



# **LEGISLATIVE ASSEMBLY OF QUEENSLAND**

## **PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE**

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### **REPORT ON PROSTITUTION**

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Report No. 12  
12 November 1991

**PREVIOUS REPORTS OF THE PARLIAMENTARY  
CRIMINAL JUSTICE COMMITTEE**

	<b>REPORT</b>	<b>DATE TABLED</b>
1.	Progress Report of the Committee being the Minutes of Evidence taken on 16 and 17 July 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Report on Gaming Machines Concerns and Regulations".	21 August 1990
2.	The Committee's Report No. 1 Relating to the Report of the Criminal Justice Commission entitled "Report on Gaming Machine Concerns and Regulations".	4 September 1990
3.	Progress Report of the Committee being the Minutes of Evidence taken on 6 and 7 August 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	4 September 1990
4.	The Committee's Report No. 2 into the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	2 October 1990
5.	Report Into Allegations made in the South Australian Legislative Council on 10 October 1990 by Mr Ian Gilfillan, Leader of the Australian Democrats against the Criminal Justice Commission's Director of Operations, Commander Carl Mengler.	4 December 1990
6.	Report Into the issue of legal representation of witnesses at public hearings of the Parliamentary Criminal Justice Committee.	6 December 1990
7.	Minutes of Evidence taken on 15 April 1991 at a public hearing between the Parliamentary Criminal Justice Committee and the Criminal Justice Commission and other material provided by the Commission to the Committee in relation to the roles and functions of the Committee and the Commission.	22 May 1991
8.	Minutes of Evidence taken on Friday 24 May 1991 in relation to the Committee's review of its monitoring and reviewing functions and related matters.	17 June 1991
9.	Review of the Committee's operations and the operations of the Criminal Justice Commission Part A, Submissions, Volume 1 - Public Submissions, Volume 2 - CJC Submissions and Minutes of Evidence taken on 6 and 13 June 1991; 2(a) and 2(b).	16 July 1991
10.	Report of the independent investigation into the allegations made by Robert David Butler and Channel 7 regarding former Inspector John William Huey and the Queensland Criminal Justice Commission.	16 July 1991
11.	The Term of Sir Max Bingham QC, Chairman of the Criminal Justice Commission	2 August 1991

COMMITTEE MEMBERS

**CHAIRMAN:** Mr P D Beattie MLA, Member for Brisbane Central

**DEPUTY CHAIRMAN:** Hon W A M Gunn MLA, Member for Somerset

**MEMBERS:** Mrs W M Edmond MLA, Member for Mt Coot-tha

Hon N J Harper MLA, Member far Auburn

Mr S Santoro MLA, Member for Merthyr

Mr R E Schwarten MLA, Member for Rockhampton North

Mrs M R Woodgate MLA, Member for Pine Rivers

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**RESEARCH DIRECTOR:** Tony Woodyatt

**RESEARCH ASSISTANT:** Daniel Wright

Tabled 12.11.91

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## CHAIRMAN'S FOREWORD

Former Commissioner Tony Fitzgerald QC pointed out on page 362 of his Report that:

Prostitution, other voluntary sexual behaviour, . . . are presently criminal offences, but the laws concerning them are not effectively enforced. From a resources point of view, there are arguments for decriminalisation and regulation of some of these types of conduct.

He went on to say:

This report does not make a **final** recommendation of decriminalisation of any offences, or on the other suggestions mentioned above, but sees them as priorities for review by an independent but accountable body later recommended called the **Criminal** Justice Commission (CJC).

Police corruption arising out of prostitution and other associated matters was largely responsible for the Fitzgerald Inquiry. It is therefore essential and indeed fundamental to the Fitzgerald process of reform for laws to be passed in Queensland which adequately deal with the issue of prostitution.

If the legislature fails in passing laws that deal realistically with the issue of prostitution then it will be a clear sign to Queensland and indeed the whole of Australia that the Fitzgerald process of reform has failed and that the whole Fitzgerald exercise is at risk.

It is therefore important that the issue of prostitution be confronted head-on in an honest, open and frank way so that the laws that are determined are not only in the best interests of Queenslanders but they deal as adequately as humanly possible with prostitution and its related problems.

If we bury our head in the sand on this issue or we are guilty of playing politics as was the case in Victoria, then Queenslanders can rightly be angry with their legislators in failing to deal with the issue adequately and properly.

It would be naive for anyone to suggest that there are complete solutions to the "problems" of prostitution. There are no perfect solutions and there are no easy answers. Whatever laws are passed there will be problems and there will be controversy and arguments. **It is an issue on which there are a wide range of views in the community. This range of views was reflected on the Committee.**

The tests to be applied, in terms of recommending the appropriate laws, are the following:

1. The laws must deal honestly with the real issues arising out of prostitution and provide a practical and workable approach.
2. **The** laws should reflect the majority views of the community; and
3. The laws should accept and acknowledge that regardless of whatever approaches are taken, prostitution will continue to exist. It's simply a case of how best to deal with it. This means creating an environment where police corruption is minimised to the extent that is humanly possible and everything is done to safeguard public health.

It is disappointing to admit, but there is a lot of hypocrisy and double standards found in some sections of the community on this issue.

Legislators have to be realistic and courageous enough to accept their responsibility to the community as a whole and while there are certain sections of the community that hold strong moral views opposed to prostitution, it is important that they use those views to educate the community in their particular areas against prostitution. The responsibility of legislators, however, is a higher responsibility in that they have to look at the community and society as it really is and deal with it realistically.

Legislators cannot pretend that our free society is something that it is not or refuse to accept it because it does not accord with their religious or even utopian views.

**Legislators who fail to deal with the prostitution issue based on the facts betray not only themselves and the people they represent but future generations.**

We have to acknowledge that there are a lot of fathers and husbands who regularly use the services of prostitutes. If this was not true, the prostitution industry wouldn't be the multimillion dollar industry that it is and therefore there are a lot of innocent partners in the community who could be threatened with the AIDS virus if the Parliament ignores the sensible recommendations put forward by the Criminal Justice Commission.

The Parliamentary Committee has given detailed consideration to the public submissions and it has made appropriate recommendations as set out in this report. The individual statements by Committee members deal with additional recommendations.

The Committee has also made specific reference to opposing street soliciting in an endeavour to make certain that there is no street industry in Queensland as there is in Sydney or Melbourne.

Prostitution has been a very difficult and emotive issue to deal with and naturally there will be those who will **criticise** the Committee's findings.

This Parliamentary Criminal Justice Committee has been given some of the most difficult tasks ever given to a Parliamentary Committee and it has sought to carry out its task with responsibility and integrity and to resist the numerous pressures which exist to come up with a particular favoured result.

This Legislature will be judged by future generations on how we dealt with the issue of corruption in post-Fitzgerald Queensland.

No-one who has dealt with this issue has found prostitution a particularly attractive industry, but nevertheless, we have faced up to our responsibilities as best we possibly could and in my view, carried out our responsibilities maturely.

The Members of the Committee are all of the opinion that prostitution as an industry is demeaning to both sex workers and clients. However, the Committee also believes that the present situation is untenable and it would be irresponsible not to properly address that situation.

Like so many areas of human activity there are no easy solutions to prostitution. All we can do is try and manage and control the circumstances to the best of our abilities.

I want to pay particular tribute to all members of the Parliamentary Committee who have again been forced into a very difficult set of circumstances and been required to deal with another very difficult issue.

I also want to thank the Committee's Research Assistant, Daniel Wright for his work on the draft and the Research Director, Tony Woodyatt.

The six Committee recommendations in this report were carried unanimously by the committee.

Peter Beattie MLA  
Chairman

12 November 1991



RECOMMENDATION 1:

The Committee is totally opposed to street soliciting and endorses the Commission's recommendation that it be an **offence** to solicit in a public place. This **offence** is to apply to both sex worker and client. .... 8

RECOMMENDATION 2:

The Committee supports the full use of the law to protect children from exploitation and therefore endorses the Commission's recommendation that:

- (1) specific heavy penalties be created in order to stop the exploitation of children and prevent the involvement of children in prostitution;
- (2) it be an **offence** for anyone to receive money or other material benefit knowing that it was derived from an act of child prostitution; and
- (3) it be an **offence** for a person capable of exercising lawful control over premises to knowingly allow a child to participate in an act of prostitution on those premises. .... 9

RECOMMENDATION 3:

In order to protect disadvantaged groups from exploitation the Committee recommends that a specific **offence** be created to protect intellectually disabled persons from being involved in prostitution. However, this **offence** should be clearly defined, stating what level of disability will satisfy this provision and providing instruction to officers on how this disability is to be determined. .... 10

RECOMMENDATION 4:

The Committee endorses the Commission's recommendation that it be a criminal **offence** to procure a person into prostitution where acts of coercion, intimidation or fraud are involved. .... 10

RECOMMENDATION 5:

The Committee endorses the Commission's recommendation that a criminal **offence** apply to explicit and offensive advertising. .... 11

RECOMMENDATION 6:

The Committee takes the view that there be no change to the law as it stands at present with respect to a single sex worker operating from their own home. That is, that these matters are specifically Town Planning responsibilities and as such all complaints for the removal of a single sex worker should be quite correctly handled by the Local Authority as at present. .... 12

The majority of the Committee did not support the other recommendations of the Commission. A minority of the Committee did support the Commission’s other recommendations. These were for varying and different reasons.

Those reasons are set out by individual Committee members in their statements attached to the Committee’s report. .... 12

# 1. INTRODUCTION

## 1.1 The Committee

The Parliamentary Criminal Justice Committee (the Committee) was established by motion of the Legislative Assembly of Queensland on 21 March 1990 pursuant to Part IV of the *Criminal Justice Act 1989* (the Act).

The Committee is an all-party Parliamentary Committee comprising four members from the Labor Party, two members from the National Party, and one member from the Liberal Party.

Generally, the Committee has the functions of monitoring and reviewing the functions of the Criminal Justice Commission (the Commission) (section 4.8(1)(a)) and reporting to the Legislative Assembly, with such comments as it thinks fit on any matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission (section 4.8(1)(b)).

## 1.2 The Report

A Criminal Justice Commission report entitled *Regulating Morality? An Inquiry into Prostitution in Queensland* (the CJC report) was handed to the Speaker of the Legislative Assembly, The Honourable Jim Fouras MLA and the Chairman of the Committee, Peter Beattie MLA (the Chairman) by Sir Max Bingham QC, Chairman of the Commission and was tabled in the Legislative Assembly and ordered to be printed on 2 October 1991. The Commission's report reviews the law relating to prostitution in Queensland. The Commission analyses whether legal intervention is required; and if so, what form such regulation should take. The Commission's recommendations as to the appropriate form of regulation are summarised on pages xi-xiv of its report.

The Commission's recommendations are made in accordance with its function to initiate reform of the administration of criminal justice (section 2.14(1)(a)). The accompanying responsibility of the Commission being to research, generate and report on proposals for reform of the criminal law (section 2.15(e)).

The specific impetus for the Commission's investigation into prostitution is provided by the recommendations of the *Report of a Commission of Inquiry Pursuant to Orders in Council* (Fitzgerald Report). At page 377 this report recommended:

2. general review of the criminal law, including laws relating to voluntary sexual **osex**-related behaviour, **s.p.** bookmaking, illegal gambling, and illicit drugs, to determine:
  - (a) the extent and nature of the involvement of **organised** crime in these activities
  - (b) the type, availability and costs of law enforcement resources which would be necessary effectively to police criminal laws against such activities
  - (c) the extent (if at all) to which any presently criminal activities should be legalized or **decriminalized**.(Report, 1989:377)

Under the Act the Commission has the duty to monitor, review and initiate implementation of the recommendations relating to the administration of criminal justice contained in the Report of the Commission of Inquiry (section 2.14(3)). This report goes to implementing the above recommendation.

The Commission saw the need for a review in the following terms:

Following the Report of the Commission of Inquiry, interest in examining the laws relating to prostitution was expressed by various individuals and groups. Furthermore, difficulties with the enforcement of present laws were highlighted by evidence which showed it to be a source of corruption for police officers. This was confirmed by the subsequent conviction of some former officers of the Licensing **Branch.(Report, 1991:3)**

### 1.3 The Committee's **Review**

Following the receipt of the Criminal Justice Commission's report the Committee announced that it would call for written submissions from the public commenting on the Commission's report. An advertisement was placed in national and Queensland papers on Saturday 5 October and Sunday 6 October 1991 (and subsequent dates in regional press) (a copy of this advertisement appears as Appendix A to this report). The Committee received 142 submissions from the public and concerned organisations. A list of submissions is provided in Appendix B. These submissions were tabled in the House by the Committee Chairman on Tuesday 29 October 1991.

The Committee also received from the Commission all submissions received relating to its own inquiry and some additional research material. The Committee conducted its own independent research through visits to Melbourne and Sydney. It also discussed or examined the issue in general terms in Perth and Auckland, New Zealand. In Queensland the issue was discussed in Townsville, Toowoomba, Cairns, Mt Isa, Rockhampton and Southport and Broadbeach on the Gold Coast. The people with whom the Committee specifically consulted on the trips to Sydney and Melbourne are listed in **Appendix C**.

The Committee met with the Commission on two occasions after the report was tabled in the House to clarify issues raised by the report. The Commission also extended an open invitation to the Committee to consult with it at any later stage if any further queries arose. This was done on numerous occasions.

In this report, the Committee will fulfil its statutory function of reviewing the preparation of the Commission's report and assess whether the Commission has complied with its statutory duties for the preparation of reports. This report will also comment on the merits of the recommendations contained in the Commission's report. Finally, the Committee will make recommendations to the Legislative Assembly for the adoption or rejection of the Commission's proposed reforms.

## 2. A REVIEW OF THE PREPARATION OF THE COMMISSION'S REPORT

### 2.1 The Commission's Duty

The Commission in its reform of the criminal law has two clear specific duties under the Act. These are:

- (a) Wherever practicable, consult with persons or bodies of persons **known** to it to have special competence or knowledge in the area of the administration of criminal justice concerned, and seek submissions from the public; and
- (b) in its report thereon, shall present a fair view of all submissions made to it on the matter in relation to which it is discharging its functions, whether such submissions and recommendations are supportive of, or contrary to, the Commission's recommendations on the ~~matter~~. (section 2.14)

**The** Commission also has a general duty to "act independently, impartially, fairly and in the public interest" (section 3.21). The Committee believes this duty applies to all divisions of the Commission, but the duty's application **will** vary depending on the nature of the function in which the Commission is engaged. This report was prepared by the Research and Co-Ordination Division of the Commission.

### 2.2 The Commission's Methodology

The Commission in its Executive Summary sets out the procedures that were used to gather information on the subject of prostitution. These were:

- i) a review of the literature on prostitution in Australia;
- ii) an examination of current laws and their operation in other jurisdictions in Australia, and in Canada, the United Kingdom and other countries;
- iii) release of an Information and Issues Paper seeking public submissions;
- iv) meetings and seminars involving individuals and interested **organisations**;
- v) examination of 117 submissions received from individuals and interest groups;
- vi) a survey of public attitudes towards prostitution in Queensland and Melbourne;
- vii) a survey of sex workers in Brisbane, Cairns, the Gold Coast and Townsville; and
- viii) a workshop involving academics, lawyers, health professionals, public servants and **researchers**. (Report, 1991 :ix)

A number of these points require further elucidation below before the Committee could comment on whether the Commission has fulfilled its statutory duties.

#### A Review of the Literature and Current Laws

The Commission, as described in points (i) and (ii), conducted a fairly extensive survey of the literature on prostitution. The starting point for this survey was the two major reports on prostitution prepared in Victoria and New South Wales. Both these reports contain extensive bibliographies. Further material that related specifically to health issues was supplied by the Department of Health.

#### The Issues Paper

On 2 March 1991 the Criminal Justice Commission released an Issues and **Information**

**Paper: Review of Prostitution-Related Laws in Queensland.** The paper covered such aspects as current laws relating to prostitution and their enforcement; social and community welfare; drugs and sex workers; health considerations; and philosophical approaches to prostitution law reform. Furthermore the Paper offered options that could be considered for law reform and summarised the issues for public submission. This **Issues Paper** was based on the research process described above.

The Committee notes that the release of this Paper was advertised widely through electronic and print media. Advertisements, seeking submissions on the **Issues Paper**, were then placed in 26 regional and local papers in Queensland, in the **Courier-Mail** and in the **Weekend Australian**. Also copies of the paper were sent to welfare and community organisations, health bodies, church and religious groups, women's organisations and sex workers. The Committee commends the Commission on this process of wide distribution not only publicly but directly to specifically affected or concerned parties. The closing date for submissions listed on the **Issues Paper** was 5 April 1991. However, the Commission later extended this date until the end of July. Submissions received after this date were individually responded to by officers of the Commission.

Point (iv) of the Executive summary listed above states that the Commission consulted with individuals and interested groups after the release of the **Issues Paper**. Such individuals and interest groups included Dr Linda Hancock, Professor Paul Wilson, the major Churches, the Queensland Department of Health and Self-Health for Queensland Workers in the Sex Industry (SQWISI). The relationship between these last two bodies deserves special mention.

The Minister for Health the Honourable Ken **McElligott** MLA deserves special recognition for allowing the Department of Health to contribute widely and freely to the Commission's reform process. The Department submitted a valuable and constructive submission to the **Issues Paper** and provided assistance to the Commission by providing the Commission with literature relevant to health matters. The Committee commends this consultation.

The Committee believes that the relationship established by the Commission with SQWISI deserves praise as well. Occasionally in the past, those persons or parties directly affected by governmental reform have not been consulted. SQWISI though not representing all the sex workers in Queensland is the only organisation in this state of sex workers. SQWISI introduced many of the workers who the Commission surveyed. The Commission also invited SQWISI to have direct input into the research process. The Committee wishes to commend the Commission for developing and maintaining such a relationship which could only be beneficial for the reform process. However, the Committee believes strongly that the Commission at all times maintained its independence and impartiality.

#### Examination of the 117 Submissions Received

Chapter 5 of the Commission's report **summarises** in a most succinct and balanced way the opinions of all persons and organisations that comprised the 117 submissions forwarded to the Commission. Copies of these submissions were provided to and considered by the Committee.

## The Public Survey

After the release of the Commission's report there was criticism from a number of persons of the public survey that the Commission had conducted through an independent research company - Reark Research Pty Ltd.

The Committee sought independent advice from the Australian Institute of Criminology and the NSW Bureau of Crime Statistics and Research on the validity of the public survey by Reark and the conclusions drawn by the Commission. Opinions were prepared by Mr John Walker, Senior Criminologist at the Institute who is in charge of the Institute's statistical services and Ms Bronwyn **Lind**, Deputy Director at the Bureau. The full responses of Mr Walker and Ms Lind are provided in **Appendix D**.

The Committee would like to express its gratitude to John Walker, Senior Criminologist and to Professor Duncan Chappell, Director of the Australian Institute of Criminology and Ms Bronwyn Lind and Dr Don Weatherburn, Director of the Bureau for providing these opinions for the Committee.

## The Workshop

Finally the Committee acknowledges and approves of the process of conducting a workshop with persons of specific expertise to **crystallise** the specific recommendations to be made by the Commission. People included in this workshop were all the project staff of the Commission, most of the Commissioners, all Directors of the Divisions except for Intelligence, from which a delegate was sent, Professor Paul Wilson, Dr Linda Hancock, Dr Sandra Egger, a representative from the Police Union, a representative from the Police Service and Dr John **Patten** from the Queensland Health Department.

### 2.3 The Committee's Comments

The Committee believes that the Criminal Justice Commission has in the preparation of this report more than adequately fulfilled its statutory duty under section 2.14 and section 3.21 of the Act. All Commission staff involved on this project need to be complimented for the high level of professionalism that is evidenced in this report. It is a balanced and considered report, that provides the necessary information for any informed governmental decision on this matter.

However, though the Committee in general approves of the way the report was prepared it believes there are a number of minor ways in which it could have been improved upon. These are:

- a complete summary of all recommendations made by the Commission should have been attached to the report. This should occur in future reports published by the Commission;
- in Chapter 10 of the Commission's report, **Conclusion and Recommendations**, it was sometimes unclear whether the Commission was in fact making a recommendation or simply stating

an “option”. The words: “the Commission recommends”, should always preface a Commission recommendation;

- one recommendation contained in the Executive summary of the report, relating to the creation of a criminal **offence** for explicit and offensive advertising was not discussed at **all** in Chapter 10, *Conclusion and Recommendations*. Considering the nature of this recommendation this is an oversight;
- it was recommended by the Commission that the Registration Board have the power to cancel registration if an “unsuitable” worker is employed there. Who is to be an “unsuitable” worker is not defined by the Commission;
- some of the recommendations made by the Commission, the Committee suggests, could have been elaborated on further. This is especially so with respect to the recommendation concerning individual sex workers operating from their own home. The way in which such a person would be subject to local authority control was not made clear.

The Commission’s report is not a document that claims to be self-executing. Rather it aims to provide the people of Queensland with information to consider a range of possible policies in this area and the costs, both economic and social, of their implementation. Specifically, the Committee wishes to commend the Commission for its attempts to involve the general public in the process of reform. Politicians too often claim that they know what the people want, without any objective basis for this claim. The Commission’s report provides this objective basis. It is time now for members of the Parliament to objectively examine the CJC’s report and this Committee’s report and take the appropriate legislative action.



### 3. OVERVIEW OF THE CJC'S RECOMMENDATIONS

The general focus of the Commission's recommendations can be summarised simply into three major points:

- partial application of the criminal law: to protect children from exploitation, to stop children from entering or being procured into prostitution, and also to protect other disadvantaged groups such as intellectually disabled persons and non-English speaking persons;
- establishment of a regulatory **framework**, through the operation of a Registration Board, which will vet applicants for a certificate of registration and establish guidelines for the operation of small brothels in Queensland, and an Inspectorate to ensure compliance with the established guidelines and maintenance of the occurrence of premises within the proposed framework.
- ensuring that a two-tiered system, one legal the other illegal, will not operate in Queensland by providing for strict penalties for persons who choose to try and operate outside the framework guaranteeing the maximum disincentive for such a practice.

The theme of the recommendations is regulation and control of prostitution in specific areas and certainty in the law to ensure proper enforcement where necessary. The recommendations were made in response to a number of primary issues that arise in the debate on prostitution. The Commission's executive summary of its recommendations are contained in **Appendix E**.

## 4. ASSESSMENT OF THE CJC'S RECOMMENDATIONS

### 4.1 Criminal Sanctions

#### Street Soliciting

The Commission's recommendation on street soliciting states:

It is **recommended that** it still be an **offence** to solicit in a public place. This provision should be drafted to state clearly that this is an **offence** for both the sex worker and the client. (Report, 1991:218)

**The Committee believes that street soliciting is unacceptable in Queensland.**

Under the Commission's recommendations there will be **NO KING'S CROSS OR ST KILDA** in Queensland.

This view is clearly in line with public opinion, with 83% of people surveyed stating that street soliciting should be against the law.

Too often in the past, there has been a selective attitude adopted by the police to the prosecution of such offences. Sex workers have been singled out for the brunt of attention, while the male client has escaped punishment.

**THIS PROVISION WILL APPLY TO THE CLIENT AS WELL AS THE WORKER.**

This will be the first time this has occurred in Australia and will be an effective measure in stamping out any illegal activities and overcoming the problems being experienced in Victoria.

#### **RECOMMENDATION 1:**

**The Committee is totally opposed to street soliciting and endorses the Commission's recommendation that it be an offence to solicit in a public place. This offence is to apply to both sex worker and client.**

#### Protection of Children

Many of the submissions to the Committee highlighted the protection of children as a major area of public concern. Many people feel that regulating the prostitution industry will encourage or provide the opportunity for young people to enter prostitution. The Commission was also concerned with this aspect of the industry and made a recommendation that any reform must protect and stop the involvement of minors in the industry. Many people who made submissions to the Committee had not read or were unaware of the Commission's recommendations in this area. It is essential that they are elucidated and made public knowledge. The system proposed by the Commission is not one of absolute deregulation. No person under the age of 18 years would be allowed to be involved in prostitution.

