing their hair out because the council is considering a proposal for a 28-storey brothel in a residential area. People with the best intentions in considering the rights of sex workers and others in a multicultural society felt a decriminalised model à la the South Sydney model was the way to go. It has backfired and the council is considering a horrendous proposal.

I return to the positives before I come to my advice to the Greens (WA) at the end of my speech. First, most people who become sex workers are sex workers by choice. Between two and four per cent of sex workers in this State are street-based. The vast majority of research indicates a high correlation between street-based sex work and drug use. Let us consider the other 96 to 98 per cent of people who this year, and for many years, have engaged in sex work. They do so by choice.

Mr P.G. Pendal: What is your evidence for that claim?

Mr J.N. HYDE: All evidence that came out during the consultation period indicates that to be the case. The Minister for Health and his officers can provide the evidence to the member at the drop of a hat.

Mr P.G. Pendal: You produce the evidence.

Mr J.N. HYDE: More importantly, I refer to 2001-02 statistics, information and advice - it is not from 1993 or some obscure American think tank established purely to oppose progressive information. Importantly, we looked at the health issues in Australia with documented research into sexually transmitted diseases, HIV and other diseases among sex workers. Those rates were found to be lower than those among the general

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community. Sex workers look after their health to a higher degree than do other people in our society. The figures are available, they are documented, they are in WA, and they are consistent across Australia. Australia has been very successful in containing the transmission rates of HIV and AIDS. In other parts of the world HIV-AIDS is predominantly a heterosexual and mass disease determined by poverty. In Australia it is a disease of minute proportions, which is being contained. Credit should be paid to sex workers, sex worker advocates and Governments around Australia who have funded intervention and health programs to treat the health and empowerment of sex workers. Figures exist that indicate there is no disease blow-out in Australian sex workers; they indicate exactly the opposite. These are indisputable facts and we should accept them.

We should then accept that we have had a better health result because we do not have mandatory testing. Clearly, mandatory testing, and other matters advocated by the member for Kalgoorlie and other members, will drive sex workers underground. Some members disagree that this legislation is primarily about health. The only parts of the legislation that will involve the police will be when people step outside the controls on prostitution that the community, through its democratically elected Government, has said it wants. Just as the community, through its democratic Government, has said it wants controls on gambling, on milk bars, on the taxi industry and on a range of business, industrial and other pursuits, the community has said that it wants similar controls on prostitution. I am confident that the vast majority - more than 75 per cent - of people in our society want prostitution decriminalised and controlled as a business.

Ms S.E. Walker: Prostitution is legal; it's brothels that are not. Get it right.

Mr J.N. HYDE: The member for Nedlands should read the legislation properly. The Liberal Party does not understand the legislation.

Clearly the priorities in this legislation are health issues, sex workers and customers. The spatial amenities and living environment of residents also are priorities; they can co-exist. Members opposite must accept that there are sex workers in every electorate in Western Australia who either live in or visit most country towns. It is interesting to note that some members opposite have called for a return of the great containment policy. I smiled wryly at that. Hon Bob Kucera, when he was a superintendent in the Police Service, was very successful in implementing the containment policy in some areas of Western Australia, but members opposite do not acknowledge that.

Let us return to sex workers and try to dispel the myths and stereotypes that are being put about by members opposite. Sex workers comprise students, housewives, home workers and people in between careers. One of my residents told me that she needed a new fridge and, therefore, became a sex worker for a few months to get the money to pay for it.

Mr P.G. Pendal: Do you think that's all right?

Mr J.N. HYDE: I think a mature adult making a mature decision is the province of a mature adult. I do not believe the Parliament of WA should be in the bedrooms of Western Australians. The Parliament of WA should be involved only when there are issues relating to planning, noise, parking, alcohol or drugs. Under this legislation the current situation of sex workers working from home, which successive Liberal Governments allowed, will continue.

Let us go back to the incident in Joondalup. The member for Joondalup and I both said that there were brothels, prostitution and sex workers in the City of Joondalup. "No there are not", said some conservative members, and perhaps the mayor who is no longer there but who was quite vocal on the steps of this Parliament against sex workers. The people of Joondalup voted on that issue last Saturday. Tonight a member raised the issue of Leila's. The member for Joondalup brought to the attention of the council of the City of Joondalup that it had approved a planning application for that place. Suddenly, some councillors and others in Joondalup got up in arms because it was there. Prostitution has always been there and it always will be there.

