

POISONS AMENDMENT (CANNABIS FOR MEDICAL AND COMMERCIAL USES) BILL 1999

Introduction and First Reading

Bill introduced, on motion by Hon Christine Sharp, and read a first time.

Second Reading

HON CHRISTINE SHARP (South West) [9.50 pm]: I move -

That the Bill be now read a second time.

This, the second of the twin Bills that I am second reading tonight, does two things: First, it sets up a system whereby general practitioners are able to recommend to the Commissioner of Health that particular patients be permitted to use cannabis to relieve specific ailments. With the commissioner's consent these patients will be allowed to obtain or grow a specified amount of cannabis for their medicinal use. The very fact that a general practitioner makes a recommendation that must then be scrutinised by both the commissioner and the Poisons Advisory Committee provides a guarantee that cannabis will be authorised only for those with a legitimate need.

The core issue in this section of the legislation is the removal of criminal penalties for patients who use cannabis medicinally. It is important to recognise that this legislation is not about making a "new drug" available, but rather about protecting from arrest and imprisonment those patients already using cannabis, as well as the doctors who recommend it.

Cannabis has known therapeutic values as has been known for thousands of years. It is believed that the first recorded evidence of its medical use was in a Chinese herbal, during the reign of the Chinese Emperor Chen Nung, 5 000 years ago.

Through the classical and Hellenistic eras it was noted by Galen and other physicians that cannabis was a remedy for various illnesses. It was also recorded in most of the English dispensaries published during the 1600s to 1700s. In the period 1840 to 1900 more than 100 papers were published within western medical literature citing a varied range of ailments for which cannabis was useful. Even Queen Victoria was given cannabis by her court physician.

Now coming right up to date, the medicinal use of marijuana has gained considerable attention in Australia since the judgment last month of the Queensland Supreme Court. In this, Justice Alan Demack ruled that the use of marijuana for pain relief was acceptable despite the drug being illegal. This ruling has set an important precedent challenging the statutes across Australia.

The idea of the Western Australian Bill is to clarify that using marijuana for pain relief in conditions such as multiple sclerosis, glaucoma and the relief of the nausea induced by chemotherapy is permissible if prescribed by a doctor. It rectifies the problem currently facing patients for whom standard, legal drugs are not safe or effective. At present these patients must either continue to suffer or obtain cannabis illegally and risk criminal conviction as well as the possibility of obtaining cannabis that has been chemically adulterated. The aim of this new legislation is to arrest suffering, not patients.

The following quotes are from two highly respected medical journals. The first two are from the *British Medical Journal* of 4 April 1998, and I quote -

The BMA recommends that the government should amend the Misuse of Drugs Act to allow cannabinoids to be prescribed in a range of medical conditions . . .

And again -

The BMA is not alone in arguing for enhanced access to cannabinoids . . . Others include the Royal Pharmaceutical Society, the previous president of the Royal College of Physicians, and many British doctors.

The *Journal of the American Medical Association* of 21 June 1995 suggested -

Marijuana is also far less addictive and far less subject to abuse than many drugs now used as muscle relaxants, hypnotics, and analgesics.

The legislation thus acknowledges that for some patients cannabis is actually more effective than other drugs. The medical profession is well aware that the "most" effective drug for one person might not work at all for another person. This is why so many different drugs are on the market to treat the same ailment. People respond differently to medicines. Cannabis and patients' reactions to it are no exception.

I quote again from a letter I received from Emeritus Professor Pennington, who chaired the 1996 Drugs and our Community Inquiry for the Victorian Premier's Drug Advisory Council, in which he states -

Many aspects of public policy in relation to the current illicit drugs have enormous inconsistencies and are quite illogical. Whilst for centuries, the medical profession has used various derivatives of opium, including morphine, codeine and the related compound pethadine for the relief of pain and other aspects of suffering, heroin remains an illicit drug. We have still not allowed the development of drugs derived from marijuana for the relief of nausea, muscle spasm, pain and other symptoms of suffering in disease conditions such as terminal carcinoma, AIDS, multiple sclerosis or even glaucoma. Marijuana is far less addictive than any of the opioid derivatives and I am delighted that you are proposing a sensible and logical approach to this problem which is long overdue.

This section of the Bill will break new legislative ground in Australia, although it follows the example of approximately 36 American state laws and the findings of an extensive inquiry by the British House of Lords.

Finally, the Poisons Act Amendment Bill sets out to legalise the commercial production of low THC cannabis for hemp. This section of the legislation is based, with only minor changes, on the Victorian statute, Drugs, Poisons and Controlled Substances Amendment Act 1997, which contains a rigorous system for the scrutiny of hemp crops to prevent illicit substitution with high THC cannabis.

