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LEGISLATIVE COUNCIL

Thursday, 9 December 1999

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 10.00 am, and read prayers.

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

Report on the Special Investigation by Geoffrey Miller, QC

Hon Derrick Tomlinson presented the ninth report of the Joint Standing Committee on the Anti-Corruption Commission entitled "A Report on the Special Investigation Conducted by Mr Geoffrey Miller QC: The Allegations, the Evidence, the Outcomes and their Relevance to the Anti-Corruption Procedures within the Western Australian Police Service", and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 545.]

REVIEW OF THE ADMINISTRATION OF SOCCER IN WESTERN AUSTRALIA

Statement by Minister for Sport and Recreation

HON N.F. MOORE (Mining and Pastoral - Minister for Sport and Recreation) [10.05 am]: The Soccer Administration of Western Australia was set up in 1990 with the support of the State Government to coordinate, plan and direct the sport in Western Australia. Since that time, member organisations have continued to run their own affairs as disparate bodies almost as if SAWA did not exist. This situation has resulted in SAWA being beset by internal division to the point where it has become dysfunctional.

The Ministry for Sport and Recreation suggested to the key stakeholders in 1997 that an external task force be established to review the current administrative and management structure of the sport and to make recommendations for an organisational structure to deliver the best outcomes for the sport in this State. In mid-1998 the board of SAWA agreed to this proposal and a task force was appointed soon after. Since the appointment of the task force, the sport has continued to experience administrative difficulties.

In December 1998 the board of SAWA was unable, because of internal division, to elect a president. This culminated in one faction of the board taking the other faction to the Supreme Court in August 1999. An administrator was appointed by the court following mediation in September 1999 to attend to the financial aspects stated and to amend the constitution.

Determination of the Review: With the agreement of the key stakeholders in the sport, it was determined that an external, experienced and independent task force should be appointed to complete the review. The terms of reference for the review were to review the current organisational structure of the sport of soccer in Western Australia and report to the Minister for Sport and Recreation on the structural, managerial and organisational needs necessary to adequately advance the sport of soccer for the benefit of the community in Western Australia.

The review did not include the operations of Perth Glory Soccer Club, which is a privately-owned club competing in the National Soccer League run under the auspices of Soccer Australia. The chairman of the task force was Mr Gavin Fielding, Senior Commissioner of the WA Industrial Relations Commission; and the members were Ms Lydia Dowse, Event Development Manager, EventsCorp, former sports lawyer and former General Manager of the Sydney Olympic Soccer Football Club; and Mr Lloyd Stewart, the Chairman of the WA Lotteries Commission.

Process Undertaken: The task force sought submissions from interested persons and organisations regarding matters pertaining to the terms of reference by placing advertisements in *The West Australian* in October 1998 and the *Sunday Times* in November 1998. At the same time, the task force wrote to the principal stakeholders in the sport seeking their comment. Late in October 1998 the task force commenced interviewing most of those who made written submissions and met with a number of people who had not made a written submission but who it considered had a key stake in the sport. This included representatives from Soccer Administration of Western Australia, Soccer Australia and the Chief Executive Officer of the West Australian Football Commission. In all, the task force received 25 written submissions and met 48 persons including representatives of 18 organisations involved with the sport. These meetings were conducted over a period of eight months and involved 29 separate interviews. In addition, the task force commissioned Ernst and Young to obtain factual information regarding the sport in this State.

Task force Findings: The task force has concluded that because of gross inadequacies in the current administrative structure, the sport is not achieving its true potential, particularly in light of the recent successful introduction of the National Soccer League in this State through Perth Glory. There will be significant benefits to the State and the community generally if soccer were to achieve its full potential - if only because it is seen as a "world game".

After examining the submissions and conducting the interviews, the task force is of the opinion that SAWA should be disbanded. The task force concluded that SAWA has never really achieved the purpose for which it was established and is now so discredited among most of the stakeholders in the sport that it cannot be restructured. The task force advocates the existence of a body separate from, and fully independent of, the various stakeholders to both control and manage the sport in this State. It proposes that a new incorporated association known as Soccer Western Australia be established to promote, control, manage, develop and encourage the sport of soccer, including indoor soccer in this State. It should be noted that many of the existing and successful clubs had indicated to the task force that they support the introduction of a structure of the kind that the task force recommends.

The recommendations are -

- (1) That SAWA be abolished and replaced with a newly incorporated association to control and manage all aspects of the game in this State.
- (2) That the new association be known as Soccer Western Australia.
- (3) That Soccer Western Australia be the sole Western Australian affiliate of Soccer Australia.
- (4) That the members of Soccer Western Australia consist of five persons. The initial members of the association should be those nominated by the Minister for Sport and Recreation in consultation with the Chairman of Soccer Australia or his nominee.
- (5) That the affairs of Soccer Western Australia be managed by a board of directors consisting of all five members of the association.
- (6) That the members of Soccer Western Australia - and therefore of its board of management - should have no previous connection, direct or indirect, with any of the stakeholders in the sport of soccer in this State.
- (7) That members of Soccer Western Australia should retire after three years but be eligible for reappointment.
- (8) That vacancies in membership of Soccer Western Australia be filled by the board of management.
- (9) That the existing clubs, rather than the existing associations, be affiliated with Soccer Western Australia.
- (10) That the constitution of Soccer Western Australia make provision for an unincorporated body known as the Soccer Council to advise the board of Soccer Western Australia on matters relating to the control and management of soccer in this State.
- (11) That the Soccer Council comprise two representatives of those associations currently members of SAWA - whether ordinary, affiliated or National Soccer League members - and any other association of clubs, players or other interested persons approved by the board of Soccer Western Australia.
- (12) That Soccer Western Australia establish a professional secretariat staff, including the employment of a full-time chief executive officer with business and management expertise, to manage effectively and responsibly the affairs of Soccer Western Australia
- (13) That the State Government suspend further financial assistance to soccer in this State unless and until the recommendations contained in this report are put in place or at least an undertaking is given by the key stakeholders to implement the recommendations.

Summary: This review has been conducted responsibly and professionally. It was carried out with the agreement and cooperation of the key stakeholders in the sport. Soccer Australia has been involved in the review process and was invited by the task force to comment on the proposals before the report was finalised. Soccer Australia indicated that it reviewed the report in a positive manner and is looking forward to its successful implementation.

The report provides guidance to the State Government and those involved with the sport about the direction of soccer in Western Australia to achieve its true potential. I seek leave to table the Western Australian soccer review task force's Review of the Administration of Soccer in Western Australia.

Leave granted. [See paper No 546.]

PROSTITUTION BILL 1999

Committee

Resumed from 8 December. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 6: Seeking client in public place -

Progress was reported after Hon Norm Kelly had moved the following amendments -

Page 5, line 14 - To delete the words "in any other case" and substitute -

if the offender is not the prospective prostitute

Page 5, after line 14 - To insert the following -

(c) in any other case, to a penalty of \$2 000.

Hon NORM KELLY: I seek leave to withdraw the amendments. Members will have received a yellow sheet of paper that contains the amendment I will move as a substitute.

Amendments, by leave, withdrawn.

Hon NORM KELLY: I move -

Page 5, after line 14 - To insert the following paragraph -

(b) if the offender is the prospective prostitute, and (a) does not apply, to a penalty of \$2 000.

This clause is very confusing and difficult to understand fully. I made it clear last night that we want to ensure there is a differentiation between the penalties for sex workers and those for pimps or touts, and I believe this amendment achieves that aim. The amendment needs to be read in context with other provisions in the Bill. When we consider the offence dealt with by clause 6, and the level of proof and the police powers associated with this clause, we realise that we are putting in place quite serious penalties which could be applied against a person who is simply loitering in an area and is unable to substantiate why he is in that area. Clause 54 provides that, in some cases, intention shall be presumed and it specifically relates back to clause 6(3)(b), where the person is presumed to have had an intention unless the contrary can be proved. Members can see that the clause reverses the onus of proof significantly, especially given the penalties.

Hon N.D. Griffiths: Would this not be a reduction of the Police Act penalty where a prostitute is liable to a penalty of six months in prison for a similar offence?

Hon NORM KELLY: That would be the case and the reason is that the alleged offender is required to prove another purpose for loitering in a place. It can be very difficult to provide sufficient proof of another reason for being in a place. This also relates to clause 27. I need to touch briefly on these other clauses because of the impact they have on clause 6. Clause 27 relates to detention, search and seizure without a warrant. If we combine all these factors -

Hon N.D. Griffiths: Hopefully we will not have to.

Hon NORM KELLY: It is in the Bill at the moment. If we combine all these factors, we realise that a police officer can search a person. For example, if a person is carrying condoms, that fact can provide some level of evidence against that person. That is totally counter to good public health practice. We are very concerned that the penalties contained in this clause are too extreme. I repeat, we want to differentiate between pimps and touts, and prostitutes. I believe this is an effective way of doing that without lessening the intent of the Government.

Hon PETER FOSS: We must take into account a number of issues here. I am checking one point and that is whether, as a result of this amendment, it would remain a sentencing matter rather than an element of the offence. If it becomes an element of the offence, we would have to prove beyond reasonable doubt what the person was doing; whether she was soliciting on her own behalf or on another person's behalf. I will check this and I will let the member know the result shortly. We will assume at this stage that it is a sentencing matter.

One of the difficulties in these situations is determining what will be the effect on human behaviour as a result of making a differentiation. There is no doubt that as soon as we provide a boundary in an area of the law affecting people's behaviour, certain changes in behaviour will result. Unlike this Bill, much of our legislation has nothing to do with human behaviour.

The Government has a number of concerns. First, this amendment may well lead to an increase in the number of female pimps. A female pimp would be subject to a lesser penalty than a male pimp acting on behalf of a female prostitute simply because she could always say she was not pimping but soliciting. Second, it may also lead to a male's saying that he was not pimping but soliciting. The net effect is unlikely to be a change in behaviour other than that which is offered up to the court. The goal we are seeking - that is, to differentiate between pimps and prostitutes - could be thwarted and we might see a simple adjustment of the evidence as it goes before the court. That would be an unfortunate result. Third, I do not believe that monetary penalties are sensible in the area of prostitution. If we were to make this distinction, we would be better off with a penalty of six months' imprisonment rather than a fine of \$2 000.

Hon N.D. Griffiths: We are not inclined to support this.

Hon PETER FOSS: If we impose a monetary penalty, we will simply encourage the prostitute to go back to the street to earn the money to pay it. It would be counterproductive. Although I understand the intent of the amendment, the issue would be better handled by the court, and it is easily handled by the court. We would also find a wide range of factual situations. The example was given of a bloke going out to find a prostitute for a mate's bucks party. I do not necessarily approve of that, but it is not beyond possibility. It is very different from the activities of that prostitute's regular pimp. It should be left to the court to make that distinction.

Hon Norm Kelly: That is covered in clause 5.

Hon PETER FOSS: In what way?

Hon Norm Kelly: It refers to seeking a prostitute.

Hon PETER FOSS: Seeking a prostitute for another person is covered by clause 6. Even though I say it myself, if we too finely divide the criminal law, we are trying to take over the role of the courts.

Hon N.D. Griffiths: Those words will come back to haunt you.

Hon PETER FOSS: I know the context to which the member is referring and I am happy to defend that situation.

Hon N.D. Griffiths: Do it on another occasion.

Hon PETER FOSS: I think those words are coming back to haunt other members who have said it is something we should leave to the courts.

Hon N.D. Griffiths: You have a very haunted look.

Hon PETER FOSS: No, I do not; I am happy to make the distinction. I do not think this is a good amendment. Although

I understand the concept, as would the courts, perhaps a sound statement of parliamentary intention that we hope the courts will deal with pimps more severely than they deal with pimps' clients would be of more use than trying to subdivide the legislation.

Hon NORM KELLY: I appreciate the Attorney General's comments. However, having it in the statute rather than as a comment during the committee debate of the Bill is a much clearer statement of the Parliament's intent. Yes, I agree that it can influence the behaviour of pimps and prostitutes in these situations, but surely it comes back to the evidence that is presented to a court and for a magistrate to decide upon that evidence whether a person may have been the pimp or the prostitute in a particular case.

For those reasons, I feel strongly that we should have that delineation. I have said over the past couple of days that a monetary penalty is not necessarily the best penalty to have in place. However, we want to make sure that we are not sending prostitutes to jail for the reasons that I covered in detail during the second reading debate. If that means that on occasions a pimp may end up with a monetary penalty rather than a jail term, that is probably a far better situation than the reverse, when prostitutes may receive custodial sentences.

Hon PETER FOSS: I have had my attention drawn to section 7(3) of the Sentencing Act, which states that if there is a greater penalty in particular circumstances, the greater penalty applies only if the circumstance is charged and proved. Therefore, if we were to make that distinction, we would then have to charge and prove it as an element of the offence. I think that would be undesirable. I prefer the situation in which the act is made unlawful, people are then convicted of it, and they can argue in mitigation that they were not pimps; they were prostitutes soliciting on their own behalf. That would be a better situation.

Hon NORM KELLY: I do not have the Sentencing Act with me, but would that run counter to the other provisions in this Bill concerning the evidentiary base of the reversal of the proof and having to prove otherwise?

Hon PETER FOSS: No. For instance, if we wanted to convict a person under clause 6 - that is, when the person whom the offender seeks to be a prostitute's client is a child - we would have to charge and prove that the person was a child. The difference with this is that if we were to make the distinction between a pimp and a prostitute, in the charge we must say that being a pimp or being a prostitute did this, and then prove that element beyond reasonable doubt. I think that poses a problem.

Amendment put and negatived.

Hon NORM KELLY: I want the Attorney General to perhaps go through subclause (4) and to explain its ramifications, because it is a difficult subclause to read in its entirety. I would like clarification of that aspect.

Hon PETER FOSS: Clause 6(4)(a) states -

whether or not the offender, or any particular person, is the prospective prostitute;

If a person is pimping, one does not have to prove the particular prostitute for whom the person is pimping. Therefore, if a person is pimping for a prostitute, it is enough that that person pimps. We do not have to also prove for whom that person is pimping or that the person is pimping for anybody. That is fairly important, because one reason that a person may be using a pimp is so that we do not know who the particular person is who is a prostitute. If that provision was not included, a person could just say, "Yes, I am pimping, but I did not actually have a prostitute. I was doing it on spec." That would be one answer to that.

Hon N.D. Griffiths: Auction off the client.

Hon PETER FOSS: Yes. Clause 6(4)(b) states -

whether or not a particular person is sought to be a client;

If a person is seen to be pimping, frequently what we will want to do is to say that that person approached several men in the street. One does not necessarily have to prove whom the various men were that that person approached. The evidence was always that a woman was observed, she was loitering in the street for a significant period, and she was observed over a time continually approaching males in the street. That would be the evidence put forward and one would not have to say that she approached males X, Y and Z in order to prove who the particular clients approached were. This is again going back to the more general aspects of the Bill as it currently stands in clause 6(4)(c) which states -

whether the offender makes or intends to make the invitation or request directly or through someone else to, or intends to receive the invitation directly or through someone else from, the person whom the offender seeks to be a prostitute's client.

Even if one makes an indirect approach by going to X and asking them to be a client, it does not matter that one has not approached the person one is seeking to be the client, if the approach is made through an intermediary. It picks up the current law which may not be expressly stated in the statute, but the law which I understand has been held over a period of time to be how that particular provision operates.

Clause, as amended, put and passed.

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

Hon N.D. GRIFFITHS: Clause 7 is headed "Seeking to induce person to act as prostitute", and it sets out a number of activities that such a person should not engage in. I move -

Page 6, line 15 - To delete the line.

That will delete the words "do anything else, or refrain from doing anything.". It seems to me that what is set out in paragraphs (a), (b), (c), and (d) does the job; paragraph (e) goes too far and it lacks precision, particularly when dealing with something that can lead to a penalty of 10 years' imprisonment.

Hon PETER FOSS: I urge reconsideration of this amendment because I think that in some ways one could almost do the reverse; that is, to say a person is not to do anything or refrain from doing anything, with the intention of inducing another person who is not a child to act, or continue to act as a prostitute. I think the statement is there; paragraphs (a), (b), (c) and (d) are particulars which may be unnecessary. I will give some examples as to some of the things that are currently done. The classic example currently used - I suppose we could put it in but it will not be the end of the things that can be done - is that a number of Asian women who have been brought into the country have had their passports taken from them by madams with the intent that they will not get them back until they have paid back the money that was used to bring them into the country. Some white slavery provisions have been brought in by the Federal Government and it has asked us to cover those with complementary legislation in this State. To that extent, some of these things will be covered by the white slavery provisions when the uniform legislation eventually comes forward. We do believe that these things can have a number of manifestations and, therefore, we ask that the Opposition reconsider the amendment.

Hon NORM KELLY: The most important part of subclause (1) is -

with the intention of inducing another person who is not a child to act, or continue to act, as a prostitute.

With the inclusion of subclause (1)(e), one must still meet the criteria of inducing another person. The Democrats believe that even though this sounds like a catch-all, it may be intended to be a catch-all with the proviso that one will have to prove in court that the offence was committed with the intention of inducing another person.

Amendment put and negatived.

Clause put and passed.

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

Hon NORM KELLY: The Democrats will be voting against this clause for the reasons we have expressed over the past couple of days. As much as we feel that these types of offences need to be legislated for, we believe there are already sufficiently widespread provisions in the Criminal Code and the Health Act. We do not feel it is appropriate to have these provisions in this Bill. We would welcome the opportunity to revisit the issue if the Government introduced a Bill to deal with the sex industry in this State in its entirety. The Government has stated that the intention of this Bill is primarily for matters such as child prostitution and streetwalking. For those reasons, we will be opposing this clause.

Hon PETER FOSS: I will make a distinction between some of the things which were said earlier and this clause. Members have referred to section 310 of the Health Act but that deals only with venereal disease; it does not deal with diseases such as HIV and chlamydia which are apparently not seen as being venereal diseases. The Government does not believe that section covers the same ground as this clause. The point the member made about the inappropriateness of that legislation so far as the prostitute is concerned is different from this clause which deals with a person carrying on the business of prostitution. I do not believe that one can say this is a health matter so much; it is a matter of inappropriate conduct. I accept Hon Norm Kelly's point so far as clause 9 is concerned but I see a significant difference between clauses 8 and 9. I do not accept the argument, but having followed the member's logic I can see its application to clause 9. I can see that there are two points of view on that and that is acceptable. However, clause 8 is different from clause 9 because it is not so much dealing with a health issue as it is inappropriate behaviour on the part of a person in the business of running prostitution. One must make a distinction between the people involved in prostitution as clients or prostitutes and those running the business of prostitution, which is a different matter.

I return to the point I made earlier: I believe that at the moment this is the best practice in the industry. The problem now is that the people being penalised are those who are following best practice because they are losing the clients who do not approve of the strictness of the people who run orderly disorderly houses.

Hon Norm Kelly: They are very orderly.

Hon PETER FOSS: Yes. We have that problem and while I understand the member's intent and the reasoning behind his health argument, I believe this clause is distinguishable from the other.

Hon N.D. GRIFFITHS: The Australian Labor Party also opposes this clause. I do not want to go through the reasons which have already been stated, but the fact is that we have a regulatory regime under the Health Act. We also have provisions in the Criminal Code. There are serious concerns about issues of public health. I note that a submission provided to members by the Australasian College of Sexual Health Physicians deals with this matter. Taking all those factors into account, and without unduly delaying the Chamber, what the Attorney says does not quite deliver the goods.

Hon LJILJANNA RAVLICH: By the nature of the business of prostitution, this clause, particularly under subclause (1)(b), has the potential to catch out every madam in the State. One needs to ask how is a madam or brothel owner expected to know on the one hand that a sex worker has a sexually transmissible infection while on the other hand one could reasonably assume that given the nature of the business there is a high probability that a sex worker might have a sexually transmissible infection. My other concern is with subclause (2) under which it is a crime if the prostitute's sexually transmissible infection is a sexually transmissible life threatening infection. One of my concerns about that is that although some infections may not be deemed to be life threatening in the first instance, there are cases in which, if not treated, they may be life threatening.

The question of how one defines "life threatening" is interesting. The other day it came to me that in some circumstances the health of an individual will determine whether a disease is life threatening or not. People with low immune systems due to a whole range of illnesses may find hepatitis C more life threatening than it would be for somebody in a good state of health. Therefore, I have grave concerns that the definitions in this clause could be subject to misinterpretation. The provision of 14 years' imprisonment is very heavy-handed. I do not know how much people get for murder or manslaughter.

Hon Peter Foss: Life.

Hon LJILJANNA RAVLICH: Life for manslaughter?

Hon Peter Foss: That is the sentence.

Hon LJILJANNA RAVLICH: I feel that 14 years is pretty heavy-handed. There is also the question of the window period; in other words, it could be argued people who have performed a sex act with somebody they do not know, and even if they do know them, always face a risk when engaging in sexual activity that they may have contracted a sexually transmissible disease. Some of the work of the Standing Committee on Ecologically Sustainable Development comes to mind, because on the ESD committee we talk about the precautionary principle. In this case, the precautionary principle would advocate that the best way to ensure there is absolutely no risk is that we do not have sex at all - but that is not on, according to my colleagues! If the definitions are taken to their absolute extreme, they may cause severe problems for some individuals.

Hon GIZ WATSON: This clause causes the Greens(WA) a great deal of concern, and we support its deletion.

Hon Greg Smith: Use a precautionary approach.

Hon GIZ WATSON: The precautionary principle is a good one. Basically we do not think this is the way to deal with this aspect. I note some comments made by the Family Planning Association Western Australia on this clause. It thinks along the same lines as we do. I will quote from some notes it provided to me on the Bill on 26 November. On this clause it says that there are problems with the burden of proof, privacy and confidentiality issues associated with the clause. The notes read -

This says as a business owner (sex work) you must be privy to medical records/serostatus of your employees/subcontractors and you are responsible for the sexual health of your workers. Individuals are responsible for their own sexual health. This goes against Ottawa Charter for Health promotion. Leaves everyone wide open to discrimination/exploitation/corruption (lying, forgery, blackmail). In addition neither an owner nor a worker can know whether or not the worker is "STD free" as this ignores the "window period" for all STD's and HIV - where the evidence of infections does not show up for 10 days to 6 months. Even with daily testing there is no guarantee of proving "infection free" or sexual health status.

As Hon Nick Griffiths has pointed out, the Australasian College of Sexual Health Physicians has made similar comments and has raised the issue that it would discourage testing or treatment. I am aware of one recommendation about preventing sex workers spreading sexually transmitted infections, which has come up in discussions on prostitution; that is, to make it an offence for a client to ask for sex without the use of condoms. We do not have that kind of a provision in this Bill, and I think that is wrong. This kind of provision sends the right message: It puts the onus on the client not to be placing either himself or the sex worker at risk. It is consistent with the messages about safe sex. I would like to see sexually transmitted diseases tackled by a provision in this Bill with a very strong penalty for anybody who persuades a prostitute to have unprotected sex. That would do a lot more to reduce the risk of infection than this approach, which is counterproductive.

Hon PETER FOSS: I suggest Hon Giz Watson may like to give notice of a new clause for that purpose. I will take the member through some amendments on the Supplementary Notice Paper because they answer her concerns entirely. On page 9, an amendment deals with evidentiary provisions, and refers to page 37, line 12 of the Bill; that is, clause 55(1) which states -

If a person acted as a prostitute while the person had a sexually transmissible infection, the person is to be conclusively presumed, for the purposes of section 17, to have known at the time the person acted that the person had the sexually transmissible infection unless it is proved that at that time the person believed on reasonable grounds that the person did not have a sexually transmissible infection.

It is intended to add after the word "person" in line 12, the words "had been undergoing medical examinations in accordance with subsection (3); and". Then subclause (3) would be added, which states -

A person undergoes medical examinations in accordance with this subsection if the person has -

- (a) regular blood tests, on at least a quarterly basis, for each sexually transmissible infection for which blood tests are appropriate; and
- (b) regular swab tests, on at least a monthly basis, for the purpose of detecting the presence of any other sexually transmissible infection.

I have picked up the point that has been raised and I have suggested an amendment for that purpose. It does not say that a person must have tests; it just says that if a person has them, that presumption goes. As the member has mentioned, if a person has had a regular blood test, he or she may have had no way of knowing, or if a person has a regular blood test and that person is told, that person has no excuse. That is the appropriate balance to put in the Bill. Rather than continue with the comments that were made in light of the original Bill, I want members to look at it again in light of the amendments that I have put on the Supplementary Notice Paper. I believe they give the incentive to which the member is referring. The prostitutes who observe the police rules have regular monthly tests, and it is not a problem.

Hon N.D. Griffiths: Are these rules written down anywhere?

Hon PETER FOSS: I do not know. It is just a policy.

Hon N.D. Griffiths: Is the policy arrived at by word of mouth or is it written down? I would like to see a copy of it.

Hon PETER FOSS: I do not know. If we put it in the Act, it will be written down. It would be preferable to have it written down in the Act rather than as a policy of the police. It would then bind everybody, not just the people who want to observe the police policy.

Hon Ljiljanna Ravlich: If we accepted the proposed amendment, what would happen in the event, for example, that those who are not tested quarterly then used the excuse that had they been tested, they could have reasonably expected to know whether they had an infection? However, the fact that they were not tested means that they are in a sense -

Hon PETER FOSS: Culpable. It is saying that the people who have their regular tests either have no way of knowing or were told. The people who do not have their regular tests can hardly complain if they did not take reasonable precautions. That is important because there is a well-known concept in law called recklessness, and we frequently put that in the law. Recklessness means that a person does something with reckless disregard of it; that is, the person makes sure he or she does not know. A classic example is when people say, "If I go that way, I might find out something." They purposely do not find out and that is called reckless disregard. I think I have addressed the concerns that everyone has expressed; that is, how can we tell in that period and is this not a dissuasion for people to find out. I accept those criticisms and have sought to address them with the amendments to page 37 which I have suggested. In that way, there will be a strong incentive for people to be tested. It is not compulsory. There have been a number of arguments for me to make it compulsory. There is an enormous incentive to be tested, because if a person is tested regularly, he or she is not left in the situation of being caught. If we make the distinction between the two clauses - again I come back to the issue of clauses 8 and 9 - there is a big difference between a person in business and the individual prostitute.

I now come back to Hon Ljiljanna Ravlich's point. She asked how people know which diseases are sexually transmissible. We took out the definition, which made it clear that the only diseases which were sexually transmissible or sexually transmissible life-threatening ones were those which were prescribed by regulation. These could not be passed unless the executive director of health agreed to them. The Government ticked all the boxes to make sure they were covered.

I make a particular plea to members: If they wish to make a distinction, first, do not knock out the clause. If members are unhappy with the penalties, suggest changes. I have placed on the Supplementary Notice Paper alterations to the resumption clause, and I am happy to look at the amendment further, if necessary, to try to make the distinction; in other words, to protect those people who have regular medical checks as opposed to those who do not. In retaining clause 8, the legislation will deal only with those in the business of prostitution, not the health of prostitutes. One can make a distinction. The provision will deal with people who run a business for prostitution, and state that they also have a responsibility.

