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CASE REPORT

Current as on: February 10, 2009

Table with 2 columns: Case Name, Reported in, Date(s), Court/Jurisdiction, Charges, Other accused. Row 1: R v O'Keefe, R v O'Keefe (1999) 20 Qld Lawyer reps 97; (1999) DCQ 10/06/1999, 1999, District Court, Queensland, s 229H Criminal Code (Qld): Knowingly participating in the provision of prostitution, s 229I Criminal Code (Qld): Persons found in a place reasonably suspected of being used for prostitution etc, O'Keefe, Stewart, Olivia Edson, Sharon Patten, Lisa Reardon, Anna Pinchen

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Case Facts

Mr O'Keefe was responsible for organising the adult entertainment that was provided in the public bar of the Mansfield Hotel. He was assisted in this by Mr Stewart. They were both charged with being persons found in places reasonably suspected of being used for prostitution under s 229I *Criminal Code* (Qld), and being knowingly involved in the provision of prostitution under s 229H.

The performers, Ms Olivia Edson, Ms Sharon Patten, and Ms Lisa Reardon, as well as an employee of the hotel, Ms Ann Pinchen, were also charged under s 229I. It was alleged that the performers exposed and manipulated their own genitals, as well as those of other performers. Also, various props, such as chairs, candles and whips were used throughout the show. There was never any physical contact between the performers and clients.

Prosecution

While the Crown admitted that a striptease in and of itself would not meet the definition of 'sexual act' under s 229D *Criminal Code* (Qld), the Crown asserted that the manipulation by one performer of the genitals of another amounted to prostitution, as s 229E did not require the recipient of the sexual act to provide the remuneration.¹

However, it was held that Chapter 22A *Criminal Code* (Qld) was not directed towards suppression of adult entertainment.² The presiding judge distinguished between lewd adult entertainment and prostitution, noting that the entertainment was aimed at 'selling beer, not girls'.³ He further noted that where the act referred to prostitution being between one person and another, that 'other' was properly constructed to mean the client and not a co-performer,⁴ and as the client received no sexual gratification in witnessing a striptease, an offence under Chapter 22A could not be made out.

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¹ This case was heard before s 229E was amended by the *Prostitution Act 1999* (Qld), No 73 of 1999. Former s 229E provided at the time that '(1) A person engages in "prostitution" if a person engages in a sexual act with another person under an arrangement of a commercial character'.

² *R v O'Keefe* (1999) 20 Qld Lawyer reps 97 at 99.

³ *R v O'Keefe* (1999) 20 Qld Lawyer reps 97 at 102.

⁴ *R v O'Keefe* (1999) 20 Qld Lawyer reps 97 at 99.