Ms S.E. Walker: So will murder and so will domestic violence.

Mr J.N. HYDE: We are saying through this legislation that it is important that government legislates. It is absolutely demeaning and disgusting for members opposite to associate sex workers and other Western Australians with murder and other issues and to equate those issues with this Bill; it is beneath them. Members opposite have dealt themselves out of this legislation by not wanting to be involved with it, by washing their hands of it and by ignoring the important concerns of Western Australians. Western Australians want not only a just and fair society but also to ensure that the rights of other individuals are not impinged upon.

There was great denigration by members opposite of the consultation on the drafts of the Bill that occurred under this Government. The nine drafts produced by the previous Liberal Government were our starting point. Former ministers Prince and Day - who included me as a representative on a committee - and clearly some members of

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the previous Liberal Government were working towards a model of legislation for decriminalising prostitution. Unfortunately, they were rolled in the previous Government and it looks like the current crop of members will overturn that model.

The member for Kalgoorlie raised the issue of ownership. Clearly provisions in this legislation were never included in the containment policy. As some police commissioners have said, the containment policy was never written down, which made it very difficult for honest coppers, such as former superintendent Kucera and others, to implement a policy from gutless Parliaments in WA that did not grapple with the issue. It was left to the police, people in the sex industry and others to make their own rules.

It was also interesting to hear about the sporting allusions from my good friend the member for Dawesville. Those of us who have lived in regional WA know about race rounds, particularly in the dry season in the north when advertisements start to appear in the local papers and there is a big influx of sex workers. Clearly, members opposite could have done over some of their mates in the racing game and those involved in organising race rounds on the previous Government's interpretation of living off the earnings of prostitution. However, they never did; they were prepared to turn a blind eye. That attitude towards prostitution has been going on for too long in this State. The Parliament has a right to regulate and it has a right to make the system better. Surely the Parliament is ultimately about coming to a compromise on legislation.

Many members on both sides of Parliament have personal views on this and other legislation. Some adhere to their church's interpretation of morality, whether that be morality as a defined, empirical issue that can be described through the Bible or somewhere else. Other members adhere to a personal version of morality that is a morality of freedom to undertake that personal morality. Clearly, we are all about compromise in this place. I urge members on my right to consider realistic ways of improving this legislation if they believe they can improve it. I appeal to the Greens (WA) in the other place to look at ways of improving the legislation. Clearly we can add up the numbers on this side of the House. There will be no legislation unless some conservatives or Greens back us in the upper House. What will happen then? My electorate will return to the pre-2000 situation in which more than 300 sex workers were encouraged to be on the streets of Highgate, North Perth and elsewhere because of the great number of kerb crawlers who came into that area after the police took no action. Without legislation, nothing will stop that happening again. Clearly, people in my electorate and Western Australia generally do not want that to happen. People on the right and left of politics and some Greens who say that we would be better off without this legislation are living in la-la land. This legislation is a huge improvement, a huge development and it will be of huge benefit to Western Australia. When the realities of many parts of the legislation are understood and once it is in operation, people will appreciate it.

The Greens (WA) must look at the situation of inner city residents and support this legislation put forward by the Labor Party. We will not change our views and allow street work to be legalised or even decriminalised. The regime in South Sydney City Council does not work and it will not work in Western Australia. The claims by the Greens of human rights and of the police having incredible powers are not borne out when one looks at this legislation. The irony is that through the unholy alliance of the Greens and the Liberals getting into bed together, with or without the condoms that the member for Dawesville is talking about, Western Australia might end up with the current Prostitution Act 2000 with an unchanged provision that having a condom is evidence that people are engaging in paid sex work. If members opposite cared about nothing else, by voting for this legislation they would be amending that provision so that, in the future, the police or a draconian Commissioner for Police could never pick up the member for Kalgoorlie or the member for Nedlands, find a condom in his or her pocket, and say that under this legislation he or she is buying or selling sex and put him or her in clink. We are eliminating that provision and a number of other onerous provisions that, through consultation, have been identified in the Act.

[Leave granted for the member's time to be extended.]

Mr J.N. HYDE: Clearly on those human rights grounds, members opposite must realise that this Bill needs to be supported. This Government will quite rightly not be swayed over certain issues with the legislation. It has strong community support for those issues.