I am happy to entertain an amendment in a new clause to deal with that matter, which, to be frank, is a problem. Some madams put pressure on prostitutes to accede to the demands of clients not to use condoms, but sex workers in well-run brothels are not asked to operate in that way. We are fortunate in that respect, as I do not think that practice applies in a number of places. In this Bill we should try to address the unscrupulous operators. I do not disagree with the comments of Hon Giz Watson - I am meeting them. Please make a distinction between clauses 8 and 9. If the member does not like the penalties in clause 8, I am happy to look at alternatives. I might have no choice. I suggest the best way to address those matters is to look at the penalties. Also, that matter can be dealt with in other provisions through amendments I have placed on the Supplementary Notice Paper. We can discuss whether Hon Giz Watson is happy with the exact wording when the Committee considers them, but at least we have the capacity to deal with the unscrupulous brothel owners creating problems not only for public health, but also in the exploitation of prostitutes.

Hon N.D. GRIFFITHS: The Attorney General's words make it clear that this provision has nothing to do with streetwalking and kerb crawling. It applies to wider aspects of prostitution. He has caused amendments to be placed on the Supplementary Notice Paper very recently, which smacks of making legislation on the hop. These are serious matters which require serious consideration. It is not reasonable for the Attorney to refer to the policy, and then not to provide the details of that policy. Every member of Parliament and the community of Western Australia would like the detail of the policy the police say they use to deal with prostitution. Will the Attorney make it available in a written form so we can scrutinise it? Does it exist? Some interesting cases have appeared before the courts in recent times.

The Attorney made observations on this aspect of knowledge and having regard to the state of affairs. Hon Giz Watson made reference to the submission from the Australasian College of Sexual Health Physicians. I also referred to that document when we had an audience in the Chamber of less than mature years, during which time parliamentary speech was inhibited to a degree. I make reference to the submission because it relates to clause 8 and provides the following commentary on clauses 8 and 9 -

- a. Often diseases are asymptomatic, particularly in women, and it is often impossible to know one's own status or that of an employee or a sexual partner, without testing and subsequent knowledge of test results. If having a sexual transmitted infection becomes a criminal offence for clients, sex workers, or employers, it will be impossible to know without proof, i.e. police surgeons may need to take tests on many patients.
- b. A person's status can change rapidly according to whether they are having further exposure to other sexual partners. A result of a negative test may only be accurate up to the next sexual exposure.
- c. Most members of the public or clients of sex workers do not have regular tests and cannot be expected to know their status of an STI.

That is, a sexually transmitted infection. To continue -

- d. As it takes a week for results to come back no one knows for sure for at least a week - and then the results are of that person 1 week previously. If they have been exposed many times since, the situation may well have changed. Neither the individual, employer, doctor, or client could know their current status at any one time.

This is the crucial part of the submission.

- e. It appears the proposals will discourage testing and their treatment. If you don't have testing then you can't have any knowledge that can lead to prosecution. In our opinion the Bill should be aimed at improving the health of prostitutes, clients, general community and encourage regular testing, and protected sex.

This Bill does not do that. According to the opinion of these professionals, the Bill will put at risk a public health regime. The Government has not presented a significant point of view that the Health Act arrangements are not working. If they are not working, we should be informed. We should have been informed by way of a ministerial statement some considerable time ago. For those reasons and for the reasons previously mentioned, the Australian Labor Party remains opposed to this clause. I ask the minister to provide details of the policy that he says the police rely on, as that is a relevant factor in our deliberations. The public have a right to know. I am tired of this State being run behind closed doors.

Hon PETER FOSS: The policy is not written down. It is extraordinary that it has been observed for many years. Prostitutes - certainly those in Kalgoorlie - have been going for regular checkups. I agree with Hon Nick Griffiths that it is better that the policy be written down. That is one of the reasons that the Government is seeking to write it down in this Bill. If the member thinks that prostitutes should have quarterly and monthly checks, why not say so in the legislation? The provisions in the Bill, plus the amendments I have already put on the Notice Paper and have indicated to Hon Giz Watson, will do just that. For the first time, the policy will not only be in writing but also on the statute book as a strong inducement for a person who is engaged in prostitution to have regular health checks. Most importantly, the penalty will be placed on the madam and not on the prostitute. That is the area in which we move from a health matter to a criminal matter.

I would agree with Hon Nick Griffiths that requiring prostitutes to have regular checks otherwise they will be penalised could be a deterrent. However, when we say that the people who run a prostitution business have an obligation, that is a matter of business regulation, and that is appropriately contained in this legislation. I am happy to include a suggested new clause from Hon Giz Watson which will go neatly in place of the current clause 9 to deal with the issue of participating in an act of prostitution when a prophylactic is not used. I ask members to preserve this clause. It is an important and key clause in dealing with the problems in the prostitution industry. Madams, of all people, should not benefit from this legislation. We all agree that the position of prostitutes is different from that of the madam, and the position of pimps is different from that of the prostitutes. I would hate to see anything legislated that took away a major inducement to people who run brothels to run them properly and in accordance with the provisions for regular health checks.

Hon GIZ WATSON: I am following this debate with interest; it is a key issue. However, I remain unconvinced. The motivation to have safe sex and to avoid transmitting disease is very much with sex workers. As has been mentioned in this debate before, Western Australia has the lowest incidence of transmittable diseases among sex workers. That tells me that the current policy is working. I am still concerned that this clause will operate against that good record.

How will this additional change deal with the "window" period in which someone does not know whether they have, for example, HIV?

Hon PETER FOSS: One of the reasons for the State's low incidence of STDs is that the police have been insisting on regular health checks. I would hate to think that we were throwing out that concept or could not enforce it on people outside the containment policy. It is important to understand that a large number of brothels are known as non-contained brothels. The police are concerned that the madams of those brothels are not requiring the girls to have regular health checks. Although there has been a low incidence of disease under the containment policy, we must recognise that containment is failing. We are fortunate that the contained brothels are still operating under that policy, but they will soon be outstripped by those that are not contained.

As Hon Nick Griffiths said, it is time some of the rules were written down in legislation.

Hon N.D. Griffiths: Do you believe they are not written down?

Hon PETER FOSS: I understand they are not. However, it is important that we try to make this point. It deals with the "window" period. The point I am making is that if the girls have regular health checks the presumption that they should have known about a disease will be eliminated. I have tried to address that very point.

I believe that all the points Hon Giz Watson made will be addressed by this amendment. While the girls have regular health checks, any suggestion they should have known about a disease will be eliminated, not only as a matter of law but also as a matter of fact. A person will be able to say, "I have regular health checks, how could I therefore have ascertained I was subject to an incubating disease?"

It is important that we preserve the very good record we have to date, which is addressed. Substantial amounts of money are being offered outside the contained brothels for people to have sex without prophylactics. If that continues, there is a strong chance we will lose that record of low incidence of STD, particularly in the brothels in which the rules we are seeking to put into the statute now are not being observed because containment has broken down.

We are trying to address a number of major problems: Child prostitution, streetwalkers and these important health problems. If the non-containment brothels become too popular because they are prepared to offer unprotected sex, which causes the spread of disease, it will be too late, and it will be the wrong time to do anything about it. We should do something about it now.

The principle is not wrong; it is already being observed among those brothels that observe the containment rules. It has been a good and effective rule and it should become a statutory rule rather than one being enforced on a traditional basis.

Hon NORM KELLY: The Attorney General's arguments would be much stronger if he had introduced legislation to deal with the regulation of businesses in the sex industry. This legislation falls apart because we are dealing with it very much on an ad hoc basis. Why is the Government putting in these provisions? I would love to see some of the earlier drafts of the Government's Bill as they may give an idea of what may have been. However, it is obvious, by the proposed amendments to include regular testing referred to by the Attorney General, that the Government is considering using provisions from an earlier draft of the Bill. Piece by piece, if they work long enough and hard enough they may be able to get the whole damned Bill into the House to debate!

Hon Peter Foss: You'll be lucky!

Hon NORM KELLY: There are problems with the Attorney General's foreshadowed amendments to clause 55 of the Bill relating to regular testing. One of the problems that the Australian Democrats have with quarterly blood tests and monthly swab tests is that the provision does not take into account the current procedures and the reality of what occurs in the sex industry. I will refer to the current procedures of the sexual health clinic of Royal Perth Hospital and its screening protocols for sex workers. Those protocols are similar to those in the Attorney General's amendments on the Supplementary Notice Paper.

Those protocols call for four-weekly swab tests, 12-weekly blood tests and 12-monthly smear tests. They also address the issue of condom use so that if there has not been one hundred per cent condom use, sex workers must have two-weekly swab tests. There are also protocols for testing in cases of condom breakages. These procedures are already occurring on a voluntary basis in the sex industry and in a good proportion of brothels, whether or not they are working under the containment policy. If the Government is willing to introduce legislation to deal with the regulation of those houses, it will make it far easier to implement health initiatives and procedures when dealing with the entire sex industry.

Another failing of the Attorney General's amendments is that they do not make provision for workers who work in a house for the first few weeks. His amendments refer to monthly swab tests, but they do not refer to an initial swab test before a sex worker starts working. That is something that should be considered. Often workers who have a disease and who wish to work in these houses will be told by a madam that they are required to be tested. However, there may be a period of a few weeks when that worker is allowed to work before undergoing a test. If a worker is aware that she has a disease, she will work for a few weeks, earn her money and move on to another house. She will then again go through the same procedure of being able to get a few weeks' work before a madam cracks down and says, "No, you must get your test done within a certain time; your time is up; we do not want you any more." As I said, there are holes in the Attorney General's amendments, although they may work towards improving the Bill. They are an example of making legislation on the run rather than introducing what may have been a beautiful draft of a Bill which we could have dealt with.

Hon LJILJANNA RAVLICH: I find this quite confusing. I understood this legislation was introduced to deal with two specific issues; that is, street sex workers and kerb crawlers. However, it deals also with the activities of madams in brothels. It is confusing because the changes proposed by the Attorney General by adding a subclause at page 37, after line 24, make it mandatory for a person to undergo medical examinations. The provisions in the proposed amendment should be compared with the reason given for this clause, which is to ensure that there is no excuse for a madam or a sex worker to not reasonably expect to know the sex worker has a sexually transmissible disease. The Bill alludes to the Government wanting to ensure that all sex workers undergo compulsory, regular testing. The Government has not been so bold or honest as to say that; however, the clause and the proposed amendment say that sex workers will be legally okay if they undergo testing. If the sex workers do not take the tests and are found to have passed on an infection, they can be charged because they could reasonably have been expected to know they had a sexually transmissible disease at the time. Why has this legislation gone from simply covering street sex workers and kerb crawlers to including brothels? If the intent of these clauses is to make it compulsory for all sex workers in the State to undergo regular medical examinations with blood tests and other swab tests, why did the Government not make that compulsory?

Hon PETER FOSS: Everyone agrees that testing should not be made compulsory. One of the clear messages from the sex industry was that it did not want testing to be compulsory. We do not mind the tests being something sex workers are expected to do, but we think it is counterproductive to make them compulsory.

Hon Ljiljanna Ravlich: The clause effectively makes the tests compulsory.

Hon PETER FOSS: I know that. However, people prefer the clause to be written this way. If sex workers have regular health tests, it is reasonable to believe they do not have a disease if the tests show that. However, if a test shows that a sex worker has a disease, one cannot reasonably believe the worker does not have a disease. The clause sets up a factual regime whereby it is hard to have a reasonable belief if sex workers do not undergo the tests. It is easy to have that reasonable belief if they undergo the tests. The Government is trying to address the concern raised by Hon Giz Watson that it was easy for people to bury their heads in the sand and pretend a problem has not occurred. The Government is trying to alleviate that concern. However, everybody has said that the tests should not be made compulsory. One of the reasons for that is financial; prostitutes do not want the health tests to be compulsory because then they cannot be claimed on Medicare. I do

not object to that. I cannot see any particular concern if prostitutes think it is easier to claim health checks on Medicare. The clause gives sex workers a considerable incentive to undergo the tests. There already is an incentive; that is, the police say that people working in a contained brothel must have the tests. That is exactly what happens. The Government is not imposing any penalty on prostitutes who do not have the tests, especially if clause 9 is deleted. Clause 8 deals only with the madams. The Government is not saying that prostitutes are committing an offence if they do not have medical checks or if they have sex without a medical check. It is telling the madams that they should be employing only those prostitutes who they know have been having regular medical checks, in accordance with my proposed amendment.

Hon Ljiljanna Ravlich: This does not address the hard end of the problem. The madams are more likely to send their workers for regular checks. The street workers are less likely to have the checks.

Hon PETER FOSS: That is included. I am not proposing to delete clause 9. It deals with that issue and we are debating clause 8. The objection to clause 9 has come from the other side of the House. If the member holds to the view that she has just expressed, when we get to clause 9 she can support it. I am simply trying to retain what I think is a very important provision relating to madams. I will be happy to retain clause 9 as well, and I will gladly accept the member's support in doing so. However, at the moment the indication is that members opposite intend to delete clauses 8 and 9.

I would like to retain clause 8 because it addresses Hon Norm Kelly's distinction between health issues and prostitutes looking after their own health and running a business of prostitution. I am happy to make that distinction if I can retain clause 8. If I can retain clauses 8 and 9, that will be fine.

Hon N.D. Griffiths: This is not the way to deal with these important issues.

Hon PETER FOSS: It is. I am happy to keep my entire legislation.

Hon N.D. Griffiths: It is not going to happen.

Hon PETER FOSS: If members opposite gut the legislation, they must take responsibility for doing so.

Hon N.D. Griffiths: Your minister in the other place misled the other place just as you have misled us.

Hon PETER FOSS: If that is the intention of members opposite, they must take responsibility for doing so. The Government earnestly believes that important health considerations must be addressed. Members in the other place said and still say that they support these measures. I will try to ensure that this House passes what I believe is appropriate legislation. I hope members are prepared to accept that I have addressed their concerns because I sincerely want to retain an important part of this legislation. If it means I lose another part, so be it, and we will deal with that outside this House. I have tried to address the concerns raised by Hon Norm Kelly and Hon Giz Watson by saying that, if we retain clause 8 and the amendments I have suggested to the presumption clause, we will end up dealing with the matters they want dealt with and the concerns that they have expressed. That is what I have asked for and it is for that which I seek members' assistance.

Hon NORM KELLY: The Attorney General would be more successful in his argument if he were to provide evidence of the prevalence of STDs in the industry. The evidence we have been given suggests that the incidence of these diseases in the sex industry is lower than that in other sectors of the community. We are frightening the community about the prevalence of STDs in the sex industry, but to date the Government has not been able to provide evidence of that prevalence. I have spoken with a number of health groups on this matter and the evidence provided indicates that the incidence of HIV in sex workers in Australia is lower than in any other country. Likewise, the incidence of sexually transmitted diseases in sex workers in Perth is lower than it is in sex workers in other States.

Hon PETER FOSS: I do not know how many one needs. However, I understand that Mary-Anne Kenworthy spoke on the radio after some early announcements or leaks had occurred regarding this and said that she knew of six prostitutes who have HIV. I do not think we need more than one for it to be a problem, because one prostitute with HIV having unprotected sex can lead to a large number of infections. We have a fairly reasonable record at the moment and that is what we are trying to preserve. I will say it again: The reason we have had a low incidence to date has been because under the method of control currently used, prostitutes are expected to have exactly the medical tests that are referred to in the amendment I have suggested. However, it must be kept in mind that the whole process of containment has broken down. It is not in the containment brothels that we have the problem; it is the increasing number of uncontained brothels.

Hon Norm Kelly: The Government has not been willing to address the issue of containment.

Hon PETER FOSS: If Hon Norm Kelly believes that he can address it, by all means he should do so. However, we should try to address the problems we currently have. It would be lovely to do all the things Hon Norm Kelly wants to do, but that does not mean we do not do now something that needs to be done. We need to extend, from the containment brothels to the non-containment brothels, the requirement that people with sexually transmitted diseases not act as prostitutes, and the people running those brothels must be encouraged to make sure that the prostitutes have quarterly and monthly checks respectively. I cannot see the member's problem. Sure, he might like a lot more, but what is his objection to a provision that says to both the contained and non-contained brothels that their girls must have regular checks? What is the problem? How can he object to something by saying he would like to see a whole lot more? The fact is that this is the legislation before us, and we must judge the individual provisions.

How can we explain to people that we think it is perfectly okay for brothels to have prostitutes who do not have regular medical checks until we get more legislation that entirely regulates the brothels? In response to that, I say that it is not okay now and it will not be okay at any time in the future. Why not say so? This is a Bill dealing with some problems that we currently have. One of those problems is that a large number of brothels are not within the containment area, and complaints

have been made that considerable sums of money are being offered for unprotected sex in them. The possibility is that there will be an increase. Why wait until the increase occurs? Why not look back to ascertain why certain things have happened? Hon Norm Kelly knows the reason. He and other members have said what the reason is. The reason is that it has been customary for women in containment brothels to have regular medical checks. Members know that. During the course of the second reading debate, I think one member said that that happens. Yes, it is what happens in the containment brothels. Outside of the containment brothels, people are starting to be paid for having unprotected sex. Sure, to date we have a good record, but we know certain things are happening. We know that unprotected sex is occurring and we know there are non-containment brothels which do not have quite the same standards as containment brothels. Does the Opposition want us to say, "Oh, we are not going to pass that - the containment system has worked well." We know the containment system is breaking down.

Hon N.D. Griffiths: It broke down years ago.

Hon PETER FOSS: It did and we are darned lucky that we do not have a major STD epidemic on our hands. I do not know why we should feel constrained to wait until we do have one before we do something about it. Surely we know the rules that work; we know the containment policy was right in that respect. Why not put it in a statute? Hon Nick Griffiths says that he does not like having it unwritten and exercised by the police. Fine, let us write it down now in a statute.

Hon N.D. Griffiths: Do you know what the containment policy is? Get advice from your advisers and tell us what it is.

Hon PETER FOSS: I am talking about clause 8 and I am saying that that is something that up to now has been enforced by the police and that I believe is right and should be written down. I have not heard the member say that he thinks it is wrong. Hon Norm Kelly is saying that he thinks we should have a lot more; he is not saying it is wrong. Hon Giz Watson has raised some problems which I have sought to address with other amendments. I have listened to what the member has had to say and, having listened, I have been told by Hon Norm Kelly that he would like a bit more. He might do, but what is wrong with what we have here? Please, if members think it is right with the amendments I have foreshadowed, support it. If it is thought wrong, tell me why it is wrong, because the only wrong I have heard suggested is that it should be accompanied by a whole lot of other things. Maybe so, but we are not dealing with a whole lot of other things; we are dealing with this provision, which I believe is right.

Hon MARK NEVILL: I have looked at the Attorney General's amendments and still believe that health measures should be in health legislation and not in legislation administered by the police. I agree with the need for testing, but I want to move onto a bigger issue. The Supplementary Notice Paper has 70 to 80 amendments on it and it is becoming difficult for me, even with a lot of concentration, to keep a handle on what is happening. I strongly suggest that the Attorney General at some time report progress with a view to sending the Bill to the Standing Committee on Legislation; the committee is designed to do this work and I do not think we should be getting ourselves into difficulty on the floor of the Chamber by dealing with so many amendments to the Bill. I do not think that is what a plenary session of the Committee should be doing. On these sorts of issues where there is indecision, people can get good advice. I do not care what commitments people have made in public about getting this Bill through before Christmas. I think the way we are going is unwise. Even if the problem lingers for another three months, I think we will end up with a far better Bill if we report progress and perhaps refer the Bill to the Standing Committee on Legislation.

Hon PETER FOSS: I do not think the matter we have debated is strictly a health measure. One might say that of clause 9, but not of clause 8. Clause 8 deals with the running of a business and is related to the method by which one runs a business. I have accepted the concerns of Hon Norm Kelly, although I do not agree with them, and I accept that one can see clause 9 as being more appropriately placed in legislation dealing with health. Clause 8 is to do with the running of brothels which I believe is dealt appropriately with by police. It will be brought into effect only after someone has been infected. The time when the police become involved is when somebody says that he went to a brothel and ended up with an infection. The only reason one might say that it is a health matter is the very reason that the amendment has been suggested. I put it in because of the concern raised by other members, which is, should a person not be allowed an excuse if, in fact, the person has been regularly attending medical tests.

We are not prescribing medical tests; we are not saying people should have them. We are saying that if someone thinks a person should be excused, that is an excuse. If we had said that people must have regular tests and these are the regulations to deal with them, I would agree that this was a health provision because it would then become a preventive measure. However, this is not a preventive measure. This measure allows for someone to be prosecuted, as he should be, after it has all gone wrong and somebody has been infected. If a person is prosecuted, he will be found wanting if he has not observed the appropriate precautions with the women in his brothel having regular medical checks. There are differences between these Acts and it is appropriate to have both. Even if we have a separate health provision to deal with how we handle the health of prostitutes, it would still be appropriate to have a penal provision to deal with people who have not only disregarded the basic health rules but have also caused somebody to be infected. Those people should be penalised.

Hon Ljiljanna Ravlich: They might be very sexually active and they could have become infected anywhere.

Hon PETER FOSS: That is allowed for; the clause does not get away from that.

Hon Ljiljanna Ravlich: If they make an allegation against the prostitute, under this legislation she is guilty until proven innocent.

Hon PETER FOSS: No, she is not. We must still prove that that person infected that person. There are differences. We will never have a situation which will be entirely health law and another which is entirely criminal law; there must be both. The idea of saying that we will have health legislation and there will be no criminal penalties is absurd.

Hon N.D. Griffiths: We have penalties under the Health Act anyway in a number of instances.

Hon PETER FOSS: Like \$500 and \$250.

Hon Norm Kelly interjected.

Hon PETER FOSS: No, because I do not think it is appropriate to change them. We are dealing with people who run brothels. We are not dealing with the health of prostitutes but with the people who run brothels.

Hon N.D. Griffiths: You are taking a long time to make your observation so what I am about to say may sound wrong. I do not think we should legislate in haste but I think we should get a move on and vote.

Hon PETER FOSS: I agree, but I am keen to keep this clause. Members opposite will regret deleting it if they do so. They will have missed an opportunity to deal with something which should plainly be dealt with by the criminal law; that is, brothel owners should not allow their women to work as prostitutes unless they have regular health checks. If members opposite do not accept that as a proposition, and as a proposition under the criminal law, I regret that.

Hon GIZ WATSON: I do not wish to prolong this debate too long but I challenge the contention that the low level of sexually transmitted diseases is due to the police enforcing those requirements. I argue that the low level is due to the good outreach programs, the efforts of various health care professionals and the responsibility of the workers themselves who are obviously concerned about their ongoing health. I cannot buy the argument that it has worked because it is something the police have required under a containment policy, written or unwritten.

Second, what we are trying to tackle here would be covered by the new clause which has been suggested to make it an offence to not use a condom. This is unnecessary.

Hon PETER FOSS: There is a mistake here. The figures the member is using about the low level of STDs apply to containment brothels. There are no figures for people not working in containment brothels.

Hon Norm Kelly: You were just saying that this is your argument for this clause because these diseases are more prevalent in the non-containment brothels.

Hon PETER FOSS: No, the figures people know about and quote to say we have a low level of STDs in brothels are obtained from containment brothels.

Hon N.D. Griffiths: How do we know?

Hon PETER FOSS: That is where they were obtained.

Hon N.D. Griffiths: We do not know what they are. You do not know what a containment brothel is.

Hon PETER FOSS: If the member wants to be smart about it, he can make that comment. I will deal with those members who will listen to reality. The reality is that those figures relate to containment brothels. People do not know the figures for non-containment brothels. We know, principally anecdotally, that in non-containment brothels there are not regular health checks or the same scrupulousness about the use of condoms. It does not take a great stretch of the imagination to say that if one compared containment with non-containment brothels, and there is a difference between the two in that non-containment brothels do not insist on regular health checks and therefore would not know when STDs were present and they do not insist upon the use of prophylactics, one would expect, as a matter of logic, that firstly there would be a higher chance of STDs occurring in those girls, because of the higher non-use of prophylactics, and secondly, there would be a higher chance of those STDs not being detected because of the lack of medical examination. We do not know what the level is in non-containment brothels. However, we do know that the regime that applies in containment brothels works and that there is a different regime in other brothels. All we are seeking to do is to make sure that the regime applies to both containment and non-containment brothels. I ask members to support this clause.

Clause put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Ray Halligan
Hon Barry House
Hon N.F. Moore

Hon Simon O'Brien
Hon B.M. Scott
Hon Greg Smith

Hon W.N. Stretch
Hon Muriel Patterson
(Teller)

Noes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon E.R.J. Dermer
Hon N.D. Griffiths

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (Teller)

Pairs

Hon Derrick Tomlinson
Hon Murray Montgomery
Hon M.D. Nixon

Hon Tom Helm
Hon John Halden
Hon Cheryl Davenport

Clause thus negated.**Clause 9: Persons with certain health conditions not to use prostitutes -**

Hon NORM KELLY: The Australian Democrats will oppose this clause, too. I do not want to get into a lengthy debate on it, but the reasons are basically the same as those that have been expressed sufficiently in the debate.

Hon PETER FOSS: For the reasons which I think have also been expressed sufficiently, I deplore the attitude of the Opposition, the Greens (WA) and the Australian Democrats. I find it just unbelievable.

Hon N.D. GRIFFITHS: I am surprised that a member of this place, of such longstanding as the Attorney General, would reflect on the decisions of the Chamber.

Hon Peter Foss: I am talking about clause 9.

Hon N.D. GRIFFITHS: Section 310 of the Health Act contains a penal provision. The general penalty applies, as I read that Act. If this Government were doing its job properly, it would have amended the Health Act, and would not bring these sorts of measures before the Chamber in this way. It is attacking public health. For the reasons expressed before, I think the clause should be defeated.

Clause put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Ray Halligan
Hon Barry House
Hon N.F. Moore

Hon Simon O'Brien
Hon B.M. Scott
Hon Greg Smith

Hon W.N. Stretch
Hon Muriel Patterson (*Teller*)

Noes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon Helen Hodgson

Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljanna Ravlich
Hon J.A. Scott

Hon Christine Sharp
Hon Tom Stephens
Hon Bob Thomas

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Pairs

Hon Derrick Tomlinson
Hon Murray Montgomery
Hon M.D. Nixon

Hon Tom Helm
Hon John Halden
Hon Cheryl Davenport

Clause thus negated.**Clause 10: Promoting employment in prostitution industry -**

Hon NORM KELLY: The Democrats have concerns with this clause as well. I move -

Page 7, line 28 - To delete "\$50 000" and substitute "\$5 000".

In my briefings with departmental officers, I was not given a satisfactory explanation of why the penalty should be \$50 000. The only explanation I was given was that these newspapers can afford it, and that is the extent of it. When determining penalties, there should be some balance between the effect of such an offence and the penalty given. Most people working as prostitutes in the industry generally get their work not from answering advertisements in the positions vacant section but simply from word of mouth. Also, to a greater extent in the sex industry, a lot of jobs are gained from the normal community. We cannot see any justification for a higher penalty in that regard. We also have another concern with paragraph (b), which relates to seeking employment in any other capacity in any business involving prostitution. I will return to that, but I would like a response to the amendment in the first place.

Hon PETER FOSS: It is estimated that a madam will make \$95 000 a week from a brothel. One madam is making \$30m a year.

Hon N.D. Griffiths: What is the basis of that estimation?