The Commission made three recommendations with regards to the protection of young people:

- (1) that specific **offences** be created with heavy penalties in order to discourage persons from exposing children to or involving children **in** prostitution;
- (2) that it be an **offence** to receive money or other material benefit knowing that it was derived from an act of child prostitution; and
- (3) [that it be] an **offence** to be a person capable of exercising lawful control over premises in which a child participates in an act of **prostitution**.(Report, 1991:220)

The Committee believes that these recommendations go a long way to allaying people's fears that children will be encouraged or forced into prostitution. The Committee, therefore endorses these recommendations. This will give greater protection to young people from exploitation than the law currently provides.

The Committee wishes to note that these recommendations are in no way meant to criminalise young persons. The Committee believes that these **offences** should be coupled with social programs to ensure that young persons are assisted in such situations.

## **RECOMMENDATION 2:**

**The Committee supports the full use of the law to protect children from exploitation and therefore endorses the Commission's recommendation that:**

- (1) specific heavy penalties be created in order to stop the exploitation of children and prevent the involvement of children in prostitution;**
- (2) it be an offence for anyone to receive money or other material benefit knowing that it was derived from an act of child prostitution; and**
- (3) it be an offence for a person capable of exercising lawful control over premises to knowingly allow a child to participate in an act of prostitution on those premises.**

## Prostitution Offences Involving Disadvantaged Groups

There are many other groups of people who are susceptible to coercion and exploitation in our society. Society owes a duty to protect such people. However such protection must never cross over into paternalism. The Commission's recommendations for protection are:

that **offences** be created to protect disadvantaged groups such as intellectually impaired persons and non-English speaking persons from involvement in prostitution. They should prohibit owners/operators and clients **from** exploiting the vulnerability of these **groups**.(Report, 1991:220)

The Committee received a submission from the Queensland Police Service on the Commission's report. The Police Service submission raised a concern over the wording of this recommendation. The Police Service stated:

Prostitution Involving Disadvantaged Groups: The prohibition of disadvantaged groups such as intellectually impaired person is supported. However, at what level of intellectual impairment will an **offence** be committed? How will the investigating **officers** be able to determine that level of impairment? Will it be a **defence** for clients to claim they did not know the person was intellectually **impaired**?(Queensland Police Service, 1991:4)

The Committee believes that the Queensland Police Service have raised serious issues in their submission which need to be addressed therefore the Committee would endorse the proposed amendments that have been put forward.

### RECOMMENDATION 3:

**In order to protect disadvantaged groups from exploitation the Committee recommends that a specific offence be created to protect intellectually disabled persons from being involved in prostitution. However, this offence should be clearly defined, stating what level of disability will satisfy this provision and providing instruction to officers on how this disability is to be determined.**

#### Activities Involving Coercion and/or Intimidation

The Commission makes two recommendations in this area:

It is recommended that it be an **offence** to procure a person to become a sex worker by coercion, intimidation or fraud.

It is also recommended that it be an **offence** to live either wholly or partly on the earnings of a sex worker, where that sex worker has become involved in prostitution in circumstances of coercion, fraud or **intimidation**.(Report, 1991:220)

The Committee supports this view and urges that provisions which are to be criminal **offences** in this area be policed with vigour.

### RECOMMENDATION 4:

**The Committee endorses the Commission's recommendation that it be a criminal offence to procure a person into prostitution where acts of coercion, intimidation or fraud are involved.**

#### Explicit and Offensive Advertising

The recommendation of the Commission is to create a criminal offence for explicit and offensive advertising. The Committee supports this view.

## RECOMMENDATION 5:

**The Committee endorses the Commission's recommendation that a criminal offence apply to explicit and offensive advertising.**

### The Individual Sex Worker Operating from Home

The Commission recommended that:

With respect to the individual sex worker, the Commission recommends that a self-employed individual sex worker be permitted to operate from his/her home, subject to Local Authority planning provisions.(Report, 1991:223)

This recommendation has caused much controversy. This controversy has been one based on a misunderstanding. This recommendation is not truly a recommendation, but rather a restatement of the law as it stands at the present time.

**THIS CJC RECOMMENDATION DOES NOT PROPOSE ANY CHANGES TO THE PRESENT LAWS REGULATING AN INDIVIDUAL SEX WORKER OPERATING FROM THEIR OWN HOME.**

**The Courts** in Queensland have repeatedly denied that a single worker operating from her or his own home is contravening the law (*R v Thick* [1907] St R Qd 198; *Parker v Jeffrey* [1963] Q.W.N. 32; *Ferricks v Guzikowski*; *ex parte Guzikowski*, unreported).

The Committee believes that a recommendation that does not seek to alter the law in this area is reasonable for the following reasons:

- such a law would be impossible to enforce without severely encroaching on the civil liberties of every citizen in Queensland, that is, police would need wide powers to enter without notice ANY home in this State. The Committee believes that the public, if aware of this fact, would not condone such powers;
- the actions of two consenting adults in a private home should not be the subject of any legal sanction. The Committee believes that any such law would be draconian and authoritarian and in conflict with the basic foundations of the democratic society that we live in. Most Queenslanders would strongly resist this threat to their privacy.

In stating these reasons for its endorsement of this recommendation it does not mean that the Committee approves of such activity. This is -often difficult for some people to understand. Simply because the Committee does not approve of an activity does not therefore result in a conclusion that such an activity should be prohibited. This process of reasoning would be naive. A clear distinction must be emphasised here between single operators and the **CJC's** proposal for brothels of 2 to 10 people which would be clearly prohibited from residential areas.

**However, it does not also follow that nothing can be done about such a situation.**

This is where the **CJC**'s words "subject to Local Authority planning provisions", apply.

With respect to the activity of prostitution, the Local Authority planning provisions apply as they would to any other business conducted out of the home without the consent of the Council. Though some people object to prostitution being considered as a business (like a panel beater) because they view it as an immoral act, this is not the point when considering whether Local Authority approval should be granted.

Laws that relate to planning provisions in residential areas do not and should not use moral criteria as a factor for **decriminalisation**. This is for the second reason listed above. What consenting adults do in their own home is their own business, unless the activity in some way infringes in an unacceptable way, such as creating a nuisance on the lives of their neighbours. The actual sexual act (which is the immoral act for some) cannot in all reasonableness be seen as infringing on the life of a neighbour.

The activities incidental to the act of prostitution can. This may be through traffic noise, clients knocking on wrong doors; late hours of operation etc. If for whatever reason a person objects to the activities of their neighbours they will be able to complain to the Council; whether it be for operating a business (which prostitution must be considered in this circumstance) a continually barking dog, or encroaching trees. The Council can then use its powers to stop the "public nuisance" and remove a single operator. It is, therefore, a matter to be properly decided by complaint to local authorities.

This is the way the law operates at present and the way the Committee believes that it should operate in the future. The Committee has been informed by a number of people including the police that many people will never know if the person living next to them is a single person operating as a sex worker. For the above reasons the Committee endorses the Commission's recommendation.

#### RECOMMENDATION 6:

**The Committee takes the view that there be no change to the law as it stands at present with respect to a single sex worker operating from their own home. That is, that these matters are specifically Town Planning responsibilities and as such all complaints for the removal of a single sex worker should be quite correctly handled by the Local Authority as at present.**

**The majority of the Committee did not support the other recommendations of the Commission. A minority of the Committee did support the Commission's other recommendations. These were for varying and different reasons.**

**Those reasons are set out by individual Committee members in their statements attached to the Committee's report.**

## REFERENCES

Queensland Police Service (1991) ***Submission to the Parliamentary Criminal Justice Committee.***

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**STATEMENT**

**OF**

**HONWAMGUNNMLA**





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**CRIMINAL JUSTICE PARLIAMENTARY COMMITTEE**

Having visited the States that have legalised Prostitution, I am convinced that organised Prostitution would see an increase in Organised Crime in this State if Queensland legalised prostitution.

I also fail to be convinced that if Prostitution was legalised, the spread of AIDS and other S.T.Ds would be controlled by regular health checks. I do concede that female sex workers do have regular health check now but males do not.

In the case of AIDS it can take up to a couple of months for a positive smear to show.

Although most prostitutes interviewed claimed they practised safe sex by using condoms, they did not deny that some sex workers were prepared to work without condoms for extra money.

We were told that in some male brothels in Sydney although condoms were available they were not always used. There is no doubt that bi-sexual men using these facilities could be a major factor in the spread of AIDS into the heterosexual community.

I am prepared to support the recommendations of the C.J.C., 1 to 6 (both inclusive) but I am supporting recommendation 6 with much reluctance.

Whilst I believe that whilst the present Government has decriminalised homosexuality amongst consulting adults in private, I cannot see how you could differentiate between the two sexual acts. However there will be Local Authorities that will not co-operate and do not want to become involved with removing single operators from their residences in residential areas. This has happened in Victoria where legalised prostitution is an utter failure.

I do accept that prostitution is extremely difficult to control and the only hope is to minimise the effects. I believe by adopting recommendations 1 to 6, we will not have the problems very evident in the States where prostitution is legal.

[Original Signed]

**W.A.M. GUN-N, MLA**  
**Member for Somerset**  
**4 November 1991**

**STATEMENT**

**OF**

**MARGARET WOODGATE MLA**

## STATEMENT **BY** MARGARET WOODGATE

As a member of the Parliamentary Criminal Justice Committee, I have read with interest the Criminal Justice Commission's report "Regulating Morality? An Inquiry Into Prostitution in Queensland." Since the publication of the Report, I have attended all meetings - both with the Commission and privately in Committee - when the Report and the recommendations therein have been discussed.

Over the past twelve months, in company with members of the Parliamentary Committee, I have visited the cities of Sydney, Perth and Melbourne for the explicit reason to evaluate and to gauge opinions on just how - in the case of Victoria and New South Wales - laws on prostitution are working and impacting on society generally. In Western Australia, prostitution-related activities are banned but the police in that State have a policy of containment and control- or as one police officer said to me - "it is tolerated."

### LEGAL BROTHELS VS ILLEGAL BROTHELS

The Victorian experience convinced me that legalisation of prostitution has in no way contributed to any reduction in numbers of illegal brothels. **In fact, the reverse is the case.** Many reasons were put forward as to why this has occurred. One reason put to the Committee was that there are illegal brothels because of the costs involved in applying for planning permission for legal brothels. It was also said that certain users of brothels admit to favouring the "illegality" of prostitution. A common viewpoint expressed was that only the more attractive females were given work in legal brothels - there was just no "legal" work for the majority of prostitutes who then turned either to illegal brothel work or street soliciting. For whatever reason, the number of illegal brothels and massage parlours in that State is quite high and continues to grow.

It was pointed out that the escort industry has also grown because of the legislation in Victoria to introduce the brothels which are expensive to develop.

A paper presented at a Conference “Sex Industry and Public Policy” conducted by the Australian Institute of Criminology held in Canberra in May of this year, confirmed the trend to more illegal brothels since the advent of **decriminalisation** of brothels in that State. In a paper presented at the Conference entitled “Victorian Situation With Legalisation”, it was pointed out that sex workers including male workers, transsexuals, workers on methadone programmes, stereotypical drug users, non-competitive workers and old workers who cannot operate in the legal sector due to house rules must also operate illegally. This is also true in country areas of Victoria where no legal brothel has been granted a permit so the women in these areas have no choice but to, break the law.

Further, it was pointed out that the current move in that State towards the illegal sector essentially means that more Victorian sex-workers are working exactly the way they did pre-legalisation. It is ironic that the partial legalisation “designed to protect” workers has facilitated its expedient growth.

Of grave concern to all Committee members was information conveyed to the Committee in Melbourne that legal brothels were suspected of being used for money laundering.

## **CORRUPTION**

**It is my belief that corruption will not be eliminated with the decriminalisation of brothels in this State.**

The Melbourne experience has not convinced me that legalisation of brothels has in any way removed the threat of corruption in that State where amounts of \$60,000 were freely touted as being offered as payment to help obtain a licence for a legal brothel. The pressure will be on Local Government Authorities to approve brothels - it could be just shifting the corruption issue to another field.

Taken hand-in-hand with the fact that illegal brothels still continue to flourish in spite of decriminalisation of prostitution, and that the incidence of illegal brothels is given as a major area of concern as to the likelihood of attendant police corruption, I totally reject the premise that regulated and registered brothels will in any way prove effective in removing or minimising police corruption in this area.

The theory that **decriminalising** prostitution will somehow rid society of illegal brothels and consequently remove the **spectre** of police corruption has not been substantiated by the facts in Victoria.

## DRUGS

It was readily admitted to the Committee by members of the Victorian Police and other people spoken to during the Melbourne visit that drug usage was synonymous with prostitution, both in legalised brothels, amongst street prostitutes and in illegal massage parlours and brothels.

*This was found to be the case in Sydney also.*

A doctor working at a King's Cross Medical Centre offering comprehensive services to its patients, the majority of whom are either prostitutes and/or drug users, admitted to the Committee that parlour workers were not free of drugs. The Doctor advised that she saw approx. 100 brothel workers each week. She claimed that they often used cocaine and amphetamines to pep themselves up at work. This type of drug use was often overlooked by the owners of the brothels because it did not detract from their work performance.

The authorities and medical personnel we spoke with in Sydney and Melbourne were undecided as to whether some women entered prostitution to support a drug habit or whether they turned to drugs to somehow "make their job more bearable."

Research findings of a study carried out in the School of Sociology at the University of New South Wales in 1990-91 revealed the alarming figure that of the 280 sex workers interviewed, only 16% advised that they never use drugs regularly.

As Professor Eileen Byrne pointed out in her submission to the Criminal Justice Commission :

“Brothels and prostitution-networks are associated with the illicit drug industry wherever they exist. The concentration of brothels in certain areas of large cities, also creates a natural gathering place for those involved in a wide range of criminal activities. The organised prostitution network is, in almost all (if not all) countries, part of the criminal information network. Areas where organised prostitution is concentrated, have a high incidence of criminal violence.”

She further points out that there is no country in the world for which we have records, in which organised prostitution has existed without being interwoven with organised crime on a large scale. It has been argued by some, on little real evidence, that legalisation would diminish some elements of this. The long history of those countries with legalised prostitution at different stages in their history does not support this. Organised crime is not a question only of corruption of police by way of protection money, which some argue that legalisation would remove.

## **HEALTH ASPECTS**

It is a fallacy to believe that **decriminalising** prostitution with the accompanying compulsory health testing of prostitutes would significantly assist in the prevention of the spread of A.I.D.S. There is evidence to show that **decriminalisation** does not, as such, improve the control of A.I.D.S. or other sexually transmitted diseases. Further, on Page 232 of the Commission's report, it is stated that

“compulsory health checks of sex workers cannot be relied upon as a method of preventing the spread of HIV and are of limited benefit . . .”

The Commission did not recommend compulsory health checking of prostitutes. On Page 32 of the Report, the Commission had this to say :-

“The current approach of Queensland Health to informing sex workers about A.I.D.S. control and the prevention of HIV transmission, is to reach them through peer education and to encourage voluntary testing. This is in keeping with the Federal Government's National HIV/A.I.D.S. strategy. ”

A.I.D.S. is a matter of concern for the entire community, not just for those engaged in prostitution. It can be argued that the role of a Registration Board (if prostitution were to be decriminalised) with its proposed function of health education would be no more effective than the present system. Whether prostitution becomes decriminalised or not, there is a need for **counselling** services in this area.



The Archdiocesan Catholic Social Welfare Commission, in its response to the Information and Issues Paper on review of prostitution-related laws in Queensland in April of this year stated:

"...it seems to be assumed that legislation on prostitution is the answer to many of the health problems of prostitutes and their clients. While we believe more appropriate health strategies could be developed by the Director-General of Health, geared to the special needs of this client group, **decriminalisation** will achieve little if it leads to the growth of the numbers of prostitutes as predicted . . .and nothing for their clients who will have a range of other relationships."

Dr. Linda Hancock, a Lecturer at the School of Social Sciences at Deakin University in Victoria, has pointed out in a paper presented at a Conference held in Canberra earlier this year (hosted by the Australian Institute of Criminology) that

" ....**Prevention of AIDS and STD's.....**

This has become a major focus of attention in recent times. The need for an education program on safe sex for sex industry workers, led in the late 1980's to government funding of the Prostitute's Collective. Because sex work is their livelihood and because they realise the threat of AIDS, sex workers show an exemplary record in terms of AIDS prevention. In view of the difficulty of reaching clients through an educational program, since clients are anonymous and come from every strata of society, sex workers play a major role in educating clients about safe sex.

In view of this record, it would be hard to justify further regulation of sex workers under the pretext of AIDS prevention."

## MALE BROTHELS

It is understood that the recommendation of the Commission to allow regulation of brothels (2 to 10 workers) would allow male as well as female brothels to operate within the law. Male brothels operate in both Sydney and Melbourne. In fact, one quite large Municipal Council in Melbourne indicated its concern with the proliferation of gay prostitution. Within that municipality there is one gay brothel, two gay hotels with restaurants and one gay bathhouse of which the Council is aware. Whilst wholeheartedly supporting this Government's recent homosexual law reform - **decriminalisation** of sexual relations between consenting adults in private - I would find it difficult to accept the situation where the Government supported the concept of male brothels. There is a vast difference between the **decriminalising** of homosexual relations between consenting adults in private and the establishment of a public male brothel with a semi-Government Registration Board overseeing its operations. I realise that this is a very emotive issue, with overtones of equal opportunity, sex discrimination etc., but nevertheless, it is an issue about which I feel quite strongly.

## MORALITY - PRIVATE & PUBLIC

In the submissions - over 140 - received by the Parliamentary Committee since the publication of the Commission's Report, much has been written about the moral perspective. As well, we have been subject to an avalanche of media speculation about the issue of prostitution. Hardly a day has passed when we have not heard on radio talk-back, or read in the daily press, some new twist in the prostitution debate, particularly in the area of public morality. What is evident is that people have strong feelings one way or another about just what constitutes morality and what right - if any - Governments have to legislate on moral issues.

It seems evident to me that one message coming through is that a majority of people believe that morality is not always a private matter.

In a submission to the Criminal Justice Commission earlier this year, the Anglican Archbishop of Brisbane, the Most Reverend Peter Hollingworth said:

“It is one thing to **decriminalise** prostitution but to go the extra step and positively affirm it by the use of licensing laws raises serious moral questions.

It would be the view of most Christians that prostitution is and always has been an inevitable part of the social fabric but that moves to regularise it by making brothels part of the mainstream of community and business life has undesirable moral consequences. ”

Concern was expressed in many submissions that legalising prostitution would appear to “make it right”. Many people were concerned that **decriminalisation** of prostitution would be seen as condoning the practice, making it “just another respectable occupation”. Numerous people objected to the term “sex worker” claiming that this term somehow legitimised what they considered was not an honest or legitimate occupation.

The Catholic Education Office at Aitkenvale had this to say about public and private morality.

“There are issues of private morality on which we neither can nor should legislate e.g., personal integrity, active commitment to social responsibility, high ethical principles in business.

In the public area in every society and culture, tribal and industrialised, there is need to agree upon and to publicly define four standards of public and social morality without which both society and individuals will suffer. The prostitution debate must be argued against these four standards.

(a) **Immorality at the criminal level.**

The definition of acts as criminal has two bases:

- i) the community belief that the practice is fundamentally morally wrong
- ii) the community belief that it should be protected from such acts by serious penalties and sanctions under a Criminal code. In Australia such acts as murder, violence against others, rape, trafficking in drugs, theft, fraud and organised crime are designated as crimes with criminal penalties.

(b) **Immorality at the illegal but not criminal level.**

Australian society still believes that such acts as cruelty to animals, unfair treatment of others etc. is unacceptable to community standards and sufficiently serious to warrant legal but not criminal penalties.

(c) **Anti-social behaviour which is not necessarily seen to have a moral/immoral base, but which is still illegal.**

For practicality or reasonableness some behaviour is seen as anti-social and in need of regulation of some kind. For example, it is illegal to drive on the wrong side of the road, to exceed the speed limit, to cause pollution. The behaviour carries a community stigma of unacceptability as well as sanctions and penalties. Only some would regard such behaviour as immoral.

(d) **Behaviour regarded as undesirable or not particularly moral, but on which no community sanction is (or could be) placed.**

A casual regard for truth, “playing the system” “getting away with whatever you can”. There is community pressure implicitly to regard them as unprincipled, but no legal penalty is applied.

The proposal of the Criminal Justice Commission moves organised prostitution from the first to the fourth category.

## **CONCLUSION**

The Chairman of the Parliamentary Committee, Mr. Peter **Beattie**, has stated that whether we like it or not, people's sons, husbands, fathers, uncles etc. are regular users of prostitutes and it is no good burying our heads in the sand. We must **recognise** that there is a problem. Something must be done.

I agree.

However, I would add that females who work in the prostitution trade, are somebody's daughters, mothers, sisters, aunts etc. Something has to and must be done to prevent these people becoming involved in prostitution.

The six recommendations unanimously agreed to by the Committee are positive steps towards preventing the exploitation of those who are disadvantaged and vulnerable, especially young people • in some cases children • the unemployed and the homeless.

I wholeheartedly concur with the suggestion made to the Committee that programs must be extended involving social support, education, employment initiatives and other social policies which can engage the Government, community and the Churches in a common effort to prevent our young people seeking a "solution" in prostitution.

Summing up, I reject the recommendation of the Criminal Justice Commission that there be permitted a category of sex workers viz.,

" . an organisation involving no more than 10 people regardless of whether it operates as a brothel, escort agency, co-operative or any other form of organisation which offers sexual services "

for the following reasons:-

- . an expected increase in the number of illegal brothels should decriminalisation occur;
- . it has not been proven that corruption has been eliminated where decriminalisation has occurred;
- . the possible connection between prostitution, drug usage and organised crime;
- . the health aspect: As has been pointed out in the Commission's report, the prevalence of HIV among female sex workers in Australia has been found to be very low. There is a misconception amongst members of the public that **decriminalising** prostitution will somehow reduce the spread of A.I.D.S.  
The prevention and control of A.I.D.S. is a matter for the entire population, not just for those engaged in prostitution.
- . the prospect that decriminalisation could allow all-male brothels to become established.

[Original Signed]

**MARGARET WOODGATE**

Member for Pine Rivers.

**STATEMENT**

**OF**

**ROBERT SCHWARTEN MLA**



**REPORT**  
**CONCERNING THE**  
**LEGALISATION**  
**OF**  
**PROSTITUTION**

**BY**

***ROBERT SCHWARTEN MLA***

**MEMBER FOR ROCKHAMPTON NORTH**

**MEMBER PARLIAMENTARY C JC**



## **FOREWORD**

Pages 192 and 193 of the Report of a Commission of Inquiry Pursuant to orders in council otherwise known as the Fitzgerald Report were devoted to the issue of Prostitution. This report is a necessary outcome of that reference.

In his reference to prostitution, Tony Fitzgerald QC made many points; however, his fundamental assumption was that Prostitution would continue to exist whether or not **Governments** legalised same simply because of the supply and demand factor. I completely concur with his assumption.

Basically, Mr. Fitzgerald cited four (4) main criteria which one could use to argue the case for **legalisation** or decriminalization.

There were:-

1. 'Protection of Vulnerable People' i.e. "It is difficult to protect vulnerable people when the activities in which they are engaged are illegal."
2. The Health Risk i.e. "Safe sex practices might also be able to be enforced as part of a regulated system and education of clients and prostitutes might be easier" (and) "public health considerations are probably better served by legal, controlled prostitution where women can be urged or forced to go for health checks or, at least, feel free to do so without fear of prosecution."
3. Tax Evasion i.e. Loss of revenue to the health system etc. Prostitutes and their operators rarely pay tax.
4. Organised Crime/Drug Distribution and Other Illegal Activities The notion that if the 'industry' is controlled by regulation or legalised that the criminal element will be 'forced out'.