As for empirical evidence, in the local council elections on Saturday, certainly in my area and the Town of Vincent south ward, a Greens candidate was endorsed. I think for the first time the party was endorsing candidates in local government, which I do not agree with, but that is a separate issue. Good, strong material was produced that addressed the sex worker issue. It was clearly aimed against our legislation and the rights of the police and the community to control and regulate sex industry work. The Greens candidate came eighth out of eight candidates. Therefore, the Greens cannot convince themselves that they have community support for their version or model of sex industry legislation.

Ms K. Hodson-Thomas interjected.

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Mr J.N. HYDE: I will bring in the material.

Ms S.E. Walker: Why would you bring it in; to support your argument?

Mr J.N. HYDE: If the member for Nedlands were in her own electorate, she would be aware of it. If she were a strong supporter of local government, she would know what was happening all over the State. I support the progressive environmental people in Denmark, Broome and elsewhere who were successful at the weekend, as well as each of the five successful council candidates in my electorate. The electorate clearly knows what it is doing and it did the right thing. I therefore congratulate those people.

It is very clear that people in my locality do not want increased kerb crawling. They do not want a head-in-the-sand attitude of people saying that they will eliminate sex trading, brothels and money for sex, which clearly is what some people to the right of me want and think can be achieved. It cannot be achieved and it will not work. Clearly, people in my electorate are realistic. It is interesting that people in my electorate who know of people in their apartment block or street who are sex workers who work from home have no problem with that. They have problems with the parking difficulties, noise and those sorts of issues. I applaud those people in my electorate and the 75 per cent of Western Australians who support our model of decriminalisation because clearly they can differentiate. They can see that it is not a moral issue; they can see that the reality is that sex work with the involvement of money occurs and it is something that we should enable to be controlled and to operate in our communities.

Let us look at the legislation. It contains a 300 metre exclusion zone. Let us look at the role of the Prostitution Control Board. Not only can the local council approve a brothel in a non-residential area 300 metres from a residence, but the question must also go to the Prostitution Control Board that can look at other issues.

Mr M.F. Board: Does this Bill supersede local town planning schemes?

Mr J.N. HYDE: As the member knows, state planning laws supersede all town planning schemes. It is important that we point out that not only will the Prostitution Control Board be able to exclude brothels from residential areas, areas near churches and so on, but also councils, such as Joondalup council, will be able to do so. Some candidates went to the election on this issue. Councils that want to ban this activity anywhere in their area can do so, but any member of a council or person who thought that he could overturn planning legislation on the basis of bigotry rather than for sensible environmental planning reasons clearly will not be able to use bigotry and government processes immorally.

Several members interjected.

The DEPUTY SPEAKER: Order!

Mr J.N. HYDE: Let us be clear, the gambling legislation overrides council laws, as does taxi-plate legislation. Councils all over the State cannot suddenly bring in a thousand taxi plates. We have said very clearly how the situation will work.

I am a champion of the local community. The local community wants this State Government to have proper legislation that works. It does not want the situation that existed under the Liberals; that is, wink, wink, nod, nod, this will go here and some racing round organisers can bring in 10 girls from somewhere but others cannot; that betting activity can occur in James Street and illegal casino activity can take place somewhere else. If the mob opposite want to talk about local government, that is the way it operated when it was in power. The planning provisions in this Bill are healthy and sensible and they will make our society work, which is what we are here to do. We can pontificate about what should happen and try to lecture people on our obscure vision of morals, but this place is not representative of Western Australian society. If we look at members' age, sex and activities, it can be seen that this place is not representative. We are not here to pontificate or impose our moral requirements; we are not here to impose the moral view of the four per cent of churchgoers or the view of the two per cent of society who may be sex workers or users. We are here to reach a cohesive agreement. It would be very interesting if *The West Australian* conducted a brothel and prostitution use survey of this side of the House, as it did on cannabis. We would hear the hypocrisy of people opposing this legislation.

Ms K. Hodson-Thomas: You have double standards on your side of the House.

The DEPUTY SPEAKER: Member for Carine!

Mr J.N. HYDE: It would expose the hypocrisy of people opposing this legislation, people who have business interests and own property that is being used for activities associated with sex and those who have had sex workers in their rental homes. There is a great deal of hypocrisy on this issue in our society. As I think people in this place will understand, a great number of people in local government own property and have very opposing views on the allowable planning uses of property. Members opposite might like to talk about morality,

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planning uses and hypocrisy, but I suggest that a great deal of latitude is being taken when it comes to personal morality.