Hon PETER FOSS: The calculation of how much she takes, the number of services given by the prostitutes and the number of brothels she has.

Hon N.D. Griffiths: From where does that data come?

Hon PETER FOSS: Apart from that, it was a figure given by a madam to the police.

Hon N.D. Griffiths: Was that madam prosecuted?

Hon PETER FOSS: No.

Hon N.D. Griffiths: Why not?

Hon PETER FOSS: I do not think there was sufficient evidence.

Hon N.D. Griffiths: An admission? That is containment.

Hon PETER FOSS: No, it is not. If a person says that that is how much he or she can make, that is not evidence and the member knows it. That is one of the problems. Hon Nick Griffiths has a very simplistic attitude.

Hon N.D. Griffiths: You have a very devious attitude.

Hon PETER FOSS: No. The member has a simplistic attitude. If he thinks that is enough to prosecute, I would like to see him do the job and get the conviction. I am giving the answer to Hon Norm Kelly. If a brothel is earning \$95 000 a week and can make \$30m a year, which is another estimate and is a lot of money, \$50 000 will not be a killer. A figure of \$20 000 would be ineffective. The fact is that we are dealing with an industry in which the amounts of money are big. In that context, \$50 000 is not extraordinary; in fact, if members look at it in the context of the punishment under the Trade Practices Act, it is very small by comparison. There is a need to have a financial penalty which will have an impact on the people who are likely to offend. It is one thing to have people in prostitution, and we can feel sorry for prostitutes, but I do not think we can feel any sorrow for the people who try to induce people into prostitution. I am concerned that, in deleting clause 8, we have already done one thing which has been beneficial for madams. I would hate to see another thing of benefit to madams. It is about time we started dealing with some provisions that were anti-madam and a little pro-prostitute, because if the penalty is reduced in this case, no-one will benefit except madams.

Hon NORM KELLY: The Attorney General has not satisfied me that simply because someone earns a certain amount of money, a penalty should be related purely to that earning capacity and not to the offence which has been laid down in the Bill.

Also, it is interesting to bear in mind that prostitution itself is not illegal in this State; it is very much a legal activity. There is a difference between earning a living as a prostitute and advertising for a prostitute or employing someone as a prostitute. We must keep these things in perspective. A penalty of \$5 000 is significant as it relates to publishing, or causing to be published, a statement. If that statement were published on a number of occasions, the person would be liable for the penalty a number of times. Although it may appear to be a huge reduction, the amendment still represents a substantial penalty for this type of offence.

Hon PETER FOSS: I cannot believe that we have spent so much time looking after madams. It relates not only to how much they earn, but the fact that they earn it from prostitution and getting prostitutes into their brothels. The Committee is trying to stop that acknowledgment. First, it was said that madams can run brothels as they like.

Hon Norm Kelly: We are not kicking out the clause.

Hon PETER FOSS: No. With a \$5 000 maximum fine stipulated, what does Hon Norm Kelly think people will be fined when before the court? It will not be \$5 000; we will be lucky if it is \$1 000. Why stop? The member says that this has no connection with the crime, but it has every connection with the crime. These people make money from exploiting prostitutes. How do they get prostitutes? We are trying to stop them from getting prostitutes by exploiting people. We seem to be taking our instruction from brothel madams. The only changes made so far have been for the benefit of brothel madams. This amendment is the same. Are we worried about the brothel madams or the prostitutes? This clause directly strikes at the procurement of prostitutes for brothels, which is a sufficiently serious offence to justify a \$50 000 penalty. More than that, a direct connection exists to the financial benefit to be gained by madams. How much will we do for madams in amendments made by the Committee? I protest. We have done enough for madams already. How about making sure that a substantial financial penalty applies for people who procure people to work as prostitutes in brothels? That is not asking too much. I am losing all touch with what on earth we are trying to do here. I have no problem with criticism that we could do more for prostitutes, and members may like to see a wider range of matters covered. To date, as proposed with this amendment, we have provided benefit for the brothel madams. Enough is enough - no more please!

Hon N.D. GRIFFITHS: The Australian Labor Party does not seek to provide benefit for people who publish or cause to be published a statement which will induce somebody to take up the occupation of a prostitute. It will not only be brothel madams, as newspapers may be fined. A large number of offences are set out in this Bill. This clause provides for a monetary penalty, as does clause 11; however, the vast bulk of the Bill's penalties provide for terms of imprisonment. The restriction here is \$50 000. It is said to be so serious by the Attorney General, yet the penalty is restricted as a maximum to a monetary, not a custodial, penalty. In looking after those who make money out of prostitution - namely, the publishers and those who cause it to be published - as with the containment policy, hypocrisy is evident on the part of those who caused this legislation to be so hurriedly brought before Parliament. This has nothing to do with streetwalking, unless the Government is talking about advertising for employment in particular streets. I doubt it. I noted with interest the observations regarding the estimates of money to be made. It was clearly an admission by a madam who is looked after by the Executive Government by virtue of a failed containment policy. This person admitted to living off the earnings of prostitution. One of the problems is that the laws are not being enforced. If the laws are not acceptable to the community, they should be changed. What is the point of having laws if they are not enforced? The failure of this Government and its agencies to enforce the laws is at the heart of this panicky piece of legislation. I do not want to say any more because there has been a filibuster on the part of some previous speakers, and I want to move through this Bill. As Hon Mark Nevill has pointed out, there are many more pages on the Notice Paper, and the Attorney General has put forward some proposed amendments late in the piece. So much for well considered legislation on the part of the Government. The Australian Labor Party will vote with the Government on clause 10.

Hon PETER FOSS: I am pleased to hear that the Government will be supported on this clause. I have proposed amendments to try to stop the guts being ripped out of this Bill by other parties. They are an indication that I am prepared

to try to address the objections that are made. To be criticised for showing that I am prepared to meet the requirements of the upper House as a House of Review by dealing with the objections raised is an absolute novelty to me. I would be happy to promise for the future to refuse to consider any amendments or objections raised by other members in the House. Will members opposite support the Government, because I am happy to stay with the Bill as it is? All I am trying to do with the proposed amendments is to ensure that this legislation, which has had bipartisan support in the lower House - and still enjoys that support as we understand from the Opposition's spokesperson - goes safely through this Parliament. I am prepared to consider amendments, if that is necessary to get it through. However, I am not prepared to be criticised for showing that degree of cooperation. I find it extraordinary. Unfortunately, my offers appear to have been rejected, because the part that I sought to keep which would have been directed at unhealthy prostitutes in brothels has been rejected. Those amendments will go by the board, because members opposite have taken out the part that they relate to. Hon Nick Griffiths can hardly refer to my amendments, because the guts have been ripped out of them and there is no need to keep them on. I am happy to listen to what has been said by other people in the Chamber to see whether I can get the legislation through. It appears that will not be the case. However, I am pleased that I will at least get this clause through.

Hon KEN TRAVERS: Does the Government know how many people work in the prostitution business in Western Australia and whether historically there has been an increase in that number over the past five years, and if so, by how many?

Hon PETER FOSS: We know only the number of those people who have registered with the police. That includes prostitutes, madams, managers and also some prostitutes operating outside the containment brothels who have personally registered. That numbers 3 000 people. The numbers of people operating outside the containment policy are rather difficult to ascertain. I suspect only the Australian Taxation Office would have those figures.

Hon Ken Travers: Has the number increased over the past few years?

Hon PETER FOSS: There may have been a small increase within the contained area but the main increase has been outside the contained area.

Hon Ken Travers: Does the Attorney General have any idea by how much?

Hon PETER FOSS: It is only a guess because there is no way of compiling figures.

Hon Ken Travers: Is it increasing?

Hon PETER FOSS: It is the perception that outside the containment industry an increase has occurred because of the inability to deal with some aspects of it. That is what this Bill is seeking to address.

Hon KEN TRAVERS: I noted in the Attorney General's second reading speech that advertising was one of the most offensive and visible adjuncts to prostitution. Why has it been left to a voluntary code of conduct to maintain a standard of advertising for seeking employment in the prostitution industry?

Hon PETER FOSS: Part of the reason has been the difficulty in controlling advertising. I understand that in places that have tried to prevent any form of advertising altogether, it has been done in other even more offensive ways. I believe that in one place, rather than advertising in newspapers, vast quantities of notices were posted all over telephone booths, walls and other places and replaced every 10 minutes. We must be careful. If we regulate an industry that is capable of regulation, it could change to being incapable of regulation and that may be more offensive.

To some extent we are better off allowing advertisements within the Press, rather than regulating so that we end up with the entire neighbourhood covered in a new form of graffiti, namely, prostitution advertisements.

Hon Ken Travers: I was not referring to restricting advertising, but to making the code compulsory.

Hon PETER FOSS: That could be done. Outlawing advertisements is definitely problematic because they will disappear from the newspapers, in which there is capacity to keep them within reasonable bounds, and be all over the neighbourhood in offensive forms. As long as the system works, that is fine. The aim is to keep the advertising within reasonable bounds. If it does not work, the policy will have to be reviewed.

Hon KEN TRAVERS: Although a voluntary code of practice applies to the metropolitan newspapers, other advertising avenues are used. The *Yellow Pages* contains seven or eight pages of advertisements. I am intrigued to know whether the advertisements in the *Yellow Pages* meets the voluntary code of practice. Some of those advertisements certainly meet the description of suggestive photographs. One of the advertisements uses the word "vacancies". I assume that will be in breach of this clause.

Is it the Government's intention to require Telstra to withdraw its advertisements from the *Yellow Pages* and substitute them once the Bill is proclaimed?

Hon PETER FOSS: We may have some problems with legislation regarding Telstra in any event because of -

Hon Ken Travers interjected.

Hon PETER FOSS: It also happens to be a federal corporation.

Hon N.D. Griffiths: But they are not above the criminal law. It is an important issue.

Hon PETER FOSS: They are not above the law. I am getting a nod from a member on this side of the House who thinks we may have a problem with this issue. Telstra is a particular case. Let us talk about a publisher of a book.

Hon Ken Travers: The *Yellow Pages* is a privately-published book.

Hon PETER FOSS: I believe it has been. The *Yellow Pages* is a commercial group that takes information from Telstra.

Hon Ken Travers: There are other private telephone directories.

Hon PETER FOSS: Let us leave that constitutional difficulty out of the debate and deal with a company which publishes a directory.

Hon N.D. Griffiths: It is contained anyway because complaints can only be brought by police under the provisions of this Bill. A concerned citizen will not be able to have a go at someone who publishes something.

Hon PETER FOSS: The important point is to see how it works. Often, having people adhering to a voluntary code works better than one which is fine in its points but where distinctions can be made. It is easier to amend and easier to bring up to date. If it does not work, we may have to deal with compulsion.

Hon Ken Travers: Will the Government give a commitment that it will monitor other outlets such as *Yellow Pages* and the like?

Hon PETER FOSS: I was not involved in the drafting of the voluntary code. I am pleased that it was so quickly and effectually brought into existence. However, I will have to ask the minister whether he believes he can easily bring in a regime which will work.

Hon Ken Travers: Even on a voluntary basis, will the Government be approaching companies such as *Yellow Pages* to ensure that they comply with a voluntary code of practice?

Hon PETER FOSS: I will have to ask the minister whether he would be prepared to approach other people to look at those problems. It is being done currently without legislation and obviously it has the capacity to be extended to almost anybody. Obviously, if it does not work or if there are any difficulties, compulsion will be considered again by the Government. However, we are pleased to say that at least the major news groups in Western Australia have adhered to the voluntary code.

Hon N.D. Griffiths: Have adhered to it or said they will adhere to it?

Hon PETER FOSS: I am talking about a contract of adhesion.

Hon N.D. Griffiths: There is no contract.

Hon PETER FOSS: No, but I am using the term in the context of adhering to a contract.

Hon N.D. Griffiths: Read the paper and look at their advertising.

Hon PETER FOSS: That is a very good point. If those companies are not observing the code of conduct, the minister will have to raise the matter with them.

Hon NORM KELLY: Although I believe the voluntary code has cleaned up these advertising pages, there is an example in today's paper of its not doing so. I noted a long list of unsuitable words and terms for publication in the voluntary code. I will not go through the list but a couple of the unsuitable terms are "hot and juicy" and "hot and wet". Therefore in today's newspaper the words used are "hot and steamy". That is one example of the easy ways in which the code can be got around.

Hon Peter Foss: And the regulations.

Hon NORM KELLY: That is right. That is why it is difficult to get an all-embracing requirement.

Amendment put and negatived.

Hon NORM KELLY: The point I alluded to earlier was a reference to clause 10(b) which states that a person is not to publish a statement that is intended to induce a person to seek employment in any other capacity in any business involving prostitution. Concerns have been raised with me that this may inadvertently capture businesses that provide services to prostitutes; for example, health and counselling services and the like. Clause 8(1) refers to "business involving the provision of prostitution" whereas this clause refers to "business involving prostitution". I have circulated an amendment to members that states that there should be consistent wording in these provisions.

Hon PETER FOSS: I do not understand Hon Norm Kelly's point.

Hon NORM KELLY: My problem with the clause centres on the term "involving". It has been suggested to me that some businesses do not directly provide prostitution services but are connected to the prostitution industry. There seems to be inconsistency with the current wording.

Hon PETER FOSS: I am happy to accept the amendment suggested by Hon Norm Kelly.

Hon NORM KELLY: I move -

Page 7, line 27 -To insert after the word "involving" the words "the provision of".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 11: Prohibition of certain sponsorships -

Hon NORM KELLY: I move -

Page 8, lines 16 to 20 - To delete the lines.

The Australian Democrats believe the lines could be extraneous to the intent of the clause. It also has a difficulty with the part of the subclause in brackets, which refers to a bona fide contract for services, because it could relate to the normal advertising of a prostitution service in newspapers.

Hon PETER FOSS: The amendment suggested by Hon Norm Kelly defeats the intent of the provision by allowing the indirect provision of services, as opposed to direct sponsorship. I would hate to even encourage that because I suspect it would happen. I do not believe it is a very sensible amendment.

Amendment put and negatived.

Clause put and passed.

Clause 12: Hindering performance of functions -

Hon NORM KELLY: The Australian Democrats will oppose this clause. I do not have the relevant section of the Police Act or the Criminal Code to hand. The Australian Democrats believe that this refers to normal police powers.

Hon N.D. Griffiths: It is in section 20.

Hon NORM KELLY: It is better dealt with in that manner.

Clause put and a division taken with the following result -

Ayes (23)

Hon Kim Chance	Hon B.K. Donaldson	Hon Murray Montgomery	Hon Tom Stephens
Hon J.A. Cowdell	Hon Max Evans	Hon N.F. Moore	Hon W.N. Stretch
Hon M.J. Criddle	Hon Peter Foss	Hon Simon O'Brien	Hon Bob Thomas
Hon Cheryl Davenport	Hon N.D. Griffiths	Hon Ljiljana Ravlich	Hon Ken Travers
Hon Dexter Davies	Hon Ray Halligan	Hon B.M. Scott	Hon Muriel Patterson
Hon E.R.J. Dermer	Hon Barry House	Hon Greg Smith	(Teller)

Noes (6)

Hon Helen Hodgson	Hon Mark Nevill	Hon Christine Sharp	(Teller)
Hon Norm Kelly	Hon J.A. Scott	Hon Giz Watson	

Clause thus passed.

Clause 13: Contravening direction by police to move on -

Hon NORM KELLY: I move -

Page 9, lines 4 and 5 - To delete the words "For a first offence, imprisonment for 6 months, and for a subsequent offence, imprisonment for one year" and substitute "\$2 000".

This amendment reduces the penalty for this offence. Section 82A of the Police Act refers to the penalty for trespassing on enclosed land as a \$100 fine, and section 82B refers to the penalty for unlawfully remaining on a premises as a \$500 fine and six months' imprisonment. Clause 13 refers to directions to move on under clause 26 of this Bill. Penalties of this nature are too extreme for a refusal to move on, especially in light of what is contained in clause 26, which refers to a police officer who has reason to suspect that a person intends to commit an offence. It is a very loose level of proof that the police officer must substantiate to provide a move-on order. We do not have a great problem with the police having that power. However, a contravention of such an order, based on such a low level of proof, should not include a custodial term as a penalty. There may often be legitimate reasons that a person may contravene such an order. Clause 13 says that a person is not to contravene an order without lawful excuse. However, given the broad parameters of what a move-on order may contain about the area from which a person may be restricted, it is contrary to the intent and goodwill of this Bill to have custodial penalties under this clause.

Hon N.D. GRIFFITHS: The Australian Labor Party will vote with the Government on this clause. This Bill is supposed to deal with streetwalking, not those other matters. This provision deals directly with the streetwalking problem. I will not delay the House any further.

Hon MARK NEVILL: Hon Norm Kelly has summed up this clause quite well. Again, the penalties here go over the top. We have a similar crime rate to Victoria but three times the imprisonment rate, yet we continue to pass laws that encourage magistrates to imprison people when other sanctions are available. These sorts of provisions are appalling when they are so broad. It will depend upon the quality of the police officers enforcing these clauses for it to be done with some sense. I am sure that people who know they have these powers, with these penalties, will abuse the power they have to direct people to move on, and the reaction that will be forthcoming will probably mean that a person will end up receiving an imprisonment sentence. I want that penalty of imprisonment removed. Therefore, I support the amendment.

Hon GIZ WATSON: The Greens (WA) will also support this amendment for the reasons put forward by two previous speakers. The penalty is over the top, and the proposed new wording for a fine is a more appropriate response.

Hon NORM KELLY: I am surprised at the ALP's position on this matter. Basically, from what Hon Nick Griffiths said, the ALP is happy to simply lock up street workers. It will not solve the problem. It will exacerbate it by increasing the chances of recidivism and make it even more difficult to remove these types of workers from the industry if that is necessary.

Amendment put and a division taken with the following result -

Ayes (6)

Hon Norm Kelly
Hon Mark Nevill

Hon J.A. Scott
Hon Christine Sharp

Hon Giz Watson

Hon Helen Hodgson
(Teller)

Noes (23)

Hon Kim Chance
Hon J.A. Cowdell
Hon M.J. Criddle
Hon Cheryl Davenport
Hon Dexter Davies
Hon E.R.J. Dermer

Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss
Hon N.D. Griffiths
Hon Ray Halligan
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon Simon O'Brien
Hon Ljiljana Ravlich
Hon B.M. Scott
Hon Greg Smith

Hon Tom Stephens
Hon W.N. Stretch
Hon Bob Thomas
Hon Ken Travers
Hon Muriel Patterson
(Teller)

Amendment thus negated.

Clause put and passed.

Clause 14: Failure to comply with certain police requirements -

Hon N.D. GRIFFITHS: The Australian Labor Party opposes this clause, which is innocuously headed "Failure to comply with certain police requirements". The requirements are listed and the clause refers to what is contained in proposed section 25, which commences with the words -

A police officer may, for the purpose of performing any function under this Act or any other function in respect of an offence -

"Offence" in the Bill relates to an offence under the Bill and not an offence generally. At the end of the day we are talking about prostitution; the activities of the so-called oldest profession in the world, which will be with us whatever happens as a result of what this Chamber does. Clause 14 proposes to give the police a wish list of powers which they should not have - powers which will infringe civil liberties to a degree that is not warranted.

If the police get these powers with respect to prostitution, where else will they get them? We are dealing with prostitution. Under this clause people will be required to answer questions and to produce documents, and the right to remain silent will be done away with. What is proposed in the clause is not warranted. Frankly, it comes out of the blue. It has nothing to do with street prostitution and the other matters which this much-heralded Bill was meant to have something to do with; it is all about enhancing police power, in a very unwarranted way.

Hon PETER FOSS: I am particularly concerned at the way this clause strikes at two areas which I think are insidious; that is, white slavery, which we referred to earlier, and child prostitution. I am particularly concerned that the opportunity to deal with those two insidious forms of prostitution will be thrown out with everything else. I wonder whether Hon Nick Griffiths could indicate to me whether his attitude would be different if this clause were expressly limited to dealing with child prostitution and white slavery.

Hon NORM KELLY: The Australian Democrats will oppose this clause. It gives the police the power to allow self-incrimination, without providing any protection from the information gathered through that self-incrimination being further used in an investigation to charge somebody. Once again, the penalty of two years' imprisonment goes against sensibilities in a 180 degree turn from normal, accepted practice. For those reasons, we will be opposing this clause.

Hon PETER FOSS: I made a request of Hon Nick Griffiths. Clause 14 contains the offence relating to clause 25 and I suggest we postpone it until after we consider clause 25. If clause 25 is not passed or is not limited in any way, clause 14 will not have any application. However, if clause 25 is passed, perhaps in a modified form which is acceptable to Hon Nick Griffiths, we may get a different result. In view of the logical connection between the clause, I move -

That further consideration of clause 14 be postponed under after consideration of clause 25.

Question put and negated.

Hon GIZ WATSON: The Greens (WA) also do not support this clause for the reasons raised by other members. It is a broad brush in terms of police powers and is certainly inappropriate.

Hon NORM KELLY: Dealing with these sorts of police powers is more suited to a debate on the Police Act. I hope that when the Government finally fulfills a promise to introduce legislation to revamp the Police Act, we will be able to address these issues in a holistic way which relates to all police powers and all types of offences rather than this continuing ad hoc way of implementing police powers on an offence-by-offence basis.

Hon PETER FOSS: I am very concerned that the Opposition, the Australian Democrats and the Greens (WA) are prepared to put off to some other day - we are not quite sure when - dealing with what I see as two very important areas. Without these powers I cannot see how we can deal with either -

Hon N.D. Griffiths: Murder or robbery?

Hon PETER FOSS: The member can make his point. If he wants to deal with child prostitution and white slavery, I cannot see how else he could do it. Generally speaking, murder is not carried on as an industry - unless the member happens to know otherwise. Murder happens, and the ability of the police to ask for documents and so forth will not make a big difference to murder. However, it will make a big difference to child prostitution and white slavery. If the member is not prepared to give police workable powers to deal with those matters, I can only criticise him for it. If he is suggesting that murders will be solved by having the right to look at documents, he is being facetious.

I do not believe that the Australian Labor Party is serious about dealing with these two areas. I invited the member to postpone debate on the clause and he said no. I invited him to accept the clause if it were limited to child prostitution and white slavery and he has not answered me, but it is quite clear from what he has sought to do that he does not agree. He must take on his own head that he does not accept police powers for dealing with child prostitution and white slavery. I will be very interested to hear what his mates in the other place will say when they find out that he has refused that invitation. I believe that the rest of his party has certainly given an indication that they are prepared to go to quite considerable lengths to deal with those problems. It is quite clear that the member will not. He will have to answer not only to the public, who will be a bit disappointed in him, but also to his friends in the other place who, I believe, have indicated quite clearly to us that they will support these measures in this area. It is quite clear that the member will not. He will have to answer to a large number of people.

I want to put on the record that I made the clear offer that I would be happy to have from him an amendment restricting the provision to child prostitution and white slavery. The member has declined that offer. He has also declined to say that he is prepared to allow these powers to be used to combat those two crimes and he has made the fatuous statement that if we are not prepared to use the powers to combat murder, why use them for those offences. If he thinks that these powers have any relevance whatsoever to murder or even burglary or any similar offences, he is wrong. The powers do have a lot of relevance to child prostitution and white slavery. If the member is not prepared to take proper measures to deal with child prostitution and white slavery, how does he think that the police will deal with them? It seems that we have here a total refusal by the member to face up to the facts. Iniquitous crimes are committed against people who are unable to fend for themselves. The member knows that child prostitution and white slavery are areas in which the people involved are vulnerable, yet he is not prepared to allow these powers, even in this limited area of child prostitution and white slavery.

Hon N.D. Griffiths: You did not mention it in your second reading speech. You are a joke.

Hon PETER FOSS: No. That is the member's problem. I am happy to pass this as it is. His colleagues in the other place were happy to pass the clause as it is because we are dealing with offences under the proposed Act. They were prepared to support it and they did support it.

Hon Bob Thomas: This is a House of Review.

Hon PETER FOSS: So review; do not just chuck out.

Several members interjected.

The CHAIRMAN: Order!

Hon PETER FOSS: The member may not support it generally, but I have invited him to limit it to two areas where I find it impossible that he could not support these powers.

Hon N.D. Griffiths: We do not legislate on the run.

Hon PETER FOSS: Those opposite do not legislate at all. Hon Nick Griffiths will not make the slightest positive suggestion; he just says he will chuck it. He can do so, but he should keep in mind that one of the principal thrusts of the Bill is to deal with child prostitution. He is saying that he will not give it a run. It is extraordinary to think that Hon Norm Kelly is prepared to consider it when we are talking about every crime. I am asking for it to be considered for only the offences in this Bill. The powers we are proposing are limited to offences contained in this Bill. We are not saying that we will pass it on to everything. One group, through Hon Nick Griffiths, is saying that under no circumstances will it consider it and, at the same time, Hon Norm Kelly is saying that he will consider it only when it is for all offences. What do we do? All I am suggesting is that the provision should be somewhere in the middle.

The Bill deals, inter alia, with white slavery and child prostitution, and those opposite are not prepared to consider even an amendment. I could not possibly have a Bill written that includes provisions to cover the objections of both members, because they happen to be disagreeing with each other about why they are opposing it. I could not possibly foresee that or have the Bill written in that way. I am prepared to put a suggestion squarely to members opposite in this Chamber - they referred to its capacity as a House of Review - and they should not duck out of it simply by saying that they do not make amendments on the run, or that I should have predicted this. I am asking them and their parties whether they are prepared to go along with these powers if they are limited to white slavery and child prostitution. They must say either yes or no. I am happy to accommodate them if they want a bit of time to work out an amendment. I want to hear whether they are prepared, in principle, to accept these powers for child prostitution and white slavery. If the answer is no, they can vote these things out and then at least we will know where they stand. If the answer is yes, we have plenty of other stuff we can deal with. The parliamentary counsel is here, and we can make sure the provision is written appropriately to deal with the objections of those opposite. I know the objection raised by Hon Nick Griffiths is different from the one raised by Hon Norm Kelly, who certainly will not accept the provision, because he wants to deal with it in the context of an entire Police Act. I cannot satisfy him.

Point of Order

Hon MARK NEVILL: This is bordering on tedious repetition. This is the third time the Attorney General has repeated this argument, and I think he should be drawn to order.

The CHAIRMAN: There is no point of order.

Debate Resumed

Hon PETER FOSS: I am putting this squarely to the Australian Labor Party: If those opposite are prepared to accept, in principle, the limitation of these powers to two areas - child prostitution and white slavery - I will do what is necessary to ensure they have an appropriate amendment to enable them to support the clause.

Hon MARK NEVILL: The Attorney General has invited members on this side of Chamber to make amendments on the run. A little while ago I invited him to report progress on this Bill and refer it to a committee. That is the best way to preserve some parts of this legislation. I do not think he will get it by making amendments on the run. Given that he has made such a big issue of it, I ask him how large is child prostitution in Perth? Does it involve a handful of people, or hundreds? To what extent is white slavery - or black slavery for that matter - a problem in Perth?

Hon N.D. Griffiths: What has he done about it since he has been in Government?