Much of what Tony Fitzgerald QC has asserted is further reinforced in the '\*Regulating Morality (?) An Inquiry into Prostitution in Queensland by the Criminal Justice Commission' in September of this year.

**It is,** nevertheless, important not to lose sight of the reason that prostitution arrived on the Fitzgerald agenda and that was that allegations were made and later substantiated that a minority of Police Officers (in most cases Senior Police Officers) were involved in 'protection rackets' involving brothels.

Therefore, I have approached this report with the aforementioned in mind. My views are resultant from investigations carried out by the Parliamentary Committee all over Australia whereby inspections of brothels, discussions with prostitutes and owners of brothels, law makers and Police took place.

No one State in Australia is without its problems in the area of prostitutes. Although, all States have either addressed or are addressing the matter of decriminalization or **legalisation**, no State could be said to have reached the answer. It is my suspicion that an international investigation could well return a similar finding.

Therefore, my report does not presume to resolve this legal/moral conflict, but rather to highlight issues which I believe have been overlooked and also to suggest a positive approach to the problem.

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Prostitution has probably existed since the creation of mankind. The Bible contains references to prostitution, in fact, almost every publication of **any** historical worth published since then acknowledges the existence of some form of prostitution.

Whilst there are those who are prepared to pay for sexual encounters and those who are prepared to exchange the use of their bodies for money, it is clear that prostitution will continue.

There is no reason to suspect that there will be a decline in either supply or demand; so, therefore, there is every reason to suggest that prostitution in some form or another will continue for evermore. However, the notion that because some activity is impossible to prevent by enforcement of law is good enough reason to **legalise** or decriminalize is not in itself an overwhelming argument, as the same could be argued for breaking and entering or robbery.

There is, however, no parallel between **say** breaking and entering and prostitution as the former is a victim type crime rather than the largely victimless crime of prostitution.

There is no one reason why women or men become prostitutes and the stereotype of the unintelligent, lowly, poverty stricken prostitute who works to support her aged, crippled grandmother is no more common than the university student who needs extra cash to work his/her way through university. One undeniable fact is that the act is performed for money and it is that which lures people into prostitution.

However, it is certain that prostitutes are exposed to exploitation by both their clients and 'employers' and this coupled with societal value judgements commits prostitutes to a fairly low self worth and social station.

As one Sydney prostitute told the Committee **"a lot of us don't tell anybody** what we do for a living as we are frightened that they will reject us as friends".

Bearing this in mind and accepting the legal status of brothels in Sydney, it is impossible to argue that the social standing and self esteem of sex workers will be enhanced by decriminalization or legalisation.

The following are the issues which **were not only identified by Fitzgerald QC** and the Criminal Justice Commission, **but also,** in my view, by the public generally.

I have set these out as statements to which I reply **thereunder:-**

**"If you legalise brothels, you will be able to control what goes on in them"**

It is impossible to control what goes on in any establishment unless enforcement agents are in all places at all times - a physical impossibility,

It is likely that criminal activity, of one sort or another, will continue in brothels whether these establishments are legal or not.

The Victorian Police advised that they had reason to believe that criminal activities **were being carried out in a legal brothel** in Melbourne. On that basis, a raid of the premises was carried out. The results of the raid produced some \$90,000 worth of stolen goods, including gold and jewellery as well as a quantity of drugs and handguns.

**"Legislation will keep the crooks out."**

Wherever there are large amounts of cash, one will discover illegal activities. It is too much to expect that criminal elements will simply stay away from lucrative cash businesses because they **are** legal.

In fact, in one case in Melbourne, a large legal brothel is owned **by a** close relative of one of Australia's most renowned criminals. This person purchased the premises for some \$3 million, renovated them for \$8 million and repaid the entire \$11 million in the space of eighteen (18) months. **Only the** naive would believe that this money came entirely from prostitution.

**"There is greater protection for prostitutes in legal brothels.\***

If one is discussing personal protection against physical attack then, obviously, this statement has a factual basis.

However, if one is talking about intimidation and the notion that as the sex worker does all the work, she should receive the 'lion's **share**' of the proceeds of her work, it is my observation that legalisation has not improved that situation.

According to the Scarlet Alliance, the Prostitutes Collective of Victoria, sex workers in legal brothels are still financially exploited by the owners of such establishments.

Fines are imposed on prostitutes by owners for the most trivial reasons, broken fingernails, wrong **coloured** stockings and so on. There are **also** other 'charges' such as tea and coffee 'costs' of fifty dollars and the like.

Dress codes are also enforced. this means that only workers who can afford (or, indeed, can make enough money to be able to afford) expensive clothing and jewellery are employed. Therefore, there is no reason to believe that legalisation of brothels, except affording better personal protection (which the worker will receive in an illegal brothel, anyway) will necessarily yield more rights or equality to the sex workers.

This is accompanied by the owner's also striking the charge and the 'split **up**' of proceeds which seem to vary from 60/40 to 50/50

Until such time as there is industrial protection for these workers, this will, undoubtedly, continue.

**"If brothels are legalised there will be no need for prostitutes to solicit on the street; therefore, it will prevent street prostitution."**

The exact opposite has occurred in Melbourne. Statistics indicate that there are more street prostitutes since legalisation than when it was illegal. Also, Victorian Police indicated that there were **now more** illegal brothels in Melbourne than there were prior to the changing of the laws.

There is a sound reason for this. Where there is competition for clients, as is the case in brothels, this means that it is quite often the case that an individual worker goes home having not earned an income for that day or night. Also, as the income must be shared and other charges paid, working alone has its financial advantages.

In Sydney, there are still illegal operators despite the changes to the law concerning prostitution.

**"If brothels are legal, prostitutes will be forced to pay tax."**

In any cash business, there will be tax evasion. Legalisation of brothels will **not** alter the cash nature of the business as most clients tend to pay in cash to preserve their anonymity. The Federal government has already made inroads into the cash market and as such it could be argued that less and less prostitutes will be able to evade tax.

However, discussions with prostitutes indicate that, for the most part, they are aware of their taxation responsibilities and do, in fact, pay some tax - whether it is the right amount of tax is another question.

My view is that the Taxation Department is more concerned with collecting tax than it is with how the income is derived. Consequently, it would not proceed legally against a taxpayer for living off immoral earnings, leaving such charges to other agencies.

## **THE HEALTH QUESTION**

**"Legalisation will stop the spread of AIDS."**

A lot of emphasis has been placed on the health aspect of this issue. It is said that the only way to encourage prostitutes to become more conscious of sexually transmitted diseases generally and AIDS, in particular, is to take away any legal barrier which may prevent a prostitute from attending a clinic for fear of legal repercussion.

Whilst this sounds reasonable, it is, in fact, totally untrue.

Sexually transmitted diseases such as AIDS are not peculiar to prostitutes. In fact, it has been argued by health professionals working with Kings Cross prostitutes that they are **a"amongst** the healthiest women in Sydney".

These diseases can only be contained by education of all people who engage in multi partner sexual activity. It is both unwise and unfair to single out one group who are at risk and force them to comply with stringent health checks and allow others, who are equally at risk, to go unchecked.

The large body of research into AIDS in Australia tells us two things (1) that we are slowly winning the war in containing AIDS in Australia and (2) that AIDS testing of any individual is not necessarily reliable in that the results are only a true reflection of the person's health status at the time the test was taken.

In fact, it is my view that AIDS testing could well lead to a false sense of security for the client. If client A infects prostitute B on Tuesday following her weekly test, then there is every chance that clients C, D, E and F, who have sex with her before her next weekly examination, are at risk.

The only way to approach the problem of **STDs** is to accept the **fact that they are health** issues and therefore, insure that the Health Department devises programs, similar to the one operating in Kings Cross. which address the preventative as well as the treatment issues.

Other issues such as 'identity protection or anonymity for the person seeking advice could also be used as part of this process.

However, **it** is important that we recognize that it is a health issue, not a moral or legal one.

It should also be noted that being a prostitute is not a crime in Queensland; so, effectively, there is no legal deterrent to a prostitute who wishes to seek medical advice and assistance at this point in time.

Also, as far as can be ascertained, the incidence of AIDS or other STD ~~infected~~<sup>as in</sup> ~~prostitutes~~ is about equal with the incidence of same in other walks of **life which, of course,** supports the need for the approach to be wider rather than selective.

## **THE DRUG ISSUE**

***"If you legalise or regulate brothels, you will be able to control or stamp out the link between illegal drugs and prostitution."***

There **are** three (3) main issues here:-

1. The link between drug barons and brothels;
2. Use of illegal drugs by prostitutes and
3. Brothels being used as drug outlets.

The first issue basically involves the ability of drug barons to launder money gained from the sale of illegal drugs through a cash business. If anything, the establishment of a legitimate legal cash business turning **over** several thousand dollars in cash per week would be attractive to a person wishing to hide 'black cash',

Regarding drug use on the premises, unless continual **around-the-clock** surveillance is carried out, it is probable that drug use in brothels, be they legal or otherwise, would occur.

Because of the **mental** stress created in accepting one's lot as a prostitute, it is only natural that sex workers are amongst the highest suspected use group of drugs, both prescribed and illegal.

There are no reliable statistics which can accurately confirm this statement, but'; if one accepts that this is the case, then it is a nonsense to suggest that the drug habits of prostitutes will cease with legalisation.

It appears that whilst there is, obviously, some drug taking by prostitutes and even clients in brothels, this will not necessarily decline if the establishments are made legal.

Taking into account the **Commission's** proposed increase of Police powers if brothels were legalised, there could be no guarantee that drug taking would not occur. After all, illegal drugs are taken in all manner of places, be they public or private. It is impossible for our Police to arrest this trend; therefore, it is a trifle optimistic to suggest that legalisation will prevent illegal drug usage in brothels.

**In any case, it is my assessment** that the drug taking that does occur most likely occurs outside 'working hours' as, in the words of one brothel **owner**, "It is useless employing girls who use drugs **all** the time as they cannot perform!".

With regard to brothels being used as outlets for drug circulation, again I do not believe that (a) this is as widespread as some would have us believe or (b) this will necessarily decrease through legalisation.

The Fitzgerald Inquiry revealed that there was an undeniable link between criminal elements being involved in illegal prostitution as well as the sale of illegal drugs.

This is hardly surprising as criminals are in the business of making money illegally and few, if any, draw the distinction between making money one way illegally or another way illegally.

To suggest that by legalising brothels there is a guarantee to prevent criminals from being 'silent partners' is absurd. It is equally absurd to suggest that by legalising brothels these will still not be used as contact points for the purchase of drugs. Of course, whether or not drugs are actually stored on the premises in legal and illegal brothels is open to debate, but going on the Victorian experience, where drugs have been found in legal brothels, indicates that the problem does not disappear with legalisation.



## **EXTORTION AND BLACKMAIL**

***"Blackmail will not occur if brothels are legalised."***

As stated previously, having sex with a prostitute in Queensland is not necessarily illegal.

It is not the illegality of the act which causes blackmail of clients. It is generally the threat of having one's name either revealed publicly or to one's family.

Take, for example, the recently well **publicised** case where an attempted extortion bid was carried out against a Gold Coast businessman who had sex with a prostitute. The thrust was the revelation to his family of his identity and actions caused him to consider paying the 'ransom'.

Quite obviously, as long as having sex with a prostitute remains socially repugnant in Australia, the thrust of extortion will continue. No amount of legalisation will alter this.

## **SUMMARY**

I can in no way support the creation of brothels be they of limited size or whatever.

It is *my* contention that not only does the presence of a brothel cause upset in a community, but also, there is nothing legally to be gained by registration, legalisation or decriminalization of same.

Mine is not a moral stance, but rather one of practicality, If the illegal acts and all the other issues raised by Tony Fitzgerald QC could be corrected by the legalisation of brothels, then I would support the case for regulation and legalisation. However, I am convinced that this is far from the case.

It is clear that the Police Service needs to be armed with tough laws to combat brothels and I support any such moves.

The only real way to attack the proliferation of brothels is not to arrest those who work therein, but to affect the owners of same by destroying their profit motive. Quite clearly, the Government's Proceeds of Crime legislation would assist in this regard.

## THE SINGLE OPERATOR

The true single operator is a person who sells sex on an individual basis. This person either works from home or a rented premises and has clients call or visits clients at their home or a motel. Obviously, they work independently of others and do not share the profits of their efforts with any other person except **by** choice.

It is difficult to ascertain how many true single operators there are as advertisements in newspapers and magazines which offer the services of 'private escorts' are often fronts for brothels or larger operations.

Detection, prosecution and determent of single operators is most difficult for law enforcement agencies; as an activity aimed at charging such a person with a criminal **offence** would require a massive commitment of Police resources which arguably could be employed elsewhere.

Moreover, a now famous case where a single operator charged with living off the proceeds of prostitution in Western Australia (W.A. laws on prostitution mirror those of Queensland) was found not guilty by the Western Australian Supreme Court. This indicates the frailty of the legal standing of **such prosecutions**.

It is difficult to envisage a law which could be placed into the Statute Books that would provide Police Officers the necessary legal power to swiftly and surely prevent this activity.

However, to suggest that single operators be given a legal right to practice, be regulated or in any way condoned is fraught with danger.

The Committee's report suggests that this group's activities ought to be controlled by local authorities and I support that view. By this attitude I do not imply that local councils be forced into the enforcement of a State law, a role which they clearly and understandably do not want. What **I** do suggest is that councils have the obligation to enforce their own by-laws.

It is up to an individual council whether it believes that a person working from a private residence or flat is conducting a business for which town planning permission is required.

Quite obviously, local authorities have the responsibility to ensure that any sort of business being carried out in their town or city does not adversely impact on the general amenity of the area or interfere with the rights of individuals to go about their business largely uninterrupted by others.

Needless to say, there are many single operators<sup>ors</sup> who conduct their business in such a way that the general community is totally unaware of their presence. Others who draw attention to themselves by client behaviour, noise or other indicators can expect detection, complaint and ultimately, action being taken against them.

Again, I stress the local authorities are not expected to implement a law which would be drafted by the State government. They merely need to apply their own, in most cases, existing by-laws to an operation about which they have received complaint.

There is, of course, the danger that single operators could merely end up part of an overall operation run by an individual or group of individuals. For example, there could be the situation whereby a block of units is leased by an individual who then puts in single operators in each of the units or, for that matter, an individual or group may provide other similar arrangements, protection etc. to a number of 'single operators' in return for a share of the takings.

However, presuming what the single operator is doing is not illegal, there is less reason for a person to enter into arrangements with either an organisational group or individual.

It appears to me that single operators, provided that they act with discretion, regardless of what laws prevail, are likely to evade detection. To track down such individuals would require great effort and expense by our Police Service. Given the results of the Criminal Justice Commission survey wherein it was revealed that the majority of Queenslanders favoured legalisation of prostitution, I believe that those who favour prostitution do so provided that they are not confronted personally with inconvenience, embarrassment or blatant displays of sexual activity which are basically the trademarks of organised prostitution.

Discreet single operators are, obviously, the least offensive option and yet are able to provide a service which, after all, is and will continue to be, in great demand.

## **CORRUPTION**

I have deliberately left the issue of corruption until last as I believe it is the bottom line in any consideration of prostitution legalisation or regulation.

Wherever there is an opportunity to make money or improve one's standard of living by the exertion of little or no effort, then it is certain that corruption will occur.

It is up to Governments to ensure that as little such opportunity comes the way of Government Officials as possible.

To allow brothels to exist in Queensland will enable two things to **occur**:-

1. In time, they will become an accepted fact of life which, eventually, will attract less and less scrutiny; thus paving the way for illegal activities to **flourish** within. For example, a ten (10) person brothel will become a fifteen (15) person brothel, persons under the legal age will be employed etc. etc.
2. Other illegal brothels will emerge. Police resources being what they are and always will be, it will be impossible to police the activities of legal brothels, let alone illegal ones.

Obviously, such illegality will be detected at some stage by Government Officials or Police Officers who could be encouraged to '**turn a blind eye**' in return for financial reward.

The Victorian legalisation experience has also revealed that there is a need to be concerned that by creating a new law, we do not merely open another window of opportunity for other levels of Government to be corrupted.

For example, it is rumoured that for "\$60,000 **Slipped** quietly" to a local government official, a brothel permit can be obtained. whilst I have no proof that this occurs, I nevertheless find little difficulty in accepting the possibility **of** this occurring.

In the case of the true independent, single operator, I have already stated that it is entirely possible that this sex worker could operate without being detected. Even if detected, the law as it stands makes prosecution extremely difficult.

Should it be the case that the operation of the business is such that it breaches town planning standards, the public will be outraged and there will be no rest for the local officials until the activity ceases.

In this case, I believe the potential for corruption is extremely limited. The single operator will not part with earnings to **conduct** a business which is legal. There is only such a potential when the law has to be bent or broken to allow the business to continue. Single operators, quite obviously, offer the least such potential.

## CONCLUSION

It would be exceedingly presumptuous to believe that my report is the answer to the' problem created by prostitution. As the reader will have observed, the question of social morality has not been canvassed as it is my view that the individual derives his/her morals from a whole host of societal stimuli. The family, one's peers, Church and other institutions are the moulders and keepers of morals. The criminal law is but an intruder into those morals.

The criminal law is designed to protect the rights of the individual of this society. It must ensure that the conduct of individuals does not impinge on the rights of others.

My view is that, despite the best intentions of the Church bodies and the law enforcement agencies, there will always be prostitution. To **legalise** brothels will not protect the rights of those who work within them, it will not prevent other laws from being broken, it will not protect the rights of those who believe it is their right to engage the services of prostitutes. Legalisation **or** regulation will also **not** guarantee that there would not be a need to conduct yet another Commission of Inquiry some time in the future.

[Original Signed] \_\_\_\_\_

ROBERT SCHWARTEN, B. Ed., M.L.A.,  
Member for Rockhampton North,  
Member Parliamentary C.J.C.

**STATEMENT**

**OF**

**HON N J HARPER MLA**

~~THE REPORT OF THE CRIMINAL JUSTICE COMMITTEE~~

ENTITLED

“REGULATING MORALITY? AN **INQUIRY** INTO PROSTITUTION

IN QUEENSLAND”

BASIC REASONS FOR NOT SUPPORTING CERTAIN  
**RECOMMENDATIONS**

I am strongly of the view that prostitution as an occupation should be vigorously discouraged. However, I am equally strongly of the view that adult female prostitution should not be a criminal **offence** unless it, and acts associated with it, take place in what may be considered other than private surroundings.

Whilst supporting Recommendations 1 to 6 I share the decision taken by the majority of the Parliamentary Criminal Justice Committee to not endorse the Recommendations 7 to 33 within the Criminal Justice Commission Report.

Paramount to my declining to endorse those recommendations is the inability, under existing Commonwealth and proposed State legislation, to discriminate between male and female prostitution where the act is facilitated through escort agencies or brothels.

Just as the case for female prostitution, as such, to not be a criminal **offence** is overwhelming so too is the case for male prostitution to be an **offence** when it occurs in circumstances other than those legalised by amendments to the Criminal Code and Other Acts introduced by the present government.

I am not prepared to endorse recommendations which would encourage and legalise the establishment of male homosexual brothels in Queensland.

As part of his “Inquiry Into Sexual **Offences** Involving Children and Related Matters” Mr D G Sturgess QC recommended in 1985 that:

- (a) nothing should be attempted that will reduce the social sanctions against prostitution; in fact, so far as is possible, they should be reinforced;

- (b) it should be a criminal **offence** to have sexual relations with a prostitute who is a child;
- (c) the experience of the United States where a significant part of the profits of **organised** crime comes from prostitution should be heeded and any attempt to create a business based upon prostitution by others should be heavily penalized;
- (d) public places, and in particular streets, should not be available for prostitutes to solicit business.

The Sturgess Report was precipitated by, amongst other things, allegations of boy prostitution and male brothels.

Whilst many compelling reasons may be advanced to endorse, virtually in **toto**, the thirty-three recommendations within the CJC Report I am mindful of even more compelling reasons not to do so, including those advanced by Mr Sturgess.

The principles of the Sturgess recommendations (b) and (d) (which I have quoted) have been embodied in the CJC recommendations 1 to 6 inclusive and have been unanimously endorsed by the Parliamentary Committee; whilst the principles of Sturgess recommendation (a) have been accepted by a majority of the Parliamentary Criminal Justice Committee.

Again, an attempt to address the issues raised by the Sturgess recommendation (c) has been made by the CJC in its Recommendation 9; and so to that extent the recommendation warrants support if the government is minded to **proceed** with the development of a regulatory framework to control prostitution.

In that same context I would be generally in agreement with the thrust of the other CJC recommendations if the **government** determined to **develop** legislation for the establishment of a regulatory framework to control prostitution where it involves dedicated **premises** and **employees** as dealt with under the CJC Recommendation 9.

[Original Signed]

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HON N J HARPER M.L.A.



**STATEMENT**

**OF**

**SANTO SANTORO MLA**



**MINORITY REPORT ON PROSTITUTION**

**by**

**SANTO SANTORO, MLA  
MEMBER FOR MERTHYR**

**THE LIBERAL PARTY REPRESENTATIVE  
ON THE  
PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE**

## INTRODUCTION

From the outset I state that I personally believe that brothels and acts of sexual prostitution are morally abhorrent.

I totally reject any claim to moral legitimacy by any of the operatives within what can be loosely described as the 'sex industry'.

I regard the issue of prostitution as being basically a moral issue. Although the law can bolster morality it cannot create or legislate for morality without the broad based support of the community.

Laws and the community's concept of morality must be in step with each other. If this is not the case, laws aimed at enforcing broadly unacceptable moral views will simply not work.

**After much and careful consideration, I have decided to support the regulation of the prostitution industry in Queensland as recommended in the CJC Report titled: *"Regulating Morality? An Inquiry into Prostitution in Queensland"*.**

In doing so I stress my total support for those recommendations contained in that part of the Report which has the support of members of the Parliamentary Criminal Justice Committee, these being:

### **RECOMMENDATION 1:**

The Committee is totally opposed to street soliciting and endorses the Commission's recommendation that it be an **offence** to solicit in a public place. This **offence** is to apply to both sex worker and client.

### **RECOMMENDATION 2:**

The Committee supports the full use of the law to protect children from exploitation and therefore endorses the Commission's recommendation that:

- (1) specific heavy penalties be created in order to stop the exploitation of children and prevent the involvement of children in prostitution;
- (2) it be an **offence** for anyone to receive money or other material benefit knowing that it was derived from an act of child prostitution; and
- (3) it be an **offence** for a person capable of exercising lawful control over premises to knowingly allow a child to participate in an act of prostitution on those premises.

### RECOMMENDATION 3:

In order to protect disadvantaged groups from exploitation the Committee recommends that a specific **offence** be created to protect intellectually disabled persons from being involved in prostitution. However, this **offence** should be clearly defined, stating what level of disability will satisfy this provision and providing instruction to officers on how this disability is to be **determined**.

### RECOMMENDATION 4:

The Committee endorses the Commission's recommendation that it be a criminal **offence** to procure a person into prostitution where acts of coercion, intimidation or fraud are involved.

### RECOMMENDATION 5:

The Committee endorses the Commission's recommendation that a criminal **offence** apply to explicit and offensive advertising.

### RECOMMENDATION 6:

The Committee takes the view that there be no change to the law as it stands at present with respect to a single sex worker operating from their own home. That is, that these matters are specifically Town Planning responsibilities and as such all complaints for the removal of a single sex worker should be quite correctly handled by the Local Authority as at present.

I have chosen to reproduce these recommendations in this Minority Report so that there can be no misunderstanding whatsoever about my views in relation to the criminal sanctions that should apply to a regulated prostitution industry in Queensland.

In this minority report I shall also outline additional criminal sanctions which should apply to a regulated prostitution industry in this state.