Just as the medical uses of cannabis have been known throughout history, so too has the use of industrial hemp. I will read to the House an extract from the report "Legislative Options for Cannabis Use in Australia" by the Australian Institute of Criminology. Under the heading in chapter 3 "Cannabis in history" is the following -

Its major use in Europe during the Middle Ages and into the time of the colonial expansion of the European powers was to produce ropes and cordage - especially for ships' rigging and anchor ropes. In Italy, hemp was a major crop, particularly important in establishing states such as Venice as seafaring powers. The Venetians operated a state-run hemp factory as a way of achieving quality assurance. The historical importance of hemp is evidenced by a decree issued by Henry VIII in 1533 that 'for every sixty acres of arable land a farmer owned, a quarter acre was to be sown with hemp. The penalty for not doing so was to be three shillings and four pence'. . . During the 17th century Indian hemp was the basis of the American Colonialists' trade and commerce, and so great was the need

to equip the British Navy that James I issued a Royal Decree to instruct colonialists to increase their hemp production'.

The United States census of 1850 counted 8 327 hemp plantations, with a minimum acreage of 2 000 acres each, growing hemp for cloth, canvas and cordage. It also informs that Benjamin Franklin started one of America's first paper mills with hemp, which allowed America to have a free colonial press. There was important revolutionary significance in not having to beg or justify paper from England.

[Leave granted for the House to continue to sit beyond 10.00 pm.]

Hon CHRISTINE SHARP: I have carefully studied the outcome of the Western Australian hemp growing trials. The Minister for Agriculture is to be congratulated on initiating those trials. The results of the WA trials, which began two and a half years ago, indicate that more work needs to be done before hemp production could be commercially viable in Western Australia. We need to test a wider range of seed provenances, because those used were from France and Holland only; to extend the range of the trials to the northern part of the State; and to develop a range of product feasibility studies. Hemp clothing, like the dress I am wearing, is only one aspect of a wide range of environmentally friendly products which can be manufactured from hemp, such as medium-density fibreboard and paper. Hemp paper is especially important. It was used for centuries due to its exceptional durability. That long durability is not the case, by the way, for our chlorine-bleached paper, which is causing a crisis in libraries throughout the world as books are starting to disintegrate. Interestingly, according to the North American Industrial Hemp Council, BMW is currently experimenting with hemp materials in automobile bodies in order to make cars more recyclable.

Greens (WA) are aware of enormous popular support for exploring the potential of the industry. Removing legislative impediments is an important step on that course.

The definition of low-THC cannabis in the legislation means that cannabis, the leaves and the flowering heads do not contain more than 0.35 per cent of THC. That level has been used in the Western Australian trials and it also has been set in the Victorian Statute. The legislation contains provisions for a police clearance to be obtained for any person applying for an authority to cultivate hemp, and the Minister for Agriculture has the ability to demand any information required to determine that an applicant is a fit and proper person to be given an authority. The minister is prohibited from issuing that authority if the applicant has been convicted of a serious offence in the 10 years preceding the application. The authority to cultivate hemp will also take into consideration the suitability of the applicant's property in relation to location, soil types and available facilities. The authority, when issued, will cover a period of five years and it may be renewed at the end of that period.

A new section 5A will be inserted into the Poisons Act which will exempt from the operation of the Act certain processed products made from cannabis or cannabis seed which do not impose a drug risk. New part IVA empowers the minister to authorise any person holding a position under the Public Sector Management Act or any other appropriately qualified person to be an inspector for the purposes of the new Act. It also gives inspectors general and wide powers to determine whether hemp crops have been grown in accordance with the Act.

As members will have realised in listening to this outline, this cannabis law reform package has been formulated very carefully. I have been very conscious of the Court Government's conservative approach to these issues and, quite frankly, they are conservative Bills designed precisely as a step forward that any Government can take with confidence. They will put our cannabis laws alongside those of the conservative Government of Premier Jeff Kennett. This Bill acknowledges that, apart from its popularity as a recreational drug, cannabis also has an important role in medicine and agriculture.

Debate adjourned, on motion by Hon Giz Watson.

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Introduction and First Reading

Bill introduced, on motion by Hon Christine Sharp, and read a first time.

Second Reading

HON CHRISTINE SHARP (South West) [7.37 pm]: I move -

That the Bill be now read a second time.

The second of the two Bills that I am introducing and second reading tonight, the Poisons Amendment (Cannabis for Medical and Commercial Uses) Bill, does two things. Firstly, it will set up a system whereby general practitioners will be able to recommend to the Commissioner of Health that particular patients be permitted to use cannabis to relieve specific ailments. With the commissioner's consent, these patients will be allowed to obtain or grow a specified amount of cannabis for their medicinal use. The very fact that the general practitioner will make a recommendation that must then be scrutinised by both the commissioner and the Poisons Advisory Committee provides a guarantee that cannabis will be authorised only for those with a legitimate need.

The core issue in this section of the legislation is the removal of criminal penalties for patients who use cannabis medicinally. It is important to recognise that this legislation is not about making a "new drug" available, but rather protecting from arrest and imprisonment those patients already using cannabis, as well as the doctors who do or would like to recommend it.