Hon PETER FOSS: At least we have introduced some legislation, which we cannot manage to get past those opposite. I gave an indication that we believe there are between 12 and 30 child prostitutes in Perth. It is difficult because it is an iniquitous form of prostitution. As I said yesterday, even one child prostitute is too many. I believe we are justified in taking significant measures to deal with this issue. I also believe that, because of the nature of this Bill, this provision is acceptable. I do not accept that, just because some people have some objections to it, I must send off to a committee a perfectly acceptable provision which comes as a package to deal with these limited areas. It is not as though we are asking for these powers right across the Police Service. We have carefully limited them. As far as white slavery is concerned, at least one entire brothel has Asian women who have some form of inducement or restriction on their ability to leave that brothel. However, it is hard to get the evidence.

Hon N.D. Griffiths: You know it is a brothel. There are provisions in the Police Act. People have admitted it to you.

Hon PETER FOSS: The simplicity of Hon Nick Griffiths ignores the difficulty in obtaining prosecutions. He made a statement about the dollars that can be earned, but he knows perfectly well that he could not get a prosecution on the basis of someone saying that he or she could earn \$95 000 a week. He knows the criminal law and he knows how things must be specified. A mere statement that a person can earn \$95 000 a week is not enough to get a prosecution.

Hon N.D. Griffiths: A confession.

Hon PETER FOSS: It is not sufficient. Returning to the issue, problems have been clearly identified in this Bill. Throughout the Bill, specific clauses deal with white slavery and other clauses contain specific provisions relating to child prostitution. That is the principal part of this Bill apart from streetwalkers. I do not think this will have a great deal to do with streetwalkers. There will not be a great application for it.

Hon N.D. Griffiths: One of the interesting observations in the Bill was that this was set up to deal with streetwalkers.

Hon PETER FOSS: Rubbish has been peddled by the members of the Labor Party in the upper House in that they were deceived in what it was about. The second reading speech makes clear the various things with which the Bill deals. It deals specifically with streetwalking, child prostitution, health, offences and police powers. All of the things which we said it was about, it is about. Hon Nick Griffiths has tried to justify his behaviour by saying that he was misled. He was not misled. It is on the record in the other place. It was supported by the Labor Party. We have been told by the Labor Party that it still supports it, but that that bipartisan support has been ruined by the upper House running rampant on this matter.

Hon N.D. Griffiths: We are a House of Review.

Hon PETER FOSS: Members should review and not just cancel the legislation. It is a simple matter to talk about an amendment on the run. I have made it clear that I am happy to have the amendment drafted and to give members time to consider it, so it will not be an amendment on the run. Once more I make the offer: Does the Labor Party accept in principle that these powers would be appropriate for dealing with child prostitution and white slavery? Members should deal with the principle, and then we will deal with the mechanics.

Hon NORM KELLY: First of all, I put on record that the Attorney General - I do not know whether it was intentional - misconstrued what I said earlier about consideration of these powers in the broader context of the Criminal Code. All I was saying was that if this matter is to be considered, it should be done in the context of all offences rather than this. I was not - the Attorney General tried to twist my words - saying that we would support it only if it were across the entire Criminal Code. Making these sorts of changes on an ad hoc basis is out of place. Clause 14 refers to clause 25, which contains broad powers for a police officer. Clause 25(1)(c) states -

- (c) require a person -
 - (i) to give the police officer such information as the police officer requires; and
 - (ii) to answer any question put to that person.

That is a power and function of this Bill. Clause 12 contains a penalty of imprisonment for two years for a person hindering a police officer in the performance of any function under the legislation. Clause 12 already creates an offence for hindering a police officer in obtaining information under clause 25. I would like to hear the Attorney General's argument for why he thinks clause 12 is not a sufficient power in that regard.

Hon PETER FOSS: I am thrilled to hear that Hon Norm Kelly thinks that clause 12 would suffice. That view may be regarded as just enough to be used as evidence of statutory intent; however, a statement in this Committee is unfortunately not sufficient for that to occur. Hindering a police officer in the performance of his or her function - that is, to delay, obstruct or otherwise hinder - would not allow that officer to do things which require statutory authorisation. Generally speaking, if one asks someone to produce a document, and the document is not produced, and he or she is under no obligation to produce that document, one can hardly say that that person is delaying, hindering or obstructing. I am sure Hon Nick Griffiths would agree with this point. The member's proposition would be an unusual development in law: If someone refused to provide a document that he is not obliged to provide, it would be strange to charge that person with hindering for refusing to provide that document. If Hon Norm Kelly's statutory interpretation were correct, we would have massively increased police powers already. I do not think the member has hit the answer. Hon Nick Griffiths might like to join me on that point.

Hon N.D. GRIFFITHS: I like being bipartisan with the Attorney General.

Hon PETER FOSS: I still have not heard Hon Nick Griffiths' comment on my offer to accept at least the policy statement that these powers would be acceptable in the case of child prostitution and white slavery. I assume from his response that he rejects that policy.

Hon N.D. GRIFFITHS: With the greatest respect to the Attorney General, he has engaged in some emotional grandstanding for the best part of half an hour on this issue. The Australian Labor Party finds child prostitution and what is termed as white slavery to be abhorrent. This Government has failed to properly come to grips with these issues. The Attorney may recall last year's interesting report of the child abuse unit, and the Government's lack of progress in dealing with that matter. The Attorney may note the varying inadequate performances by Family and Children's Services. The Attorney may note that we are approaching the 75 per cent point of the Court Government's second, and we hope last, term in office, and inactivity has been evident on the part of the Government in coming to grips with police powers overall. I have referred to the reform of the Police Act on many occasions during the life of this and the previous Parliament. The Attorney should know that we focus in evidentiary provisions not upon the seriousness of the offence, but upon the difficulty in detecting an offence. Some statutes, notably the Anti-Corruption Commission Act, contain provisions requiring people to answer questions. That can be commented upon in another context down the track.

Our system, and its inherent sense of fairness, turns to a degree on the right to remain silent. The Attorney General would get rid of the right to remain silent because an offence is serious. I acknowledge that an offence may be serious, but that is not the issue - it is one of evidence. The Government has failed to properly prosecute, failed to resource the police, and failed to address legislative inadequacies, perceived or otherwise. At the last minute, it has produced some proposition and expects us to deal with it, but legislation on serious issues should not be dealt with in that manner.

Sitting suspended from 1.00 to 2.00 pm

Clause put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Ray Halligan
Hon Barry House
Hon Murray Montgomery

Hon N.F. Moore
Hon B.M. Scott
Hon Greg Smith

Hon W.N. Stretch
Hon Muriel Patterson
(Teller)

Noes (15)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport

Hon N.D. Griffiths
Hon John Halden
Hon Helen Hodgson
Hon Norm Kelly

Hon Mark Nevill
Hon Ljiljanna Ravlich
Hon J.A. Scott
Hon Christine Sharp

Hon Tom Stephens
Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (Teller)

Pairs

Hon Derrick Tomlinson
Hon M.D. Nixon

Hon Tom Helm
Hon Bob Thomas

Clause thus negatived.

Clause 15: Section 15 offence -

Hon NORM KELLY: I move -

Page 10, lines 8 to 16 - To delete the clause with a view to substituting the following clause -

15. Child prostitute

- (1) A child who in a public place acts as a prostitute commits an offence.

- (2) A child who commits an offence under subsection (1) of this section, or whom a police officer believes on reasonable grounds to have committed an offence under that subsection, may be given a direction under section 26.

The Democrats believe the proposed clause will be far more effective and will embrace the Government's stated intent of protecting children against the ills of prostitution. The present clause 15 refers to people who should not be working as prostitutes. Paragraph (b) refers to the Misuse of Drugs Act and paragraph (c) to a variety of offences outlined in schedule 1 of the Bill. They are wide ranging and, for the most part, are serious criminal offences. Given that people convicted of such offences will have been dealt with by the courts, why should an additional penalty be placed on them under this Bill?

The Democrats' amendment will remove the custodial penalty for children who are acting as prostitutes. The move-on powers under clause 26 are more appropriate. However, we are not saying that is the only way of dealing with that behaviour.

Section 7(16) of the Criminal Code refers to women being detained for behaviour of an immoral purpose. It refers to girls under the age of 17 years and allows for warrants to be issued. Other aspects of the section allow for women or girls to be placed in custody by the relevant authorities rather than being incarcerated.

Hon N.D. Griffiths: What section is that?

Hon NORM KELLY: Section 716 of the Criminal Code. I am not saying that is an identical reflection of what we are trying to achieve with this Bill. I am pointing out that substantial powers already exist that can be utilised if we are truly working towards the best interests of the people involved.

Hon PETER FOSS: Members should look at the proposed amendment which refers to a child who in a public place acts as a prostitute. That is the only way in which this amendment relates to children if they are having sex in public. According to Hon Norm Kelly, it is acceptable to have child prostitutes anywhere else provided they are not having sex in public.

Hon N.D. Griffiths: He did not say that at all. That is rubbish!

Hon PETER FOSS: The amendment states that a child who in a public place acts as a prostitute commits an offence.

Hon N.D. Griffiths: That is what it says but you cannot say that it follows that Hon Norm Kelly was suggesting that it was otherwise acceptable for a child to act as a prostitute.

Hon PETER FOSS: It does follow as his amendment deletes the words -

A person who acts as a prostitute commits an offence under this section if -

- (a) the person is a child;

We say that child prostitution is not acceptable and we do not care where it happens. Hon Norm Kelly's amendment says that child prostitution is unacceptable provided the sex act occurs in a public place. The Government and Hon Norm Kelly have a different view of things. We abhor child prostitution wherever it is. We would like to take children into custody when they have been involved in child prostitution. We believe also that people who have been declared to be drug traffickers under section 32A of the Misuse of Drugs Act should not be involved in prostitution. Hon Norm Kelly's simplistic answer to that is: They have already been punished; why punish them again? He is missing the point. We are not proposing to punish them again. We are saying, "Stay out of prostitution." Why are we saying that drug traffickers should stay out of prostitution? I would have thought that was obvious. Has not every member said that one of the elements that encourages people into prostitution is drugs? We are saying that if people are drug traffickers they should not be involved in prostitution and Hon Norm Kelly said he wants me to tell him why. If Hon Norm Kelly cannot understand why, I have a problem in finding words to explain it to him.

Hon Norm Kelly refers to the capacity in some instances to take people into custody. The Government's biggest problem currently is that we cannot do anything with these children who are in fact defiant. We believe it is important for child prostitution to be seen to be a crime. Unless we have the capacity to take them into custody, I do not see how he can expect us to be able to do anything about it. I would have thought that the penalties referred to in schedule 1 were self-evident. We are not punishing people again. We are just saying, "Okay, you have done that; but as you have done that, do not go anywhere near prostitution because we are trying to keep those elements out of prostitution."

Hon N.D. Griffiths: To be fair, not every offence described in schedule 1 will necessarily involve prostitution.

Hon PETER FOSS: I agree with that.

Hon N.D. Griffiths: For example, grievous bodily harm is mentioned there.

Hon PETER FOSS: Yes. Let us go through some of the possibilities.

Hon N.D. Griffiths: Some of them are very relevant. I think you are drawing a long bow with others.

Hon PETER FOSS: We can deal with that when we get to schedule 1. I believe that the offence of grievous bodily harm is very important.

Hon N.D. Griffiths: It can be.

Hon PETER FOSS: Yes. People who have been convicted of grievous bodily harm do not necessarily beat up prostitutes.

However, frequently people who are found guilty of grievous bodily harm are given to violent behaviour. One of the problems that prostitutes have to deal with is violent behaviour by males in that area. We do not particularly want people like that involved in prostitution. We can deal with those individual items when we consider schedule 1. It is extraordinary to change the clause to provide that an offence occurs only if the child commits a sexual act in public. The suggestion that the police should simply tell the offenders to move on and do it elsewhere before telling the offenders to move on again, is hardly a means of dealing with child prostitution. I find this an extraordinary amendment.

Hon NORM KELLY: I appreciate that the amendment could be improved by deleting the words "in a public place". However, I remain firm in my belief that the remainder of the amendment strengthens the clause.

Clause put and passed.

Clause 16: Acting as a prostitute for a child -

Hon NORM KELLY: I move -

Page 10, line 18 - To delete "child" and substitute the passage "person whose age is less than 16 years".

I have previously said that there should be some delineation between 16 and 17 year olds and younger children in this Bill. This amendment is consistent with that position.

Hon PETER FOSS: The Chamber actively canvassed this issue yesterday. The Government is totally opposed to it.

Hon N.D. GRIFFITHS: The Australian Labor Party will vote with the Government on this clause.

Amendment put and negated.

Clause put and passed.

Clause 17: Persons with certain health conditions acting as prostitutes -

Clause put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Ray Halligan
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon Simon O'Brien

Hon B.M. Scott
Hon W.N. Stretch
Hon Muriel Patterson (*Teller*)

Noes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon John Halden

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljana Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ken Travers

Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Pairs

Hon Derrick Tomlinson
Hon M.D. Nixon
Hon Greg Smith

Hon Tom Helm
Hon Bob Thomas
Hon Cheryl Davenport

Clause thus negated.

Clauses 18 to 21 put and passed.

Clause 22: Prostitution at place where child present -

Hon NORM KELLY: I move -

Page 13, line 26 - To insert after "child" the words "who is not a client".

We are talking about prostitution taking place when a child is present. We should consider all the possibilities that this clause embraces. We should make it clear that it relates to a child who is not a client because we could inadvertently catch 16 and 17 year olds, and that aspect is already covered in other parts of this legislation. We could increase the penalty imposed on such a person if a child is taking part in an act of prostitution, and that act of prostitution is already covered in the legislation.

This is probably the simplest of the three amendments I have foreshadowed to this clause. The Australian Democrats want to make this clear and to ensure that the client is the subject of the heavier penalty. It is not necessarily the prostitute who should receive that substantial penalty of \$25 000. This clause could come into effect when workers who may have children are working privately from their homes providing prostitution services.

Hon Peter Foss: That is the problem.

Hon NORM KELLY: Usually it is not a problem, because those workers will make sure that their children are not on the premises and are not involved when they are carrying on any acts of prostitution, and they will quite often make sure that they do not involve their children in aspects of the prostitution business.

Hon Ray Halligan: Are you guaranteeing that?

Hon NORM KELLY: If the member had listened to what I said, he would know exactly what I am saying.

Hon Ray Halligan: I am listening very intently and I do not believe what I am hearing.

Hon NORM KELLY: Typical of this Government and this legislation, we have a bits-and-pieces approach to the sex industry, without addressing what is occurring in it. If a person has a child who is perhaps six months old and who will not be impacted upon by acts of prostitution - not that I am suggesting that that should occur anyway -

Hon Ray Halligan: You are. You are condoning it.

Hon NORM KELLY: No, I am not. I just said that I am not condoning that sort of behaviour.

Hon Ray Halligan: You mentioned a child who is six months old. What about children who are six years old or 12 years old?

The CHAIRMAN: Order! Members have the opportunity to stand up for 10-minute bursts if they so wish.

Hon NORM KELLY: I am not too sure whether the cabbage patch grows as it gets warmer and it gets closer to Christmas, but I would appreciate it if members who want to enter this debate would listen to what I am saying on this aspect. I fully appreciate the reasons that the Government has included this clause in the Bill. I do not agree with the penalties in this clause, and I do not believe that the Government has fully addressed a number of aspects, such as very young children or the reasons that mainly women choose to work from home. Quite often these women work from home because we do not have a regulated brothel industry in this State. Often it will be because they have been maltreated by brothel madams and the like. It is part of a lack of a holistic approach by this Government to the sex industry.

Hon MARK NEVILL: I support Hon Norm Kelly. I suspect that many of the women involved in prostitution, particularly from home, would be young, single mothers. This type of legislation would put some of those people in real jeopardy. I do not think this legislation would discourage a mother exposing her child to that activity. She probably would not have very good judgment in the first place. However, this penalty of \$25 000 will pick up many single mothers who are involved in prostitution, particularly from home, and who are probably involved in it because of financial difficulties or possibly drug problems. Again, the penalty is over the top. I support the more sensible proposition of Hon Norm Kelly. It is easy to misconstrue what the member is intending to do by his amendment, but any reasonable-minded person would understand what he is getting at.

Hon PETER FOSS: Unlike Hon Norm Kelly, the Government does not accept that children should be present during prostitution activities.

Hon Mark Nevill: Is that in the same room or in a different room?

Hon PETER FOSS: We do not think they should be present at all, even in a different room. I am sorry; we will not agree on this. The Government understands that most women who carry on business from their homes arrange for their children to be elsewhere when prostitution is taking place. We think that is the appropriate response. For those not prepared to do that we believe there should be a penalty.

Hon NORM KELLY: Will the Attorney General explain to me this apparent switch of government philosophy concerning children and prostitution, as earlier clauses relating to children have custodial penalties, and the argument was that monetary penalties are not appropriate. The Government is now going in the opposite direction and is talking about a possible penalty of \$25 000 for a prostitute working at home with a young child in the home. This complete policy switch is quite bizarre.

Hon PETER FOSS: If the member wishes to delete paragraph (a) and amend paragraph (b) he is welcome to do so.

Hon B.K. DONALDSON: I am appalled by Hon Norm Kelly. I do not think he knows what he is talking about, and that becomes more apparent as the day goes on. He is saying with this amendment that a child "who is not a client" at a house will result in more children visiting prostitutes.

Hon Peter Foss: When they are there now no-one knows whether they are a client or not.

Hon B.K. DONALDSON: Exactly right. I think it is the most senseless amendment I have ever seen in the seven years I have been in Parliament. What the member is doing is just rubbish.

This is an indictment of the Australian Labor Party, the members of which not have the decency to sit in the other place when this Bill was being debated there. I can say where they all were; they did nothing.

Hon Mark Nevill: Where were you?

Hon B.K. DONALDSON: Hon Mark Nevill is an Independent. I am talking about the Australian Labor Party, the members of which - all three of them - stood up and said what a wonderful piece of legislation it was.

Hon Mark Nevill: Where were you?

Hon B.K. DONALDSON: I went down and had a look at what was going on down there.

Hon N.D. Griffiths: Are you not breaching standing orders?

Hon B.K. DONALDSON: No. I am just saying that it seems amazing that we have this quasi-government set up in this House and when I see absolutely ridiculous and stupid amendments being made -

Several members interjected.

The CHAIRMAN: Order! Hon Ken Travers will come to order.

Hon B.K. DONALDSON: I hope the press reports that what Hon Norm Kelly is proposing is encouraging children to visit prostitutes - that is what his amendment really means. The member should have a good look at himself.

Hon Mark Nevill: Nonsense!

Hon B.K. DONALDSON: It is not nonsense and I thought Hon Mark Nevill would have more intelligence than to say that. I value his normal contributions here but I think somewhere along the line he has been emotionally dragged into a situation that has confused him, as he mentioned earlier. I did not want to see this Bill go to the Standing Committee on Legislation, but in one sense I would love it to have gone there because rubbish like this amendment would have been thrown out.

Hon MARK NEVILL: If an escort went to a hotel with a client and there were children in the foyer of the hotel, would they be liable to a \$25 000 fine?

Hon PETER FOSS: I think subclause (2) deals with that.

Hon NORM KELLY: I am not too sure whether the Attorney General has spoken to Hon Bruce Donaldson to let him know which clause we are speaking about, but if the member refers back to clause 21, which deals with a "child not to seek services of prostitute" and includes a penalty of six months' imprisonment, he might remember that a couple of minutes ago it was agreed to by all sides and went through this place without debate. That should make it quite clear what the Australian Democrats' beliefs are on the issue.

We are now debating clause 22 and I am making it quite clear that we want to make sure that people are not given inappropriate penalties. We do not want to see young mothers being fined \$25 000 simply because they cannot afford child care in order to ensure their children are not present at home. At the same time we do not want those children on those premises at all if acts of prostitution are taking place. However, this clause does not achieve anything for the benefit of the people involved; the child or the prostitute. It is of no benefit to the child.

Hon KEN TRAVERS: I did not intend to get involved in this part of the debate because the Labor Party will support the Government on this clause; however, I want to respond to the comments of Hon Bruce Donaldson. This debate is symptomatic of the problems with this piece of legislation; we have sat here for two years while streetwalking has taken place in Western Australia and this Government has done nothing about it. We have sat here and seen prostitution flourish outside the containment policy, and this Government has done nothing. Organised crime is now becoming involved in prostitution in Western Australia for the first time. It is a disgrace and an indictment. Nothing has been done about the problem because the Government's backbench has not allowed it to move on this.

Before Hon Bruce Donaldson comes into this place and tries to bag the Labor Party, he should look in his own backyard and remember that what we needed was a comprehensive Bill concerning prostitution. The Government failed to act on that so the Labor Party said the least the Government could do was to begin to deal with streetwalking, which is a public order issue. However, the moral majority in the back rooms of the Liberal Party made it clear that it did not want to go any further. This half-baked Bill deals with streetwalking, child prostitution and a range of extraneous matters, but it does not deal with the need for regulation of prostitution in Western Australia. The key issue has been missed. The key issue is that prostitution is flourishing. The Attorney General has admitted that the police do not know to what extent that is happening, because it is outside the containment policy. Prostitution is taking place and this Government is sitting on its hands and doing nothing about it while organised crime and everyone else takes control.

The CHAIRMAN: Before I give Hon Muriel Patterson the call, I remind members that this is not the second reading stage or the short title; we are dealing specifically with clause 22.

Hon MURIEL PATTERSON: Hon Ken Travers is a comparatively new member and may be unaware that the Labor Government held five reviews on prostitution. Our Government gave the backbenchers - and I was chairman of the committee - the chance to look into prostitution and make a recommendation to the Government. To say that we have done nothing is wrong. It is also wrong to say this has been done hurriedly.

Hon Ken Travers: Do you accept that it is out of control?

The CHAIRMAN: Order! This is not question and answer time.

Hon MURIEL PATTERSON: I want to make it clear that the backbench has had plenty to say and has made a recommendation to the Premier.

Hon RAY HALLIGAN: If Hon Ken Travers can tell me what the figures were when Labor was last in government, I will tell him whether the numbers are accelerating.

Several members interjected.

Hon RAY HALLIGAN: Labor was in government for 10 years and it did absolutely nothing. Members opposite should not start opening their mouths now.

I am little upset. Hon Norm Kelly has suggested that other clauses within this Bill do not allow child prostitution. In that case I ask the proponent of this amendment why we need to place the words "who is not a client" after the word "child". If children are not allowed to be prostitutes, why is there a need for this amendment?

Several members interjected.

Hon RAY HALLIGAN: I will talk to the proponent; like the butcher not the block. Hon Mark Nevill suggested, as did Hon Norm Kelly, that there are ladies out there who are having problems and there is no doubt that there are many of them with financial problems.

Hon Ljiljanna Ravlich interjected.

Hon RAY HALLIGAN: The member is another one that has problems, but not ones that I can voice in this Chamber.

Many of those women with problems have not prostituted themselves to try to overcome those difficulties. Many have found the ways and means of placing their children in a child care centre while they go out and generate income. I would like to hear argument from the other side on how, when and why women who prostitute themselves cannot generate sufficient income to enable their children to be placed in care while they are generating that income. If their children are allowed to remain with them while they are generating that income, they are definitely putting those children in jeopardy. I ask them to think again.

Hon Ken Travers also mentioned that streetwalking has occurred only over the past two years, not the past 2 000 years that we are advised prostitution has been around. He says that only over the past two years has something happened that has required legislation of this nature.

Hon Mark Nevill: It has been around longer than 2 000 years.

Hon RAY HALLIGAN: It probably has. However, I am suggesting that those in glass houses should not throw stones. The member's Government had at least 10 full, straight years to do something about it and did nothing.

Hon PETER FOSS: One thing that has become quite clear during the debate on this Bill is that prostitution is not an easy issue to discuss.

Hon Ken Travers: Not in your party room.

Hon PETER FOSS: It has not been in here. We have been going now for I do not know how many hours on what we all thought was a small part of the debate on prostitution. We have had the most incredibly detailed arguments and philosophical differences. If one thing has been proved during this debate, it is that the issues involved are difficult. I would like to come back to this clause. There is a point of principle here which I am pleased to hear is shared by the Labor Party, and it is a simple one: We do not believe that children should be present while prostitution is taking place. It is a simple issue. If members bring the debate back to that simple issue, they can make a simple decision.

I find rather extraordinary the suggestion that the future moral wellbeing of a child should be hazarded because the woman is not earning enough as a prostitute to be able to place the child in some form of day care, which is Hon Norm Kelly's concern. Many women must place their children in day care in order to gain employment. We seem to accept that. I can assure members that, generally speaking, most ordinary employment is not as remunerative as prostitution, which is one of the reasons that a lot of people go into prostitution. If we expect women in ordinary employment to place their children into day care so that they may gain that employment, why are we not asking it of women who are prostitutes? It is not merely the fact that the child would be left in the house but that the child's moral future would be hazarded by being in the house while prostitution is taking place. I would have thought that was a fairly simple issue.

Hon Ken Travers: You told us it was not a moral issue earlier in this debate but we told you that it was.

Hon PETER FOSS: If the member does not believe that to deal with the moral future of children is a legal issue, he has a problem. It is not a moral issue; it is a legal issue. It has always been a legal issue to do with the moral behaviour of children, not that of adults.

Hon Ken Travers interjected.

Hon PETER FOSS: If parents corrupt children, that is not a moral issue; it is a legal issue. I am not telling members opposite that I have decided it is morally right or wrong for someone to be a prostitute. That is the moral issue concerned. Nobody has a problem in saying that we should not hazard the moral future of children by allowing them to be present. We are not saying that it is immoral for the children to be there, but that it is wrong for a parent to hazard the moral future of the child. We cannot make that decision. I thought the Labor Party had got that point. Hon Norm Kelly seemed to have a problem with saying that a woman prostitute should be required to put the child in day care. It must be in the legislation. We must say quite plainly that we do not care what is the situation of the mother; that if she wants to be a prostitute, a child should not be present. We regard that as a significant offence. It is simple. I hope we have the support of the Chamber on that.

Hon N.D. Griffiths: I suspect you will, but please move the debate along because we are getting bogged down.

Hon PETER FOSS: I will mention just one other matter. If Hon Ken Travers is concerned about action being taken against prostitution, he must realise that there is one essential prerequisite - adequate legislation. He can complain about the legislation by all means, but he should not then gut the Bill so it is incapable of being operated. That is all I ask. If, when we go to the trouble of bringing forward legislation - we know it is difficult - he rips the guts out of it, he can hardly complain and then say that we are doing nothing about this issue. We are doing something now. I ask those opposite to help us, instead of hinder us.

Hon NORM KELLY: I make it perfectly clear that the Australian Democrats do not condone children being present when

prostitution is taking place. That is why we support this clause. We object to the scale of penalties contained in the clause. In response to the query of Hon Ray Halligan about the words "who is not a client" being inserted into the clause, I will provide one scenario: Two 17 and a half year old guys visit a prostitute for sex. The implication of this clause is that both those 17 year olds could be charged, not only under clause 21 because they are seeking the service of a prostitute, but also under clause 22. They are not just getting the penalty under clause 21, but also they are liable to the \$25 000 penalty. That is only one scenario which shows there must be some scaling of the penalties in this provision. As I said before, and the Attorney General could not answer it, we are having a flip over from offences relating to children having custodial sentences, and now there will be huge monetary penalties instead.