### RESERVATIONS AND OUALIFICATIONS TO MY SUPPORT FOR REGULATION

I think that it is fair to state that from my point of view the decision I have made in relation to this issue is the most difficult I have had to make since entering the Parliament in May 1989.

I have always held very conservative views about moral issues such as prostitution law reform, homosexual law reform and the laws relating to abortion.

My recent decision in relation to Homosexual Law Reform is testimony of this claim.

However, in this case, I have gone against my 'gut instincts' and personal moral predisposition because of several reasons, including:

1. my belief that the law cannot be out of step with the moral norms that are accepted by the great majority of the population. From the hundreds of formal and verbal submissions received and reviewed by the Parliamentary Criminal Justice Committee and from a review of the results of scientifically conducted research, there is no doubt in my mind that the practice of prostitution and the keeping of brothels is currently tolerated by the great majority of Queenslanders and Australians.
2. society's clear expression that it wishes to dedicate the resources of its law enforcement agencies to the fight against violent criminal activities and organised crime as opposed to the soft and 'morally tolerable' crimes relating to prostitution: clearly the rigid suppression of activities relating to prostitution is not currently favoured by the community.
3. my belief that the outlawing of activities related to prostitution breeds corruption within law enforcement agencies and leaves such activities very susceptible to take-over by organised crime.

Having thus expressed support for the regulation of activities relating to prostitution, I add the following comments and qualifications to this support.

#### PROSTITUTION AND MORALITY - THE ROLE OF THE CHURCHES

It will be claimed by those who oppose the regulation of activities relating to prostitution, that the CJC Report represents an attack on the judeo-Christian culture which has shaped Australia's private and public moral traditions.

This is an important issue to confront.

Firstly, the fact is that whereas Australians did once overwhelmingly assent to a **judeo-Christian** culture, a growing number of present-day Australians, including the descendants of persons of British or European culture, no longer affirm that culture in its traditional form.

Secondly, the great institutions reinforcing a judeo-Christian culture are the Christian and Jewish churches, the schools system, and the great professions of law and medicine. This Report does not deprive them of their leadership. They are well placed to argue the superiority of their moral culture and win Australians to their side.

To date it is my belief that these institutions, particularly the churches and the schools the churches are responsible for, have failed to assert their leadership and establish the superiority of their moral culture.

Because of this, it is obvious that in the main the churches are out of touch with their own constituencies in relation to moral issues such as prostitution. The research detailed within the CJC Report and much of the evidence which has come before the Parliamentary Criminal Justice Committee clearly indicates to me that the majority within the congregations of main stream churches clearly support the regulation of prostitution and related activities.

Thus the CJC Report and its recommendations can be seen as a challenge to the Christian churches and its allies in the professions to enter into a re-vitalised education **programme** in which they spell out the sexual-culture of their religious tradition as frankly and as attractively as the counter-culture spells out its alternatives.

### THE PARLIAMENT AND THE EXPRESSION OF MORAL VIEWS

The Parliament as a collective should be prepared to express (as opposed to in all cases enforcing) its moral views if it indeed holds such views.

By doing so in relation to the issue of prostitution it will re-enforce the above mentioned efforts of the main churches which I sincerely hope are forthcoming.

All Members of Parliament who have ventured an opinion to me in relation to the issue of prostitution have expressed their abhorrence for prostitution.

I believe that this abhorrence should be clearly stated in any legislation which establishes a regulatory framework for prostitution related activities.

### RECOMMENDATION

**Thus I recommend that a suitable preamble, stating Parliament's abhorrence of prostitution, be included in any legislation which establishes a regulatory framework for prostitution related activities.**

Such a preamble would go a considerable way to clearly stating Parliament's moral view that **decriminalisation** does not equate to condoning.

### THE ROLE OF THE STATE EDUCATION SYSTEM

Parliament can reinforce its support for this moral viewpoint by establishing within the State School system the framework for an intensive educational campaign which would clearly spell out the Parliament's and society's abhorrence for prostitution.

### RECOMMENDATION

**I recommend that a State education framework be established as a part of any legislative reform which seeks to regulate prostitution related activities. Through this education framework, the Parliament and the Government of the day should clearly declare their abhorrence for prostitution and prostitution related activities.**

Thus I recommend that a State education framework be established as a part of any legislative reform which seeks to regulate prostitution related activities.

### AUTOMATIC REVIEW OF LEGISLATIVE REFORM

My commitment to legislative reform in the area of prostitution related activities should not be regarded as a permanent one. The same, in my view, should be applied to any commitment made by the Parliament as a whole in the form of legislative reform.

For if the churches, their agencies and the State education system have any moral persuasion in relation to the issue of prostitution, then the moral view of the general public may well change over a period of time. Under such circumstances it is conceivable that laws similar to those currently applying can, with public support, be re-introduced and sufficient resources allocated to enforce them.

### RECOMMENDATION

**Thus, I recommend that the Parliament make provision for the conduct of an automatic review of any legislation which establishes a regulatory framework for prostitution related activities.**

### THE STURGESS REPORT AND PROSTITUTION

There are suggestions in some quarters that the Sturgess Report of 1985 provides the answer to the 'problem' of prostitution and brothels.

There is some temptation to believe that the Sturgess Report should be resurrected and acted on. That Report is no longer an adequate guide for Queensland. Sturgess recommended the status quo of 1985 as the least objectionable position to adopt. Since then the Fitzgerald Inquiry has identified the status quo of 1985 as a source of widespread corruption.

In the current circumstances described earlier in this minority report, the Sturgess position, upon examination, is elusive and unworkable. Sturgess acknowledged that "an Act of Parliament will not stop prostitution", but recommended against legalising brothels because it would destigmatise prostitution. He added "I believe prostitution should be neither proscribed nor seen as an acceptable activity" and recommended that "nothing should be attempted that will reduce the social sanctions against prostitution; in fact, so far as possible, they should be reinforced".

Since Sturgess was reporting on child prostitution rather than adult prostitution he does not spell out any details of how his key weapon “social sanctions” was to operate, or how something which is “neither proscribed nor seen as an acceptable activity” is to be managed or controlled effectively.

it appears to invite tacit brothel keeping and prostitution, and is therefore in favour of a culture of deceit. One of the objectives of the post-Fitzgerald era is to rid Queensland of this culture.

**I believe that my recommendations in relation to the propagation of moral views via the education system and a suitable preamble to legislation will contribute significantly to attaching the stigma to prostitution, that Sturgess so correctly believed should be its baggage.**

## **BROTHELS**

The proposed regulation of brothels will create licensed brothels.

It will almost certainly also create un-licensed brothels.

The CJC Report envisages that regulation will contain most brothels within the category of licensed brothels above. This is unlikely.

**Licensed establishments** will constitute a new class of genteel brothels whose clientele may enjoy disease-monitored sex in *relatively hygienic conditions for a fee* that will reflect

- (a) the licensing and inspection costs of the regulatory authorities
- (b) the greater capital outlay on more hygienic premises
- (c) an increment to compensate for a loss of tax-evasion
- (d) an increment to compensate for a loss of profits from ancillary operations traditionally associated with brothels.

Under these conditions market forces-will operate to create unlicensed lower-priced brothels frequented by persons with modest incomes including the youth, staffed by persons wanting anonymity and tax-free earnings, and operated by investors whose business is more in the ancillary operations associated with prostitution. This class of brothel will be operated solely as an adjunct to organised crime.

Clearly the Parliament and the Government should make provision for the toughest of criminal sanctions to be applied against the owners and operators of illegal brothels.



RECOMMENDATION

That the criminal sanctions against the operators and owners of illegal brothels include the confiscation and disposal by the State of premises over which prostitution related activities are conducted and severe jail sentences against the operators and owners of illegal brothels.

LOCATION OF BROTHELS

The issue of location is a very simple one to understand. Almost 100% of the population simply do not want the location of brothels to spoil their residential and recreational amenities.

RECOMMENDATION

Any regulatory framework must ensure that brothels are not able to locate within or in close proximity to residential areas, churches, schools, community facilities and certain types of businesses.

THE CULTURE ASSOCIATED WITH PROSTITUTION

If a licensed form of prostitution is instituted in Queensland then the tendency for a culture of nudity and exhibitionism will soon develop. At one end this will include the ever more and more risque cabaret or floor-shows, strip-shows and peep-shows, and at the other end hard-core pornography in all its varieties. An X-rated movie industry could develop, given the movie production 'talent' consolidating in the Gold Coast area; and a new style of literature, subversive of traditional values, could become more readily available.

The **regulatory authority proposed by the CJC and the Government of the day will have a very real obligation to do all they can via legislation and regulations to prevent the establishment and spread of such a culture.**

## **GAY CULTURE**

This leads me to comment on perhaps the most difficult issue arising from the Report of the CJC, this being the licensing of male homosexual brothels.

It should be acknowledged that at this point that Gay brothels already exist.

The imminent introduction of anti-decriminalisation legislation at both a State and Federal level will guarantee the inclusion of such brothels within licensing provisions.

The CJC Report and its implementation will undoubtedly signal a 'new deal' for the Gay community which may thus be encouraged to become more militant and exhibitionist in its endeavours to develop a Gay culture.

The consequences of this can be quite offensive, anti-social and morally repugnant.

Once venues are licensed for the legalised sale of undisguised homosexuality they will become the citadels for activities leading to gay sub-culture's ultimate goal, namely the recognition of the gay family. Already in America there is an expanding literature of young adult fiction directed at the teenage gay market. This has recently been expanded into children's fiction with publishing houses producing literature about children with lesbian and gay parents for every age group from two to the early teens. There is also the cult book of the college teenager who sued his school for the right to take a male date to the school proms.

Again the regulatory authority and ultimately the Parliament and the Government of the State will have to adopt an extremely vigilant role to prevent this sort of gay culture from taking a foothold in Queensland.

By doing so I am sure that the Parliament and the Government would have the moral support of the vast majority of Queenslanders.

## **RECOMMENDATION**

The Government and the Parliament of Queensland should appropriately legislate to prevent the emergence of a subversive and immoral pornographic and Gay culture within the community.

## **THE ROLE OF LOCAL GOVERNMENT**

The role of local government must be protected in the establishment of a regulatory framework.

In its submission to the Parliamentary Criminal Justice Commission, the Local Government Association of Qld (Inc.) sought greater opportunity "to comment at a later stage on the principle of Local Government involvement".

It is my view that ample opportunity should be extended to the Association and indeed individual local authorities to have input into the determination of legislation and the establishment of a regulatory framework for prostitution related activities.

#### THE REGISTRATION BOARD

The Registration Board as recommended by the CJC Report will in my view almost totally eliminate the potential for corruption to occur within the regulatory framework.

## **SUMMARY OF RECOMMENDATIONS**

**After much and careful consideration, I have decided to support the regulation of the prostitution industry in Queensland as recommended in the CJC Report titled: “Regulating Morality? An Inquiry into Prostitution in Queensland”.**

Subject to the following recommendations as agreed to by all members of the Parliamentary Criminal Justice Committee:

### **RECOMMENDATION 1:**

The Committee is totally opposed to street soliciting and endorses the Commission’s recommendation that it be an **offence** to solicit in a public place. This **offence** is to apply to both sex worker and client.

### **RECOMMENDATION 2:**

The Committee supports the full use of the law to protect children from exploitation and therefore endorses the Commission’s recommendation that:

- (1) specific heavy penalties be created in order to stop the exploitation of children and prevent the involvement of children in prostitution;
- (2) it be an **offence** for anyone to receive money or other material benefit knowing that it was derived from an act of child prostitution; and
- (3) it be an **offence** for a person capable of exercising lawful control over premises to knowingly allow a child to participate in an act of prostitution on those premises.

### **RECOMMENDATION 3:**

In order to protect disadvantaged groups from exploitation the Committee recommends that a specific **offence** be created to protect intellectually disabled persons from being involved in prostitution. However, this **offence** should be clearly defined, stating what level of disability will satisfy this provision and providing instruction to officers on how this disability is to be determined.

### **RECOMMENDATION 4:**

The Committee endorses the Commission’s recommendation that it be a criminal **offence** to procure a person into prostitution where acts of coercion, intimidation or fraud are involved.

**RECOMMENDATION 5:**

The Committee endorses the Commission's recommendation that a criminal **offence** apply to explicit and offensive advertising.

**RECOMMENDATION 6:**

The Committee takes the view that there be no change to the law as it stands at present with respect to a single sex worker operating from their own home. That is, that these matters are specifically Town Planning responsibilities and as such all complaints for the removal of a single sex worker should be quite correctly handled by the Local Authority as at present.

**AND SUBJECT TO THE FOLLOWING AND FURTHER SPECIFIC PERSONAL RECOMMENDATIONS:****PREAMBLE TO LEGISLATION****RECOMMENDATION**

I recommend that a suitable preamble, stating Parliament's abhorrence of prostitution, be included in any legislation which establishes a regulatory framework for prostitution related activities.

**THE ROLE OF THE STATE EDUCATION SYSTEM****RECOMMENDATION**

I recommend that a State education framework be established as a part of any legislative reform which seeks to regulate prostitution related activities. Through this education framework, the Parliament and the Government of the day should clearly declare its abhorrence for prostitution and prostitution related activities.

**AUTOMATIC REVIEW OF LEGISLATION****RECOMMENDATION**

I recommend that the Parliament conduct an automatic review of **any** legislation which establishes a regulatory framework for prostitution related activities.

## ILLEGAL BROTHELS

### RECOMMENDATION

That the criminal sanctions against the operators and owners of illegal brothels include the confiscation and disposal by the State of premises over which prostitution related activities are conducted and severe jail sentences against the operators and owners of illegal brothels.

## LOCATION OF BROTHELS

### RECOMMENDATION

Any regulatory framework must ensure that brothels are not able to locate within or in close proximity to residential areas, churches, schools, community facilities and certain types of businesses.

## GAY CULTURE

### RECOMMENDATION

The Government and the Parliament of Queensland should appropriately legislate to prevent the emergence of a subversive and immoral pornographic and Gay culture within the community.

[Original Signed]

SANTOSANTORO, MLA  
 MEMBERFORMERTHYR  
 THE LIBERAL PARTY REPRESENTATIVE  
 ON THE  
 PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

12 November 1991

**JOINT STATEMENT**

**by**

**PETER BEATTIE MIA**

**a n d**

**WENDY EDMOND MLA**

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## 1. INTRODUCTION

One of the central issues in this debate is the eradication of the type of corruption exposed at the Fitzgerald Inquiry. Without the regulatory framework recommended by the CJC and in this joint statement, corruption will continue.

It is quite clear from experience around the world that a legislative clampdown or prohibition on brothels will not get rid of the prostitution industry. That approach will simply force prostitution underground. The consequences of that are health risks from AIDS, because prostitutes will not be regularly tested for sexually transmitted diseases and, of course, a return to police corruption.

We are totally opposed to both the corruption and the health risks involved with subverting prostitution and we fully support the CJC in its fight against corruption.

Dr Basil Donovan, Director of the Sydney Sexual Health Centre, who has been working with women and men involved in prostitution over a number of years, advised the Committee that the incidence of acute STD's had dropped amongst sex workers by up to 90% since the introduction of voluntary targeted programs made possible by decriminalisation in New South Wales. He advised that the only increase in STD's had been amongst illegal Asian prostitutes who were not accessible to preventative programs because of their illegal immigration status.

If prostitution is forced underground there will be a need for another Fitzgerald Inquiry in the next 7 - 10 years and a significant part of the Fitzgerald Inquiry will have been a waste of time and public money.

We are both very mindful that police corruption, arising out of prostitution, in particular, was largely responsible for the Fitzgerald Inquiry and the revelations that occurred there.

It is our view that there is little doubt that a regulated and controlled prostitution industry is better than an uncontrolled industry with all its associated problems. This is particularly true in Queensland which has a large tourist population.

Our recommendations give specific emphasis to making certain there is greater protection of minors from exploitation than currently exists, that the small brothels recommended do not operate under any circumstances in residential areas, and further that there is total opposition to red light districts.

Limiting the size of brothels to 2 to 10 people, including all staff members working in the brothels, will ensure that the brothels are small and to some extent unobtrusive in their operation. Therefore we will not have the large Melbourne/Sydney-style brothels in Brisbane but rather our own Queensland style operations where collectives would be encouraged by the nature of the framework recommended.

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We have also made specific reference to opposing street soliciting to make certain that there is no street industry in Queensland as there is in Sydney or Melbourne, and we are strongly in support of the first six recommendations of this report as endorsed by the Committee.

The first six Committee recommendations were the unanimous view of all the Committee Members.

**We firmly believe that those who oppose the establishment of regulated small brothel operations in industrial and commercial areas unwittingly support the flourishing of prostitution in residential areas. It is our view that this is not supported by the community.**

**Prostitution will continue to exist whatever the laws are. It is therefore quite logical that if there is no outlet for prostitution in the small brothels as recommended, then prostitution will try and hide elsewhere. The most likely place it will try to hide is in residential areas and commercial areas close to residential areas.**

Only a regulatory framework as outlined in our recommendations will remove prostitution from residential areas to industrial/commercial areas.

We are deeply concerned that if a regulatory framework is not established as set out here, to control and regulate prostitution, that it will be forced underground into residential areas - something we are totally opposed to. This is one of the worst aspects of the "prohibition" model which also loses the added advantage of keeping brothels small.

We are determined to do everything possible to protect minors and young girls from being exploited through prostitution. This can only be effectively achieved by inspectors regularly visiting brothels and checking on the sex workers there to ensure no under-age sex workers are being employed. We also believe that the self-interest of sex workers will play a role in self-monitoring the sex industry within a regulatory structure of firm control and heavy penalties. This is because infringement of the regulations can incur the loss of registration and subsequent income.

The heavy penalties recommended in this statement will act as a significant disincentive for an illegal industry or the exploitation of minors. This can only properly be achieved, however, through the regulatory framework and the regular inspections outlined. Regular inspections will have a direct psychological effect on the behaviour of the industry.

We believe this regulatory framework is the only way to effectively target child prostitution and stamp it out. The CJC's recommendations provide that the criminal sanctions against child prostitution will be vigorously pursued.

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Everyday in Queensland women are being exploited in the prostitution industry. Some parlour owners are guilty of the most unacceptable behaviour. The Australian made this point in an article on 3 October 1991 where a prostitute was quoted as saying "The men who run these places are complete scumbags. There's one bloke in particular who's a real bastard. Part of the interview for a job was having sex with him".

This is what is happening in Queensland now while these places are illegal. It is a strong argument for regulation. Only a controlled and regulated prostitution industry, as recommended by the CJC, can deal effectively with this demeaning and exploitative treatment of women.

It is our view that women are exploited and abused more in an illegal industry than a regulated and controlled industry.

If regulation and control is rejected, there should be no doubt in anyone's mind that corruption, exploitation, criminality and health risks (particularly to many innocent partners) will continue and be exacerbated.

When this debate is over, many of the participants will simply continue on in the safety of their academic cloisters or their arm chairs, while the ugly side of the prostitution industry continues. This 'ugly side' of prostitution can only be adequately dealt with by regulation and control. Those arm chair critics who argue against regulation do a great disservice to the CJC and police in their fight against corruption, to the innocent partners of the clients using prostitution, to the women involved in the industry and to the people of Queensland. Sadly, the examples cited of horrific practices in prostitution are all examples from countries where prostitution is not regulated and controlled or is illegal, such as Thailand and England. The same can be said of Victoria.

We both know this is a difficult issue. We both find prostitution abhorrent and we wish it would go away, but we know it won't. Like the CJC we have tried to confront the issue properly. We support the CJC's position because we believe it is the only approach that has a chance of working. The proof of that will be publicly obvious over the next few months and years, if it is introduced. If it is not, the failure of other approaches will be equally obvious for all the world to see.

The CJC is an independent Commission, somewhat removed from the day to day political pressures on politicians. If its considered views and recommendations are ignored, then any consequential problems with prostitution will be the fault and responsibility of politicians and no one else. The community will not accept buck passing back to the police and the CJC. We must remember that the laws which we expect the police to implement must be workable and within police resources.

A system of prohibition will require a substantially greater commitment of police

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resources to enforce the law. We believe that it is more important that police resources be committed to the protection of the community from crimes against the person and property.

The submission of the Commissioner of the Queensland Police Service, Mr Noel Newnham, adds weight to this view:

Police should not be used to drive prostitution underground and the Service remains firmly of the view that any life-endangering **offences** and major property crimes must take a higher priority. However, if it is the intention of the Government and the community that prostitution remains a criminal activity then adequate authorities and **offences** must be **created**.(Submission:3)

Commissioner Newnham also said:

The current discussion on “prostitution”, the level of police action, or alleged inaction concerning prostitution, and what the law should be in relation to this social phenomenon has tended to cloud the following issues:

- (a) prostitution itself is not an **offence**, it is prostitution related activities that are currently illegal;
- (b) prostitution as a social phenomenon is universal, no community (except cloistered groups or those where sexual activity is virtually free, open and unremarkable) has been able to stamp out prostitution;
- (c) earlier attempts to ‘combat’, ‘contain’, ‘regulate’ or otherwise tacitly condone the practice, using police for this purpose, not only failed but directly contributed to the corruption and decay of the police force.

If prostitution as an activity cannot be stamped out, particularly if the community does not view it as a criminal **offence**, then the law should not aim to do so.(Submission:1)

We are both concerned that the debate on prostitution in Queensland is heading down the disastrous Victorian path, where political considerations destroyed the effectiveness of the recommendations introduced as a legislative package to the Parliament with the result that the laws passed were not workable. This Victorian legacy came from a lack of political will. The Victorian experience is more a reflection on the problems of political gamesmanship rather than the regulation and control of prostitution. Victoria has in fact ended up with partial **decriminalisation** but only very limited regulation and control. It is not a fair example on which to base a comparison of the **CJC’s** proposals.

We believe it is our responsibility as members of the Committee to warn the Parliament of this unfortunate precedent and urge that Victoria’s political cowardice be avoided in Queensland.

We associate ourselves with the CJC approach and find support in submissions such as those received from the Women’s Electoral Lobby, the Women’s Legal

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Service, Self Health for Queensland Workers in the Sex Industry, Dr Paul Reynolds, Sir Robert Sparkes, the Police Commissioner Mr Noel Newnham and Drs Preston and Jordan of the QUT Unit for Applied Ethics and Human Change.

The Committee's report attaches two opinions which clarify the validity of the CJC's public opinion surveys. These put to rest criticism of that research.

We support a realistic and pragmatic approach to prostitution, but an approach that has some compassion for the sex workers themselves. Disappointingly, few submissions to the Parliamentary Committee showed any compassion.

**We believe that an education and social strategy should be determined to address the social problems which underpin prostitution such as poverty, unemployment and child abuse.**

**The CJC recommended a three year trial of the proposed regulatory system. The prohibition approach has failed in Queensland and we have observed the failure of the half-measures tried in other States. The adoption of the regulatory system is a new approach that is worth trying and importantly should be reviewed in three years time. Bearing in mind the failure of existing systems it is certainly worth implementation to test its effectiveness. Queensland could provide a reform model for the rest of the world.**

It is important that we face up to prostitution as it exists in Queensland today and not be diverted by exaggerated difficulties from distant history.

The measure of the 46th Parliament will be how well it deals with the difficult issues like prostitution and corruption.