I urge the Liberal Party and the Greens (WA) to think carefully about what will be Western Australia's situation in two years. Do we want the situation to be as it was before 2000 when the containment policy was not working and a laissez faire attitude was taken to kerb crawling and its extraneous environmental impact on city communities?

This legislation will provide the best mechanism for implementing solutions to planning problems. It will provide the most realistic framework for monitoring the health and ensuring the protection of sex workers. Clearly, the current situation does not provide protection for sex workers or residents in our society. We cannot claim that policies implemented in the past few years have worked. The only exploitation of women has been by people who have refused to address this issue. They are happy that women and men who engage in prostitution are vulnerable to the whim of property owners, kerb crawlers and others and they cannot enjoy the protection they deserve.

On behalf of the residents in my electorate, sex workers in Western Australia and others, this Bill is the best compromise and I urge all members to support it.

**MR J.P.D. EDWARDS** (Greenough) [7.53 pm]: I am pleased to speak in opposition to this Bill, especially after the member for Perth's dissertation. He and I have a history that goes back to our time in local government. I have been present in the Chamber for only the past 10 minutes because I was in a meeting, but what I heard about local government in that time sounded like unmitigated drivel. I am on my feet because I wish to raise some issues concerning local government and planning.

I will spend a few minutes on the moral view. We must appreciate that the industry we are talking about has existed for as long as men, women and money have existed. Prostitution always attracts organised crime. I believe this Bill will encourage criminal activity, particularly through ownership of brothels by bikie gangs and others. That ownership will enable them to launder money, distribute drugs and do other things. The Bill does not address women's interests. Most women involved in prostitution are not involved by choice. Many of them are abused and controlled by others. More than anything, this Bill will legalise brothels. Having said that, my main reason for rising to speak on this Bill is to address local government concerns. It has been acknowledged that more than 3 500 sex workers and approximately 75 brothels and escort agencies operate in this State. The Bill contains 10 objectives. The issues I will raise probably relate more to health planning and buildings and are probably viewed more from a local government perspective than any other.

I understand that the Bill provides for the establishment of a prostitution control board, which will monitor and implement the regulatory and licensing processes. One of the main issues local government raised with me is the complete lack of consultation, which the State Government proudly claims it does concerning its legislation and other public matters it raises in this Parliament. It has been suggested that very little consultation has occurred on this issue. I believe that the Western Australian Local Government Association representatives were advised confidentially of the contents of the Bill shortly before its release. If that is consultation I am lost for words.

What does the Bill mean for local government? Clause 160 in this Green Bill inserts a schedule to which all local authority town planning schemes that are in force must adhere on the day the Bill comes into operation, regardless of whether they accept it. It makes a mockery of the purpose of local governments. It reads -

If, immediately before the public release day, land was used for the purpose of a brothel or an attended prostitution agency office and the land has continued to be used for that purpose until the commencement of the *Prostitution Control Act 2002*, section 160(1), despite anything in subclause (1), (2) or (3) the use of the land for that purpose is a use permitted by the scheme until -

- (a) the person who was carrying on the brothel business or prostitution agency business immediately before the public release day -
  - (i) ceases to carry on the business;
  - (ii) for a continuous period of 6 months does not carry on the business;
- (b) the buildings used as the business premises are totally destroyed or their value is reduced to less than 25% of their former value;
- (c) the buildings used as the business premises are extended or . . .

I could continue reading from this schedule for quite a while.

Clause 160, existing planning schemes varied, is perhaps a better reference than what I have just read out and reads -

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- (1) Each existing planning scheme -
  - (a) is to be read, and has effect, as if the clause set out in Schedule 3 were part of the planning scheme; and
  - (b) is to be implemented accordingly.

It will happen on the day the Act is implemented.

The legislation will have significant implications for local government. The Bill does not improve the ability of councils to control and regulate the location of brothels, prostitution agencies and other individual operators. Rather, the proposed legislation overrides and, therefore, severely limits local government's powers to adequately plan for or regulate the location of agencies and individual operators.