Hon PETER FOSS: I had decided not to speak on this clause again; however, the last speech was wrong. That would be double jeopardy and we could not prosecute for two offences in respect of the same set of facts.

Amendment put and negatived.

Hon NORM KELLY: I move -

Page 13, line 28 - To insert after the word "offence" the words ", as a client".

We have been through the debate in relation to the scaling of the penalties for this offence.

Amendment put and a division taken with the following result -

Ayes (6)

Hon Helen Hodgson
Hon Norm Kelly

Hon Mark Nevill
Hon J.A. Scott

Hon Giz Watson

Hon Christine Sharp (*Teller*)

Noes (22)

Hon Kim Chance
Hon J.A. Cowdell
Hon M.J. Criddle
Hon Cheryl Davenport
Hon Dexter Davies
Hon E.R.J. Dermer

Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss
Hon N.D. Griffiths
Hon John Halden
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore
Hon Simon O'Brien
Hon Ljiljana Ravlich
Hon B.M. Scott

Hon Tom Stephens
Hon W.N. Stretch
Hon Ken Travers
Hon Muriel Patterson
(*Teller*)

Amendment thus negatived.

Clause put and passed.

Clause 23: Allowing child to be at place involving prostitution -

Hon NORM KELLY: I will not move my amendment on the Supplementary Notice Paper for reasons which will be obvious to members. However, I pose a question relating to paragraph (b), which reads -

a business involving the provision of prostitution is being carried on,

If a private worker operates from home, he or she carries on a business from those premises. Does this provision preclude that person from having any children present as it could be deemed that the business operates from those premises? Children could be present at any time of the day or night on those premises.

Hon PETER FOSS: There could be a problem, which would be avoided if the member added the words "more than one prostitute in".

Hon Ken Travers: Would it not be illegal to have a business with more than one prostitute operating in it?

Hon PETER FOSS: It would pick up that very point: It would catch the illegal one, not the legal one.

Hon Norm Kelly: It should not be running that business anyway. This provision relates to children.

Hon PETER FOSS: I take Hon Norm Kelly's point. That interpretation would be a significant change in the law because people would not be allowed to have children on the premises. One would still be caught if a child were present during an act of prostitution. However, a person would not be caught for merely having a business there. Does the member want to add those words?

Hon NORM KELLY: I ask the Attorney General to clarify this point for another moment.

Hon N.D. Griffiths: Are you agreeing to all this, Attorney?

Hon PETER FOSS: It is not my amendment but I can understand the member's point. It is not one I feel strongly about, though I am happy to accept the amendment. It will bring us back to the current situation. Paragraph (a) is the important one.

Hon NORM KELLY: I move -

Page 14, line 14 - To insert after "involving" the words "more than one prostitute in".

This is moved for the reasons outlined. It will ensure that we do not catch the wrong people in the normal course of their work.

Hon PETER FOSS: The most important part of clause 23 is paragraph (a) in that a person will commit an offence if he or she allows a child to be present during an act of prostitution. It also will pick up a person who is a proprietor of the premises or property used as a brothel, but not the proprietor of premises used by a single prostitute. The Government has no problem with that amendment.

Hon N.D. GRIFFITHS: The ALP will again go along with the Government on this clause. Nevertheless, the Committee's dealings with this clause demonstrate that the Bill is badly thought out.

Hon PETER FOSS: I must disagree. Hon Nick Griffiths is trying to create a most undesirable precedent; namely, he suggests that a Government must fight tooth and nail against the slightest suggestion of alteration by the upper House.

Frankly, I am astonished. I have got more criticism from the Hon Nick Griffiths for trying to be amenable to people's concerns and suggestions than I have for sticking to my guns. I would have thought that somebody might stand and say, "Fantastic, the Attorney General has shown a degree of flexibility for a change." To be accused of being unprepared when I actually show a degree of flexibility is quite extraordinary. I suppose it is unusual and perhaps it is open to comment, but I would have thought it would receive a favourable comment rather than a negative one.

Hon NORM KELLY: Again, I raise the serious concerns the Australian Democrats have about the level of penalties in this clause. We feel that they go beyond what is reasonable.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 24 put and passed.

Clause 25: Powers to obtain information -

Hon PETER FOSS: I have circulated an amendment because I would like to hear from the various opposition parties whether they maintain their attitude of wanting to defeat this clause. In the hope of protecting the clause, I move -

Page 15, lines 20 and 21 - To delete the lines and substitute the following -

function in respect of an offence under Section 7 or any offence involving a child

The intent of this amendment is to restrict these powers. I happen to believe that these powers should go right across the offences created by this Bill. I have not been able to convince members opposite, but I hope I have convinced them to accept the clause with this amendment.

Amendment put and passed.

Hon N.D. GRIFFITHS: What the Committee has just agreed to is an improvement, but at the end of the day what has been proposed by the Government in this clause goes too far. The police are being given powers which they do not need and which would infringe civil liberties. The Government is engaged in emotive grandstanding. For the reasons that I mentioned when we dealt with the earlier clause dealing with police powers, I am of the view that the Committee should defeat this clause.

Hon PETER FOSS: I appeal to all members to accept these powers just for these two limited purposes: Child prostitution and white slavery. Both crimes are iniquitous and difficult to prove. I believe they are of such abhorrence to the community that unless we accept these powers we will not be able to deal with them. I find it hard to think that we can support these powers to control the misuse of drugs and weapons, and give them to chicken inspectors and fisheries inspectors, but we cannot support them for police seeking to prevent child prostitution and white slavery. The Government has done its best to try to limit these powers in a hope that I can appeal to members here to agree to it just for those purposes alone. I ask members, please, to think before they vote on the issues of child prostitution and white slavery.

Hon NORM KELLY: The Attorney General has constantly referred to white slavery in the debate. Will he explain his understanding of that term, whether it relates to actions entirely within Australia, and, if not, what current federal laws can be applied to white slavery? It is difficult to consider this amendment in light of the changes that we are making to the Bill. It would be dangerous to make an exception for those areas without fully understanding or being informed of the extent of the problems concerned with what the Attorney General terms white slavery. Hon Mark Nevill made the point earlier that, given this legislation was made known to this Chamber only about two weeks ago, we are making substantial amendments. The Australian Democrats do not shirk that responsibility. However, we are mindful that we should not make changes that will have unintended consequences.

Hon PETER FOSS: The term white slavery is rather outdated and is probably inappropriate these days. It is still used because the federal Minister for Justice and Customs has been active in promoting uniform and combined legislation between the States and the Commonwealth Government. The federal Minister for Justice and Customs announced that the Federal Government will bring in legislation to deal with white slavery. It has also requested the States to enact complementary legislation to assist it. White slavery is probably an inappropriate term, because generally speaking the people who are enslaved in prostitution are Asian. Certainly, we have strong indications that a number of women are enslaved in prostitution.

I use the term white slavery because that term is used nationally at the moment. This amendment refers to clause 7 where people are being induced to act as prostitutes against their will. The issues of white slavery and child prostitution are covered by clauses 7 and 23. It is one thing to make something illegal; it is another to get the evidence to establish that. It is difficult when people are brought to Australia, often not speaking the English language, and do not know what is available to help them to escape. They are vulnerable people; more vulnerable perhaps than most. The only way to establish this is by going onto those premises when not expected. The term is archaic. It is still in currency because it is the term that has been used on a federal basis to try to deal with what is seen to be an increasing problem. We have had some difficulty in ascertaining the problem, and there has been an exchange between the former Victorian Attorney General and the federal Minister for Justice and Customs over a dispute on how widespread it is. I do not think it is as widespread as the federal minister believes it is. However, some examples exist and our police strongly suspect that women have been brought into the country purely for the purpose of prostitution, and they doubt that they are remaining willingly. However, under the present law it is extremely difficult to prove.

Hon N.D. GRIFFITHS: The fact that an offence is serious is not the issue. The issue is the collection of evidence. The fact that the Attorney now proposes to get rid of many civil liberties and restrict that to areas involving a couple of serious offences is not at the heart of this issue.

Hon Peter Foss: They are insidious offences, too.

Hon N.D. GRIFFITHS: Quite so. The Opposition is concerned about evidence. Many offences are very serious, so the seriousness of the offence should not justify -

Hon Peter Foss: We need a combination.

Hon N.D. GRIFFITHS: Certainly we should not be contemplating getting rid of civil liberties just to deal with an adult streetwalker, although that was the case until -

Hon Peter Foss interjected.

Hon N.D. GRIFFITHS: Under the code of conduct one must be careful about that word too. It is a voluntary code of conduct. The committee should concentrate on the words of the clause. It provides that a police officer can require "a person" to do a number of things. It does not refer to a person suspected or a person who has given the police reasonable cause. A police officer can require a person to produce something, to inspect something and to make copies of a document. An officer can require a person to give the police officer such information as the police officer requires and to answer any question put to that person, and so on. We should not be adopting powers of that nature for any reason without very careful consideration indeed. That is one reason it is in the interests of our community that the Government agree that this clause be defeated and come back next year with something better reasoned than has been produced so far. The Opposition will not relinquish civil liberties just on the say so of the Attorney General to pass a Bill produced in the Parliament a couple of weeks ago. I am aware of all those people who have shown all the attributes of not having anything to do with Christmas, but who seem to want something done by Christmas.

Hon GIZ WATSON: The Greens (WA) also support the deletion of this clause. Health care professionals and health care organisations working with people in the sex industry have inferred from this clause that hospital or clinical records could be seized by police. If patients know they could be prosecuted based on a medical consultation, they will either not seek a consultation or give false details. Furthermore, this clause would impinge on the issue of patient-doctor confidentiality and leave doctors with an ethical and a legal dilemma. Obviously it would cause problems for people who are doing outreach work in the sex industry and who may be keeping records concerning health or occupational health and safety issues within the industry. The powers proposed here are totally over the top. As has been said by many members here today, introducing increased police powers in this piecemeal way on specific issues is a very bad way to tackle the management of police powers. They must be handled comprehensively under the Police Act rather than in this way. The Greens (WA) therefore very strongly oppose this clause and will seek to have it deleted.

Clause, as amended, put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Ray Halligan
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon Simon O'Brien

Hon B.M. Scott
Hon W.N. Stretch
Hon Muriel Patterson (*Teller*)

Noes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon John Halden

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Pairs

Hon Derrick Tomlinson
Hon Greg Smith
Hon M.D. Nixon

Hon Tom Helm
Hon Bob Thomas
Hon Cheryl Davenport

Clause, as amended, thus negatived.

Clause 26: Police may direct person to move on -

Hon MARK NEVILL: Clause 26 concerns me as it could be more widely used than for the purposes of controlling street prostitution. Comments have been made to me that this clause could be directed at Aboriginal people in parks. I am talking about an overzealous use of the clause by police directing people to move on.

Hon Peter Foss: How?

Hon MARK NEVILL: Particularly young people in certain public places.

Hon Peter Foss: Only if they are suspected of engaging in prostitution.

Hon MARK NEVILL: That is just the point I am making. An overzealous police officer could use this power as a reason for moving people on. It is very important for this power to be carefully considered when training police officers. It should not be used, for example, as a method of disciplining young Aboriginal women on the Perth railway station or in parks and so on. It is a very broad power and could be misused.

Hon PETER FOSS: I admit that any power is capable of misuse and I suppose some have been misused. It will be important to ensure that if a police officer uses this power and there is a complaint, it is properly investigated to determine whether there are any reasonable grounds for suspecting that person was engaged in prostitution. One of the difficulties is that if there are corrupt police officers, they are entrusted to exercise powers that are not given to the ordinary person. Any of those powers is capable of being abused. We must have checks and balances to ensure that if those powers are abused, people are disciplined for it. However, we must have the checks and balances, rather than not have the power.

Hon NORM KELLY: The Australian Democrats believe this is one of the most important clauses in the Bill. The clause provides the Police Service with an effective power to stamp out street prostitution. Although the power is defined, it has the potential for abuse, as Hon Mark Nevill said. However, correctly used - I believe it will be correctly used in the majority of cases - it will be a simple but effective measure against this form of prostitution. I move -

Page 17, line 10 - To delete "suspect" and substitute "believe".

Chairman's Ruling - Amendment out of Order

The CHAIRMAN: Order! I rule this amendment out of order as I believe "suspect" has the same legal meaning as "believe". Therefore, I do not consider it an acceptable amendment.

Debate Resumed

Hon NORM KELLY: I appreciate the Chairman's ruling, but the Australian Democrats are seeking to give the provision more strength so that police officers have a strong backing for their action before they initiate a move-on order. We hope the power to direct a person to move on will not be abused, and I think it has the potential to be abused. However, I will let the Attorney General move his amendment. We support the intent of the clause and believe it will be an effective measure against prostitution.

Hon PETER FOSS: I move -

Page 17, line 11 - To insert after "in" the words "or in the view of".

This amendment is consistent with the alterations made to the definitions in clause 3.

Amendment put and passed.

Hon NORM KELLY: What sort of understanding does the Attorney General have of "surrounding area", as it is specified in the clause? The Australian Democrats are concerned that the power could be used too broadly and could impose on a person's civil liberties through restriction of movement. Specification is needed about the limit of the area that such an order could involve. I move -

Page 17, line 13 - To insert after "area" the words "of not more than 250 metres radius, as".

The clause would then read "in a surrounding area of not more than 250 metres radius, as specified in the direction".

Hon PETER FOSS: I can see that one of the standard pieces of equipment issued to police officers will be tape measures so they can work out how far -

Hon Norm Kelly: I think they would have a pretty good understanding of the general area.

Hon PETER FOSS: No. One would have to measure the area and tell an offender to go further than that. It would be strange if the validity of an order was undermined because an officer had to specify that a distance was slightly longer than 250 metres. I ask the member to take into account Palmerston and Glendower Streets. From one end of Palmerston Street to the other end of Glendower Street would be considerably more than 250 metres. It would be strange if an officer were permitted to tell someone to move on, but no more than 250 metres in either direction. If the officer and the person concerned were at one end of Palmerston Street, the instruction to move on could see the person simply moving 250 metres further down Palmerston Street. The officer would then have to wait until the person moved on 250 metres and then tell him or her to move on again, and so on.

Hon Simon O'Brien: There would be complaints of harassment.

Hon PETER FOSS: I understand the point, and it will have to be dealt with regarding reasonableness of standard procedures. However, this type of prescription is inappropriate; it has the capacity to undermine the validity of an instruction. A more appropriate instruction would be for the person concerned to move on from Palmerston Street.

Hon NORM KELLY: How does the Attorney General expect "a surrounding area" to be defined in these directions?

Hon PETER FOSS: There was a problem when people were told to move on from Palmerston Street and they moved into Lake Street. It would be fair to tell someone to move from Palmerston, Lake and Aberdeen Streets. We want to get people out of an inhabited area to a place in which they will not bother the locals. At one stage these people were moved into Stirling Street. One end of that street has residences but the other does not. It is perhaps a matter of waiting to see what happens and exercising the power appropriately. There will obviously be guidelines.

Hon N.D. GRIFFITHS: The Labor Party supports this clause, just as it has supported those clauses that deal with what the Bill was supposed to address before the other matters slipped in. I heard the Attorney General refer to matters relating to Palmerston Street and people moving on. I understand, from a conversation I had yesterday with a gentleman who has played a significant role in exposing what took place in Palmerston Street last year, that when the police intervened significant arrests were made and convictions resulted. It is true that subsequently those engaged in street prostitution moved on, but the police should also have moved on.

Hon NORM KELLY: I appreciate the Attorney's comments. I hope it is clear what the Australian Democrats are aiming to achieve. We believe that this clause will provide an effective measure. Concern has been expressed that too broad a description would be used with such a move-on order. It may be that a person cannot be in any part of Northbridge. That would be an abuse of that power. I know it is difficult to specify areas such as Stirling Street. We have a problem in Pier Street now because when Stirling Street became known as the strip to pick up street workers, it was not long before kerb crawlers and workers realised that it was easy to go around the corner into Pier Street. The workers could then be picked up by the kerb crawlers while they were going around the block. It is difficult to specify an area, but the Democrats want some indication of how this provision will be applied. The Attorney General stated yesterday that he expects the powers to be in use prior to Christmas. I imagine the police have some guidelines as to how broadly this power will be used.

Hon PETER FOSS: For the benefit of Hon Nick Griffiths, I advise that the reason some people were moved on from Palmerston Street is that arrests were made, as he said, and those people were then put on bail. The bail contained a condition preventing them from going back to that area. As members will recall, we have considerably strengthened the Bail Act in that respect.

Hon N.D. Griffiths: With our assistance.

Hon PETER FOSS: I agree, and very sensibly so, to deal with matters so that we can, while people are on bail, prevent a recurrence of the offending behaviour.

Hon N.D. Griffiths: And also convictions.

Hon PETER FOSS: Yes.

Hon N.D. Griffiths: The fact is that those who were charged, as I am advised, pleaded guilty for the most part, but people plead guilty for many good reasons.

Hon PETER FOSS: Yes. Clause 26 has the capacity to work on kerb crawlers as well. We have not specified that on purpose. We must try to make sure that in practice it is used appropriately, and that must be worked out on the ground. Essentially, we will start off by ascertaining where these people are, and then they will be told to move on from that area. I suspect that if they do not move on far enough, they will be told to move on a bit further, until eventually they will end up in an area and people will be happy that they are there. It may well be that that will be done in the first instance with three move-on orders, but thereafter it will be done with one move-on order which will encompass all three orders. The appropriate method will be to start off by ascertaining what is needed, and perhaps in the light of experience the move-on orders will be framed in a better way.

Hon KEN TRAVERS: I will follow up on a comment that the Attorney General just made, with which I agree. One may find that if these people move around, the area will be expanded to pick up the place to which they have moved. The Attorney General commented that they may be moved on two or three times until they get to an area where people are happy with them. Is it the intention of the Government to try to identify an area where it is happy for street prostitution to occur, and then to allow it to take place in that area?

Hon PETER FOSS: No. The identified method is to try to deal with kerb crawlers. We believe that the best method of dealing with streetwalking is to deal with the demand rather than the supply.

Hon Ken Travers: What did you mean by that comment about moving them on to an area where people are happy with it?

Hon PETER FOSS: That does not mean we will not do both. The member wanted to know what the intentions of the Government are. Our intentions are to operate against the kerb crawlers.

Hon Ken Travers: That is good. I agree with that.

Hon PETER FOSS: We believe that would be more effective than acting against the streetwalkers. That does not mean that we will not move the streetwalkers out, until such time as we have dealt with the demand. However, the primary tactic will

be to cut the demand by making it difficult for kerb crawlers to continue to solicit prostitutes. If we can get rid of the demand, that will have an effect on the streetwalkers. If they stand in an area and there are no kerb crawlers, I do not think they will continue that method of operation.

Hon Ken Travers: You are trying to teach them to move to a different place where people will be happy with them.

Hon PETER FOSS: No. We intend to move them out of areas where people are unhappy with them. That is the first point. As our principal tactic, we intend to work on the kerb crawlers. Ultimately, I hope that there will not be any area for them because we will have dealt with the demand. In the meantime, we intend to move them out of those areas in which they are causing a significant public concern. We would be happy to deal with that initially by getting them to a place, such as the uninhabited end of Stirling Street. However, we will not stop. Our principal method will be to deal with kerb crawlers, and we hope that eventually we will prevent that demand from being present.

Hon E.R.J. DERMER: Has the Government endeavoured to analyse the attraction of street prostitution to potential prostitution clients as an alternative to prostitution through brothels?

Hon PETER FOSS: We know why the streetwalkers are there. Generally speaking, they either do not want to be in a brothel or they have a drug habit or possibly a disease so that they cannot work in a brothel. As far as the men are concerned, it appears to be opportunistic. They drive past on their way to the tip on a Saturday afternoon or whatever. Truck drivers seem to be a particularly prevalent group of kerb crawlers. We have not actually carried out a survey, but why they are there appears to be opportunistic.

Hon E.R.J. Dermer: Looking for a park.

Hon PETER FOSS: I do not think it is quite that much.

Amendment put and negatived.

Clause, as amended, put and passed.

Clause 27: Detention, search and seizure without warrant -

Hon NORM KELLY: The Australian Democrats will be opposing this clause. We feel that it is not proper to have this in the Bill and we feel that the powers contained in the clause go far beyond what is necessary for proper action against the aspects of prostitution which are covered in this Bill. That which is of particular concern to the Australian Democrats is contained in clause 27(3) which states -

The power to stop and detain a conveyance includes the power to detain anyone in or on the conveyance for as long as is reasonably necessary to search the conveyance -

The second half of the subclause is of greater concern -

- even though, until the conveyance has been searched, the person may not be suspected of anything because of which the person can be detained under subsection (1).

It appears to be a very broad power. Even though the police do not suspect an offence has been carried out or is intended to be carried out, they want the power to search a vehicle to try to find a bit of evidence just in case they do happen to catch on to something! This power could be used as a road block measure to check every car as it goes up Pier Street, for example. It is a very broad-ranging power and as much as we oppose this clause, we would like to hear from the Attorney General on the intent of subclause (3).

Hon PETER FOSS: This is a vital clause if we are to deal with streetwalking, because if members think that we are going to be able to handle streetwalkers and kerb crawlers by saying, "Right there's somebody we suspect of committing an offence; down to the JP, get a warrant and stop that person and deal with them", then they have a very strange idea of how to deal with streetwalkers. If I thought we could keep the clause but lose subclause (3), I would be happy. It is limiting if only the driver can be stopped, because the passengers are then prevented from going on. I think it is necessary to have it. However, generally speaking, I suppose a kerb crawler would be alone in the vehicle and it will not be necessary to have subclause (3) in most of those cases.

I appeal to members: If they want something done, do not hamstring the police. How will streetwalking and kerb crawling be stopped if the police cannot stop people and ask questions about what they are doing in an area?

Hon Norm Kelly: They have the move-on power.

Hon PETER FOSS: All they can do is move people on. Do members want people prosecuted? Police resources will be spent chasing people telling them to move on. Do members want streetwalkers and kerb crawlers prosecuted? The police will have no capacity to stop people and ask them what they are doing in an area.

Hon Ken Travers: What evidence do they expect to find?

Hon PETER FOSS: If they do not have this power then the police cannot even stop them.

Hon Ken Travers: Once they are stopped what will they find? You are only going to catch them if you catch them hanging out of a window saying, "Jump in the car."

Hon PETER FOSS: No. We need the power to tell a person to stop. All these things are required: Stop, detain and search.

One needs to be able to do that to deal with a kerb crawler. If an officer cannot tell a driver to stop, he will keep driving. How can an officer ask a person if he has a legitimate reason for driving down a street in that case? The police officer would need to arrest the person on the off-chance that he thinks the person is a kerb crawler. The police officer should be able to say to kerb crawlers "Excuse me, sir, will you stop your vehicle?"

Hon Ljiljanna Ravlich: The police stop vehicles all the time. They stopped me.

Hon PETER FOSS: When the police stopped Hon Ljiljanna Ravlich, she stopped. I will not tell the Chamber what streetwalkers and kerb crawlers say when the police stop them. Their language is somewhat explicit, but they do not cooperate. It is all very well for Hon Ljiljanna Ravlich; if the police ask her to stop, she will cooperate - she is a member of Parliament. However, streetwalkers or kerb crawlers would need rocks in their head to stop when asked to. The easiest way to get out of being charged with an offence is to keep going.

Hon Giz Watson: Failure to obey a police command is an offence.

Hon PETER FOSS: The member is suggesting that the police illicitly use some other power to stop people. That is a great recommendation. I am astounded that it is being suggested that when the police want to stop somebody because they think he is a kerb crawler, they should say "Excuse me, sir, I think you are driving without a licence, will you kindly stop?" How does an officer go on to ask a driver what he was doing there? What does that have to do with the fact that the officer thinks the driver does not have a licence? The suggestion that the police should abuse some other power in order to stop a kerb crawler because they do not have any power to stop kerb crawlers must be one of the most outrageous suggestions I have come across. This power is needed if a police officer wants to legitimately stop a person to ask him whether he has a legitimate reason for loitering. Come on, let us get real! Do members want to stop this or not? Do they want to believe the realities of the situation? If the police do not have this power, what will happen is what happens now; when a police officer tries to stop a streetwalker and question her, she will walk off - usually with some well chosen words about what the officer can do with himself. That also applies to a kerb crawler. The police cannot stop someone without a legitimate reason. The police are allowed to stop people to check their licences, but the Opposition will not allow a kerb crawler to be stopped and asked whether he has a legitimate reason for loitering. Good heavens! Will members opposite get real at some stage and let the police tackle the problem?

Words fail me because members opposite will not give the most basic power to the police. Are members real or not? Do they want it to be an offence for a streetwalker to walk off or refuse to answer questions about whether she has a legitimate reason for being there? What does the police officer do then? He could arrest the streetwalker and use the presumption, except I doubt that the presumption will last the way we are going at the moment. We will have a toothless law. Members opposite have taken everything out of this law which would have made it worthwhile, and then they complain about the Government not doing anything. There is no point in having a law -

Several members interjected.

The CHAIRMAN: Order! The Attorney General will cease. The interjections will cease altogether.

Hon PETER FOSS: This is the scenario we have now: Yes, we have made it illegal to kerb crawl and we have made it illegal to solicit, but we have told the police that they will not have any way to enforce these provisions. The streetwalkers will keep walking when asked what they are doing somewhere. I suppose when we reach the presumption provision, it will also be knocked out and we will be exactly where we were before. We might have some slightly larger penalties, but we will have no way of getting the evidence and no way of proving the offence. Even the Labor Government brought in powers to random breath test. The police can stop people and random breath test them, but we cannot possibly have policemen stopping people just in case they are kerb crawlers!

Hon Ken Travers: What test are you going to put on them when you stop them?

Hon PETER FOSS: They will be asked whether they have a legitimate reason for lurking there.

Hon Ken Travers: And they are going to say, "I came here for sex"?

Hon PETER FOSS: No, they will not.

Hon Ken Travers: So you are going to let them go.

Hon PETER FOSS: No, the member is wrong.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon N.D. GRIFFITHS: The Attorney General was telling us how essential clause 27 is for what he says is required to be done. Hon Norm Kelly homed in on subclause (3), which is particularly offensive and demonstrates the wish-list mentality of this legislation. Members should note the very wide meaning of "conveyance", which is anything that is used or capable of being used to transport people or goods by air, land or water, and it does not matter how it is propelled or that it may ordinarily be stationary. The offending words in subclause (3) are -

The power to stop and detain a conveyance includes the power to detain anyone in or on the conveyance for as long as is reasonably necessary to search the conveyance -

The subclause continues -

- even though, until the conveyance has been searched, the person may not be suspected of anything because of which the person can be detained under subsection (1).

That means anyone. This subclause is typical of the measures which the Government is seeking to impose on the people of Western Australia. A few moments ago I received advance notice that the Attorney General is now thinking about -

Hon Peter Foss: I am not thinking about it; I am being forced into it.

Hon N.D. GRIFFITHS: He is being forced into it. Again, this is indicative of the Government's approach.

Hon Peter Foss: Desperation is what it is.

Hon N.D. GRIFFITHS: Desperation is what it is all about. I heard all about the Attorney General's desperate moves at 1.45 pm. The Government said this clause was so essential that as a matter of desperation, it has now decided -

Hon Ken Travers: Desperation after two years.

Hon Peter Foss: Desperation as seen by Parliament for its own legislation.