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RECOMMENDATION 1:

We believe that as the problems of corruption, crime, public nuisance and health are connected with prostitution they are best dealt with through a system of decriminalisation and regulation, and therefore endorse the Criminal Justice Commission's recommendation for the establishment of a regulatory framework, limiting the operation of brothels to a size of only 2 to 10 persons in restricted designated areas, to control the prostitution industry. .... 24

RECOMMENDATION 2:

We believe that the enactment of the new criminal offences listed in the Committee's recommendations (1) - (5) and the enactment of a regulatory framework to regulate and control prostitution (recommendation (7)) will cover the thrust of many of the offences listed below and therefore to avoid contradictions in the law we endorse the Commission's recommendation for the repeal of the following offences:

- being a prostitute who behaves in a riotous, disorderly or indecent manner in a public place (Vagrants, Gaming and Other Offences Act, section 5); section 7 of the Act includes a general offence of disorderly or indecent behaviour and there is therefore no need for a specific offence concerning prostitutes;
- loitering for the purpose of prostitution (Vagrants, Gaming and Other Offences Act, section 5); recommendation (1) of the Committee makes street solicitation illegal in Queensland. This new recommendation will be tougher than the existing section;
- using premises held out for other purposes for the purpose of prostitution (Vagrants, Gaming and Other Offences Act, section 8A); under the regulatory framework this will constitute a breach of the regulations or will be tightly regulated in restricted areas.

- *living either wholly or partly on the earnings of a prostitute* (Vagrants, Gaming and Other **Offences** Act, section 8); recommendation (4) states this will be an offence where it involves coercion, intimidation or fraud;
- keeping or managing a brothel (Vagrants, Gaming and Other **Offences** Act, section 8); to be regulated and controlled under our recommendations;
- keeping a bawdy house (Criminal Code, section 231); to be regulated and controlled under our recommendations;
- being an occupier of a house frequented by prostitutes (Vagrants Gaming and Other **Offences** Act, section 5); to be regulated and controlled under our recommendations;
- being a tenant, lessee or occupier who permits premises to be used for prostitution (Vagrants, Gaming and Other **Offences** Act, section 8); to be regulated and controlled under our recommendations;
- being a landlord who knows premises to be used for prostitution (Vagrants, Gaming and Other **Offences** Act, section 8); to be regulated and controlled under our recommendations;
- being a keeper of a lodging house who permits it to be the resort or place of meeting of prostitutes (Vagrants, Gaming and Other **Offences** Act, section 9); to be regulated and controlled;
- procuring a person to become a prostitute (Criminal Code, section 217; recommendation (4) states that this will be an offence.....

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### RECOMMENDATION 3:

We endorse the Commission’s recommendation that within the regulatory framework that the maximum number of persons involved in any one establishment should be only 10. This includes owners, managers, sex workers, receptionists, drivers and other similar employees. The workers can choose to work **as** a collective or co-operative, or may be employed by an owner of premises as an in-house sex worker or as an escort. Further,



each organisation should operate from one premises only and no person should have an interest in more than one organisation or premises. We believe that this recommendation will encourage small co-operatives of sex workers and avoid the large brothels found in Sydney and Melbourne. .... 27

RECOMMENDATION 4:

We are totally opposed to brothels being established in residential areas and therefore recommend that no establishment, of whatever kind, within the category of two to ten persons, be approved by a Local Authority for operation within a residential area and be limited to industrial and commercial areas. .... 30

RECOMMENDATION 5:

We recommend that Local Councils' in a regulated system should pay close attention to the placement of approved establishments and ensure that they do not operate within close proximity to each other so as to avoid an undesirable concentration of such establishments. The law should be drafted to clearly outlaw "red light" districts anywhere in Queensland. .... 30

RECOMMENDATION 6:

We endorse the Commission's recommendation that:

- (1) organisations involving two to 10 persons be permitted to operate from premises either as a brothel, escort agency, co-operative or any other form of organisation offering sexual services, subject to Local Authority approval;
- (2) Local Authority by-laws should prohibit such businesses operating from any premises without first obtaining approval;
- (3) a notice and objection procedure similar to that applicable to rezoning applications be adopted. Provision should also be made for appeals from the decision of the Local Authority by either the applicant or objectors. This appeal process should be as streamlined and inexpensive as possible;

- (4) a State-wide set of guidelines be developed for all Local Authorities to which they must have regard when considering any grant of approval for the operation of a proposed business. These guidelines should cover the following matters: -
  - size of the proposed business;
  - number of persons to be employed therein;
  - hours of operation;
  - proximity to residential areas but not in residential areas;
  - proximity to other businesses which create similar amounts of noise and pedestrian and traffic movement;
  - proximity to churches, hospitals, schools and other community facilities; and
  - proximity to other sex businesses and the undesirability of clustering of these businesses;
- (5) Local Authorities must firmly prevent the concentration of these businesses..... 31

#### RECOMMENDATION 7:

We endorse the Commission's recommendation for the establishment of a Registration Board to administer the regulatory framework with the stated objectives of:

- (1) ensuring that there is no criminal involvement in the sex industry;
- (2) maximising the safety, self-determination, and employment conditions of workers in the industry;
- (3) ensuring that all workers and the premises from which they are working are accessible to health workers and other social service providers. .... 33

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RECOMMENDATION 8:

We endorse the Commission’s recommendation that the composition of the Registration Board include representatives of each of the following:

- Queensland Health (formerly the Department of Health);
- the Police Service;
- the Local Authority - this should be an elected representative;
- the Criminal Justice Commission;
- sex workers; and
- the Workplace Health and Safety Division of the Department of Employment Vocational Education, Training and industrial Relations.

Further, We recommend that a senior legal practitioner or other appropriate person be appointed Chairperson of the Board. .... 33

RECOMMENDATION 9:

We endorse the Commission’s recommendation that no person shall serve on the Registration Board for a period of more than three years. .... 34

RECOMMENDATION 10:

We endorse the Commission’s recommendation that the Registration Board be directly responsible to the Minister of Health and further, we recommend that annually the Board report directly to Parliament. .... 34

RECOMMENDATION 11:

We endorse the Commission’s recommendation that the Registration Board have the following functions:

- to investigate the suitability of persons involved in the industry, and approve “acceptable persons”;

- to Issue certificates of registration for premises from or at which sex workers are operating;
- to issue certificates of registration to owner/operators of registered premises;
- to maintain a record of workers in the industry;
- to establish and oversee an Inspectorate to service the Board;
- to ensure compliance with the regulations;
- to investigate and determine complaints;
- to promote the health and welfare of workers and clients by:
  - establishing a Code of Conduct within the industry;
  - actively educating workers, clients and the community at large as to the health issues associated with the industry;
- to recommend legislative change where appropriate; and
- to report annually to Parliament. .... 35

#### RECOMMENDATION 12:

We endorse the Commission's recommendation that the Registration Board vet all applicants for registration and in so doing, the Board should seek to:

- determine who is the person controlling the operation;
- determine who is the owner of the premises;
- determine the number of persons who will be working on the premises, and the names of those persons;
- determine the nature of the work relationship of each person who is to be working at those premises; and

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- determine how the business has been financed, and by whom.

Further, we recommend that only “acceptable persons” be granted registration. Whether a person is an “acceptable person” should be determined by having regard to the following:

- convictions for any indictable offences;
- whether the person has an association with known criminals;
- whether the person has previously breached any provisions of this regulatory legislation; and
- any other matters which the Board thinks relevant. .... . 36

**RECOMMENDATION 13:**

We endorse the Commission’s recommendation that the certificate of registration issued by the Registration Board should be numbered and should be displayed prominently at the site of the business operation. Further the Board will keep a record of those persons approved to work at the registered premises and any changes in staff should be recorded by the Board. This certificate shall be renewed annually. We recommend that this be a mandatory procedure. .... . 37

**RECOMMENDATION 14:**

We endorse the recommendation that the Registration Board have a discretion to register or if registered, to suspend or cancel the registration of premises if an “unsuitable” worker is employed there. .... . 38

**RECOMMENDATION 15:**

We endorse the Commission’s recommendation that the following procedures be adopted and powers given to the Registration Board for the issuing of certificates of registration:

- (1) the Board should issue certificates of registration for approved owner/operators;

- (2) **with respect** to sex workers, no **certificate** of registration shall be required;
- (3) **however**, the board will maintain a record of the persons **working in the industry**;
- (4) the certificates of **registration will** be **required to** be renewed on an annual basis;
- (5) renewal will not be automatic but will be subject to an inspection upon application for renewal;
- (6) a **registration fee will be payable on certification** in order to generate funds to contribute toward the cost of regulating the industry;
- (7) the Registration Board should at all times have the power to cancel or suspend registration for sufficient reason. .... 38

RECOMMENDATION 16:

We endorse the Commission’s recommendation that the Registration Board have discretion to suspend or cancel a certificate of registration if satisfied of the presence of illegal drugs on the premises. . . . . 39

RECOMMENDATION 17:

We endorse the Commission’s recommendation that a Code of Conduct be established by the Registration Board to cover particular health aspects relating to STD and HIV prevention. The Code of Conduct should cover, but not be limited to:

- a licensed owner or manager of a brothel or escort agency must not knowingly allow a sex worker with an STD to continue to work;
- appropriate training and information be given with respect to **STDs** and condom use; and
- safe sex practices only be used on the premises, which includes ensuring strict adherence to infection control procedures in the case of condom disposal, changing linen and towels between clients, and minimising infection risk through blood or semen. .... 40

RECOMMENDATION 18:

We endorse the Commission’s recommendation that the Registration Board have the function of hearing and determining complaints. It is recommended that such complaints include, but not be limited to:

- operation of unregistered premises;
- management of an establishment by an unregistered owner/operator; **including maltreatment of workers;**
- employment of an unrecorded sex worker; and
- breaches of the Code of Conduct. .... 40

RECOMMENDATION 19:

We recommend that legislation provide for a process to deal with frivolous and vexatious complaints and that strong penalties be provided for a competitor in the industry who is found to have made a vexatious complaint. .... 41

RECOMMENDATION 20:

We endorse the Commission’s recommendations relating to breach of the regulations established by the Registration Board. . 42

RECOMMENDATION 21:

We make the following recommendations with respect to breaches of the regulations established by the Registration Board:

- (1) a penalty of sufficient disincentive should apply to a worker who chooses to operate from an unregistered premises;
- (2) a criminal penalty should apply to an owner who decides to establish an operation outside the regulatory framework and also a provision should apply for the forfeiture of all assets connected with such an operation;

- (3) a criminal penalty should apply to a client who chooses to use the services of an unregistered premise. This should be strictly enforced;
- (4) a penalty depending on the nature of the **offence**, should apply to persons who are in breach of the regulations;
- (5) that each owner of a premise be allotted on registration a certain number of “ownership points”. If a breach of the regulations occurs points should be deducted from the owner. The amount of deduction will depend on the nature of the **offence**. If an owner loses all “ownership points” they shall be deregistered and be excluded at the discretion of the Registration Board from the industry in Queensland;
- (6) Any operator who chooses to operate outside the regulatory system shall be subject to forfeiture of assets provisions similar to those contained in the profits of crime legislation. This shall also apply to those operators who are excluded from the industry in Queensland for continual breach of the regulations of the regulatory system.....

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RECOMMENDATION 22:

We endorse the Commission’s recommendation that the following provisions apply to the staffing of the Commission:

- (1) the Inspectorate should be staffed from officers of the Departments represented on the Registration Board;
- (2) staff should be rotated regularly back to their departments to minimise the potential for corruption;
- (3) the Registration Board should have power to second more officers from the relevant departments to its Inspectorate for the purpose of investigating complaints. ....

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RECOMMENDATION 23:

We endorse the Commission’s recommendation that:

the Inspectorate have the power to enter and inspect the premises for the following purposes:

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- to ensure the health and safety of workers and to ensure that there are no under age or exploited workers employed;
- to ensure that no more than the permitted number of workers are operating from any one premises;
- to ensure that no person has an interest in more than one premises;
- to ensure that owners/operators are registered;
- to ensure that a certificate of registration is displayed;
- to investigate complaints received by the Registration Board;
- to ensure participants in the industry are abiding by the Code of Conduct;
- to provide education and support services to workers;
- to ensure that any new workers in the industry have been recorded by the Board; and
- to inspect books of account. .... 45

**RECOMMENDATION 24:**

**We endorse the Commission’s recommendation that the following restrictions be placed on advertising with respect to prostitution:**

- (1) that proprietors of registered premises be permitted to advertise their services under strict guidelines set down by the Registration Board;**
- (2) that these guidelines ensure that advertisements be discreet;**
- (3) Organisations should not be permitted to advertise for the purpose of recruiting workers into the industry;**
- (4) that ail advertisements display the registration number of the premises;**

- (5) If a single sex worker wishes to advertise, his/her premises must be registered with the Board..... 46

RECOMMENDATION 25:

*We recommend that a breach of the restrictions on advertising constitute a breach of the regulations of the regulatory system and that the Registration Board be empowered to determine the details for appropriate advertising standards with respect to prostitution.* ..... 46

RECOMMENDATION 26:

We recommend the regular monitoring of the health of sex workers and believe that the regulatory framework established is the best method of ensuring regular health checks. .... 47

RECOMMENDATION 27:

We believe that a review process is vital to the continuing efficiency of the regulatory framework and therefore endorse the Commission's recommendation that there be within three years a comprehensive review of the regulatory framework, in consultation with all relevant agencies associated with the Registration Board. .... 48

### 3. AN OVERVIEW OF THE PROCESS

#### 3.1 Primary Issues

##### Fitzgerald process

The laws relating to prostitution were earmarked by the Fitzgerald report as clearly requiring review. The evidence that the criminalisation of prostitution has failed to achieve its desired aim of eradicating prostitution has produced consequences that have been of great cost to Queensland.

There are two clear issues that arise out of the report on the laws relating to prostitution. One relates to corruption and the law, the other morality and the law.

##### *Corruption*

The great weight of evidence shows that the criminalisation of prostitution is a breeding ground for the corruption of police. People who believe that continued criminalisation is necessary to control and hopefully eliminate prostitution need look no further than the Fitzgerald Report for confirmation of the fact that the prohibition approach to prostitution generates corruption.

It is worth noting that in Queensland the recommendation of former Police Commissioner Bischof in the late 1950's to eliminate brothels in Brisbane, which were previously tolerated and contained, led to the rapid escalation of police corruption and direct involvement of police in prostitution.

Fitzgerald identified prostitution as a major link in the corruption of the police force. This link was caused not because of the act of prostitution but because the law was vague and difficult to enforce and police could be enticed not to exercise their duty to prosecute the law and also because laws against such an activity proved to be ineffectual in prohibiting or controlling the industry. It is argued that the answer to this problem is to rewrite the law so it is not vague. In support of this argument it is posited that if the laws against drug abuse or taxation were vague, then no one would suggest that they should therefore be **decriminalised**. However, there is a difference. Whilst some people abuse drugs and many avoid the payment of taxes it is generally accepted that drug abuse is bad for the individual and society and tax evasion is against the public interest. The same cannot be said about prostitution, a mutually consensual act, except on moral grounds.

It is basic to this understanding that it be realised that the Fitzgerald Report is aimed at **eradicating the preconditions of corruption**. Commissioner Fitzgerald emphasised that it was the system and not just a "few bad apples" that was at the core of the malaise in Queensland society.

We believe that if Queensland wishes to bear the cost of another "Fitzgerald type"

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inquiry in seven to ten years, this could occur if the environment and **preconditions**  
~~for corruption are unchanged~~

We believe that if prostitution is decriminalised the level of police corruption in this area will decline. We base **this strong belief on the fact** that when New South Wales liberalised their laws relating to prostitution in the 1980's police corruption in **this vice area declined dramatically. This fact was relayed to the Committee by both** those who supported the liberalisation in NSW and those who did not.

### *Morality and the Law*

We believe that the criminalisation, of what in most cases is correctly stated as "an act between two consenting people in private\*" can not be seen as a legitimate subject for the criminal law.

We are of the view that the law should not be used by a minority to enforce their private morals on those who do not ascribe to their views.

**Their is no public consensus on the issue of whether it is immoral for a person to sell their body for sex.**

To enforce a minority private moral view on others, would undermine the fabric of the multicultural, liberal-democratic society that we ascribe to in this State and country.

The state does not seek to make illegal the act of adultery or sexual acts outside of marriage. However, many people who object to prostitution as a moral crime, would hold that the above acts are also immoral. Many other people may disagree that it is an immoral act, and more so, that such an act should not be subject to the criminal law.

The Archdiocesan Catholic Social Welfare Commission in their submission to the Criminal Justice Commission approves of this latter view:

The law is no longer a teacher of Christian values. Its primary role is to regulate those issues that society decides are required for its own well-being, those external acts and values that affect the common good, understood here as public peace, the essential protection of human rights, the commonly accepted standards of moral behaviour in a community and the protection of those adjudged to need protection.

Moral values can never be effectively imposed by the legal system. We share the conviction stated in the Neave Report of Victoria that prostitution is basically about the exploitation of those who are weak and vulnerable, especially young women. To make those exploited into "criminals" only adds to their alienation. Who would wish to brand as criminals the young person with no family support who keeps himself/herself at school with money earned by prostitution, or the mother who prostitutes herself to feed her children?(emphasis added)(Archdiocesan Catholic Social Welfare Commission, 1991:3)

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The Fitzgerald process is, in part, about rationally determining, on the best available information, the type of society that we want in this State. It is about accountability, corruption prevention, and openness. On this point the words of the Fitzgerald report can not be more appropriate:

However, legal sanctions do not necessarily prevent harmful activities. If the law cannot be or is not enforced, its practical effect as a disincentive to misbehaviour is decreased. It is brought into disrespect.

Laws should reflect social need, not moral repugnance. Unless there are pressing reasons to do so, it is futile to try and stop activities which are certain to continue and upon which the community is divided. To do so takes resources away from the policing of other activities which the community considers undoubtedly wrong, such as violence and fraud.

Where the moral issue is one upon which there is room for serious divergent opinions, the legislature should interfere only to the extent necessary to protect the community, or any individuals with special needs. Generally speaking, those who take part voluntarily in activities some consider morally repugnant should not be the concern of the legislature, unless they are so young or **defenceless** that their involvement is not truly **voluntary**.( Report, 1991 :186)

We believe that there is a clear social need to remove the criminal sanctions against prostitution. This need is based on the objectives of reducing the level of corruption in the Police Service and reducing the threat to the general community with respect to the spread of **STDs** and **AIDS**. This latter threat is discussed below.

### Public Health

We believe that the Commission correctly highlighted the public concern with respect to Sexually Transmissible Diseases (**STDs**) including Acquired Immune Deficiency Syndrome (**AIDS**). This concern is reflected in the public survey with 62% of Queenslanders surveyed responding that the spread of **STDs/AIDs** was their greatest concern with respect to prostitution.

If measures are not taken to control the spread of **STDs** and **AIDS** the threat to innocent women and men whose partners are visiting sex workers could increase beyond the level it is today. The community should urgently seek to minimise this risk.

We believe that the best way of achieving the aim of reducing the spread of **STD's** and **AIDS** is to regulate and control the industry. All the factual evidence that has come before us unequivocally shows that continued criminalisation of the industry can not achieve the reduction of **STD's** and **AIDS**. In fact, it encourages the spread of such diseases. Evidence put before the Committee in New South Wales by Dr Basil Donovan, Director of the Sydney Sexual Health Centre and former Vice President of the National Venereology Society, showed that since the liberalisation

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of the laws in NSW in 1979 there had been a significant decline in curable STDs in Australia. Dr Donovan attributed this to the greater access of health services to sex workers, who could come forward without fear of prosecution, and more importantly, the educational programs that are now able to reach out into all aspects of the industry.

Professor Eileen Byrne, Professor of Education at the University of Queensland, submitted to the CJC that there is evidence which shows that legalising prostitution **does not help to control STDs**. Professor Byrne cited evidence collected in France between 1880 and 1924. We believe that there has been more cogent and recent evidence to refute this opinion. We also believe that there have been significant advances in medicine and health education over the last 100 years and this data is of historical significance only. It is important that we address the issues of prostitution as we approach the 21st Century not the 19th Century. Data collected in a number of Australian states over the last decade clearly refute the proposition that a less punitive approach to prostitution does not reduce the occurrence of STDs in sex workers. (Donovan, 1990; Donovan et al, 1991; Perkins et al, 1990)

In particular we take careful note of the comments of the Queensland Department of Health:

The option which relates to limiting prostitution by applying criminal penalties to it presents major impediments to public health. This option best reflects the current situation in Queensland. [The] likely consequences are that sex workers will not attend STD clinics, will be discouraged from using condoms and will not be accessible to prevention programs. (Qld Health Department, 1991 :17)

[The] option, under which most prostitution related activities are no longer criminal offences, would involve removing many of the impediments to public health. (Qld Health Department, 1991:18)

The post-Fitzgerald reduction in attendance for clinical testing of sex workers is of serious concern to health workers in this field.

We believe that the most important aspect to the prevention of STDs and AIDS in the community is through education of safe sex practices. This can only realistically be ensured with respect to prostitution in an industry that is closely controlled and regulated and therefore able to be identified and targeted by health workers.

If the industry is forced to move further underground because of continued criminalisation of the activities connected with prostitution, sex workers could continue to be pressured by both owners and clients to practice unsafe sex. This must certainly be considered absolutely demeaning to these women and of great risk. A regulated and controlled industry will help to ensure the independence of every sex worker from coercion and exploitation and provide more opportunity for

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women to move out of the industry. Regulation and control will lessen the number of ways that prostitution is demeaning to women not increase them.

### 3.2 General Attitude to the Report

The above comments do not, however, mean that there should be a “free-for-all” with respect to prostitution. We simply believe that where two consenting adults choose to exchange sex for a monetary price they should not be contravening the law. The conditions under which an exchange occurs, outside of a private home, are validly the subject of the law. A proposal for total **deregulation** would, as for criminalisation, be grossly negligent. **This** is because of the **risk** to public health and the existing links with organised crime, caused by criminalisation, that have not yet been severed.

We find support for this view in the recent comments of a respected moral theologian, Jesuit Fr Bill Daniel:

Should **[prostitution]** be repressed **with the full** force of the law? The Bingham inquiry does not believe that this is the best course of action, and I believe they are right.

It is impossible to eradicate prostitution. The attempt to do so by law leads to unenforceable law and the scene is set for underworld involvement and police corruption. It is also noted that prostitutes are less inclined to submit to health checks if their activities are liable to criminal prosecution.

The scheme **proposed by** the commission, **involving** the reoistration of Dremises, limits to their size, **approval** of owners or **operators** of Dremises and reaistration of “workers”, seems to be a Drudent middle around between an attempt at total abolition and **complete *laissez-faire* (emphasis added)**.(Daniel, Catholic Leader, 20 October 1991)

Regulation of the industry is required. However, practices that exploit adults, disadvantaged groups and more so, children, are rightly the subject of the criminal law. This is because of who is being exploited and the fact that it is exploitation.

For all of the reasons detailed above our general attitude to the Commission’s report is positive.

## 4. ASSESSMENT OF THE CJC'S RECOMMENDATIONS

### 4.1 Regulatory Framework

#### The Proposed Framework

The Commission in rejecting full application of the criminal law to prostitution also rejects total **legalisation** and no regulation and supports partial decriminalisation. Proposed instead was a regulatory framework based on two categories of operations. These two categories will be considered individually below.

The Commission in recommending a regulatory framework for the prostitution industry sought to address the following problems:

- the historic domination of the industry by crime figures;
- the public nuisance problem associated with the location and size of brothels;
- ensuring the protection of sex workers themselves from violence and exploitation;

These are key concerns of ours also. We believe that the most appropriate method of dealing with these areas of concern is a system of regulation coupled with a limited number of criminal sanctions. This is the package the Commission has proposed. To implement this system the Commission has firstly recommended that a number of criminal **offences** be repealed and replaced by other provisions or covered by regulation and control.

#### RECOMMENDATION 1:

**We believe that as the problems of corruption, crime, public nuisance and health are connected with prostitution they are best dealt with through a system of decriminalisation and regulation, and therefore endorse the Criminal Justice Commission's recommendation for the establishment of a regulatory framework, limiting the operation of brothels to a size of only 2 to 10 persons in restricted designated areas, to control the prostitution Industry.**

To implement this system the Commission has firstly recommended that a number of criminal **offences** be repealed and replaced by other provisions or covered by regulation and control.