The legislation is contrary to the long-established land-use planning process in Western Australia whereby local governments have successfully managed development of private land with a view to permitting or encouraging successful and appropriate development and at the same time protecting the amenity of existing residents and other affected landholders. As has been said before, and will be said again, local governments are very much the grass roots government for the people. They have extensive and detailed information relating to their areas of responsibility and are the authorities best placed to determine the location of brothels and agencies. Local governments have another concern about the grandfather clause in the legislation, which provides for existing illegal brothels and attended prostitution agencies to be exempted from the planning provisions until such time as there is a change of ownership, the business ceases, or the premises are altered, totally destroyed or significantly damaged. In fact, I read that out previously.

Again it comes back to consultation, of which there has been very little. Local governments do not feel that adequate advice has been sought from them about their feelings or thoughts on this issue. Other concerns they have relate to some of the disparities between the stated objectives of the proposed legislation and the contents of the provisions. There are a couple of them in the document I have, which states -

Local Government believes that objectives [b] and [c] will not be satisfied by promoting the establishment of brothels in isolated industrial areas, by legitimising established brothels - some of which are inappropriately located and causing problems for local communities, and by allowing sole operators to conduct their business in residential areas . . .

Objective (b) reads -

by promoting the welfare, occupational health and safety of prostitutes and by other means, to protect prostitutes from exploitation;

Objective (c) reads -

to protect and control the social and physical environment of the community by controlling the location of brothels and prostitution agency offices and the carrying on of businesses involving the provision of prostitution;

I suspect that means that if brothels are located in outlying areas of, say, industrial or commercial sites, which is suggested in this legislation, there would be limited bus services, limited security, limited lighting and other limited safety factors that have probably not been taken into consideration.

One of the other main issues that local governments raised with me was the best practices being tried elsewhere. They would like to be assured that the persons who drafted this legislation investigated best practices elsewhere, such as in the eastern States and in countries overseas such as the Netherlands. Recent reviews of the prostitution industry and current legislation undertaken by the States of New South Wales, Queensland and Victoria have provided analyses of the way in which the legislation in those States is managing the sex industry. It seems that New South Wales has probably got it pretty right. From what I understand, Victoria and Queensland have some problems. The experience in New South Wales has shown that the continuation of illegal brothels and the inability of legal brothels to be established are undesirable, as this may encourage street sex work and provide the potential for official corruption, and the amenity impacts are not controlled under the relevant approval process.

I believe Queensland has been running with a prostitution control Act for two years and Victoria for eight years. Both those licensing regimes are similar to the model on which this Bill is based. The result has been the creation of a two-tiered system, with a few boutique brothels operating legally and the majority of brothels, and therefore their workers, operating illegally. In Victoria, 80 per cent of the brothels are illegal, which is significant. In Queensland, only 10 legal brothels exist in the entire State; the rest of the industry operates illegally. That shows that this type of legislation is not working elsewhere. It reminds me a little of the cannabis

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debate we have just had. Other places that have tried it are finding that it is failing them. Obviously, that is exactly what is happening in Queensland and Victoria.

It is acknowledged that there are differences between the legislative frameworks in Western Australia and New South Wales. For example, in New South Wales state environmental planning policies have statutory force and legal effect as planning instruments. New South Wales is using something as a planning instrument. That is not the case in WA. At present there is no equivalent mechanism in Western Australia for the State Government to ensure that local governments make adequate provision for brothels.

The problems the other States have encountered do not appear to have been acknowledged by the authors of this legislation. As I have just said, lessons learned from the other States' considerable combined experiences are not reflected in the general direction the WA Bill has taken. Over-restrictive legislation has proved to work poorly in Victoria and Queensland. The legislation with which we are dealing is over-restrictive legislation. The decriminalisation model adopted in New South Wales appears to be working far more satisfactorily. The South Sydney sex industry policy appears to have considerable merit from a local government point of view. That needs to be addressed, and perhaps the minister will take note of that.

There seems to be a lack of understanding of the part that town planning plays in managing land uses and protecting existing community amenity. It is given scant attention in this legislation, which indicates a lack of understanding of existing planning practices in WA. As I said before, local government is almost sidelined in the proposed process. In fact, some members of local government have told me that they feel they have been completely left in the dark with this legislation. The amount of attention given to planning considerations in this Bill is almost cursory. The diminution of local government's role in assisting the State Government to manage the sex industry is totally contrary to the way in which the Governments in the eastern States are evolving their management processes. They have been trying to work very closely with local government. New South Wales appears to have got it right. Obviously, a lesson needs to be learned from that.