Hon N.D. GRIFFITHS: Desperation after almost seven years and desperation after failing to properly resource the police child abuse unit, as was demonstrated -

Hon Peter Foss: You keep raising that and I will have to answer you at some stage.

Hon N.D. GRIFFITHS: Yes, and the Attorney General has a lot to answer for there. This Bill has been produced in desperation after a litany of failures because the Government has failed to produce the goods. If the Attorney General proposes to delete those lines, we will support the Government. Frankly, this clause is part of a package of abuse.

Hon PETER FOSS: I have carefully tried to ignore the constant remarks about the child abuse unit because they are totally irrelevant.

Hon N.D. Griffiths: I have mentioned them three times in two days.

Hon PETER FOSS: I know, and I have ignored them three times in two days. I will now reply to them.

Hon N.D. Griffiths: You have filibustered for two days.

Hon PETER FOSS: Hon Nick Griffiths is filibustering. I have tried to ignore him but, as he has not been picked up for uttering irrelevant material, I will have to reply to it. Hon Nick Griffiths is wrong about the child abuse unit; it has been appropriately resourced. He relied on a report, issued by low-level management, which contains the usual bitching from people who say they cannot do their job because they need more resources. The reality of the matter is that the child abuse unit has been properly resourced and properly conducted.

Hon N.D. Griffiths: That is not what Mr Atherton said.

Hon PETER FOSS: That is nonsense. The other outrageous statement made by Hon Nick Griffiths was that we failed to resource the police. If we failed to resource the police when we have nearly doubled their resources, what on earth was the situation under the previous Labor Government? However, let us return to dealing with the Bill rather than irrelevancies.

Hon E.R.J. Dermer interjected.

The CHAIRMAN: Order, members! Hon Ed Dermer will come to order.

Hon PETER FOSS: It has been suggested that clause 27 confers on the police an outrageous power. However, the police can stop motorists to ask them if they have a licence and/or to ask them to breathe into a bag. At least in clause 27 we say that the police must suspect something. If members think that this is such an unusual removal of powers, they should look at section 112 of the Censorship Act, which reads -

- (2) A member of the police force, or an authorized person, -

It does not even need to be a member of the Police Force. The subsection continues -

- may without a warrant, at any reasonable time, enter any place where the business of selling, distributing, exhibiting or demonstrating publications, films or computer games, or operating a computer service, is carried on and inspect any articles and records kept on the premises.

- (3) A member of the police force who has entered a place under subsection (2) may seize any thing that the member reasonably suspects is connected with an offence against this Act that is found on or in the place.

Other things are contained in the Censorship Act. Members are prepared to grant those powers for censorship, but they are not prepared to do it to assist the restriction on kerb crawling and streetwalking. Members are trying to protect those people who already know the game. I do not know if they bothered to ask police officers about the games these people play when they are caught. There are all sorts of wonderful little tricks. They grab the policeman by his genitals or grab his hand and stick it on their breasts, because they know the regulations mean the police must leave at that time. What are they supposed to do? The police cannot even stop somebody unless they ask them for their licence. I do not know how an officer would ask a streetwalker for her licence. They are not even driving! I suppose an officer could say he thought the streetwalker was "demonstrating publications, films or computer games" and use the Censorship Act to stop them. The Opposition,

Australian Democrats and the Greens (WA) suggest that other legislation should be used. Why will they not give the police reasonable powers? They believe these are problem areas, so why are they resistant to giving powers that are given elsewhere? It is a simple thing to do.

Hon N.D. Griffiths: Because the Attorney General is being forced.

Hon PETER FOSS: Members said their particular objection is to subclause (3). I would rather have the clause passed without subclause (3) than have none of it passed. I protest that the Government is being forced to do this when it is trying to do something positive. It received complaint after complaint asking why nothing had been done. It is being demonstrated here; the Government cannot do anything because of a whole lot of troglodytes who have not bothered to find out what difficulties are faced by police. When reasonable things that the Government was asked to do to enable police to do their job are suggested, members say they are not prepared to give the Police Service that opportunity. They provide that opportunity for censorship, licences and random breath tests but when it comes to prostitution they say, "Hang on, we are not dealing with ordinary people engaged in a lawful occupation, so we must be careful". These people are prostitutes, pimps and kerb crawlers, but members will not allow them to be stopped. However, they will allow people driving their cars to be stopped and asked for their licences. They will allow people to be stopped for whatever reason and asked to blow in a bag, but they will not allow people who are driving around North Perth looking for prostitutes to be stopped. They say it infringes on civil liberties. When will members opposite get wise and give the police practical tools to allow them to do their job? I implore the members -

Several members interjected.

The CHAIRMAN: Order!

Hon PETER FOSS: The policemen are trying to do a job. They are not asking for more powers than those which members have willingly granted for areas of lesser importance and with fewer practical difficulties. The Government is asking for it in the most reasonable of circumstances. However, members are not prepared to do it. They will provide the Anti-Corruption Commission, chicken meat inspectors, Fisheries WA inspectors and traffic police with those powers, but when it involves kerb crawling or streetwalking it suddenly becomes an impossibility. That those powers are in other Acts for other purposes is irrelevant. The most disingenuous suggestion is that the police should use the powers they already have. In other words, members would prefer that police abuse the powers they already have, rather than give them legitimate powers. In desperation and with a plea that members please let our police get on with the job, I move -

Page 18, lines 1 to 6 - To delete the lines.

The amendment removes subclause (3). Please, give the police a go, give them half a chance. Why have members suddenly got an unbelievable, obstructive approach to trying to let the police tackle the problems they have? I find it peculiar. There was bipartisan support for this in the lower House. There is nothing unusual in this clause; we have done it before. Members know, or should know if they have done the slightest bit of investigation, that it is necessary. If they object to subclause (3), we will take it out, but please, just give them a go. Why should the police not be able to stop persons who are obviously doing street work and ask them what their reason is? Those persons will give a reason, although it certainly will not be that they are soliciting. At least that person has been stopped and is required to talk to the officer and give an explanation. When he or she is prosecuted, the police have some material with which to work. Until the public gets involved, we can forget about trying to help the police stamp out something with which we are not happy.

Hon KEN TRAVERS: I understand the desire to stop and talk to people. The police have the power under the Police Act to ask people to give their names and addresses without a reason.

Hon Peter Foss: Yes, and that is all.

Hon KEN TRAVERS: If a police officer approaches a person and that person walks away, the officer has the power to detain him or her to obtain a name and address. I understand why the police might want the ability to engage in some entrapment processes within reason. However, the Attorney General has not adequately explained what he hopes to achieve. He has admitted that when people are stopped and questioned about what they are doing, they will not say they are looking for sex - they will say they are going to work or provide some other explanation. This amendment will not assist the police in satisfying any evidentiary requirement. If an officer goes into a building to look for pornography, it might be found and that would constitute the evidence of the offence. Likewise, if a person is breath tested and he or she blows over 0.05 blood alcohol content, that reading will provide the evidence of an offence. What would the Attorney General be hoping to find in a search that would assist in proving an offence?

Hon PETER FOSS: I get the feeling that we are playing a game. I give these answers and put forward a good reason for making a change, members say it is a good reason and then vote the way they always intended to vote. If members have no intention of voting for this amendment, they should stop playing games and wasting time. I ask members to get on with it. It might be fun to ask these questions, but unless -

Hon Ken Travers: Give me a decent answer.

Hon PETER FOSS: I will. Unless members are seriously considering the amendment, I ask them to stop asking questions when they have no intention of supporting it. If they are genuinely considering changing their minds, the following information might be of interest.

Hon E.R.J. Dermer: We have a duty to ask questions.

Hon PETER FOSS: If members intend to vote against it anyway, what is the point of getting me to explain a clause that will not become law?

Hon E.R.J. Dermer: So that we understand what you have in mind for the State.

Hon PETER FOSS: If I thought that for one moment members opposite intended to support the amendment, of course that would be a good move. However, my experience is that even though I give valid answers to questions, members still vote against the amendments. I will provide an answer in the hope that perhaps this time there will be a change of heart. Police might find the following articles on a street worker: Sex toys and aids - various things used to increase sexual satisfaction; pornographic publications which can be used for the purpose of stimulation; lubricant; money; appointment books; phone numbers; mobile phones and accounts; and newspaper advertisements offering sexual services. All these things help set the milieu in which the person is operating. All of them may not be found, but they are likely to be found when dealing with a sex worker. If members accept that these are useful measures, I ask them to support the amendment. If nothing I say will change their minds, I ask them to get on with the debate. If it will not be put in the Act, I cannot see the point of having endless discussions to elucidate the meaning of a clause against which members opposite will vote anyway.

Hon NORM KELLY: It is interesting that in the list that the Attorney General just read out no mention is made of condoms. One of the concerns of health workers in this area is that the carrying of condoms can be used against workers in the industry. Once again this is counterproductive to good public health policy. We are concerned about those implications in this type of power.

Hon Peter Foss: If you want to vote against it, do so, and let us get on with it. Come on.

Hon NORM KELLY: I was going to say that the Australian Democrats are happy to consider the amendment that the Attorney General has moved. However, I am slightly confused, given that just a while ago I was asked to respond to comments that the Attorney General has made in the media on this Bill in a general sense. It appears that the Government is committed to saying that this Bill is already unworkable, in which case we must ask why we are pursuing this committee stage further. Hon Mark Nevill and I said earlier that perhaps there is a need for proper discussion in a standing committee on how best to formulate this legislation. The Democrats are more than willing to support fair and reasonable legislation, and we are keen to work hard to achieve that. Obviously, our views on the extent of police powers are different from the Government's, but we can definitely work towards something that is workable and reasonable. All we are asking for is something that is workable, reasonable and effective. It is interesting that recently when we asked the Government for resources to help us better deal with this legislation, it refused our request. That does not help our case, especially when we are making the number of amendments -

Hon Peter Foss: Deals for money, is it?

Hon NORM KELLY: No, it is not. I am just talking about a physical ability to handle so much legislation. As I said earlier, this legislation came into the Parliament only two weeks ago. It is quite irresponsible, when so many amendments are being made -

Hon Peter Foss: You have asked for this amendment, not me. I am happy not to have it. If you do not want it, vote against it. If it will make a difference, support it.

Hon NORM KELLY: The Chamber voted for the second reading of this Bill. As I said, by making these amendments, some of which have been agreed to by the Government, we could be allowing unintended impacts on this legislation. As the Attorney General has said time and again, it is a very difficult area of the law. It seems that in his media comments, every second phrase is about white slavery. That is obviously the emotional way in which the Government is trying to sell this legislation. Although we are willing to consider and entertain these types of amendments, it is difficult to do so without seeing the true intent of the Government in what may be the formal version of this Bill.

Hon PETER FOSS: The role of legislators is to decide whether to vote for something. This is not an unusual clause. There are ample examples of this being done for far less serious and insidious offences. By moving this amendment, I have tried to accommodate Hon Norm Kelly. I assumed that he was sincere when he said that his principal concern was with subclause (3). Okay, he said it; I have taken him at his word. I believe that he, like the Government, is trying to arrive at something that will benefit the people of Western Australia. I think the amendments that have been made to date are outrageous. I said so at the time. I do not intend to say it again because that would be reflecting on a vote of the Committee. I sincerely hope that when the public comes to know what has been done, as the process goes on between the two Houses, as it undoubtedly will, we will have arrived at a sensible result.

That is something that will be seen in the future. The Committee has made its decision and I do not intend to reflect on that decision, but we know that is not the end of the day. At some stage the Bill will go back to the other House, which will either agree or disagree with those amendments and then we must reconsider them. The public will be reconsidering them in that time, and I sincerely hope that the people who voted for those changes will also be reconsidering them. I am very keen to progress this Bill to a stage where we can send it back to the other House and then perhaps get down to some negotiation between the Houses, to see whether we can develop something workable. I am very keen to progress it and it is in that spirit that I have moved this amendment, because I am hoping to accommodate Hon Norm Kelly. If after accommodating we still knock the thing out, then fine, let us get on with it; but can we stop the self-justification for what is being done. If it is opposed, then it is opposed and the members should stand by that.

Hon NORM KELLY: If the Attorney General wants to bring this clause to a vote now, then we will vote against the clause. If the Attorney General is willing to move to postpone further consideration of this clause, we would be happy to revisit it and would prefer to revisit it.

Hon Peter Foss: You are just playing with it.

Hon NORM KELLY: We are not playing with it. If this is the Attorney General's attitude, then I think we should report progress on the whole Bill and move onto something else, because it is being totally counterproductive to good legislation. We will oppose it at this stage, but we are willing to revisit this issue and vote accordingly at a later stage.

Amendment put and passed.

Clause, as amended, put and a division taken with the following result -

Ayes (12)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Max Evans	Hon Murray Montgomery	Hon B.M. Scott	
Hon Peter Foss			

Noes (13)

Hon Kim Chance	Hon Helen Hodgson	Hon J.A. Scott	Hon Giz Watson
Hon J.A. Cowdell	Hon Norm Kelly	Hon Tom Stephens	Hon E.R.J. Dermer (<i>Teller</i>)
Hon N.D. Griffiths	Hon Mark Nevill	Hon Ken Travers	
Hon John Halden	Hon Ljiljanna Ravlich		

Pairs

Hon B.K. Donaldson	Hon Tom Helm
Hon Derrick Tomlinson	Hon Bob Thomas
Hon Greg Smith	Hon Cheryl Davenport
Hon M.D. Nixon	Hon Christine Sharp

Clause, as amended, thus negated.

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

Hon N.D. GRIFFITHS: The arguments about most of these issues have been put. The position of the Australian Labor Party is as set out on the Supplementary Notice Paper. It is not my desire to detain the Chamber any longer than is necessary. I merely remind the Committee that the ALP opposes this clause and the subsequent clauses listed on the Supplementary Notice Paper.

Hon GIZ WATSON: The Greens (WA) will not support this clause. I do not think it is necessary to elaborate on the reasons we have given previously about the extent of the police powers; that is why we oppose the clause.

Clause put and a division taken with the following result -

Ayes (12)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Max Evans	Hon Murray Montgomery	Hon B.M. Scott	
Hon Peter Foss			

Noes (13)

Hon Kim Chance	Hon Helen Hodgson	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Norm Kelly	Hon J.A. Scott	Hon Giz Watson
Hon N.D. Griffiths	Hon Mark Nevill	Hon Tom Stephens	Hon E.R.J. Dermer (<i>Teller</i>)
Hon John Halden			

Pairs

Hon Bruce Donaldson	Hon Tom Helm
Hon Derrick Tomlinson	Hon Bob Thomas
Hon Murray Nixon	Hon Cheryl Davenport
Hon Greg Smith	Hon Christine Sharp

Clause thus negated.

Clause 29: Search and seizure with warrant -

Clause put and a division taken with the following result -

Ayes (12)

Hon M.J. Criddle	Hon Ray Halligan	Hon N.F. Moore	Hon W.N. Stretch
Hon Dexter Davies	Hon Barry House	Hon Simon O'Brien	Hon Muriel Patterson
Hon Max Evans	Hon Murray Montgomery	Hon B.M. Scott	(<i>Teller</i>)
Hon Peter Foss			

Noes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon John Halden

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Tom Stephens
Hon Ken Travers

Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Pairs

Hon B.K. Donaldson
Hon M.D. Nixon
Hon Greg Smith
Hon Derrick Tomlinson

Hon Tom Helm
Hon Bob Thomas
Hon Cheryl Davenport
Hon Christine Sharp

Clause thus negated.

Clause 30: Warrant may be obtained remotely -

The CHAIRMAN: I rule that clause 30 be struck out of the Bill as it is totally dependent on a clause that has already been defeated.

Clause struck out.

Clauses 31 and 32 struck out.

Clause 33: Forfeiture and delivery on conviction -

Hon NORM KELLY: My reading of the clause is that it relates to a court's opportunity, upon a conviction for an offence under this legislation, to order that something be forfeited, as subclause (1)(a) states, "whether or not it has been seized and retained by a police officer". It could be beyond the powers that have been struck out. There may be an argument that a court could forfeit even the remaining powers in the Bill.

The CHAIRMAN: Upon the advice tendered by the member, I rule that clauses 31 and 32 also be struck out, but that clause 33 may be considered.

Clause put and passed.

Clauses 34 to 36 put and passed.

Clause 37: Undercover officers -

Hon NORM KELLY: The Australian Democrats will oppose this clause. We believe, once again, that the powers provided to police under this clause do not have adequate accountability measures attached to the use of them. Under subclause (6) the Commissioner of Police is to give the minister a report, as required. That is a minimal aspect of accountability. We have an objection to the extent to which undercover officers can go. They can have sex with the prostitute and then charge that prostitute for doing that act. That is far beyond the realms of decency in administering this Bill.

Hon N.D. GRIFFITHS: The Australian Labor party will vote with the Government on this clause. The fact that we are doing so gives a lie to the assertions the Attorney General has made in the Committee and outside. This clause gives the police power to encourage to entrap. I refer the Committee to parts of the clause; in particular, that the Commissioner of Police may authorise a police officer to act as an undercover officer, and an undercover officer may do anything specified in the authorisation given by the commissioner for the purpose of detecting the commission of an offence. We are joining with the Government in giving very wide powers indeed to the Police Force. All of the nonsense we have heard earlier today is simply that. Under this clause, the Police Force is being given a very powerful tool which must be watched and audited very carefully.

Hon GIZ WATSON: The Greens (WA) also have concerns about this clause. We support the amendment to delete the clause. Entrapment is a very dangerous path to go down. From my reading of this clause, I find it contains very wide-ranging powers. Hon Nick Griffiths has argued that is a good thing; I argue it is not, simply on the ground that the power provided to police officers under this clause is not warranted.

Hon PETER FOSS: I am obviously pleased to have the support of the Labor Party. However, I am a little concerned about the suggestion that the clause gives police the power to do anything. I suppose, theoretically, the Commissioner of Police could authorise a policeman to assault somebody, rifle his possessions and seize anything that might be a useful piece of evidence. I do not think that is the intent of this clause.

Hon N.D. Griffiths: I am sure it is not.

Hon PETER FOSS: If Hon Nick Griffiths thinks we can substitute this for the right to stop, search and seize by authorising all sorts of unlawful activities, it is not how I envisaged this clause.

Hon N.D. GRIFFITHS: Once again I do not think the Attorney General has read what is contained in the legislation for which he is arguing on behalf of the Government. Clause 37 states -

- (4) An undercover officer may do anything specified in the authorization given by the Commissioner for the purpose of detecting the commission of an offence.

- (5) If an undercover officer does anything as described in subsection (4) -
- (a) the undercover officer does not commit an offence and is not liable as a party to an offence committed by another person . . .

This clause contemplates the Commissioner of Police allowing a police officer to do something otherwise illegal. That is what the clause is all about. It is a huge power, which is not ordinarily given.

Hon Peter Foss: It is bizarre.

Hon N.D. GRIFFITHS: I agree; it is a very bizarre power. It puts the lie to the nonsense the Attorney General has been peddling outside. It is a power which must be watched very carefully and we are determined to make sure it is not abused. We will be seeking to have it looked at after it has been in operation for a relatively short period.

Hon PETER FOSS: I find it unusual that the Opposition thinks that we could use this to go along a street and do a number of things which would otherwise be unlawful - that is, forcibly detain someone as a false arrest and an unlawful detention, search a person or remove and seize goods - and that that is a good way of doing it; whereas putting in a provision which allows police to lawfully seize and detain is not a good way. That is extraordinary.

Hon N.D. Griffiths: You consistently misstate what I say.

Hon PETER FOSS: I do not know what the member is saying.

Hon N.D. Griffiths: This clause gives an enormous power.

Hon PETER FOSS: I think the courts will read it down. I would be very surprised if the courts said that a police officer does not have a power to stop, search and seize, but that instead the commissioner can give that officer a lawful authorisation. I find that unbelievable. The wording is broad, but I would be very surprised if the courts allow it to be read that way.

Hon N.D. Griffiths: It is your wording.

Hon PETER FOSS: It might be our wording, but I always thought the courts were free to interpret the wording of Parliament. If they give it the interpretation that Hon Nick Griffiths is giving it, it might be worth putting some money on it because I would be very interested if they did. Let us assume that the member is right and that we can do everything that members have stopped us from doing by deleting the clauses. If members are prepared to let the police do it, why are they not prepared to provide a specific clause which will be limited, yet are prepared to allow this? It is obvious that the effect of what I have been saying outside the Chamber is having more effect than what I have been saying inside the Chamber. Hon Nick Griffiths is peddling backwards at 1 000 miles an hour. I wonder whether we should recommit and give him another opportunity to peddle backwards on some of the other clauses.

There is an undertaking between the Minister for Police and the Anti-Corruption Commission about the protocols that will be observed by the people who will be authorised and the conditions that will be placed upon their operations. It has been agreed that there will be protocols.

Hon N.D. Griffiths: Have they been developed?

Hon PETER FOSS: No. We have said that the Anti-Corruption Commission will work with the Minister for Police, who has given that undertaking.

Hon N.D. Griffiths: When will that be done?

Hon PETER FOSS: I am now being cross-examined about when it will happen! Until I said that it would happen, Hon Nick Griffiths was happy to approve the provision without knowing it would happen. I thought I would give that information to provide a little extra satisfaction to members. Even though it is not part of the Bill, I thought members might like to know. Hon Nick Griffiths was prepared to pass the provision whether or not we had protocols.

Hon N.D. Griffiths: I would like you to table the protocols when they become available.

Hon PETER FOSS: That may not be appropriate. A good reason for not tabling protocols is that certain people read them carefully, apart from perhaps the member. These people are prostitutes, pimps, madams, kerb crawler and others. It is not a good idea to display a clear sign regarding undercover agents: "Here is what you can recognise in undercover agents. They will be doing these things in accordance with the protocols!" That is why the protocols will not be tabled. I have told members about them but I do not intend to go much further.

Three cheers - we will get a clause through at long last! We may be able then to achieve a few convictions, but it is a pity the Government lost all the other provisions which would have made a difference. I welcome the Opposition's support.

Hon NORM KELLY: Likewise, the Australian Democrats are amazed at the ALP's shifting position. Who knows where we will end up at the end of consideration on this Bill? The ALP's position is very inconsistent. Even though the Government may not agree with the Australian Democrats, it cannot argue that we have not been consistent.

Hon Peter Foss: You're being totally consistent. I agree.

Hon NORM KELLY: I also agree with the Attorney General about not tabling protocols and the like. Under existing legislation, the police have difficulty making arrests because the word on the street quickly circulates about how far police officers can go to secure a conviction.

Hon Peter Foss: They grab them in a certain way.

Hon NORM KELLY: Exactly. A street worker will hop into the officer's car and, first, she will check the glove box and above the sun visor to see whether any radio equipment or listening devices can be found. She will then lean across and grab the person's crotch or unzip the fly.

Hon Mark Nevill: How do you know?

Hon NORM KELLY: I have done my research - do not worry.

Hon Peter Foss: And they hop out of the car straight away.

Hon NORM KELLY: Police officers undertaking this work state that it is difficult to have protocols published: People then know how far the police can go before they must abort their investigation, which makes the investigation ineffective. We do not agree with the entrapment powers contained in the clause. We have made that clear. The Australian Democrats are surprised that the ALP believes the police can have the powers, yet applies a form of accountability which simply asks people later how the powers are going. If that is the ALP's version of accountability, heaven help us if it ever gets back into government! Maybe the intention is that when in government, members opposite do not want to provide statutorily required reports on the operation of such powers. We were unable to get an amendment drafted in time. However, if this clause is to be passed, as appears to be the case, our preference is for a reporting requirement, as has been included in previous statutes, concerning extra police powers. The Weapons Act requires a report on the operation of new police powers after the first year of its operation. Parliament, which gave the police the powers, then receives indicative reports on the use and efficacy of the powers. It is perfectly legitimate to ask that, in giving these powers, we receive information that is necessary for us to do our work but without compromising the ability of the police to do their work.

Clause put and a division taken with the following result -

Ayes (20)

Hon Kim Chance
Hon J.A. Cowdell
Hon M.J. Criddle
Hon Dexter Davies
Hon E.R.J. Dermer
Hon Max Evans

Hon Peter Foss
Hon N.D. Griffiths
Hon John Halden
Hon Ray Halligan
Hon Barry House
Hon Murray Montgomery

Hon N.F. Moore
Hon Simon O'Brien
Hon Ljiljana Ravlich
Hon B.M. Scott

Hon Tom Stephens
Hon W.N. Stretch
Hon Ken Travers
Hon Muriel Patterson
(Teller)

Noes (5)

Hon Norm Kelly
Hon Mark Nevill

Hon J.A. Scott

Hon Giz Watson

Hon Helen Hodgson (Teller)

Clause thus passed.

Clause 38: Commissioner may delegate a function -

Hon N.D. GRIFFITHS: The Australian Labor Party will vote against this clause. The function provided under clause 37 is a serious function and should not be delegated.

Clause put and negatived.

Clause 39: Restraining order to prevent further offence -

Hon NORM KELLY: I move -

Page 28, lines 4 and 5 - To delete the words "or any other offence prescribed for the purposes of this section by the regulations".

This clause provides for a restraining order to prevent a further offence. It is the next step on from the issue of a move-on notice. Once a number of move-on notices have been issued, the police can ask for a restraining order to be placed on the person. The Australian Democrats do not have a problem with that. However, the words "or any other offence prescribed for the purposes of this section by the regulations" go far beyond the powers that should be contained in regulations. Even though those regulations are subject to disallowance, it has been made clear in this place that such disallowance is prospective, and massive damage could be done prior to any disallowance motion being passed.

As I said, we fully support the intent of the clause. However, we feel it is not appropriate for offences to be prescribed purely by regulation.

Hon PETER FOSS: Part 5 does not contain a provision that restricts offences to offences under this Act. Do the Democrats object to offences generally, or would they be satisfied if they were offences under this legislation?

I raise this because it may be appropriate under other offences under this legislation. At this stage it is not intended that that be the general power, but we could have used the words "persons committing an offence under this Act" and allowed for restraining orders. I thought that was appropriate. At this stage the Democrats are referring only to clauses 5 and 6.

Hon N.D. GRIFFITHS: The Committee was presented with a clause that refers specifically to clauses 5 or 6. Clause 5 refers to seeking a prostitute in a public place. Clause 6 is seeking a client in a public place - matters that lend themselves readily to the notion of restraining orders.

Hon Norm Kelly's amendment is in the same terms as I indicated Labor would seek to make an amendment. If a matter is so important that it should be the subject of a restraining order, it should not be something prescribed for the purposes of this clause by the regulations.

What the Attorney General says may be appropriate, but it is something that would require considerable reflection. So much of that which is proposed requires reflection, and that is one of the things that is wrong with this process. A Bill was introduced into this Parliament on 23 November 1999 and rammed through the other place in what was effectively its last sitting day. It has come before us under the guise of dealing with street prostitution and child prostitution, advertising prostitution and sponsorship of prostitution, when it deals with a host of other matters. The particular evil that is sought to be met by this use of restraining orders flows from clauses 5 and 6.

Rather than committing the sin of doing something on the run, including that which the Attorney General is proposing, at this stage the Labor Party will vote for the amendment moved by Hon Norm Kelly and is not interested in a further amendment.