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## Repeal of Certain Criminal Offences

The Commission recommended that the following provisions be ~~repealed~~:

- ~~being a prostitute who behaves in a riotous, disorderly or indecent manner in a public place (Vagrants, Gaming and Other Offences Act, section 5),~~
- ~~littering for the purpose of prostitution (Vagrants, Gaming and Other Offences Act, section 5):~~
- ~~using premises held out for other purposes for the purpose of prostitution (Vagrants, Gaming and Other Offences Act, section 24);~~
- ~~living either wholly or partly on the earnings of a prostitute (Vagrants, Gaming and Other Offences Act, section 6);~~
  - keeping or managing a brothel (Vagrants, Gaming and Other Offences Act, section 8);
  - keeping a bawdy house (Criminal Code, section 231);
  - being an occupier of a house frequented by prostitutes (Vagrants Gaming and Other Offences Act, section 5);
  - being a tenant, lessee or occupier who permits premises to be used for prostitution (Vagrants, Gaming and Other Offences Act, section 8);
  - being a landlord who knows premises to be used for prostitution (Vagrants, Gaming and Other Offences Act, section 8);
  - being a keeper of a lodging house who permits it to be the resort or place of meeting of prostitutes (Vagrants, Gaming and Other Offences Act, section 9);
  - procuring a person to become a prostitute (Criminal Code, section 217.(Report, 1991:221-2)

Though the Commission recommended the repeal of the existing offences regarding prostitution, the thrust of these laws is not to be lost and is to be covered in the enactment of the recommendations for new criminal offences and through regulation and control under the regulatory framework to be established. However, these laws need to be repealed to promote consistency in the law.

### RECOMMENDATION 2:

We believe that the enactment of the new criminal offences listed in the Committee's recommendations (1) - (5) and the enactment of a regulatory framework to regulate and control prostitution (recommendation (7)) will cover the thrust of many of the offences listed below and therefore to avoid contradictions in the law we endorse the Commission's recommendation for the repeal of the following offences:

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- being a prostitute who behaves in a riotous, disorderly or indecent manner in a public place (Vagrants, **Gaming and Other Offences Act**, section 5); section 7 of the Act includes a general **offence** of disorderly or indecent behaviour and there is therefore no need for a specific **offence concerning** prostitutes;
- loitering for the purpose of prostitution (Vagrants, Gaming and Other **Offences Act**, section 5); recommendation (1) of the Committee makes street **soliciting illegal** in Queensland. This new recommendation will be tougher than the **existing** section;
- using premises held out for other purposes for the purpose of prostitution (Vagrants, Gaming and Other **Offences Act**, section 8A); under the **regulatory** framework this will constitute a breach of the regulations or will be tightly regulated in restricted areas.
- living either wholly or partly on the earnings of a prostitute (Vagrants, Gaming and Other **Offences Act**, section 8); recommendation (4) states this will be an **offence** where it involves coercion, intimidation or fraud;
- keeping or managing a brothel (Vagrants, Gaming and Other **Offences Act**, section 8); to be regulated and controlled under our recommendations;
- keeping a bawdy house (Criminal Code, section 231); to be regulated and controlled under our recommendations;
- being an occupier of a house frequented by prostitutes (Vagrants Gaming and Other **Offences Act**, section 5); to be regulated and controlled under our recommendations;
- being a tenant, lessee or occupier who permits premises to be used for prostitution (Vagrants, Gaming and Other **Offences Act**, section 8); to be **regulated** and controlled under our recommendations;
- being a landlord who knows premises to be used for prostitution (Vagrants, Gaming and Other **Offences Act**, section 8); to be regulated and controlled under our recommendations;

- **being a keeper of a lodging house who permits it to be the resort or place of meeting of prostitutes (Vagrants, Gaming and Other Offences Act, section 9); to be reauiated and controlled;**
- **procuring a person to become a prostitute (Criminal Code, section 217; recommendation (4) states that this will be an offence.**

### The Proposed Regulatory Framework - Two to Ten Persons

The Commission's recommendations stated:

that the maximum number of persons involved in any one establishment should be 10. This includes owners, managers, sex workers, receptionists, drivers and other similar employees. The workers can choose to work as a collective or co-operative, or may be employed by an owner of premises as an in-house sex worker or as an escort.

Each organisation could operate from one premises only and no person should have an interest in more than one organisation or **premises.**(Report, 1991:224)

The Commission's reasons for the adoption of these criteria are:

- to limit the size of places of operation so as to not increase the attraction for involvement of organised crime and illicit activities;
- the removal of organised criminal involvement removes in part the potential for police corruption;
- the larger the establishment the more serious will be the public nuisance aspects of such an operation:
- the smaller the organisation the easier it will be for the Registration Board to keep track of workers; and
- the risk of exploitation of workers may be lower in a smaller **organisation.**(Report, 1991:224)

We are of the view that this recommendation is one of the core provisions in overcoming many of the failures that have occurred in other jurisdictions.

### **RECOMMENDATION 3:**

**We endorse the Commission's recommendation that within the regulatory framework that the maximum number of persons involved in any one establishment should be only 10. This includes owners, managers, sex workers, receptionists, drivers and other similar employees. The workers can choose to work as a collective or co-operative, or may be employed by an owner of**

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**premises as an in-house sex worker or as an escort. Further, each organisation should operate from one premises only and no person should have an interest in more than one organisation or premises. We believe that this recommendation will encourage small co-operatives of sex workers and avoid the large brothels found in Sydney and Melbourne.**

The issue of gay brothels has been raised as an area of concern with regards to the adoption of a regulatory framework for prostitution. It has been made known to the Committee only a few such establishments are in operation in Queensland at the present time. Such brothels existed in Brisbane prior to the Fitzgerald Inquiry and have a limited demand. However, they need to be identified and targeted for health and regulation purposes.

This Committee has previously dealt with the issue of homosexual law reform and a majority of the Committee agreed that the activities of two consenting adults in their own home should not be subject to the criminal law.

Further, the Committee is aware of the intention of the Government to pass anti-discrimination legislation which could include discrimination on the grounds of sexuality. If we were to propose a two-tier system of regulation for prostitution, one female the other male, this would be clearly stuck down by the anti-discrimination legislation.

Based on Sydney experience that gay brothels form only a very small part of the industry, we are of the view that it should not be given undue emphasis. In Sydney, which has the largest homosexual community in Australia, there are only a handful of gay brothels.

#### **4.2 Specific Aspects of the Regulatory Framework**

##### Role of Local Authorities

The role of Local Councils in the administration of the regulated system has been misunderstood in this debate to date. A Local Council's role is limited to the determination of the placement of an establishment of 2 - 10 persons and to deal with complaints about single sex workers. This determination is to be based on guidelines developed by the Registration Board. These guidelines will aim to provide guidance to Councils in the exercise of their discretion whether or not to permit the location of a brothel in their area. These guidelines will ensure the public face of such establishments is kept to a minimum so that they do not infringe on the private lives of ordinary citizens.

The Commission's recommendations on the role of Local Authorities are fivefold:

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- (1) that **organisations** involving two to **10** persons be permitted to operate from premises either as a brothel, escort agency, co-operative or any other form of **organisation** offering sexual services, subject to Local Authority approval (emphasis added);
- (2) that Local Authority by-laws should prohibit such businesses operating from any premises without first obtaining approval; -
- (3) that a notice and objection procedure similar to that applicable to rezoning applications be adopted. Provision should also be made for appeals from the decision of the Local Authority by either the applicant or objectors. This appeal process should be as streamlined and inexpensive as possible;
- (4) that a State-wide set of guidelines be developed for all Local Authorities to which they must have regard when considering any grant of approval for the operation of a proposed business. These guidelines should cover the following matters:
  - size of the proposed business;
  - number of persons to be employed therein;
  - hours of operation;
  - proximity to residential areas;
  - proximity to other businesses which create similar amounts of noise and pedestrian and traffic movement;
  - proximity to churches, hospitals, schools and other community facilities; and
  - proximity to other sex businesses and the undesirability of clustering of these businesses;
- (5) that Local Authorities prevent the concentration of these **businesses**. (Report, 1991:224-5)

One of the worst aspects of the way the industry is currently organised in Victoria is the existence of large multi-million dollar brothels. Further, such brothels employ up to in some cases 70 workers who receive little compensation and are subjected to overly exploitative work practices and it is these circumstances that has caused the growth of illegal brothels in Victoria with workers prepared to risk the illegal scene because of exploitative practices in large brothels.

#### **THIS CAN NOT BE TOLERATED IN QUEENSLAND.**

We believe that the limiting of the size of establishments coupled with the strict guidelines as outlined above will establish a mechanism whereby a "Victorian situation" will not occur in Queensland.

Further, we strongly believe that no establishment, in the 2 to 10 person category, should be allowed to operate in residential areas. This belief is, however, perfectly compatible with the system proposed by the CJC. One of the criteria within the Commission's proposed guidelines deals with proximity to residential areas. The quality of life and property values of Queenslanders must be protected and therefore we recommend that it be made clear that no establishment that comes within the

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*category Of two to ten persons be approved to operate within residential areas. Such establishments should be confined to industrial and commercial areas.*

RECOMMENDATION 4:

**We are totally opposed to brothels being established in residential areas and therefore recommend that no establishment, of whatever kind, within the category of two to ten persons, be approved by a Local Authority for operation within a residential area and be limited to industrial and commercial areas.**

A consequence of the Commission's recommendation for a State-wide set of guidelines for the placement of brothels is that there will be a strict policy against the concentration of brothels in a single area. This means that **NO 'RED LIGHT DISTRICT WOULD BE ESTABLISHED IN QUEENSLAND.**

We wholeheartedly accept this idea. Such places have historically been the breeding ground for corruption. No city or town can afford to sacrifice part of its area to a wasteland of illicit activity and vice. The aim of the proposed system is to introduce a system that is as discreet and safe as possible for the worker, client and general public alike. The establishment of a 'red light' district does not in my opinion go to achieving these aims.

RECOMMENDATION 5:

**We recommend that Local Councils' in a regulated system should pay close attention to the placement of approved establishments and ensure that they do not operate within close proximity to each other so as to avoid an undesirable concentration of such establishments. The law should be drafted to clearly outlaw "red light" districts anywhere in Queensland.**

What has failed to be understood by some people, and we believe that it is vital that everyone does understand, is that the possible size of the sex industry in Queensland is limited. Many people have commented on the proposed system with an assumption that the industry could grow and continue to grow. This reasoning denies common-sense. Like any business, the nature and extent of the sex industry is shaped by demand. It is unlikely that demand will significantly increase with regulation of the industry.

Measures should be introduced to make the industry as unattractive as possible and thus the number of sex workers would likely stabilise at the present level. Taxation and regulation will also act as disincentives.

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## RECOMMENDATION 6:

We endorse the Commission's recommendation that:

- (1) organisations involving two to 10 persons be permitted to operate from premises either as a brothel, escort agency, co-operative or any other form of organisation offering sexual services, subject to Local Authority approval;
- (2) Local Authority by-laws should prohibit such businesses operating from any premises without first obtaining approval;
- (3) a notice and objection procedure similar to that applicable to rezoning applications be adopted. Provision should also be made for appeals from the decision of the Local Authority by either the applicant or objectors. This appeal process should be as streamlined and inexpensive as possible;
- (4) a State-wide set of guidelines be developed for all Local Authorities to which they must have regard when considering any grant of approval for the operation of a proposed business. These guidelines should cover the following matters:
  - size of the proposed business;
  - number of persons to be employed therein;
  - hours of operation;
  - proximity to residential areas but not in residential areas;
  - proximity to other businesses which create similar amounts of noise and pedestrian and traffic movement;
  - proximity to churches, hospitals, schools and other community facilities; and
  - proximity to other sex businesses and the undesirability of clustering of these businesses;

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**(5) Local Authorities must firmly prevent the concentration of these businesses.**

The Registration Board

*Introduction*

The establishment of a similar type of body to oversee the industry was recommended by Professor Marcia Neave in her report on an *Inquiry into Prostitution* in Victoria. The Victorian Government failed to implement her recommendations and the people and sex workers in Victoria have suffered because of this fact. The existence of such a board with appropriate powers is vitally necessary if reform is to be achieved.

*Objectives*

The Commission recommended that a Registration Board be established:

- to regulate and monitor the operation of organisations comprising two to 10 persons.(Report,1991:225)

The aim of establishing this board is to:

- ensure that there is no criminal involvement in the sex industry;
- maximise the safety, self-determination, and employment conditions of workers in the industry;
- ensure that all workers and the premises from which they are working are accessible to health workers and other social service providers.(Report,1991:225)

We believe that the above listed points are the crucial issues in the debate over whether a system of regulation should be adopted. The objectives listed have never been achieved in a system where prostitution is illegal. Nor can these objectives be achieved by simply “toughening up” the laws with respect to prostitution. We believe that it is only through regulation and strict control of the prostitution industry that there is a possibility of such objectives being reached. We, therefore, approve of the establishment of such a Board with the objectives listed above.

RECOMMENDATION 7:

**We endorse the Commission’s recommendation for the establishment of a Registration Board to administer the regulatory framework with the stated objectives of:**

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- (1) ensuring that there is no criminal involvement in the sex industry;**
- (2) maximising the safety, self-determination, and employment conditions of workers in the industry;**
- (3) ensuring that all workers and the premises from which they are working are accessible to health workers and other social service providers.**

#### *Composition of the Board*

The Commission recommended that the Board should be comprised of a representative of each of the following:

- Queensland Health (formerly the Department of Health);
- the Police Service;
- the Local Authority - this should be an elected representative;
- the Criminal Justice Commission;
- sex workers; and
- the Workplace Health and Safety Division of the Department of Employment Vocational Education, Training and Industrial Relations. (Report, 1991:226)

it was further recommended that:

An independent senior legal practitioner should be appointed as Chairperson of the Board. (Report, 1991:226)

#### **RECOMMENDATION 8:**

**We endorse the Commission's recommendation that the composition of the Registration Board include representatives of each of the following:**

- **Queensland Health (formerly the Department of Health);**
- **the Police Service;**
- **the Local Authority - this should be an elected representative;**
- **the Criminal Justice Commission;**

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- sex workers; and
- the Workplace Health and Safety Division of the Department of Employment Vocational Education, Training and Industrial Relations.

Further, We recommend that a senior **legal** practitioner or other appropriate person be appointed Chairperson of the Board.

#### *Term of Office*

The Commission recommended that:

No person should serve on the Registration Board for a period exceeding three years.(Report, 1991:227)

#### RECOMMENDATION 9:

We endorse the Commission's recommendation that no person shall serve on the Registration Board for a period of more than three years.

#### *Responsible to whom?*

The Commission recommended that:

The Registration Board be responsible to the Minister of Health (Report,1991:227).

We also believe that the Registration Board should report annually directly to Parliament as is provided in Recommendation 11.

#### RECOMMENDATION 10:

We endorse the Commission's recommendation that the Registration Board be directly responsible to the Minister of Health and further, we recommend that annually the Board report directly to Parliament.

#### *Functions*

The Commission recommended what the functions of the Registration Board should be:

- to investigate the suitability of persons involved in the industry, and approve "acceptable persons";

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- to issue certificates of registration for premises from or at which sex workers are operating;
- to issue certificates of registration to owner/operators of registered premises;
- to maintain a record of workers in the industry;
- to establish and oversee an **Inspectorate** to service the Board;
- to ensure compliance with the regulations;
- to investigate and determine complaints;
- to promote the health and welfare of workers and clients by:
  - establishing a Code of Conduct within the industry;
  - actively educating workers, clients and the community at large as to the health issues associated with the industry;
- to recommend legislative change where appropriate; and
- to report annually to **Parliament**.(Report,1991:227)

#### RECOMMENDATION 11:

We endorse the Commission's recommendation that the Registration Board have the following functions:

- to investigate the suitability of persons involved in the industry, and approve "acceptable persons";
- to issue certificates of registration for premises from or at which sex workers are operating;
- to issue certificates of registration to owner/operators of registered premises;
- to maintain a record of workers in the industry;
- to establish and oversee an inspectorate to service the Board;
- to ensure compliance with the regulations;
- to investigate and determine complaints;
- to promote the health and welfare of workers and clients by:

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- **establishing a Code of Conduct within the industry;**
- **actively educating workers, clients and the community at large as to the health issues associated with the industry;**
- **to recommend legislative change where appropriate; and**
- **to report annually to Parliament.**

### *Examination of Applicants*

The Commission recommended that all applicants for registration of a premises should be vetted and in doing so the Board should seek to:

- determine who is the person controlling the operation;
- determine who is the owner of the premises;
- determine the number of persons who will be working on the premises, and the names of those persons;
- determine the nature of the work relationship of each person who is to be working at those premises; and
- determine how the business has been financed, and by whom (**Report,1991:228**).

It is intended that only “acceptable persons” be granted registration. The Commission recommends that the Registration Board in determining who is an acceptable person should have regard to the following:

- convictions for any indictable offences;
- whether the person has an association with known criminals;
- whether the person has previously breached any provisions of this regulatory legislation; and
- any other matters which the Board thinks relevant (**Report,1991:228**).

### **RECOMMENDATION 12:**

**We endorse the Commission’s recommendation that the Registration Board vet all applicants for registration and in so doing, the Board should seek to:**

- **determine who is the person controlling the operation;**
- **determine who is the owner of the premises;**

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- determine the number of persons who will be working on the premises, and the names of those persons;
- determine the nature of the work relationship of each person who is to be working at those premises; and
- determine how the business has been financed, and by whom.

Further, we recommend that only “acceptable persons” be granted registration. Whether a person is an “acceptable person” should be determined by having regard to the following:

- convictions for any indictable offences;
- whether the person has an association with known criminals;
- whether the person has previously breached any provisions of this regulatory legislation; and
- any other matters which the Board thinks relevant.

### *Registration*

The Commission recommended that if approval for a business to operate in a designated area is given by the local authority, the person should then notify the Board of such approval. The Board would then issue a certificate of registration after due consideration.

The Commission stated:

This certificate should be numbered and should be displayed prominently at the site of the business operation. The Board will keep a record of those persons approved to work at the registered premises and any changes in staff should be recorded by the Board (**Report**, 1 991229).

We believe this is an essential feature of the proposed regulatory system and should be mandatory.

### RECOMMENDATION 13:

We endorse the Commission’s recommendation that the certificate of registration issued by the Registration Board should be numbered and should be displayed prominently at the site of the business operation. Further the Board will keep a

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*record of those persons approved to work at the registered premises and any changes in staff should be recorded by the Board. This certificate shall be renewed annually. We recommend that this be a mandatory procedure.*

The Commission recommended:

The Board should have discretion not to register or if registered, to suspend or cancel the registration of premises if an “unsuitable” worker is employed there.(Report,1991:229)

#### **RECOMMENDATION 14:**

**We endorse the recommendation that the Registration Board have a discretion to register or if registered, to suspend or cancel the registration of premises if an “unsuitable” worker is employed there.**

The Commission further recommended:

- (1) the Board should issue certificates of registration for approved owner/operators;
- (2) with respect to sex workers, no certificate of registration shall be required;
- (3) however, the board will maintain a record of the persons working in the industry;
- (4) the certificates of registration will be required to be renewed on an annual basis;
- (5) renewal will not be automatic but will be subject to an inspection upon application for renewal;
- (6) a registration fee will be payable on certification in order to generate funds to contribute toward the cost of regulating the industry;
- (7) the Registration Board should at all times have the power to cancel or suspend registration for sufficient reason.(Report, 1991:229)

#### **RECOMMENDATION 15:**

**We endorse the Commission’s recommendation that the follow procedures be adopted and powers given to the Registration Board for the issuing of certificates of registration:**

- (1) the Board should issue certificates of registration for approved owner/operators;**

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- (2) with respect to sex workers, no certificate of registration shall be required;
- (3) however, the board **will** maintain a record of the persons working in the industry;
- (4) the certificates of registration will be required to be renewed on an annual basis;
- (5) renewal will not be automatic but will be subject to an inspection upon application for renewal;
- (6) a registration fee will be payable on certification in order to generate funds to contribute toward the cost of regulating the industry;
- (7) the Registration Board should at all times have the power to cancel or suspend registration for sufficient reason.

### *Drugs*

The Commission recommended that:

the Board have discretion to suspend or cancel a certificate of registration if satisfied of the presence of illegal drugs on the **premises**.(Report, 1991229)

### RECOMMENDATION 16:

We endorse the Commission's recommendation that the Registration Board have discretion to suspend or cancel a certificate of registration if satisfied of the presence of illegal drugs on the premises.

### *Code of Conduct*

The Commission recommended that a Code of Conduct be established by the Registration Board which would particularly cover aspects relating to HIV and STD prevention.

The Commission recommended that the Code of Conduct should cover, but not be limited to ensuring:

- a licensed owner or manager of a brothel or escort agency does not knowingly allow a sex worker with an STD to continue to work;
- appropriate training and information is given with respect to **STDs** and condom use; and

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- safe sex practices only are used on the premises, which includes ensuring strict adherence to infection control procedures in the case of condom disposal, changing linen and towels between clients, an minimising infection risk through blood or semen.(Report,1991:230)

## **RECOMMENDATION 17:**

**We endorse the Commission's recommendation that a Code of Conduct be established by the Registration Board to cover particular health aspects relating to STD and HIV prevention. The Code of Conduct should cover, but not be limited to:**

- **a licensed owner or manager of a brothel or escort agency must not knowingly allow a sex worker with an STD to continue to work;**
- **appropriate training and information be given with respect to STDs and condom use; and**
- **safe sex practices only be used on the premises, which includes ensuring strict adherence to infection control procedures in the case of condom disposal, changing linen and towels between clients, and minimising infection risk through blood or semen.**

### *Complaints*

The Commission recommended that the Registration Board have the further function of hearing and investigating complaints (the latter is to be carried out by the Inspectorate). Such complaints may include, but are not limited to:

- operation of unregistered premises;
- management of an establishment by an unregistered owner/operator;
- employment of an unrecorded sex worker; and
- breaches of the Code of Conduct.(Report,1991:231)

## **RECOMMENDATION 18:**

**We endorse the Commission's recommendation that the Registration Board have the function of hearing and determining complaints. it is recommended that such complaints include, but not be limited to:**

- **operation of unregistered premises;**



- **management of an establishment by an unregistered owner/operator; including maltreatment of workers;**
- **employment of an unrecorded sex worker; and**
- **breaches of the Code of Conduct.**

Further the Commission recommended that there be a specific provision in the legislation to deal with frivolous and vexatious complaints.

We fully endorse this proposal, due to its experience with the complaints procedure under the *Criminal Justice Act*. Strong penalties should be provided for, if a competitor is found to have lodged a vexatious complaint.

#### RECOMMENDATION 19:

**We recommend that legislation provide for a process to deal with frivolous and vexatious complaints and that strong penalties be provided for a competitor in the industry who is found to have made a vexatious complaint.**

#### *Breaches of the Regulations*

The Commission recommended that there be certain **offences** created to ensure the integrity of the regulatory system. These should include:

- for a worker to work knowingly from or at an unregistered premises;
- for an operator to operate unregistered premises;
- for a client to use the services provided from unregistered premises; and
- for breaches of regulations applying to registered **premises.**(Report,1991:232)

We believe that it is necessary to make the regulatory system work to provide strict penalties for any person who seeks to operate outside the framework. In the past workers have willingly accepted the fines accompanying a conviction for prostitution as an expense of working in the industry. it has not been a deterrent. This can not be allowed to occur in the operation of the regulatory system. We believe that the penalty should be a sufficient disincentive to operate outside the system.

If an operator chooses to establish an unregistered premises very heavy penalties should apply. This action should carry a criminal penalty. Further the Commission recommended that provision be made in the legislation for forfeiture of assets for those who choose to operate unregistered premises. We endorse this recommendation. We believe that this provision is fundamental in avoiding a two-tier system of prostitution - one legal, the other illegal. This is the situation in Victoria at the present. We believe that the strict penalties outlined in this section will go to

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overcoming the establishment of a two-tiered industry in Queensland. These penalties are complemented with the powers of the Inspectorate to enter and inspect premises to ensure compliance with the regulations. There is no such power in Victoria.