The Bill does not clearly establish a complaints protocol that explains how complaints are to be handled, by whom and within what defined structure and time frame. Appropriate resources will need to be allocated to ensure efficient and prompt handling of complaints. I suspect that those complaints will go to the local authorities, and the local authorities will be left to handle them as best they can. I note that the board of control is supposed to handle those complaints, but I am not sure whether it will have the resources to be able to do that. Of course, the first port of call will be local authorities. As I said, at the moment local authorities do not feel that they have had much input on this issue.

The overriding of local government powers is a very sore point with local governments. The proposed legislation overrides local governments' powers to determine the location criteria for brothels within their municipalities, which I mentioned a little earlier. The provisions of the Bill will remove the fundamental power of a local government to use its discretion and make decisions about appropriate land uses within its scheme area. Local governments feel that they should be given the autonomy to regulate the location of brothels within their municipalities, based on planning grounds.

That deals only with brothels. Of course, there are self-employed sole prostitutes. Basically, the Bill takes away the fundamental power of a local authority to make decisions about appropriate land uses within its area of authority by declaring that planning approval is not necessary to establish such businesses. One must ask why. There is no rationale behind the removal of the ability of local governments to determine the land use suitability of brothels.

[Leave granted for the member's time to be extended.]

Mr J.P.D. EDWARDS: There are similar planning controls. The licensing of a use under other legislation does not pose a significant problem, as can be demonstrated by the Liquor Licensing Act. It is still subject to planning controls imposed on hotels and similar uses through town planning schemes. Local governments could introduce into their town planning schemes similar planning controls relating to use, class and development requirements to deal with applications for brothels. There is no need for the Prostitution Control Bill 2003 to usurp the current planning powers of local government. I believe I am making my point that the planning powers of local government are vitally important to them, and they should not be taken away on an issue such as this. The tenor of the provisions runs counter to local governments' aim of achieving the best planning outcomes for each community. They are their communities. They control their communities and have to take the brunt of anything that the communities bring to them on issues such as this.

Earlier I mentioned the safety aspects of locating brothels outside residential areas. The idea of keeping brothels outside residential and other sensitive areas is commendable in principle. I do not have a problem with that, and neither do local governments. However, the increasing occurrence and active promotion by most local

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governments of mixed-use areas and zones - in other words, residential-commercial - as well as the high density of some city and inner-city areas, will effectively restrict approval of a brothel in many areas. The City of Perth could be one such area. There appears to be merit in perhaps suggesting special consideration or discretion for major urban centres. Commercial areas in close proximity to the major demand areas such as entertainment precincts are logically probably more appropriate locations for prostitution activities. By locating these activities more appropriately and managing any potential negative impacts that they may have through the imposition of planning conditions and ongoing enforcement of those conditions, any potential negative amenity impacts could be minimised. In my time in local government, other land uses with potentially negative amenity impacts were controlled and I believe they still are.

The proposal in the Bill to locate brothels in industrial areas is counter to the objectives of the legislation, especially the objective to promote the welfare and occupational health and safety of prostitutes. Industrial areas generally lack security controls and public transport or taxi ranks, have poor lighting, lack constructed footpaths and sufficient and secure car parking and have little police presence. One or two of the regional centres in the State have already expressed concerns about the safety implications of prostitutes in local communities should this aspect of the legislation continue to be promoted by the State Government. Local governments feel that they should have the ability to refuse applications for brothels to be located wherever, but particularly in industrial areas, on technical grounds if the infrastructure is lacking and safety issues are likely to be significant. They are not able to do that at the moment. In addition, some local authorities, such as Subiaco, do not have industrial areas within their boundaries. The city of Mandurah has limited industrial land, which of course is surrounded by residential and educational institutions. What is the answer to that? Will the State Government then force its will on those regions? Again, local governments should have a say in that matter. This situation may result in brothels being concentrated in other industrial areas, which could effectively lead to the development of infamous red light areas, which have been seen before.

There are problems associated with self-employed, sole prostitutes. The proposition of self-employed, sole prostitutes operating within residential areas without the need to obtain local authority planning approval and without any planning controls - which I understand is the case in this Bill - is inconsistent with the principle of residential amenity and with the Bill's objective to protect the social and physical environment of the community by controlling the location of brothels and prostitution agency offices and the carrying on of businesses involving the provision of prostitution. Sole operators are the main concern currently facing local authorities. In fact, the member for Perth raised that issue. Local governments are totally opposed to the proposal to exempt them from the planning approval process.