Hon NORM KELLY: It is probably understandable that we are suspicious of a clause that appears to be a grab for power by the police when it could have been easily drafted in terms of offences under this legislation, which is done in various other parts of the Bill. The clause may be workable if it is reworded to read, "If a court finds that a person has committed an offence under this Act" - with the words deleted that I moved to delete - and continues with the words "and the court is satisfied that unless restrained . . .". We need to refer to why these restraining order provisions are in the Bill. The provisions are included not only because of clauses 5 and 6, which is why they are stated in clause 39, but also because of clause 26, which provides the police with move-on powers to direct people to move on. It is intended that if a person has to be given a number of move-on notices, the next step is to apply for a restraining order against that person. That is a logical and necessary sequence which the Australian Democrats -

Hon Peter Foss: That is faulty.

Hon N.D. Griffiths: Part 5 deals with restraining orders and seems to be targeted at streetwalking.

Hon NORM KELLY: Yes. Again, in that context, that is the difficulty of working on the run and making changes to the Bill. Given that clause 39 allows for an application to be made for a restraining order without a move-on notice having been given, it may be worthwhile to expand that provision to all aspects of offences under this Act.

Hon PETER FOSS: Do I understand correctly that an alternative amendment to add the words "under this Act" after the word "offence" would be supported?

Hon NORM KELLY: I suggest that the Government support my amendment so that the final form of words would read -

If a court finds that a person has committed an offence under this Act . . . and the court is satisfied that, unless restrained, . . .

Hon PETER FOSS: We were not intending to go that far. We were intending that it should relate only to clauses 5 and 6. We would prescribe it only if it appeared necessary to extend it to other offences under the Bill.

Hon N.D. Griffiths: Then you should bring in another Bill.

Hon PETER FOSS: No, we should not.

Hon N.D. Griffiths: That process would be better than dealing with it by way of regulation.

Hon PETER FOSS: We know the offences under this Bill. We can deal with them by police processes, I suppose, by saying that for the time being restraining orders should not be applied for except under clauses 5 or 6. We do not intend to go beyond clauses 5 and 6 at this stage but it may become necessary to do so. I am happy to agree to an amendment to make it "an offence under this Act" as opposed to "under section 5 or 6 or any other offence prescribed".

Hon NORM KELLY: Under the Attorney General's version, the Bill, if passed, would cover only clauses 5 and 6 and could only, at its fullest extent, cover other offences under the Bill when they were prescribed. That is as far as the regulation-making power would go.

Hon Peter Foss: Yes.

Hon NORM KELLY: Would a subsequent amendment be required to the regulation-making power later in the Bill?

Hon Peter Foss: No.

Hon NORM KELLY: In that case, I seek leave to withdraw my amendment and accept the Government's amendment, if it so moves.

Amendment, by leave, withdrawn.

Hon PETER FOSS: I move -

Page 28, line 4 - To insert after "offence" the words "under this Act".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 40 to 48 put and passed.**Clause 49: Appeals -**

Hon NORM KELLY: I would like an indication of the cost that would be involved if a person lodged an appeal against a restraining order given out under this part. I am concerned about people having restraining orders placed upon them, and their ability to go through the appeal process at the various levels. That is our only concern and I would like an indication about the appeal mechanism and cost of that appeal.

Hon PETER FOSS: I am afraid I do not have that information readily to hand, but I think it would be significant. It would be in the order of thousands of dollars.

Clause put and passed.**Clauses 50 to 53 put and passed.****Clause 54: Intention presumed in some cases -**

Hon NORM KELLY: Contrary to some of the Attorney General's earlier comments, the Australian Democrats do not have a big problem with clauses 51 to 53 because they relate to the issue of children connected with prostitution. However, we are concerned about the general reversal of intention of proof, especially in relation to the streetwalking aspects of the Bill. Clause 54 refers to those particular aspects, and for those reasons the Australian Democrats oppose the clause.

Hon PETER FOSS: I think Hon Norm Kelly has overstated the effect of the clause. The clause does not change the presumption of guilt and innocence. It simply deals with one particular thing; that is, once the set of circumstances has been proved, the intention of being there for the purpose of prostitution is presumed. The reason for this is fairly important; it used to be the way the law operated. From about the 1930s, there has progressively been a more rigorous insistence on proving intention rather than concluding it from the circumstances. The court has suggested from time to time that one can call the client. Unfortunately, that is not a terribly practical method, particularly now we have imposed a significant penalty on the client. The Government is saying, through the clause, that the police must prove suspicious circumstances, but once that is done, they do not need to call upon that person to give an explanation. If there is an explanation, obviously that person will provide it. I do not think the legislation is capable of being effective if the provision is removed.

Hon N.D. Griffiths: It is a reasonable amount.

Hon PETER FOSS: It is reasonable.

Clause put and passed.**Clause 55: Presumption of knowledge of sexually transmissible infection -**

The CHAIRMAN: I rule that the clause is struck out by virtue of the previous deletions.

Clause struck out.**Clause 56 put and passed.****Clause 57: Averment that prostitution business carried on -**

Clause put and a division taken with the following result -

Ayes (12)

Hon M.J. Criddle
Hon Dexter Davies
Hon Max Evans
Hon Peter Foss

Hon Ray Halligan
Hon Barry House
Hon Murray Montgomery

Hon N.F. Moore
Hon Simon O'Brien
Hon B.M. Scott

Hon W.N. Stretch
Hon Muriel Patterson
(Teller)

Noes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon John Halden

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill

Hon Ljiljana Ravlich
Hon J.A. Scott
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (Teller)

Pairs

Hon B.K. Donaldson
Hon M.D. Nixon
Hon Derrick Tomlinson
Hon Greg Smith

Hon Tom Helm
Hon Cheryl Davenport
Hon Bob Thomas
Hon Christine Sharp

Clause thus negated.**Progress reported and leave granted to sit again.**

[Continued on next page.]

SITTINGS OF THE HOUSE - EXTENDED AFTER 6.00 PM*Thursday, 9 December***HON PETER FOSS** (East Metropolitan - Attorney General) [5.47 pm]: I move -

That the House sit beyond 6.00 pm for the purpose of completing the committee stage of Order of the Day No 4.

We will go only a minute or two after 6.00 pm because there is only one contentious clause.

HON NORM KELLY (East Metropolitan) [5.50 pm]: Unfortunately, because of a critical personal engagement I have, I will not be able to support this motion, much as I am keen to assist the progress of this Bill.

Question put and passed.

PROSTITUTION BILL 1999*Committee*

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Progress was reported after clause 57 had been disagreed to.

Clause 58 put and passed.**Clause 59: Protection of certain persons -**

Hon N.D. GRIFFITHS: I move -

Page 39, lines 12 to 14 - To delete the lines.

The purpose of this amendment is to bring this clause into line with the Police (Immunity from Civil Liability) Bill, which was recently passed by this House.

Hon PETER FOSS: The difference between this Bill and the police immunity Bill is that this Bill also helps people assisting a police officer in the performance of his function, which the police immunity Bill does not do. Therefore, to that extent it is different.

Hon NORM KELLY: Given the clauses in this Bill that have so far been rejected, I wonder whether those references to assisting a police officer in the performance or purported performance of a function have now been deleted, because I recall that that assistance to a police officer relates to things such as body searches, when a doctor, nurse or other person can be called upon. If it goes beyond that, powers exist under the Police Act for police to call upon the assistance of other people in the course of their duties.

Hon PETER FOSS: Yes, but they do not get immunity.

Amendment put and a division taken with the following result -

Ayes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon John HaldenHon Helen Hodgson
Hon Norm Kelly
Hon Mark NevillHon Ljiljana Ravlich
Hon J.A. Scott
Hon Tom StephensHon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Noes (12)

Hon M.J. Criddle
Hon Dexter Davies
Hon Max EvansHon Peter Foss
Hon Ray Halligan
Hon Barry HouseHon Murray Montgomery
Hon N.F. Moore
Hon Simon O'BrienHon B.M. Scott
Hon W.N. Stretch
Hon Muriel Patterson (*Teller*)

Pairs

Hon Tom Helm
Hon Bob Thomas
Hon Cheryl Davenport
Hon Christine SharpHon B.K. Donaldson
Hon M.D. Nixon
Hon Greg Smith
Hon Derrick Tomlinson**Amendment thus passed.****Clause, as amended, put and passed.****Clause 60: Exchange of information between State authorities -**

Hon NORM KELLY: The Australian Democrats are not happy with this clause as it involves extensive powers which allow access to confidential records. Some of the heat has been taken out of this due to the previous amendments in relation to sexually transmissible diseases and the like; however, we feel that these powers are far broader than what is necessary for the police to do their work effectively.

We also do not like the fact that under subclause (3), the Commissioner of Police can decline to disclose information if it is likely to compromise an investigation, yet under subclause (4)(d), Family and Children's Services is compelled to disclose information even though it may compromise its work in rehabilitating a child. There are mixed priorities here with which we do not agree.

Hon GIZ WATSON: The Greens (WA) do not support this clause as the issue of confidentiality is again in question if this clause is passed. Hon Norm Kelly has mentioned the problem with Family and Children's Services. This matter is also a problem for the Health Department, which I understand has not been consulted about the implications of this clause. It sets a dangerous precedent in terms of access to information. I think I raised in my speech to the second reading debate the issue of it potentially being in breach of the Young Offenders Act in terms of the release of information about juveniles.

Hon N.D. GRIFFITHS: I move -

Page 40, lines 13 to 16 - To delete the lines.

This is to delete subclause (4)(b), which relates to the chief executive officer of the department of the Public Service assisting in the administration of the Health Act. I note the observations of Mr Brian Wall, who advises that he occupied the position of General Manager, Public Health, in Western Australia for over two years. His observation with respect to this clause, insofar as it deals with public health, is that the information likely to be sought from providers will relate to whether the person has had a notifiable sexually transmissible disease.

Mr Wall made the observation that the people at risk belong to networks which are typically well informed of the risk to confidentiality of testing. He is concerned that this will drive the diseases underground and threaten 15 years of highly successful HIV-AIDS management, which has been critically dependent upon absolute confidentiality, and that the community may face an epidemic as a result. He made the observation that the clause is not only counterproductive for that reason, but also unnecessary because of the powers of testing under the Health Act, and that, to his knowledge, the Police Service has not availed itself of those powers.

Hon MARK NEVILL: I am not entirely comfortable with this clause, but I will support it on the basis that Hon Nick Griffiths' amendment will delete the provision of access to any matters relating to health records. I will support the amendment moved by Hon Nick Griffiths but oppose the amendment foreshadowed by Hon Norm Kelly.

Hon PETER FOSS: I oppose the amendment.

Amendment put and passed.

Clause, as amended, put and a division taken with the following result -

Ayes (18)

Hon Kim Chance
Hon J.A. Cowdell
Hon Dexter Davies
Hon Peter Foss
Hon N.D. Griffiths

Hon John Halden
Hon Ray Halligan
Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore

Hon Mark Nevill
Hon Simon O'Brien
Hon Ljiljana Ravlich
Hon B.M. Scott
Hon Tom Stephens

Hon W.N. Stretch
Hon Ken Travers
Hon Muriel Patterson
(Teller)

Noes (4)

Hon Norm Kelly
Hon J.A. Scott

Hon Giz Watson

Hon Helen Hodgson (Teller)

Clause, as amended, thus passed.

Clauses 61 to 63 put and passed.

Clause 64: Regulations -

Hon PETER FOSS: I agree to the proposed changes because those words fall out as a matter of contingency on the remainder.

Hon NORM KELLY: I move -

Page 43, line 18 to page 44, line 4 - To delete the lines.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 44, after line 4 - To insert the following new subclause -

- (3) The regulations may exempt a place described in the regulations from being a place that is or is in the view of a public place for the purposes of this Act or for any particular purpose.

This is an undertaking which I gave to Hon Nick Griffiths at an earlier stage.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 65 and 66 put and passed.

New clause -

Hon GIZ WATSON: I move -

Page 7, after line 8 - To insert the following new clause -

9. Prophylactic to be used

It is an offence for a male person to engage in an act of prostitution without using a prophylactic that is appropriate for preventing the transmission of bodily fluids from one person to another.

Penalty \$5 000.

During the debate on this Bill I said that this provision has been recommended on many occasions. It would be acceptable to health care professionals and sex workers. It would go a long way to reducing the risk of unprotected sex. Therefore, it is a plus for clients, public health and the sex workers.

Hon PETER FOSS: The proposed new clause has undergone a transformation that I did not know it was to undergo. There are a couple of problems with making it applicable to only a male person. First, I suspect there would be problems with the legislation being gender specific when I do not think there is justification other than we would want to make it gender specific. Second, the female person could still be an accessory and be as capable of being charged as being a male person engaged in an act of prostitution if she allows it to occur. Therefore, I do not think adding the word "male" will help us a lot. It would be better to word it -

It is an offence for a person to engage in an act of prostitution without using a prophylactic that is appropriate for preventing the transmission of bodily fluids from one person to another.

By making it gender specific, we would get more problems. I move -

That the amendment be amended by deleting the word "male".

Hon GIZ WATSON: I accept that argument and I am happy to accommodate the amendment.

Amendment on the amendment put and passed.

Hon NORM KELLY: The Australian Democrats support the clause. There are still some difficulties with it, but at this stage it is very hard to do too much work to improve it. I will quickly refer to a letter that I and some other members have received from Dr Heather Lyttle of the Australasian College of Sexual Health Physicians. It is indicative of the attitude of public health workers across the board that the legislation should also include as an offence a request for unprotected sex, which will crack down on or lessen such requests. This would be very difficult to police, I am sure; however, it is a significant and important step to show what we are all about. I would have preferred it to be in the Health Act, along with all the other measures relating to the spread of disease. This may sound a bit contradictory to my earlier comments. We support the amendment, although we will seek to revisit this matter when the Parliament next sits.

Amendment, as amended, put and passed.

New clause, as amended, put and passed.

Schedule 1 put and passed.

Schedule 2 -

Hon PETER FOSS: I move -

Page 47, line 1 - In the table beginning on that line, in the items relating to sections 5 and 6, to insert before "public place" in each item the words "or in view of".

I realise that members might find the circulated photocopied sheet of amendments difficult to read. If this amendment is passed, line 1 on page 47 of the Bill will read "seeking a prostitute in or in view of a public place"; similarly with proposed section 6 of this schedule. Other amendments are noted, but they can be Clerk's amendments; for instance, deleting the reference to clause 17. Although they are noted on the circulated page, I move only the one relating to line 1 on page 47.

Amendment put and passed.

Schedule, as amended, put and passed.

Title put and passed.

Bill reported, with amendments.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [6.14 pm]: I move -

That the House do now adjourn.

Andrew Petrelis Case - Adjournment Debate

HON GIZ WATSON (North Metropolitan) [6.15 pm]: I apologise for detaining members additionally but I wish to draw a matter of some urgency to the attention of the House; that is, the Andrew Petrelis case. Members will be aware that this

is a very topical case at the moment and that a Queen's Counsel has been appointed at taxpayers' expense to investigate the witness protection program. Members will be aware that Mr Petrelis was a witness for the Crown who was under protection and died while on that program. The Commissioner of Police, Barry Matthews, has referred aspects of the case relating to the accessing of police data on the mainframe computer to an independent investigative agency, which I believe to be the Anti-Corruption Commission. As I understand it, prior to his death, two police officers accessed details of Mr Petrelis on the mainframe computer. One of these officers was a Kevin Louis Davy, who was tried in the courts for another related matter - that of accessing information from the police mainframe computer for a woman about her de facto partner. As I understand it, Mr Davy was stood down under a section 8 notice and was charged with breaching official secrets. His case was heard on 18 June 1996 in the District Court where he pleaded guilty and was fined \$500. Eventually he resigned from the service. What is of particular interest is that Mr Davy does not appear to be subject to the investigation by the independent investigative agency, which is looking into the apparent misuse of the mainframe computer in the Petrelis affair.

In light of this, I draw members' attention to a letter, which is important because it touches on the potential for the involvement of former police officer Kevin Davy. Mr Davy has always maintained that he is an Elvis Presley fan and that he was toying around with names when he accessed the computer and put in the name of Elvis Presley's legendary manager, Tom Parker. From reading the letter which was sent to the Director of Public Prosecutions in July 1996, it now appears that Davy may have had a much deeper involvement in the whole affair. By way of background, this information came to me via my electorate officer who, members may be aware, previously worked for Hon Reg Davies who was a member of the Select Committee on the Western Australian Police Service. The information which is set out in this letter came to him in that capacity. I will read that letter to members because it is a matter of some importance. I obtained a copy of this letter from the Director of Public Prosecutions today. The letter states -

Dear Mr McKechnie,

I write to let you know that I am concerned about a report in the *West Australian* newspaper of a trial involving a policeman, Const. Kevin Louis Davy.

After speaking with your prosecutor, my electorate officer, Mrs Carole Hutchinson, told me that the crown's case actually addressed Const. Davy's unauthorised access to information about a woman's former de facto. However there was mention in the same article about another matter which I am informed the crown was not addressing in that trial, that of a deceased man Andrew Petrelis, and it is that case to which I wish to draw your attention.

In conversations with Mr. & Mrs. Petrelis, Andrew's parents, they alleged that Const. Davy telephoned Andrew prior to the deceased leaving for Queensland, enquiring whether Andrew Petrelis was, in fact, the same person as Thomas Parker. The Petrelis family claims Andrew was very concerned at the phonecall and immediately rang the witness protection unit of the police service to report that Const. Davy had said he was checking his details, and that Andrew's car had been involved in a ram-raid at Rockingham. However, the Petrelis' were aware of the inaccuracy of this claim because Andrew's car was already crossing the desert on a roadtrain. I believe Andrew immediately contacted the IAU.

In essence, what they claim is that it was no issue of boredom, of idle doodling, as portrayed by defence lawyer, John Quigley, that saw Const. Davy type in the name of Thomas Parker, but a definite action to check his identity. Mr. & Mrs. Petrelis say that Andrew warned them before he left that if he was found dead, he would not have killed himself. He described the way in which he believed "they" might do him in viz. "they" would give him a choice of a bullet or a needle. I am sure you are aware that Andrew died of an overdose.

I appreciate that it may well be that you are already aware of these allegations.

May I take the opportunity to enquire about a report of Andrew Petrelis' death from the Queensland Coroner's office? The Petrelis family is pretty despondent that they cannot gain access to details of their Son's death, nor are they aware of any competent investigation into the circumstances of his death having taken place.

Under the circumstances I am sure you appreciate that Mr & Mrs Petrelis are very anxious about this whole matter and, understandably, at the same time keep a very low profile with the media. Nevertheless they want to be reassured that their Son's death, whilst under witness protection, was properly and appropriately addressed.

I look forward to your reply.

Thank you.

Yours Sincerely

Reg Davies JP MLC
Member for North Metropolitan.

The letter, dated 3 July 1996, was addressed to the then DPP, Mr John McKechnie, QC. Importantly, Mr Davy did not seem to have been referred to the investigative agency. On the basis of the letter I obtained from the Director of Public Prosecutions' office, Mr Matthews should, if he has not already done so, refer Mr Davy to the agency concerned for questioning. Was any action taken by the Director of Public Prosecutions at the time to find out whether any allegations contained in the letter were correct, and whether the Queensland Police Service had been made aware of concerns expressed in the letter? I believe that these allegations could have influenced the investigation to find out the cause of death, and might have resulted in a coronial inquiry taking place in Queensland.

Andrew Petrelis Case - Adjournment Debate

HON PETER FOSS (East Metropolitan - Attorney General) [6.24 pm]: I know that the letter quoted by Hon Giz Watson was written in 1996, but she should look at what was said by Commissioner Matthews recently. An unfortunate aspect of this matter is that a tremendous amount has been run by the newspaper over five days, much of which was highly inaccurate. Some of the questions asked have been answered in the newspaper. I will not ignore the honourable member's speech; however, I suggest that to the extent she is interested in the matter, she carefully read statements made by Commissioner Matthews. Many of the statements made have been dealt with.

Balga Community - Adjournment Debate

HON RAY HALLIGAN (North Metropolitan) [6.25 pm]: I take a little time of the House to place an important matter on the record. An article in today's *The West Australian* upset a large number of very good people in my electorate; this related to a new cult horror movie called *The Blair Witch Project* about which the journalist wrote "Could we soon see the Balga Witch Project?" This innuendo in the journalist's article may have been inadvertent; nevertheless, it was printed and would have been read by a large number of people. Many people in my electorate, particularly in Balga, are asking whether this is another attempt to belittle and denigrate a suburb, which, for so long, has had to put up with others looking down their nose at it and making out that its residents are second-rate citizens.

A situation arose some time ago which caused a number of people to come together for a purpose; namely, to demolish the three-storey Homeswest flats in their suburb. Without going into detail, it was achieved by all groups being willing to work towards this positive outcome in an apolitical manner. That is the first commendation this group should receive. It would have been too easy to pack up and go home having completed that task; however, the committee created to undertake that task was not disbanded as it was recognised that this was only the start of changing the ethos of the residents. Much more was needed to be done by way of creating a family-oriented community that would work together. One method of doing this was to provide a family Christmas celebration of some proportion and encourage all members of the community to come together in Christian fellowship. Many hours of work resulted in a list of sponsors providing entertainment, food tasting and carols by candlelight with the Salvation Army band. This should be the committee's second commendation.

I had the extreme pleasure last Saturday of attending part of the festivities arranged by this special committee of the Balga Action Group. This year's Balga family Christmas celebration was much larger than last year's and was an even greater success. There is every indication that next year it will be even bigger and better.

It is not unreasonable to expect that while the Balga Action Group retains those dedicated, hardworking individuals who have done so much for the community, any stigma that appears to be in the minds of the minority will quickly evaporate. All that is being asked is that they be given the opportunity to show what they can do and to take their rightful place with people in all other suburbs within the North Metropolitan Region. Many people up there have done amazing things to achieve what has been achieved, and deserve recognition. However, I will recognise but two of these people: Kaye Cook and Colin Cross. These two people should be commended for their untiring work and dedication in undertaking tasks and organising others for the benefit of all. I suggest that while people of the calibre and commitment of those who belong to the Balga Action Group remain with that particular group, all will go well for that suburb in the future.

Question put and passed.

House adjourned at 6.27 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

QUEEN'S COUNSEL, APPOINTMENT PROCESS

324. Hon HELEN HODGSON to the Attorney General:

I refer to the answer given by the Attorney General to a question without notice asked on August 12, 1999 with regard to the appointment process for Queen's Counsel in Western Australia, and ask -

- (1) Has the Attorney General met personally with -
 - (a) member(s) of the Law Society;
 - (b) member(s) of the Western Australian Bar Association;
 - (c) member(s) of the Women Lawyers Association; and
 - (d) individual members of the legal profession,
 to consult about the proposed new procedures for appointing Queen's Counsel?
- (2) If so, on what dates did the Attorney General meet with each group or individuals to discuss the proposed new appointment procedures?
- (3) Were written submissions received from each group or individual legal practitioners with regard to the proposed new appointment procedures?
- (4) If so, on what dates were these submissions received?

Hon PETER FOSS replied:

- (1) (a)-(b) Yes.
(c) No.
(d) Yes.
- (2) (a) 21 February 1996
11 April 1997
23 July 1997
13 October 1999
(b) 27 February 1996
(c) Not applicable.
(d) Not recorded.
- (3)-(4) (a) 27 May 1999
28 May 1999
12 May 1999
(b) 21 November 1996
22 September 1997
09 October 1997
13 May 1999
25 May 1999
28 May 1999
14 June 1999
03 September 1999
(c) 19 July 1999
(d) 17 November 1995
19 December 1995
20 June 1996
07 November 1996
17 December 1996
26 November 1997
04 December 1998
14 January 1999
05 February 1999
24 February 1999
15 February 1999
22 February 1999
24 February 1999
15 April 1999
17 May 1999
20 May 1999
11 June 1999
13 August 1999
17 August 1999
15 September 1999
28 September 1999
12 October 1999

GOVERNMENT DEPARTMENTS AND AGENCIES, PUBLIC RELATIONS-MEDIA CONSULTANTS

798. Hon KEN TRAVERS to the Minister for the Arts:

- (1) On how many occasions did each department under the Minister for Arts' responsibility use the services of a public relations/media consultancy in 1998 and during the current year?
- (2) For each occasion what was the -
 - (a) nature of the occasion/event/project;
 - (b) name of the contractor/consultancy; and
 - (c) cost of the contract/consultancy?

Hon PETER FOSS replied:

- (1)-(2) The member would be aware six monthly reports are tabled in Parliament that provide information on consultants engaged by Government agencies. The member should access these reports to obtain information on public relations and media consultancies.

ALBANY HIGHWAY, ACCIDENTS IN VICINITY OF MT BARKER

885. Hon BOB THOMAS to the Attorney General representing the Minister for Police:

- (1) For the past three years how many accidents have been reported on the Albany Highway between Mount Barker and six kilometres south of the town?
- (2) How serious were those accidents?

Hon PETER FOSS replied:

- (1) There have been 8 crashes reported for the years 1994 to 1998.
- (2) One was serious requiring hospitalisation. Seven required medical treatment, 4 being major, 3 minor.

Note: These statistics supplied by The Main Roads Department. They have no current figures for the year 1999.

PRISONS, LAVERTON WORK CAMP

946. Hon MARK NEVILL to the Attorney General:

- (1) What were the results of the follow-up study of prisoners who were sent to the work camp at Laverton?
- (2) If no follow-up study was done, will the Attorney General request such a study to see if the Laverton facility was successful in turning around offenders behaviour?

Hon PETER FOSS replied:

- (1) A follow-up study has not been undertaken.
- (2) No, Judge Newman's review of Camp Kurli Murri found that the camp failed to provide an effective sentencing option. Accordingly a follow-up study would serve no useful purpose at this time.

POLICE LOCK-UPS, CELL CLEANING

947. Hon MARK NEVILL to the Attorney General:

- (1) Who is responsible for the costs of cleaning cells in Police lock-ups?
- (2) Who currently is responsible for the cleaning of cells in Police lock-ups?

Hon PETER FOSS replied:

- (1) Costs for cleaning cells in Police lock-ups is the responsibility of the Officer in Charge of the Police Station.
- (2) Cleaning of cells in Police lock-ups is performed under the direction and supervision of the Officer in Charge of the Police Station.

BALGO POLICE POST, CELL REPAIRS

948. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

- (1) Is the Minister for Police aware that repairs have not been effected to the cells at the Balgo Police Post?
- (2) Is the Minister aware that Police cannot hold prisoners in the holding cells at the Balgo Police Post?
- (3) Is the Minister aware that because of the situation mentioned in (2) above, that Police are required to transport directly to Halls Creek any person arrested in the Balgo region?

- (4) With the onset of the wet season and the impassability of roads, is the Minister aware that Police when they make arrests in the Balgo area, will have to charter aircraft from Halls Creek to Balgo to remove offenders because of the unusable nature of the damaged lock-up cells at Balgo?
- (5) What is the estimated cost of the repairs, and can the Minister resolve this problem urgently after a year of no resolution?