We would urge that the third specific **offence** outlined - prosecution of a client who uses the services provided by an unregistered premises - be strictly and vigorously enforced. As mentioned previously, in the past it was the workers alone that bore the brunt of police attention. A blind eye was passed over clients who were, in some cases, in equal violation of the law. We can not condone such a practice. A criminal penalty should apply to clients who use the services of unregistered premises.

Finally we believe that a sufficiently heavy penalty should apply to owners who are in breach of the regulations established by the Registration Board. These penalties should act as a deterrent not an irritation. We believe that, depending on the nature of the breach, a monetary penalty should apply. A breach of the regulations should also incur the loss of ownership points, with each owner being allocated an initial number of points. If repeated breaches occur and an owner losses all their points, then that person or persons (if a co-operative) should be deregistered and be excluded from participation in the industry in Queensland at the discretion of the Registration Board.

RECOMMENDATION 20:

**We endorse the Commission’s recommendations relating to breach of the regulations established by the Registration Board.**

RECOMMENDATION 21:

**We make the following recommendations with respect to breaches of the regulations established by the Registration Board:**

- (1) a penalty of sufficient disincentive should apply to a worker who chooses to operate from an unregistered premises;**
- (2) a criminal penalty should apply to an owner who decides to establish an operation outside the regulatory framework and also a provision should apply for the forfeiture of all assets connected with such an operation;**
- (3) a criminal penalty should apply to a client who chooses to use the services of an unregistered premise. This should be strictly enforced;**

- (4) a penalty depending on the nature of the offence, should apply to persons who are in breach of the regulations;
- (5) that each owner of a premise be allotted on registration a certain number of "ownership points". If a breach of the regulations occurs points should be deducted from the owner. The amount of deduction will depend on the nature of the offence. if an owner loses all "ownership points" they shall be **deregistered** and be **excluded** at the discretion of the Registration Board from the **industry in Queensland**;
- (6) Any operator who chooses to operate outside the regulatory system shall be subject to forfeiture of assets provisions similar to those contained in the profits of crime legislation. This shall also apply to those operators who are excluded from the industry in Queensland for continual breach of the regulations of the regulatory system.

#### The Insoectorate

##### *Staffing*

The Commission's recommendations with respect to the staffing of the Inspectorate are threefold:

- (1) the Inspectorate should be staffed from officers of the Departments represented on the Registration Board;
- (2) staff should be rotated regularly back to their departments to minimise the potential for corruption;
- (3) the Registration Board should have power to second more officers from the relevant departments to its **Inspectorate** for the purpose of investigating complaints. (Report, 1991:230)

#### **RECOMMENDATION 22:**

**We endorse the Commission's recommendation that the following provisions apply to the staffing of the Commission:**

- (1) the Inspectorate should be staffed from officers of the Departments represented on the Registration Board;
- (2) staff should be rotated regularly back to their departments to minimise the potential for corruption;

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- (3) **the Registration Board should have power to second more officers from the relevant departments to its Inspectorate for the purpose of investigating complaints.**

### *Role of the Inspectorate*

The role of the Inspectorate is to ensure the compliance of all sectors of the industry with the requirements of the Registration Board. To achieve this aim, the Commission recommended that:

the Inspectorate have the power to enter and inspect the premises for the following purposes:

- to ensure the health and safety of workers;
- to ensure that no more than the permitted number of workers are operating from any one premises;
- to ensure that no person has an interest in more than one premises;
- to ensure that owners/operators are registered;
- to ensure that a certificate of registration is displayed;
- to investigate complaints received by the Registration Board;
- to ensure participants in the industry are abiding by the Code of Conduct;
- to provide education and support services to workers;
- to ensure that any new workers in the industry have been recorded by the Board; and
- to inspect books of account (Report, 1991229-30).

A number of people in their submissions to the Committee have raised concern over the possibility that the Inspectorate might be susceptible to corruption. We believe that a number of safeguards are built into the regulatory framework to minimise the opportunity for corruption.

The safeguards include:

a rotation of employees in the Inspectorate;

limitation of the term of employment;

- the charging of the Registration Board, which includes a diverse range of representatives including the CJC, with responsibility for the Inspectorate.

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## RECOMMENDATION 23:

**We endorse the Commission's recommendation that:**

**the Inspectorate have the power to enter and inspect the premises for the following purposes:** -

- **to ensure the health and safety of workers and to ensure that there are no under age or exploited workers employed;**
- **to ensure that no more than the permitted number of workers are operating from any one premises;**
- **to ensure that no person has an interest in more than one premises;**
- **to ensure that owners/operators are registered;**
- **to ensure that a certificate of registration is displayed;**
- **to investigate complaints received by the Registration Board;**
- **to ensure participants in the industry are abiding by the Code of Conduct;**
- **to provide education and support services to workers;**
- **to ensure that any new workers in the industry have been recorded by the Board; and**
- **to inspect books of account.**

### Restrictions on Advertising

The Commission makes five recommendations with respect to restrictions on advertising for the purposes of prostitution. These are:

- (1) that proprietors of registered premises be permitted to advertise their services under guidelines set down by the Registration Board;
- (2) that these guidelines ensure that advertisements be discreet;
- (3) Organisations should not be permitted to advertise for the purpose of recruiting workers into the industry;

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- (4) that all advertisements display the registration number of the premises;
- (5) if a single **sex worker** wishes to advertise, his/her premises must be registered with the Board (Report, 1991:231).

*In the public survey* commissioned by the CJC, 56% of Queenslanders expressed an opposition to companies placing advertisements *for the purposes of prostitution*. We believe that strict guidelines should be adopted to minimise the public face Of prostitution. The industry should be low key and discreet. We do not approve of pornographic and lewd advertising for any industry and it will not be tolerated in Queensland in the regulated system. We would therefore endorse the above recommendations of the Commission and note that it has previously recommended that criminal sanctions apply to explicit and offensive advertising.

#### **RECOMMENDATION 24:**

**We endorse the Commission's recommendation that the following restrictions be placed on advertising with respect to prostitution:**

- (1) that proprietors of registered premises be permitted to advertise their services under strict guidelines set down by the Registration Board;
- (2) that these guidelines ensure that advertisements be discreet;
- (3) Organisations should not be permitted to advertise for the purpose of recruiting workers into the industry;
- (4) that all advertisements display the registration number of the premises;
- (5) if a single sex worker wishes to advertise, his/her premises must be registered with the Board.

*What penalties will apply?*

We believe that a breach of the restrictions on advertising should constitute a breach of the regulations.

#### **RECOMMENDATION 25:**

**We recommend that a breach of the restrictions on advertising constitute a breach of the regulations of the regulatory system and that the Registration Board be empowered to determine the details for appropriate advertising standards with respect to prostitution.**

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## Compulsory Health Checks

The Commission states:

Whilst **recognising** the importance to the community of health issues associated with the sex industry, in light of [the Health Department] information, the Commission believes that compulsory health checking is not a suitable option and considers that these health concerns are best addressed by the regulatory framework proposed. For example, the issuing of a certificate of attendance for sexual health examination and **counselling** (omitting any clinical information or results of laboratory investigation) has more support from the medical profession.

The Committee on its visit to Sydney was advised by Dr Basil Donovan, Director of the Sydney Sexual Health Centre who has been working with women and men involved in prostitution over a number of years, that compulsory health checks are in no way as effective as a voluntary program with a co-ordinated program of education in reducing the level of **STDs** among sex workers. At present in New South Wales, where health checks are voluntary, Dr Donovan commented that many sex workers are coming in too often for health checks and that the Centre did not have the facilities to keep pace with the demand.

As mentioned in the introduction, Dr Donovan advised the Committee that the incidence of acute **STD's** had dropped amongst sex workers by up to 90% since the introduction of voluntary targeted programs made possible by decriminalisation in New South Wales. He advised that the only increase in STD's had been amongst illegal Asian prostitutes who were not accessible to preventative programs because of their illegal immigration status.

RECOMMENDATION 26:

**We recommend the regular monitoring of the health of sex workers and believe that the regulatory framework established is the best method of ensuring regular health checks.**

### 3 Year Trial

The Commission saw that it was necessary to assess the operation of the proposed system and therefore recommended:

that either a sunset clause be written into the new legislation or, more appropriately, it to be agreed that the new laws with respect to prostitution be subject to a comprehensive review and report to Parliament within the first three years. The ~~Commission, in association with other relevant~~ agencies, ~~should be involved in such a~~ review. (Report, 1991:234)

We believe that a review process is vital for the continuing success of the framework. We favour that the legislation contain a provision for a comprehensive review within three years to be conducted by all relevant agencies involved with the Registration Board.

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**RECOMMENDATION 27:**

**We believe that a review process is vital to the continuing efficiency of the regulatory framework and therefore endorse the Commission’s recommendation that there be within three years a comprehensive review of the regulatory framework, in consultation with all relevant agencies ` associated with the Registration Board.**

[Original Signed]

Peter Beattie MLA

[Original Signed]

Wendy Edmond MLA

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Joint Statement by Peter ~~Beattie~~ MLA and Wendy Edmond MLA



## APPENDIX A

## Committee Advertisement


**PARLIAMENTARY  
CRIMINAL JUSTICE  
COMMITTEE**
**Call for Public Submissions  
on the Reforms in Law  
Relating to Prostitution**

The Parliamentary Criminal Justice Committee is an all party Committee of the Legislative Assembly of Queensland. Its main functions are to monitor and review the discharge of the functions of the Criminal Justice Commission and to report to the Legislative Assembly on any reports submitted by the Commission.

To assist in its review of the Criminal Justice Commission's report the Committee is calling for written submissions relating to the report from members of the public and interested parties.

The Committee has received copies of all submissions forwarded to the Criminal Justice Commission. It is therefore unnecessary to resubmit a submission made to the Criminal Justice Commission to the Parliamentary Committee. Submissions made to the Parliamentary Committee should relate to the issues raised and recommendations made in the Criminal Justice Commission's report.

Persons wishing to make submissions should do so by 5.00 pm on 28 October 1991.

Submissions should be forwarded to:

**The Research Assistant  
Parliamentary Criminal Justice Committee  
Parliament House  
Cnr George and Alice Streets  
BRISBANE QLD 4000**

Copies of the Commission's report are available from the Criminal Justice Commission, 557 Coronation Drive, Toowong, office hours 9.00am-5.00pm. Enquiries can be made on (07) 360 6060.

Submissions made to the Committee will be treated as public documents unless the Committee determines that confidentiality is required. Requests for confidentiality should be clearly marked.

Enquiries regarding submissions may be directed to the Research Assistant — telephone (07) 226 7244 or facsimile (07) 210 0128.

**PETER BEATTIE, MLA**  
Chairman

H2738C

## APPENDIX B

## Submissions Received

- |   |   |
|---|---|
| <p>1. Mrs M Morgan JP<br/>PO Box 338<br/>STONES CORNER QLD 4120</p> <p>2. Ms C Walker<br/>4 Osprey Court<br/>ALBANY CREEK QLD 4033</p> <p>3. Mr J Slatcher<br/>8 Anthony Street<br/>KINGSTON QLD 4114</p> <p>4. Mr Hans Gugger<br/>134-140 Andrew Road<br/>GREENBANK QLD 4124</p> <p>5. R Morgan<br/>TOOWOOMBA</p> <p>6. J T Cotter<br/>100 Riding Road<br/>HAWTHORNE QLD 4171</p> <p>7. Ms Carmel Petersen<br/>28 Brooke Street<br/>CLAYFIELD QLD 4011</p> <p>8. Mr Ronald Forbes<br/>Colonial Caravan Park<br/>STH TWEED HEADS NSW<br/>2486</p> <p>9. J Wilson</p> <p>10. Mr Michael F Yonwin<br/>29 Leon Street<br/>THORNESIDE QLD 4158</p> <p>11. J G Laurie<br/>4 Elizabeth Street<br/>WITHCOTT QLD 4352</p> | <p>12. Mrs E B Bazley<br/>PO Box 124<br/>MONTQ QLD 4630</p> <p>13. Pastor Herman Steensma<br/>Broadbeach Assembly of God<br/>PO Box 1132<br/>SURFERS PARADISE Q 4217</p> <p>14. Dr Lloyd Sear<br/>2/18 King Street<br/>ROCKHAMPTON QLD 4700</p> <p>15. Mrs Jean Farrell<br/>19 Fitzsimmons Street<br/>GROVELY QLD 4054</p> <p>16. O A D Lanham<br/>109 Leamington Street<br/>NTH ROCKHAMPTON Q 4701</p> <p>17. Mr Sean Farrell<br/>19 Fitzsimmons Street<br/>GROVELY QLD 4054</p> <p>18. Mrs Patricia Farqhar<br/>75 Sunset Road<br/>KENMORE QLD 4069</p> <p>19. Alderman Graham Able<br/>Logan City Council<br/>23 Wattle Street<br/>WOODRIDGE QLD 4114</p> <p>20. Mr S J Clark<br/>13 Braniff Villas<br/>90-92 Boundary Street<br/>BEENLEIGH QLD 4207</p> <p>21. Mr Robert Claire<br/>9 Goolman Street<br/>CHAPEL HILL QLD 4069</p> |
|---|---|

22. Miss C M Petersen  
28 Brooke Street  
CLAYFIELD QLD 4069
23. Mr Rolf Luders  
No 6  
Caravan Park  
East Coast Road  
PT LOOKOUT QLD 4184
24. FORUM FOR THINKERS  
PO Box 777  
NORTH SYDNEY NSW 2059
25. Ms Diana Gilbert  
PO Box 126  
GAYNDAH QLD 4625
26. Mr Ron McCullough  
Mayor of Mount Isa  
PO Box 815  
MOUNT ISA QLD 4825
27. Mrs Patricia Hennessy  
60 Queensport Road  
MURARRIE QLD 4172
28. Mrs Theresa Toomey  
Secretary  
The Australian Family Assoc(Qld)  
169 Goodwin Street  
CURRAJONG QLD 4812
29. Ms Elaine S Long  
67/26 Lower River Terrace  
SOUTH BRISBANE QLD 4101
30. Mr Colin Leung  
29 Camelot Court  
CARLINGFORD NSW 2118
31. Convenor  
The Christian Response Group for  
the Anglican Parish of Sherwood  
c/- 7 Loyal Street  
DARRA QLD 4076
32. Mr B Blumberg MSc  
54 Marriott Street  
COORPAROO QLD 4151
33. N W Melville  
Christian Outreach Centre  
KALLANGUR QLD 4503
34. P J and N Mangan  
45 Hood Street  
SHERWOOD QLD 4075
35. Dr Arnold Jago  
245 Thirteenth Street  
MILDURA VIC 3500
36. Mr John R Hucker  
12 Olsen Street  
TOOWOOMBA QLD 4350
37. Mr Jeffrey R Hoare  
12 Olsen Street  
TOOWOOMBA QLD 4350
38. A L Oetalia  
Old Cleveland Road  
CAMP HILL QLD 4152
39. Mr Denis Galligan QC  
46 Moore Street  
ENOGERA QLD 4051
40. Mrs Suzanne Claire  
9 Goo lman Street  
CHAPEL HILL QLD 4069
41. Mr Richard Dent  
84 Pareena Crescent  
MANSFIELD QLD 4122
42. Reverend L A Maycock LTh  
Enoggera Baptist Church  
PO Box 451  
ALDERLEY QLD 4051
43. signed petitions from various  
citizens

44. Reverend B B Lewis  
Our Lady of Lourdes Parish  
PO Box 17  
COLLINSVILLE QLD 4804
45. Mrs Yvonne Abraham  
Secretary  
St Andrews Lutheran Church  
'Shiloh' m/s 1110  
Thornville via HADEN QLD  
4352
46. Mrs Betty Pierce  
10 Miller Street  
COLLINSVILLE QLD 4804
47. Mrs Ann Reilly  
5 Gardiner Street  
LAWNTON QLD 4501
48. Mrs Alan and Sharon McDermott.  
13 Shea Street  
SCARBOROUGH QLD 4020
49. Mrs Norma Ormsby  
Pastor  
Children's Church  
Christian Outreach Centre  
319 Trouts Road  
MCDOWALL QLD 4035
50. Miss C Goode  
GPO Box 528  
BRISBANE QLD 4001
51. Mrs Susan Dekker  
State Secretary  
The Australian Family Association  
PO Box 429  
FORTITUDE VALLEY Q 4006
52. Mr James B Kelly  
685 Main Western Road  
MT TAMBORINE QLD 4272
53. Mr John Wakely JP  
300 Ernest Street  
LOTA QLD 4179
54. Sr Valerie Healy FMM  
388 Cavendish Road  
COORPAROO QLD 4151
55. Mrs J M Lochland  
53 Hillview Parade  
ASHMORE QLD 4214
56. Mr Steven Travis  
5 Tarwarri Street  
BRACKEN RIDGE QLD 4017
57. Mr Ian Coker  
PO Box 213  
TOOWOOMBA QLD 4350
58. Ms Veronica Mary Tredrea  
Box 130  
Blake Street  
COLLINSVILLE QLD 4804
59. Mr R E Ward  
18 Davidson Street  
NEWMARKET QLD 4051
60. Mr David Travis  
5 Tarwarri Street  
BRACKEN RIDGE QLD 4017
61. Lyn, medical student
62. Ms Bev Charnley  
Post Office Road  
MAPLETON QLD 4560
63. Lindsay J Evans  
1 Little John Street  
DAISY HILL QLD 4127
64. Mr Peter Lane  
Director  
LIBERTY  
15 Eagle Terrace  
TORWOOD QLD 4066
65. Dr Paul L Reynolds  
Associate-Professor  
Reader in Government  
Department of Government  
The Uni of Qld 4072

66. Ms Lesley W Greaves  
3 Ballan Court  
LOGANHOLME QLD 4129
67. Miss C Goode  
GPO Box 528  
BRISBANE QLD 4001
68. J R Allen  
89 Eleventh Avenue  
KEDRON QLD 4031
69. Mrs Del Robertson  
Administrator  
Garden City Christian Church  
PO Box 250  
MT GRAVATT QLD 4122
70. Mr Theo A Cochrane  
2 Weaver Street  
CLONTARF QLD 4019
71. Reverend Peter Breen  
Chairman of Task Force on Public  
Morals Social Concerns  
Wesleyan Methodist Church of  
Australia  
10 Busby Street  
AMAMOOR QLD 4570
72. Dr Ken Smith MSc, PhD, BA,  
MLit.St  
110 White Street  
GRACEVILLE QLD 4075
73. Confidentiality Requested
74. Name unknown, Dalby 4405
75. Mr Paul J Thomas  
Secretary  
Council of Elders  
Chermside Uniting Church  
PO Box 192  
CHERMSIDE QLD 4032
76. Sr Catherine Slattery  
Principal  
Ryan Catholic Community School  
PO Box 97  
THURINGOWA CENTRAL QLD  
4817
77. Ms Marie L Doraismay  
462 Newnham Road  
WISHART QLD 4122
78. Mr George Cook  
Secretary  
Australian Festival of Light &  
Community Standards  
Organisation  
PO Box 392  
ALDERLEY QLD 4051
79. The Venerable Ross Burnett  
Archdeacon of Brisbane  
Chairperson, Social Issues Cttee  
Anglican Church of Australia  
455 Main Street  
KANGAROO POINT Q 4169
80. Sr Edith Edwards  
Convent of the Good Samaritan  
25 Ryan Street  
CHARTERS TOWERS Q 4820
81. Shire Clerk  
PO Box 68  
MACKAY QLD 4740
82. Mr R L Meredith  
28 Trevellor Street  
ROCHEDALE STH QLD 4123
83. Sr Regina  
Convent of the Good Samaritan  
99 Edward Street  
AYR QLD 4807
84. Ms Jean E McDougall  
99 Edward Street  
AYR QLD 4807

85. Sr Mary McDonald SGS  
Director  
PO Box 861  
AITKENVALE QLD 4816
86. Mr Jon Clark  
93 Carinya Street  
INDOOROPILLY QLD 4068
87. M Chapman  
40 Osterley Road  
YERONGA QLD 4104
88. Mr John R Brodie  
67 Chapel Hill Road  
CHAPEL HILL QLD 4069
89. Ms M L Evans  
94 Rankin Street  
INNISFAIL QLD 4860
90. Mr Peter Kennell  
68 Cambridge Street  
MITCHELL QLD 4465
91. G W Moore  
78 Blaker Road  
OXFORD PARK QLD 4053
92. Mr John Atkinson  
3 Pegasus Avenue  
EATONS HILL QLD 4037
93. L D McCall  
181 Blackstone Road  
SILKSTONE QLD 4304
94. Ms Eileen Keegan  
Co-ordinator  
Petrie Community Legal Service  
PO Box 61  
PETRIE QLD 4502
95. Ms Beverley Innis  
136 Goonawarra Drive  
MOOLOOLABA QLD 4557
96. Mr John R Boyce  
117 Bellevue Avenue  
GAYTHORNE QLD 4051
97. Mr G King  
President  
Baptist Family of Churches in  
Queensland  
The Baptist Union of Queensland  
PO Box 55  
BROADWAY QLD 4006
98. Ms Shirley McPherson  
46 Lowanna Drive  
BUDDINA QLD 4575
99. T G Jones  
Secretary  
72 Owens Crescent  
BROWNS PLAINS QLD 4118
100. Mr Michael Szabo  
5 Ralph Street  
CLONTARF QLD 4019
101. J H Cairns  
108/159 Muller Road  
BOONDALL QLD 4034
102. Lane and Sonja Strathearn  
23 Griffith Road  
SCARBOROUGH QLD 4020
103. Ms Sally Jones
104. Ms Toni Rogers
105. Ms Jenny Lucas  
27 Saunders Street  
INDOOROPILLY QLD 4068
106. Dr Steven S C Lai  
Medical Director  
Steven Lai (Medical) Pty Ltd  
12 Cinderella Drive  
SPRINGWOOD QLD 4127

107. Mr Ross McKim  
c/- 880 Priestdale Road  
ROCHEDALE QLD 4123
108. Yu-Min Lai  
12 Cinderella Drive  
SPRINGWOOD QLD 4127
109. B N McCook  
28 Crawford Road  
CHELMER QLD 4068
110. Dr Peter Fung  
Medical Practitioner  
7 Metropole Street  
ROBERTSON QLD 4109
111. Ms Elizabeth Waters  
3 Ballan Court  
LOGANHOLME QLD 4129
112. Mr Don Carpenter  
41 Main Street  
ROCKHAMPTON NTH Q 4701
113. Ms Sandra Cameron  
Convenor  
Women's Electoral Lobby  
PO Box 5  
RED HILL QLD 4059
114. The Reverend G J Nicholson  
Deputy Clerk  
Queensland State Assembly  
The Presbyterian Church of  
Queensland  
PO Box 286  
BROADWAY QLD 4006
115. Drs Preston and Jordan  
Unit for Applied Ethics and  
Human Change  
QUT, Carseldine  
PO Box 284  
ZILLMERE QLD 4034
116. N R Newnham  
Commissioner  
Queensland Police Service  
Commissioner's Office  
100 Roma Street  
BRISBANE QLD 4001
117. Reverend J McNicholl  
"Arklow"  
DULACCA QLD 4425
118. O Stewart  
The Staff Bible Fellowship  
c/- The Chaplaincy Centre  
The University of Queensland  
BRISBANE QLD 4072
119. Dr Diana Lange  
Chief Health Officer  
Office of the Exec Dir (Public  
Health Serv) & Chief Hlth Officer  
Queensland Department of Health  
GPO Box 48  
BRISBANE QLD 4001
120. Ms Delma Garrett Benson  
PO Box 2188  
TOWNSVILLE QLD 4810
121. The Town Clerk  
Toowoomba City Council  
PO Box 3021  
Town Hall Post Office  
TOOWOOMBA QLD 4350
122. Fortitude Valley Business  
Association Ltd  
PO Box 606  
FORTITUDE VALLEY Q 4006
123. Mr Bill Rutkin  
President  
Queensland AIDS Council Inc  
PO Box 548  
WOOLLOONGABBA Q 4101