Home occupation provisions were originally introduced into town planning schemes to limit and control the operation of business activities within residential areas to ensure that such activities would not cause injury to or adversely affect the amenity of their residential area. The nature of this type of business is precisely the type of activity that the provisions on home occupation attempt to safeguard against, as this business is entirely dependent on clients coming to the site and there is no regulation of the hours of operation. That could mean people arriving at any time of the day or night, excessive noise both from within the dwelling and by clients who may be inebriated moving to and from the premises, embarrassment for some of the clients knocking on the next door neighbour's front door and bothering the residents, or interaction between clients and local residents, including their children and perhaps the elderly. Those are issues that have not been adequately covered in this legislation. The attraction of potentially large sums of cash kept on premises could tempt the criminal element that is historically associated with this type of activity. There must be appropriate planning controls.

Under normal circumstances when determining the appropriateness of a home occupation, local governments consider such matters as hours of operation, parking, access, proliferation of premises, location and number of visitors, and, if necessary, appropriate planning controls are imposed on those activities. Again, I do not think that has been addressed.

I have probably made my point. I could raise a number of other issues. It could be that I may do that during the third reading debate. Little attention has been given to street workers in this legislation. Again, that issue was raised by the member for Perth. They are still causing concern. It has been suggested by some local governments that the authors of this Bill could have taken note of initiatives established by the City of Port Phillip in Victoria, where trial tolerance areas for street workers are likely to be established. The idea is that police resources would not be targeted at persons loitering and soliciting for the purpose of prostitution. Instead, police resources and strategies would target loitering and soliciting offences in locations outside the tolerance areas.

Clause 1(7) of schedule 3 of the Bill, to which I have already referred, effectively confers legality on existing prostitution operations which would otherwise have been unlawful prior to the commencement day of the Bill.



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This seems to be unreasonable and has serious implications for local governments. The City of Mandurah in particular regards this with significant concern, which the member for Mandurah may have picked up, and local governments are strongly opposed to this proposition. Planning approval should have to be obtained for all existing establishments. This aspect of the Bill does not take into account the very real concern about problem brothels that a local government might have been trying to close, but, because of the inadequacy of the current legislation, has been unable to accumulate sufficient evidence to do so. The result of this clause in schedule 3 will be that brothels will be able to continue to operate even though they may be located in totally inappropriate areas. There is no provision for the recognition of the rights of each premises to be properly recorded, such as non-conforming use rights, which are usually required to be registered within six months of the right coming into existence. The Bill does not clearly indicate the implication of applications for extensions to existing premises. A further potential problem could occur if market forces place the value of a brothel higher than that of other uses in some areas. An inventive landowner may well say that his approved massage parlour, gymnasium business or something similar was being used for the purpose of a brothel prior to the commencement of the Bill. By doing this, the landowner could create a new brothel and gain legitimacy for it by misrepresenting its past use. That issue has not been addressed.

The 300-metre buffer is another area of concern for quite a few of the local governments, particularly around the city, that feel that 300 metres is too much. They also have a problem with it being rigidly enforced. The suggestion is for a minimum buffer zone of 200 metres, which I believe applies in Victoria. That could be used as a guide. Perhaps local authorities should be given the discretion to deal with individual circumstances, again bringing the responsibility back to local government. That would probably be more suitable than the rigid system that is proposed.

I have various other concerns, such as health and building issues. I do not think there is anything in the Bill concerning hygiene and safety standards. It deals with issues of a sexual nature, such as prophylactics and those types of things, but not cleanliness of ablution facilities, cleanliness of rooms, cleanliness of bedding and linen, safe disposal of used prophylactics, safe disposal of sharps, cleanliness and sanitation of sex toys and associated paraphernalia, and controls preventing the overcrowding of premises. There is no mention of structural requirements such as classification of the building in accordance with the Building Code of Australia, the provision of adequate toilet and bathroom facilities, the provision of adequate laundry, kitchen and bar facilities, and adequate access/egress and emergency exit signage.

The Bill has enough holes to drive a truck through and it will not adequately cover the areas that it should. I have no problem opposing this legislation. I am aware that in the upper House it may well run into opposition, not necessarily from our allies. It obviously attracts across-the-board sympathies. I still have two or three more issues I could raise, but my time is running out. I will leave it at that and raise the remainder of my issues during the third reading.

Debate adjourned, on motion by Mr J.C. Kobelke (Leader of the House).