Hon PETER FOSS replied:

- (1) There are not nor have there ever been properly constructed police cells at Balgo. They are best described as holding rooms. The internal walls are constructed of fibro cement sheeting secured by a metal frame. Serious damage occurred to the Balgo Police Post on 28th November, 1998. This was whilst the Post was unoccupied and before full time patrols commenced in May 1999. The damage was to the entire Post being living quarters, office room and two prisoner holding rooms. Some repairs were carried out in order to make one room serviceable, and the police post was repaired. There was hesitation in expending money on premises not subject to the ownership or control of the police service. The ownership of the land on which the Post is situated is presently being negotiated between the Bishop of Broome, Aboriginal Lands Trust and Police Service. This process is nearly complete with an offer from the Manager of Aboriginal Lands Trust to the Wirrimanu Aboriginal Corporation (Balgo) to transfer the land on which the Police Post is situated.
- (2) The holding rooms are not constructed in accordance with the recommendations of the Royal Commission into Deaths in Custody. The intention is and always was to provide a facility to accommodate the short term detention of prisoners.
- (3) Since the commencement of full time Patrols in May 1999 there have been 21 arrests and 74 people have been charged by Summons. Of the 21 arrests, 8 individuals were required to be conveyed to Halls Creek Police Station Lock-up on three (3) occasions only. This was due to their circumstances and or behaviour. In all possible instances summons are issued and where arrest is required the offender is bailed when possible. In some circumstances because of the nature of the charge or because of a person's behaviour it is not appropriate to detain them for long periods in the holding facilities.
- (4) Where possible disputes are resolved without arrest, summons are issued where possible, and offenders can be detained for short periods at the police post. In the case where roads are impassable a non-violent prisoner could be transferred to Halls Creek via charter aircraft however this is likely to happen infrequently when charges are serious and bail can only be set by a superior court.
- (5) Final costs will not be available until the issue of land ownership is completed.

ABORIGINAL POLICE LIAISON OFFICER, KALUMBURU COMMUNITY

954. Hon TOM STEPHENS to the Attorney General representing the Minister for Police:

- (1) Will the Minister for Police allocate additional resources so as to enable the allocation of an Aboriginal police liaison officer to the Kalumburu community?
- (2) If not, why not?
- (3) What steps will the Government take to ensure the Police Department's Kimberley Regional Office is equipped with the resources necessary to respond to this urgent need?

Hon PETER FOSS replied:

- (1)-(3) The entire issue of the manner in which police deliver quality services to remote aboriginal communities is constantly under review within the Northern Region. The Kalumburu community and the style and manner of policing is a component of that review. The subject of the placement of aboriginal police liaison officers and the scope of their duties is also being reviewed within the Northern Region to further ensure their role as an interface between the police service and the aboriginal community is preserved. There is no specific plan to implement the placement of permanent police presence at the Kalumburu Aboriginal Community at this time.

WINDMILLS, TELFER-PUNMU TRACK

959. Hon MARK NEVILL to the Minister for Transport representing the Minister for Aboriginal Affairs:

- (1) Who is responsible for maintaining the windmills on the Telfer to Punmu track?
- (2) Is the Minister for Aboriginal Affairs aware that some are in disrepair?
- (3) Why were windmills used instead of hand pumps which are generally used on some remote tracks for travellers who get into difficulties and generally require less maintenance?

Hon M.J. CRIDDLE replied:

- (1) The Aboriginal and Torres Strait Islander Commission (fund the Western Desert Puntukurnuparna Aboriginal Corporation to employ an officer to maintain wind mills in the Western Desert).

- (2) No.
- (3) I understand that the Aboriginal and Torres Strait Islander Commission installed windmills on the basis that they are less susceptible to theft. Hand pumps have been used in the past but are constantly removed and stolen. Windmills are also recommended for environmental reasons as they provide a continual flow of water.

RACING AND GAMING COMMISSION, DONATION TO NPA FOUNDATION

1001. Hon N.D. GRIFFITHS to the Minister for Racing and Gaming:

What is the reason for the Racing and Gaming Commission being recorded in the Political Finance Annual Report for the period ended June 30 1998 of the Western Australian Electoral Commission as having donated \$11 946.93 to the NPA Foundation, an associated entity of the National Party?

Hon N.F. MOORE replied:

The National Party of Australia (WA) Inc applied for a standard lottery permit for the period 16 June 1997 to 9 August 1997. A standard lottery permit (No LS020689) was granted on 13 June 1997. As prizes exceeded \$10,000, Gaming Commission of WA policy required the lodgement of a security deposit to the aggregate value of the prizes, and on 17 April 1997, the National Party of Australia (WA) Inc lodged the principal amount of \$11,640. On 14 October 1997, after successful completion of the lottery, the principal plus \$306.93 interest was returned to the National Party of Australia (WA) Inc by the Gaming Commission of WA.

QUESTIONS WITHOUT NOTICE

WORKSAFE WESTERN AUSTRALIA, NARROWS BRIDGE CONSTRUCTION SITE

715. Hon TOM STEPHENS to the Attorney General representing the Minister for Labour Relations:

- (1) In the past three days have any WorkSafe Western Australia inspectors visited the construction site of the Narrows Bridge, including the construction barges?
- (2) If so, when did that visit take place?
- (3) Are WorkSafe inspectors satisfied that all working conditions are satisfactory?
- (4) If not, what action is being taken by WorkSafe?
- (5) If they have not inspected the site, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(2) WorkSafe Western Australia inspectors visited the Narrows Bridge site on 6, 7 and 8 December 1999. The barges were not inspected as no work was in progress.
- (3)-(4) WorkSafe Western Australia inspectors are satisfied that working conditions are generally satisfactory. On 6 December an inspector checked the site and the documented work procedures, and arranged for a number of issues to be addressed. On 7 December discussions took place regarding the use of chemical toilets. On 8 December four improvement notices were issued in relation to mobile plant.
- (5) Not applicable.

EDUCATION DEPARTMENT, BUDGET DEFICIT

716. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

- (1) What is the size of the projected deficit for the 1999-2000 Education Department budget?
- (2) Has the minister sought, or does he intend to seek, additional funding from Cabinet?
- (3) If not, can the minister guarantee he will not be reducing services or increasing fees to meet any shortfall or new financial demands?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I am advised that -

- (1)-(3) The Education Department budget will require some additional funding this year but all programs are regularly reviewed to minimise the impact on government finances. In this regard the Minister for Education has continually sought through Cabinet that the Education Department has appropriate resourcing while achieving maximum efficiency. Regardless of the financial position of the department, all educational services will be provided at an appropriate level.

DELOITTE CONSULTING, REPORT ON ENHANCED TRAFFIC ENFORCEMENT

717. Hon N.D. GRIFFITHS to the Minister for Transport:

Will the minister table a copy of the report by consultants Deloitte Consulting titled "A Comprehensive Business Case for the Enhanced Traffic Enforcement Project"; and, if not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

The report referred to by the member has been the subject of an extensive freedom of information process with the Department of Transport. That process determined that the report should not be publicly released. I am advised that an appeal is to be made to the Information Commissioner on the matter. That is the appropriate mechanism to determine if the report should be available to the public and I do not wish to pre-empt any decision of the commissioner on the matter.

KWINANA MOTORSPORTS COMPLEX, KWINANA INDUSTRY COUNCIL

718. Hon J.A. SCOTT to the Minister for Mines:

- (1) Has the minister been contacted by the Kwinana Industry Council regarding its concerns about the Kwinana motorsports complex?
- (2) What are its concerns?
- (3) Does the Minister for Mines share its concerns?
- (4) What steps has he taken to deal with its concerns?

Hon N.F. MOORE replied:

- (1) The Kwinana Industry Council has not contacted me in person. I am trying to think whether it has written me a letter. I suspect it probably has, as it has written to a number of people about it.
- (2) I suggest the member ask the council, because it would be the best body to tell him what its point of view is.

Hon J.A. Scott: You do not know what it is worried about.

Hon N.F. MOORE: The member asked me what the council thinks. I suggest that he should ask it.

Hon J.A. Scott: I asked whether you know its concerns.

Hon N.F. MOORE: I understand that is covered in the next parts of the answer.

- (3)-(4) The council has raised a number of issues about societal risk and the expansion of the industrial site in Kwinana. Those matters are being considered by the Government. A decision will be made in due course.

SPINIFEX FRAMEWORK AGREEMENT

719. Hon HELEN HODGSON to the Leader of the House representing the Premier:

- (1) Under the terms of the Spinifex framework agreement, did the State Government agree to grant the Spinifex people a grant of land tenure, to be protected by an Act of Parliament?
- (2) Has such a grant voluntarily been made by the State Government; and if so, on what date?
- (3) Has the Federal Court made any orders in regard to a native title determination on the land, the subject of the agreement?
- (4) If so, when were the orders made, and what orders were made?
- (5) When will the Government introduce a Bill that will protect the grant of tenure to the Spinifex people?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The Spinifex framework agreement is an agreement to negotiate over a series of land tenure and land use outcomes. The framework agreement, endorsed in July 1988, states that the State will grant the Spinifex people a permanent and secure form of land tenure which recognises their special relationship to the land - ratified by a discrete Act of Parliament - which gives a high level of protection to their cultural, social and economic rights and interests, in accordance with the terms of a final agreement to be negotiated with the State. The final agreement is nearing completion.
- (2) An Act of Parliament is required to bring a grant of tenure into effect.
- (3) The Federal Court has made orders relating to a native title determination over the land, the subject of this agreement.
- (4) The orders were made in October 1999. The basis of the order is, firstly, that by 25 February 2000, the applicant

must file and serve a document or documents containing the following information: First, the description of the Aboriginal group connected with the claim area from the time of assertion of British sovereignty until the present, and the relationship of the applicants to that group; secondly, the description of the nature of the connection which that Aboriginal group and the applicant group - insofar as there is any difference between the two - have maintained with the claimed area and the relationship to other rights, titles and interests insofar as they exist; thirdly, a description of the rights existing and exercisable under native title on the claimed area and the relationship to other rights, titles and interests; and, fourthly, a statement by the applicants of the issues in the matter and the contentions upon which they intend to rely. Finally, on or before 10 January, 2000, the State of Western Australia is to file with the Federal Court and provide to all parties an index of the current and historical land and mining tenure documentation upon which it intends to rely, together with copies of the documents referred to in the index.

- (5) A Bill will be introduced when final agreement has been reached.

BUSSELTON SCHOOLS, CAPACITY

720. Hon MURIEL PATTERSON to the Leader of the House representing the Minister for Education:

- (1) Can the minister supply to the House the forecast growth figures for school- age children within the Busselton area?
- (2) Can the minister comment on the growth rates and the capacity of the current schools to cater for these numbers?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) It is anticipated that the growth in the number of students attending government schools in the Busselton area in the near future, by level of education, will be as follows: First, for preprimary students, there have been major changes in the provision of preprimary education statewide and it is not possible to provide projected preprimary enrolment growth; however, all such students are guaranteed a place, although not necessarily at their local school. Secondly, for primary students, the growth is between 70 and 100 per annum; and thirdly, for secondary students, the growth is between 40 and 70 per annum. The total primary student enrolment growth of the schools in the area from 1995 to 1999 has been 185 students, with an annual average of 46 students.
- (2) The forecast growth rates are based on recent school retention rates and housing construction in the Busselton area. The local schools will have a sufficient capacity, using permanent and transportable classrooms, to accommodate additional students in the near future. The Minister for Education is aware of the concerns of local families about this issue and has undertaken to discuss the matter with the interested parties on his visit to Busselton next week.

HERITAGE COUNCIL OF WESTERN AUSTRALIA, SOUTH WEST AREA

721. Hon J.A. COWDELL to the Attorney General representing the Minister for Heritage:

- (1) Is it the case that the proposed funding cut for the heritage advisers of the Heritage Council of Western Australia will reduce their time commitment in the south west by up to 50 per cent?
- (2) Is it the case that such a move would compromise the ability of those shires that cannot afford to employ heritage advisers to fulfil their obligations under the state heritage legislation?
- (3) Is this a reversal of the previously announced government policy to double the time commitment of regional heritage advisers?
- (4) Will the minister reconsider the decision to cut funding for regional heritage advisers?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Yes. The funding cut is effective from 1 January 2000.
- (2) No. The reduction will not have any effect on the statutory obligations of local governments under the Heritage of Western Australia Act. The reduction will affect the degree to which sound conservation outcomes can be promoted in the south west through the provision of specialist advice.
- (3) Yes. The hours of service for most regional services were doubled at the beginning of 1998. The mid west service was reduced by half at that time to bring it into line with other regional services. The reversal is a result of cost pressures on the Heritage Council due to growing demand and increased workload, most notably in the evaluation of development referrals affecting registered heritage places. The development referrals work area has grown by approximately 500 per cent since 1994, while the council's operational budget has remained the same.
- (4) No. The decision to reduce funding for the second half of the 1999-2000 financial year cannot be reversed. The decision was made early in the financial year to enable the council to manage within its operational budget. It may be possible to reverse the reduction in July 2000 depending on the budget position in the new financial year.

PURSE SEINE FISHERY, ALBANY ZONE

722. Hon KIM CHANCE to the minister representing the Minister for Fisheries:

Is the minister now able to answer the question I asked on 21 October this year in relation to the exemption that was permitted to some licensees to take additional small pelagic fish? For the minister's guidance, the question in part states -

- (1) Is the Minister for Fisheries aware that the management plan for the south coast purse seine managed fishery was circumvented in 1998, as a result of an exemption for selected licensees, which was authorised by the executive director on 25 September 1998, in respect of 400 tonnes of small pelagic fish - yellowtail scad - over the total allowable catch which had been set for the Albany zone of this fishery?
- (2) Is the minister aware that the effect of the decision was to significantly increase the existing over-exploitation of the Albany zone of this fishery?

Hon M.J. CRIDDLE replied:

The only answer I have is dated 24 November, which simply asks the member to place the question on notice. I will follow-up on that.

EDUCATION DEPARTMENT, HUMAN RESOURCES MANAGEMENT SYSTEM

723. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:

I refer to the Minister for Education's advice of 29 October 1998 that the system used by the Education Department for human resources management works effectively now.

- (1) Will the Minister for Education reconcile this advice with the findings of the Auditor General's "Public Sector Performance Report 1999" pertaining to the Education Department's human resources management information system?
- (2) Given that the system is reported to be of major concern to the department -
 - (a) when does the Minister for Education expect it to be performing adequately;
 - (b) what is the expected cost of rectifying the system; and
 - (c) what steps has the Minister for Education taken to have payroll information checked by individual section managers as recommended?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The system was introduced in September 1998 and has been operating effectively since October 1998. The Auditor General's report covers the period immediately after the system's introduction; that is, from September 1998 to June 1999. The problems highlighted in the report were due to the need for increased customisation of the system to meet the department's unique needs, the need for staff to become familiar with the new system, incorrect or delayed payroll advice and some human error.
- (2) The system is no longer a major concern to the department.
 - (a) The system is now performing adequately.
 - (b) The only expenditure on the system after October 1998 has related to needs inherent in any such system, such as staff training, technical support, maintenance and refinement of the system and planning for future upgrades of the system. A budget for this was always required and the Education Department has identified funds for these purposes.
 - (c) Allowing individual section managers to check payroll information was a major factor in making the change in payroll systems. Eighty-five per cent of sites can now certify their payroll reports. This percentage will increase with the continued roll out of the system.

This is a comparison with a 10 per cent random check of sites which occurred under the previous system. The department is also pursuing the following strategies -

engagement of internal audit and other expertise to identify errors in payments and their causes - the majority of recommendations made by audit have been implemented;

implementation of changes to the payroll system and business rules to prevent the recurrence of identified errors, and this includes the development of exception reports and compliance measures;

establishment of a dedicated team to identify and recover specific overpayments - over 64 per cent of overpayments had been recovered by October 1999;

doubling the amount and improving the quality of training provided to schools, and providing substantially increased training to all payroll staff;

trialling and purchasing software to improve network performance; and

implementation of quality assurance processes to further continuous improvement in the system's performance.

BARRAMUNDI SCHOOL, KUNUNURRA

724. Hon TOM STEPHENS to the Leader of the House representing the Minister for Education:

My question relates to Kununurra's Barramundi School, which is a school for children not currently attending mainstream schooling, and I thank you, Mr President, for allowing students from that school to attend in your gallery at the moment.

- (1) Does the minister recognise the valuable contribution that this school is making towards meeting the needs of students attending this facility?
- (2) Will the minister ensure that for the year 2000, there is -
 - (a) funding for two full-time teachers and two Aboriginal education workers; and
 - (b) additional Education Department funding towards the annual operational costs for this school?
- (3) If not, why not?

Hon N.F. MOORE replied:

- (1) Yes, the Minister for Education has been impressed by the positive reports of the work at the Barramundi School.
- (2)
 - (a) Yes, funding will be provided for two full-time teachers and two Aboriginal and Islander education workers for the year 2000.
 - (b) There is a notional allocation of \$5 000; however, a review has been undertaken and will form the basis of further decisions in respect of the strengthening of the program.
- (3) Not applicable.

WYNDHAM CROCODILE FARM

725. Hon MARK NEVILL to the minister representing the Minister for Water Resources:

- (1) Is the State Government aware of the dire situation faced by the Wyndham Crocodile Farm because of a lack of early rains this wet season?
- (2) Will the State Government honour its agreement with the Wyndham Crocodile Farm to assist it over this difficult period until the first rains fill the farm's dams, given that the Government gave a commitment in writing to continue the water assistance package for the farm and review that assistance annually?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) The Government has not received any representation from the Wyndham Crocodile Farm in relation to a lack of early rains this wet season.
- (2) The Government has honoured the commitment made and the agreement between the owner of the Wyndham Crocodile Farm and the State in respect of the 1998-99 wet season.

LOCAL GOVERNMENT, GOODS AND SERVICES TAX

726. Hon B.K. DONALDSON to the minister representing the Minister for Local Government:

Can the Minister confirm that the State's local government authorities, particularly those in regional areas, have access to sufficient support to ensure that they will be ready for the introduction of the goods and services tax in July 2000?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The Western Australian Municipal Association has received \$402 000 of federal funding under the local government incentive program to establish a dedicated taxation advisory consultancy service to assist local governments with their transition to the new tax system. The minister is advised that WAMA will work with Arthur Andersen to provide a comprehensive advisory and consultancy service to local governments in the lead-up to 1 July 2000. The state Treasury Department will also assist WAMA with the provision of information.

YEAR 2000 COORDINATION CENTRE

727. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

I refer to the establishment of a Year 2000 Coordination Centre to monitor services on New Year's Eve.

- (1) What is the cost of setting up and operating this centre?
- (2) Will the centre monitor events in WA prisons as 2000 approaches?
- (3) Has the minister been advised that some WA prisoners may be planning to escape on New Year's Eve subject to security failures resulting from Y2K difficulties?
- (4) Will additional security resources be provided to WA prisons?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The cost will be minimal and will relate mainly to overtime payments for staff involved. All other resources and equipment will be brought in from the various agencies involved.
- (2)-(3) No.
- (4) There will be additional surveillance activity in Western Australian prisons during the Christmas and New Year period.

ARTIFICIAL REEF**728. Hon CHERYL DAVENPORT to the Minister for Sport and Recreation:**

I refer to the minister's decision to extend the artificial reef between Cottesloe and Leighton.

- (1) Have any studies been done on the impact of the artificial reef that has already been constructed?
- (2) If so, what has been the impact?
- (3) If not, why has the study not occurred before extending the reef further?

Hon N.F. MOORE replied:

- (1)-(3) The artificial reef was constructed on the basis of a design which was created by an engineer of the University of Western Australia - whose name escapes me at the moment - and a group of people who got together to work out how to provide the reef. The design was modified on a number of occasions during the process of determining what it should do and where it should go. It was decided to truncate one of the wings slightly because of the need to keep the costs within a reasonable limit. Once the reef had been constructed, it was readily apparent that if any money was left over in the budget, we should extend the south wing of the reef - the reef is in the shape of a boomerang. Some money was left over and, as there was a need to fill some of the gaps that were created by the dumping of very large boulders, it was decided at the same time to extend the wing. It has been accepted by the experts in this matter that that will improve the performance of the reef. I recently provided some information to the House about the increased number of "surfable" days at that reef. It has been an extraordinary success.

ALTERNATE RAIL LOOP, FREMANTLE PORT**729. Hon KEN TRAVERS to the Minister for Transport:**

- (1) Can the minister confirm that it will cost approximately \$12m to build an alternate rail loop into the Fremantle Port once the Leighton marshalling yards have been demolished?
- (2) Will the cost be incurred by the proponents of the development?
- (3) If not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1)-(3) The Fremantle regional strategy adopted by Cabinet in 1995 provided for an ability to construct a direct loop to North Quay. Various options for the rail loop are being considered by the Department of Transport ranging in costs from \$3m to \$14m. The proponents of the proposed Leighton development were not asked to provide the direct loop. Options for funding are currently under consideration.

ALINTAGAS SALE, PUBLIC RELATIONS OR ADVERTISING CAMPAIGN**730. Hon JOHN HALDEN to the leader of the House representing the Minister for Energy:**

- (1) Is the State Government, AlintaGas or the AlintaGas sale steering committee considering a public relations or advertising campaign to promote the sale of AlintaGas or the floating of shares in AlintaGas?
- (2) If so, will the minister table the following information -
 - (a) the type of campaign proposed;
 - (b) the objectives of the proposed campaign;
 - (c) the cost of the proposed campaign;
 - (d) the advertising agents being considered for the contract; and
 - (e) when the campaign is due to commence?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) (a) As yet undetermined;

- (b) to maximise public awareness of the sale;
- (c) the cost has not yet been determined;
- (d) John Davis Advertising Pty Ltd has been engaged as the advertising agent for phase 2 of the sale process; and
- (e) within the first quarter of the new year.

GREENBUSHES MILL, FUTURE

731. Hon NORM KELLY to the minister representing the Minister for the Environment:

Further to my question without notice number 677 of 7 December -

- (1) Will the minister explain the time frame under which the Government is working to resolve the future of the Greenbushes Mill?
- (2) When does the minister expect the future of the mill to be clarified?
- (3) Up to what date will the Government guarantee the jobs of the 12 workers referred to under the forest enhancement project?
- (4) If the Government is unable to provide a guarantee beyond 20 December, what action will the minister take to alleviate the uncertainty for these workers?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1)-(2) This matter is in the hands of the receiver and manager of Whittakers Ltd. It is understood the negotiations with the proponents are progressing well. The Government is keen to get a viable, integrated, value adding and manufacturing centre at Greenbushes, but essentially the progress of negotiations is in the hands of the receiver and manager.
- (3)-(4) Subject to the current sale process proceeding, the Government, through the Department of Conservation and Land Management, will keep the workers employed until the mill is reopened.

KWINANA MOTORSPORT COMPLEX, SOCIETAL RISK

732. Hon J.A. SCOTT to the Minister for Mines:

- (1) Has the minister been made aware of the Environmental Risk Solutions report on societal risk associated with the Kwinana motorsport complex?
- (2) Did the report raise concerns about the transport of dangerous goods?
- (3) How and where was the minister made aware of the ERS report on societal risk?

Hon N.F. MOORE replied:

- (1)-(3) The Department of Minerals and Energy has advised me of its views on the location of the motorsport complex at Kwinana. The department's views have been relayed to the appeals convener who is considering all the issues on whether this location is appropriate for a motorsports complex. The department raised issues about societal risk. That was fundamental to the department's point of view, and it is entitled to make that clear. I do not think the report raised any concerns about the transport of dangerous goods. It was more to do with societal risk, and the location of the site in the context of the Kwinana industrial site.

Hon J.A. Scott: Is the minister referring to the Environmental Risk Solutions report?

Hon N.F. MOORE: I am talking about a letter that was sent by the Department of Minerals and Energy via me to the appeals convener. That is all that I have done in this matter. I do not know anything about the ERS report. I have not read that, although the Department of Minerals and Energy may have. Societal risk is a pretty subjective issue, as I am beginning to find out. I did not know much about societal risk until this issue came up. It seems the meaning of societal risk is very much in the eye of the beholder. I often say to people these days that if they are looking for a job in the next millennium, they should become a probity auditor or an assessor of societal risk, because they will make a squillion dollars. The view of the Department of Minerals and Energy has been sent to the appeals convener who will consider that advice in the context of all the other advice he has received.

SYDNEY OLYMPICS, TICKETS

733. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I refer to the undertaking given by the Leader of the House on 10 November to table details, including total costs of any tickets purchased or applied for, and the names of the government departments and agencies which have purchased or applied to purchase tickets to the Sydney Olympics at taxpayers' expense.

- (1) Is the Premier yet able to table those details?
- (2) If not, when is the Premier likely to do so?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I seek leave to table the information.

Leave granted. [See paper No 547.]

Hon N.F. MOORE: I draw attention to one issue in the documents that I have tabled. I refer to the heading of "Minister for Mines, Tourism, Sport and Recreation" and the subheading "WA Institute of Sport". The Australian Olympic Committee has advised verbally that it is providing two general accreditation passes for the Minister for Sport and Recreation, the institute chairman and the institute director in each State to share. I will explain what that means. I have not received anything.

The Director of the Western Australian Institute of Sport, Wally Foreman, was advised by the Sydney Organising Committee of the Olympic Games and the Australian Olympic Committee that he and the Chairman of WAIS would be provided with two accreditations each. An accreditation entitles one person to attend a range of events at an Olympic Games. On the basis of that information, Mr Foreman and the Chairman of WAIS applied for tickets privately, so that their children could attend the games with them. Subsequently they were advised verbally by the Australian Olympic Committee that SOCOG had changed its mind and that SOCOG would provide two accreditations to be shared between the Minister for Sport and Recreation, the director and the chairman of the Western Australian Institute of Sport. That is outrageous, bearing in mind that WAIS is a state organisation that spends about \$5m a year preparing elite athletes to represent Australia at Olympic Games.

As the Minister for Sport and Recreation, I was offered tickets at face value, plus 10 per cent. I have not purchased any and I do not intend to go to the games. The whole thing has been so badly handled by the minister, Mr Knight, that he has almost totally discredited the Sydney Olympic Games to the point where people are tearing out their hair in despair.

I make this explanation because the information indicates that I have been verbally offered the opportunity to share with two other people two accreditations, and it is not my intention to use them.

BLUEGATE NOMINEES PTY LTD, SWAN BREWERY SITE

734. Hon HELEN HODGSON to the minister representing the Minister for Works:

- (1) Under the terms of the contract between the Government and Bluegate Nominees Pty Ltd with respect to the Swan Brewery site, for what uses may the site and buildings be used?
- (2) Does the Government support plans to allow residential apartments on the site?
- (3) Is there any requirement for public access to any part of the site; if so, which area is it?
- (4) Will parking fees be permitted to be charged for access to parking areas included under the agreement with Bluegate Nominees?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Under the lease, the permitted uses for the site are offices, retail, restaurant, boutique hotel, residential and any other use which the Heritage Council may from time to time approve.
 - (2) Residential apartments are not a preferred use but are permitted under the lease.
 - (3) Public access is allowed, as defined under the heritage agreement, and is summarised as follows -
 - (a) the jetty 24 hours a day;
 - (b) during daylight hours and when premises are open to invitees, including the external grounds and the tunnel and overpass; and
 - (c) to any area designated as a public access area and any area which the Heritage Council and the lessee agree to be a public access during any hours that such areas are open to invitees of premises operating at the place.
 - (4) Under the heritage agreement, parking fees are permitted to be charged.
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