124. C Shepherd  
62 Henzell Street  
KIPPA RING QLD 4021
125. Mr D Gregory  
35 Bruce Road  
WOODRIDGE QLD 4114
126. Mrs Jaime Strauss  
Sexual Counselling Services  
60 Alpine Terrace  
MT TAMBORINE QLD 4272
127. Miss Cassandra Kwitt  
2398 Wynnum Road  
WYNNUM QLD 4178
128. Ms Karin Welch  
13/53 Duet Drive  
MERMAID WATERS Q 4218
129. Mrs Sylvie Johnson  
86 Hypake Street  
CHINCHILLA QLD 4413
130. Mr Peter C McCarthy  
168 Auckland Street  
GLADSTONE QLD 4680
131. Misses Dixon, Redfern & Maurer  
c/- 129 Bridge Street  
TOOWOOMBA QLD 4350
132. Mr Rod Roles  
15 Kennedy Esplanade  
SCARBOROUGH QLD 4020
133. Phillip and Alison Young  
c/- Concerned Citizens' Group  
PO Box 445  
MT GRAVATT QLD 4122
134. G T Hoffman  
Executive Director  
The Local Government  
Association of Qld (Inc)  
PO Box 130  
NEWSTEAD QLD 4006
135. Mr David J Grace  
President  
The Aust Family Assoc (Qld)  
PO Box 429  
FORTITUDE VALLEY Q 4006
136. Ms Iris Retchless  
c/- SQWISI Law Reform  
Committee  
PO Box 5689  
WEST END QLD 4101
137. Ms Linda Banach  
Women's Legal Service  
PO Box 446  
WEST END QLD 4101
138. Mr Ernest J Whipsnade Esq  
PO Box 716  
BROADBEACH QLD 4218
139. Ms Natalie Hamilton  
Gold Coast Sex Workers  
PO Box 5689  
WEST END QLD 4101
140. Sir Robert Sparkes  
Carrick Ashmead Services Pty Inc  
(Qld)  
PO Box 297  
DALBY QLD 4405
141. signed petitions from various  
citizens
142. Ms Joan Trewern  
Representative  
Womens' Electoral Lobby Cairns  
18 Valmadre Street  
LAKE PLACID QLD 4878



## **APPENDIX C**

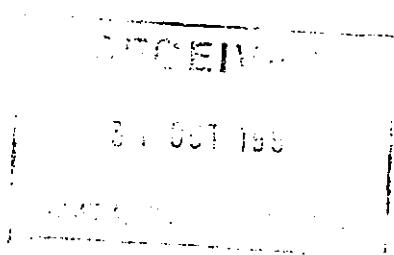
### **Persons and Organisations with whom the Committee Consulted**

#### **Melbourne**

1. Professor Marcia Neave
2. Dr Linda Hancock
3. Mr Andrew Hunter - Scarlet Alliance
4. Ms Sheryl Overs - Scarlet Alliance
5. Melbourne City Council
6. Prahan Municipal Council
7. Ms Patricia Wakely - Senior Policy Analyst of the Department of Planning and Housing
8. Ms Bebe Loff - Health Department
9. Victorian Vice Squad
10. Michelle and Melissa - The Daily Planet, a Legal Brothel in St Kilda
11. St Kilda Mayor
12. Camberwell Council
13. Prostitutes Collective

#### **Sydney**

1. Mr Peter Collins - Attorney General New South Wales
2. New South Wales Vice Squad
3. Dr Basil Donovan - Sydney Sexual Health Centre
4. Dr Sandra Egger - University of NSW Law School
5. Sex Workers Outreach Centre
6. South Sydney City Council
7. Dr Ingrid Van Beek - Kirketon Road Medical Centre



AUSTRALIAN  
INSTITUTE OF  
CRIMINOLOGY

AFFILIATED WITH  
THE UNITED NATIONS

24 October, 1991

Mr Tony Woodyatt  
Research Director  
Parliamentary Criminal Justice Committee  
Legislative Assembly  
Parliament House  
George St  
BRISBANE QLD 4000

Dear Mr Woodyatt

Following your recent request for an independent opinion from the Australian Institute of Criminology (AIC) about the validity of the public opinion surveys conducted in association with the Queensland Criminal Justice Commission's Report on Prostitution, I am pleased to forward to you with this letter comments on these surveys by Mr John Walker, a Senior Criminologist here at the Institute, who is in charge of our statistical services.

I do hope that these comments meet the needs of your Committee. Please do let me know, or Mr Walker directly, if you have any further queries that you would like to have answered. The Institute, and Mr Walker, is quite happy for your Committee to use these comments in any way you see fit, including publishing them as part of your proceedings.

Although the Institute normally performs services of this type on a fee for service basis, we are, on this occasion, pleased to offer these comments to your Committee without charge. We would, of course, appreciate an acknowledgement of this contribution.

Sincerely

  
Duncan Chappell  
Director

4 MARCUS CLARKE STREET  
CANBERRA ACT  
GPO BOX 2944  
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TELEPHONE (06) 274 0200  
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TELEX AA61340

## Comments on Public Opinion Survey on Prostitution in Queensland

The results of the survey, conducted by Reark Research Pty Limited on behalf of the Queensland Criminal Justice Commission, were quite significantly on the side of decriminalising and regulating brothels.

These results appear to have been received sceptically in some quarters, with an editorial in the Courier Mail (4. 10. 91) describing the survey as 'complete with exhaustive, though rather suspect, public opinion sampling'. The Premier Mr Goss was reported to have been sceptical of the survey, believing that the survey had found that 'significant numbers of people would be happy to have a prostitute next door' (The Australian 4. 10. 91).

Surveys attempting to show what opinions are held by the general population, or in this case the adult population, carry risks when they are, for cost reasons, based on small samples of the population. The types of risks are well-known and include the following:

1. *The sampling method* may result in a sample which is not representative of the general population, so the results may be biased one way or the other.
2. For various reasons, even if the *intended* sample was fair, *the achieved sample* may be biased if significant numbers of intended respondents are unable or unwilling to participate in the survey.
3. Even where the achieved sample is representative of the population in general terms, it may not be genuinely representative in terms of the specific interests of the survey. This is called *sampling error* and can be estimated from the sample size and response.
4. *The questions asked* may be worded or ordered so as to favour a certain response, whether by accident or by design.
5. The results can be misinterpreted, particularly where the questions have been inadequately designed.

I attach my comments on the Queensland survey in respect of each of these five types of risk.

### 1. The Sampling Method

In this case, the choice of randomly selected telephone subscribers obviously biases the survey against those households which do not have telephones, and in favour of those who have more than one entry in the telephone directory. Nevertheless, particularly where costs are a major

of 3% which means that something like fifty of the more than 1500 subscribers contacted in Queensland must have refused to be interviewed. In the highly unlikely event of these fifty having similar views, then they could swing the balance in questions where the size of the 'yes' vote differed from 'no' vote by less than three per cent. **Conclusion:** Again, because of the clear-cut nature of the survey results this does not appear to be a problem.

### 3. **Sampling Error**

The survey report is based on a total sample for Queensland of over 1500. Even when disaggregated, the number of respondents in each age, sex or geographically-based category is greater than 100 in every case. For a sample size of 1500, where as few as 5% of respondents to a particular question select a given response, the sampling error is likely to be of the order of 1.1%, i.e. the 'real' proportion who would have selected that response almost certainly (with 95% confidence) lies between 3.9% and 6.1%. For questions where the response is between 20% and 80% - which covers most of the questions asked in this survey, the margin of error lies between  $\pm 2.0\%$  and  $\pm 2.6\%$ . Again, the clear-cut nature of the results suggest that sampling error is not a problem.

The tables appear to indicate with + and - symbols which categories of respondents differ from the overall response to a statistically significant extent. However, no explanation of these symbols is given to assist the lay reader, who may therefore be forgiven for a little confusion and suspicion.

**Conclusion:** The report could have given a little more help to readers to understand the results, but again the results are so clear-cut that sampling errors do not present a problem.

### 4. **The Questions Asked**

It is always difficult for the researcher to know precisely how people will interpret certain questions. This is why questionnaires are 'pilot-tested' prior to an actual survey. It is also necessary to introduce a topic in such a way that the interviewee is clear about the subject matter. The survey was pilot tested - Reark have a good name in opinion surveys and would not wish to tarnish it by conducting a half-baked survey. Equally, the questions on 'whether the respondent believed that prostitution existed' served as a very sound introduction to get the respondent thinking about the topic. Subsequent questions appear to address the key issues of what should and should not be legal, who should be responsible for regulation and what regulations are necessary. Most questions are clear, easy to understand, and produced clear-cut responses. For example, the sale of sex from a brothel was 'approved of' by a majority of two to one. The sale of sex from home was disapproved of by a clear 53:42 margin. There can be little doubt about

the validity of the conclusions the Report draws from questions such as these.

I found three questions potentially vague. Fortunately, these were not key questions. Firstly, to ask whether it should be illegal 'for the owner/landlord of a premises to let it be used for prostitution' begs the question 'under what circumstances?' Should it be totally illegal or should it be illegal except under proper regulation in an appropriate location? What does a Yes response mean in answer to this question - that it should be illegal in ALL circumstances or only in some circumstances? The question seems to be asking if it should be totally illegal, and the wording can be interpreted in the current climate, as even suggesting some illegality in the leasing process. It therefore seems designed to elicit a Yes response. I suspect respondents may have made a range of assumptions about what this question really means.

The questions on advertising and living off the earnings are also vague. What sort of advertising? Prime-time TV or the Personal columns of newspapers? In this case a No response would suggest to some people that ALL forms of advertising should be legal, including those accessible to children. What do people understand by 'live off the earnings'? It is an emotive phrase full of negative connotations: no-one describes a housewife as 'living off the earnings' of her working spouse, nor do we criticise the managers of international tennis stars for 'living off the earnings' of their tennis players. Each of these questions received a majority vote that they should be *illegal*. I believe that with more precise and, in the case of living off the earnings, less emotive wording a different result might have occurred. It is illogical for two thirds of respondents to believe that selling sex from a brothel should **not** be illegal, and for two thirds also to believe that it should be illegal under all circumstances to let premises be used for prostitution.

**Conclusion:** With some minor reservations about the vagueness of some of the less important questions, I feel that the questionnaire has been fairly and properly designed.

## 5. Interpretation of Results

The results are generally so clear-cut that none of the potential errors, inaccuracies or misconceptions could upset the conclusions they inspire. It is difficult therefore to agree with the Courier Mail (4.10.91) editorial which suggested that the survey should be regarded as 'rather suspect'. No supporting information was presented as to why the editorial found the survey suspect, and one can only assume that the results merely surprised and went against the preconceptions and prejudices of the editor. Equally, Mr Goss's scepticism, as reported in the Australian (4.10.91) appears to be based, not on suspicion of the survey techniques, but on his own mis-interpretation of the results. The results cannot be interpreted as indicating

that 'significant numbers of people would be happy to have a prostitute next door'. On the contrary, over half of all respondents said that selling sex from home should be illegal. The results suggest instead that significant numbers of people would be happy with properly regulated prostitutes selling sex in properly regulated brothels in designated zones. This is quite different from Mr Goss's interpretation.

**Conclusion:** The Report has presented a balanced interpretation of the results.

### **Summary**

The survey appears to have been designed, carried out and analysed in a perfectly professional way, and the conclusions drawn from it appear to be strongly supported by the survey results. Sample surveys conducted by telephone cannot be regarded as 100% accurate, but the causes of error are well-known and have been, by and large, minimised by the survey team. This reviewer would like, for the sake of completeness, further work to be done to identify the opinions of those groups undercounted by the survey methodology, but there is no doubt that the results and conclusions would not be overturned by this. In view of the costs involved it is unlikely that this extra work could be justified.

John Walker,  
Senior Criminologist.  
17.10.91



1 November 1991

Mr Tony Woodyatt  
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Parliamentary Criminal Justice Committee  
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DR. DON WEATHERBURN  
Director

In reply please quote

2.2

Dear Mr Woodyatt

Thank you for inviting me to comment on the validity of the public opinion surveys conducted for the Criminal Justice Commission's inquiry into prostitution in Queensland.

I enclose a report providing comments as requested.

Yours faithfully

Dr Don Weatherburn  
DIRECTOR

**COMMENTS ON THE SURVEY OF PUBLIC ATTITUDES REPORTED IN  
'REGULATING MORALITY?  
AN INQUIRY INTO PROSTITUTION IN QUEENSLAND'**

**Introduction**

This report has been prepared in response to a request from the Research Director of the Queensland Parliamentary Criminal Justice Committee, to comment on the validity of the public opinion surveys reported in Chapter Four of the Criminal Justice Commission report, *Regulating Morality? An Inquiry into Prostitution in Queensland*.

Comments are offered on two aspects of the report of the survey:

- (1) the survey methodology
- (2) the presentation and interpretation of the findings in the Criminal Justice Commission report.

**Comments on survey methodology**

The survey consisted of completed telephone interviews from 1833 respondents, approximately 300 each from Melbourne and five regions in Queensland.

Telephone numbers were selected at random from the Telecom CD-ROM *White Pages* directory listings. Within Melbourne and the five Queensland regions, telephone numbers were proportionally sampled from the listings in cities, provincial towns and regions. One adult respondent was randomly selected from each household contacted by telephone.

Quotas were imposed to achieve at least 300 completed interviews in each of the six regions and a 50:50 male to female ratio. The results were post-weighted for age and sex for the areas surveyed.

The total sample size of 1533 in Queensland was large enough to provide sufficiently precise estimates. However other aspects of the sampling method require comment.

The first point to note is that within each of the regions sampled, namely Melbourne, Brisbane, South East Queensland, Western Queensland, Central Queensland and Far North Queensland, each telephone number had an equal probability of being selected in the sample. However, within the whole of Queensland this was not the case as the five Queensland regions do not have equal populations.

Selecting equal sized samples from each region is acceptable if the purpose of the survey was to compare responses from the different regions. If, however, the primary purpose was to measure the opinions of all Queenslanders it would have been preferable to sample proportionally from each of the Queensland regions.

The selected sample does however allow valid comparisons between regions and further, the results for Queensland as a whole are appropriately weighted according to the size of the population in each of the five Queensland regions. For accuracy, the population figures used for



weighting the regional responses should be populations of persons aged 18 and over, not total populations. The report does not specify whether or not this is the case.

It is claimed that the Queensland sample is representative of the population of Queensland adults. This statement may not be true. First of all it is representative only of those adult Queenslanders who can be reached by a telephone number listed in the Telecom *White Pages*. There are also two other potential sources of bias in the methodology used.

The telephone numbers were randomly selected and within each household a respondent was selected at random. However, the method of quota sampling required continued selection of phone numbers and respondents until the quota of completed interviews was reached. The report gives no information on the number of phone calls where there was either (1) no response or (2) a refusal from the selected member of the household. If the opinions of those respondents who were not at home or refused to be interviewed are different from those of the respondents included in the sample, then the sample may be biased.

Another possible source of bias may result from the fact that only one respondent was selected from each telephone call made. This could lead to an over-representation of respondents from small (one or two person) households in the sample. Again, if the views of adults from small households are different from the views of adults from larger households then the sample may be biased. This source of bias could have been eliminated by weighting each response by the number of members of the household aged 18 and over. There is no indication that this was done.

Post-weighting the sample by the age and sex distribution of the region would not remove any bias relating to size of household.

In summary, the sampling method did not guarantee obtaining a sample representative of the population of Queensland adults.

In fairness, though, it must be added that telephone polling using this sampling methodology is a widely used and broadly accepted method of conducting opinion polls.

#### **Comments on presentation and interpretation of findings**

As with all such surveys the findings need to be interpreted with knowledge of the precise form of the questions asked. The Criminal Justice Commission report provides the questionnaires for the Queensland and Melbourne surveys in Appendices III and IV.

In general the presentation and discussion of the findings is sound and supported by the results given. There are, however, a few instances where the statements made are either a little careless in expression or consist of speculation unsupported by the reported questionnaire responses.

- On page 52, in the paragraph directly under Table 4.1, the report refers to 'just over a quarter of those who do not have approved brothels in their area'. To be strictly accurate the statement should refer to 'just

over a quarter of those who answered NO to the question "Do you have approved brothels operating in your area?".

- Care is required in interpreting the Figures presented on pages 53 to 55. The percentages refer only to those who responded that they believed prostitution exists in their town/city.

- There is a statement at the top of page 71 which reads:

With the exception of Queenslanders from the far north region, generally, a slender majority of them and residents of Melbourne agree that prostitution should be regarded just like any other occupation.

This statement may lead one to think that the majority of Queenslanders from the far north region disagree. In fact Table 4.10 shows that 57% of respondents from this region agree or strongly agree with the statement 'prostitution should be regarded as an occupation just like any other'.

- In the first paragraph of the *Summary* on page 73 there is a statement:

Women respondents were very candid about their view that prostitution should not be regarded like any other profession.

There is nothing in the survey to indicate whether female respondents were more candid in their views than other respondents. What is meant here is that only 45% of women, compared with 64% of men, agreed with the statement 'prostitution should be regarded as an occupation just like any other'.

- On page 75 it is reported that, when respondents in Melbourne were asked which agency should have responsibility for enforcing regulations, 24% said the local council should be responsible and 52% said the police should be responsible. In Victoria local councils do have responsibility for enforcing prostitution regulations. The survey finding is therefore interpreted thus:

... there is a perception in the community that these councils are not doing as good a job as would the police.

This conclusion is not justified given that the survey did not ask Melbourne respondents whether they were satisfied with the enforcement of regulations by local councils or even whether they were aware that local councils already had this responsibility.

- On page 79 there is the statement:

A majority of Queenslanders will probably have no encounter with sex workers in their lifetime, and as such do not appear to show much interest in the topic.

It is not clear on what basis this assertion about the lack of interest in the topic is made.

- Again on page 79, it is shown in Table 4.15 that for the Melbourne sample 60% of those, who thought it should be against the law for a person to sell sex from a brothel, said that licensing and registration of brothels would be acceptable. However the statement starting at the bottom of page 79 says:

Two out of five of those who wanted selling sex from a brothel to be against the law found licensing and registration of brothels unacceptable . . .

This conclusion can only be true if the 40% complement of the 60% reported in the table, all answered that licensing and registration of brothels was unacceptable, that is there were no 'don't know' or 'neither acceptable nor unacceptable' responses.

A final comment on the interpretation of the results is that conclusions can only be based on the questions asked. When asked 'if prostitution-related activities were no longer to be against the law, which of the following regulations would be acceptable to you', 88% of Queenslanders said that licensing and registration of prostitutes would be acceptable to them. It cannot be concluded from this finding that 'significant numbers of people would be happy to have a prostitute next door', as was concluded in one of the media reports. The survey did not ask respondents if they would be happy to have prostitutes next door.

### Summary

The sample selected was sufficiently large to measure the opinions of Queenslanders. However, the method of selecting the sample did not guarantee a sample representative of all Queenslanders. The sample selected was representative only of those who were at home and willing to be interviewed at the time of the telephone contact. Further, members of small households had a higher probability of being selected in the sample than did members of large households, as only one person per household was interviewed.

With a few minor exceptions, the conclusions drawn from the survey findings are valid.

From the information given in the report it is not possible to assess the effect of any bias resulting from the sampling method. Nevertheless it is unlikely that any such bias would be sufficiently large to invalidate the major conclusions of the report.

## APPENDIX E

### Summary of CJC Recommendations

The Commission recommends that:

- the criminal law should be strengthened to apply with vigour to areas such as street soliciting, prostitution-related activities involving children and disadvantaged groups, activities which involve coercion and/or intimidation, and explicit and offensive advertising;
- consideration ought to be given to making it an offence to be a person capable of exercising lawful control over premises in which a child participates in an act of prostitution;
- for the purposes of the regulatory framework and to reduce the risk of serious criminal involvement there be two categories of sex workers:
  - the individual sex worker operating from his or her home;
  - an organisation involving no more than 10 people, regardless of whether it operates as a brothel, escort agency, co-operative or any other form of organization which offers sexual services;
- the self-employed individual sex worker be permitted to operate from his/her home, subject to local authority planning provisions;
- organizations involving two to 10 persons be permitted to operate from premises either as a brothel, escort agency, co-operative or any other form of organization offering sexual services subject to approval by the Local Authority and a Registration Board;
- a state-wide set of guidelines be developed for all Local Authorities to which they must have regard when considering any grant of approval for the operation of a proposed business. The guidelines should cover such matters as the size of the proposed business, hours of operation, proximity to residential areas, churches, schools, community facilities, businesses, etc.;
- a Registration Board be established to regulate and monitor the operation of organisations comprising two to 10 persons with a view to ensuring that there is no criminal involvement in the sex industry, maximising the safety, self-determination, and employment conditions of workers in the industry and ensuring that all workers and the premises from which they are working are accessible to health workers and other social service providers;
- the Registration Board should be comprised of a representative from Queensland Health (formerly the Department of Health), the Queensland Police Service, the Local Authority (this should be an elected representative), the Criminal Justice Commission, sex workers, and the Workplace Health and Safety Division of the

Department of Employment, Vocational Education, Training and Industrial Relations. An independent senior legal practitioner should be appointed as Chairperson of the Board.

- the Registration Board should be responsible to the Minister for Health;
- the Registration Board should have the overall role of regulating and monitoring the prostitution industry. It should have the following functions:
  - to investigate the suitability of persons involved in the industry, and approve "acceptable person";
  - to issue certificates of registration for premises from or at which sex workers are operating;
  - to issue certificates for registration to owner/operators of registered premises;
  - to maintain a record of workers in the industry;
  - to establish and oversee an Inspectorate to service the Board;
  - to ensure compliance with the regulations;
  - to investigate and determine complaints;
  - to promote the health and welfare of workers and clients by:
    - establishing a Code of Conduct within the industry;
    - actively educating workers, clients and the community at large as to the health issues associated with the industry;
    - to recommend legislative change where appropriate; and
    - to report annually to Parliament;
- the Registration Board should vet all applicants and seek to:
  - determine who is the person controlling the operation;
  - determine who is the owner of the premises;
  - determine the number of persons who will be working on the premises, and the names of those persons;
  - determine the nature of the work relationship of each person who is to be working at those premises; and

- determine how the business has been financed, and by whom.
- in the Registration Board's determination of who is an "acceptable person" the Board shall have regard to the following matters:
  - convictions for any indictable offences;
  - whether the person has an association with known criminals;
  - whether the person has previously breached any provisions of this regulatory legislation; and
  - any other matters which the Board thinks relevant;
- in its process of vetting, the Registration Board should have access to criminal intelligence from the Queensland Police Service and the Criminal Justice Commission. A confidentiality provision should apply to the Registration Board.
- a registration fee be payable on certification which is renewable annually in order to generate funds to contribute toward the cost of regulating the industry;
- the Registration Board at all times should have the power to cancel registration for sufficient reason;
- the Inspectorate should be staffed from officers of the appropriate departments represented on the Registration Board. Staff should be rotated regularly back to their departments to minimise the potential for corruption;
- the role of the Inspectorate is to ensure compliance of all sectors of the industry with the requirements of the Registration Board. Under this scheme offences should be created for breaches of the regulations. In particular it should be an offence:
  - for an operator to operate unregistered premises; - for a worker to work knowingly from or at an unregistered premises;
  - for a client to use the services provided from unregistered premises; and
  - for breaches of regulations applying to registered premises.
- advertising should only be permitted if discreet and should comply with guidelines set down by the Registration Board. All advertisements must display the registration number of the premises and must not seek to recruit sex workers into the industry.