The fact that cannabis has known therapeutic values has been established for thousands of years. It is believed that the first recorded evidence of its medical use was in a Chinese herbal during the reign of the Chinese Emperor Shen Nung, 5 000 years ago. Through the classical and Hellenistic eras it was noted by Galen and other physicians that cannabis was a remedy for various illnesses. It was also recorded in most of the English dispensaries published during the 1600s and 1700s.

In the period 1840 to 1900 more than 100 papers were published within western medical literature citing a varied range of

ailments for which cannabis was useful. Even Queen Victoria was given cannabis by her court physician. These are just some snippets from the history of its medicinal use contained in the book *Marijuana: The Forbidden Medicine* by Grinspoon, Lester and Bakalar.

Now, coming right up to date, the medicinal use of marijuana has gained considerable attention in Australia since the judgment of the Queensland Supreme Court earlier this year. In this, Justice Alan Demack ruled that the use of marijuana for pain relief is acceptable despite the drug being illegal. This ruling has set an important precedent challenging the statutes across Australia. Most members will be aware that a national campaign on medical cannabis was launched on 30 September last and this has generated a considerable amount of community attention. The President of the New South Wales branch of the Australian Medical Association, Dr Kerryn Phelps, has come out as one of the strongest proponents for use of cannabis for medical ailments, and the New South Wales Attorney General has indicated that he is keen to look at how the proposal for medical cannabis could be implemented.

The idea of the Western Australian Bill is to clarify that using marijuana for pain relief in conditions such as multiple sclerosis, terminal illnesses and the relief of the nausea induced by chemotherapy is permissible if prescribed by a doctor. It rectifies the problem currently facing patients for whom the standard, legal drugs are not safe or effective. At present these patients must continue either to suffer or to obtain cannabis illegally and risk criminal conviction as well as the possibility of obtaining cannabis that has been chemically adulterated. The aim of this new legislation is to arrest suffering, not patients.

The following are quotes from highly respected medical journals and institutions. The *British Medical Journal*, 1998, 316:1034-1035 of 4 April states -

The BMA recommends that the government should amend the Misuse of Drugs Act to allow cannabinoids to be prescribed in a range of medical conditions . . .

The BMA is not alone in arguing for enhanced access to cannabinoids . . . Others include the Royal Pharmaceutical Society, the previous president of the Royal College of Physicians . . . and many British doctors.

Volume 273, No 23 of the *Journal of American Medical Association* of 21 June 1995 states -

Marihuana is also far less addictive and far less subject to abuse than many drugs now used as muscle relaxants, hypnotics and analgesics.

The *Institute of Medicine* publication at page 159 states -

Terminal cancer patients pose different issues. For those patients the medical harm associated with smoking is of little consequence. For terminal patients suffering debilitating pain or nausea and for whom all indicated medications have failed to provide relief, the medical benefits of smoked marijuana might outweigh the harm.

It states also at page 154 -

It is possible that the harmful effects of smoking marijuana for a limited period of time might be outweighed by the antiemetic benefits of marijuana, at least for patients for whom standard antiemetic therapy is ineffective and who suffer from debilitating emesis.

This legislation thus acknowledges that for some patients cannabis is actually more effective than other drugs. The medical profession is well aware that the "most" effective drug for one person might not work at all for another person. This is why we have so many different drugs on the market to treat the same ailment. People respond differently to different medicines. Cannabis and patients' reactions to it are no exception.

I will quote again from a letter I received from Emeritus Professor Pennington, who chaired the 1996 drugs and our community inquiry for the Victorian Premier's Drug Advisory Council, in which he states -

Many aspects of public policy in relation to the current illicit drugs have enormous inconsistencies and are quite illogical. Whilst for centuries, the medical profession has used various derivatives of opium, including morphine, codeine and the related compound pethadine for the relief of pain and other aspects of suffering, heroin remains an illicit drug. We have still not allowed the development of drugs derived from marijuana for the relief of nausea, muscle spasm, pain and other symptoms of suffering in disease conditions such as terminal carcinoma, AIDS, multiple sclerosis or even glaucoma. Marijuana is far less addictive than any of the opioid derivatives and I am delighted that you are proposing a sensible and logical approach to this problem which is long overdue.

This section of the Bill will break new legislative ground in Australia, although it follows the example of approximately 36 American state referendums and the findings of an extensive inquiry by the British House of Lords.

Although there are those in the community who believe that allowing cannabis to be used medicinally will increase its use as a recreational drug within the greater community, there is no evidence to support this claim and the following quote from the Institute of Medicine's report "Marijuana and Medicine, Assessing the Science Base" makes this clear. It states -

Finally, there is a broad social concern that sanctioning the medical use of marijuana might increase its use among the general population. At this point there are no convincing data to support this concern.

This Bill also sets out to legalise the commercial production of low tetrahydrocannabinol cannabis for hemp. This section of the legislation is based, with only minor changes, on the Victorian statute, The Drugs, Poisons and Controlled Substances Amendment Act 1997, which contains a rigorous system for scrutiny of hemp crops to prevent illicit substitution with high THC cannabis.

Just as the medical uses of cannabis have been known throughout history, so too have the uses of industrial hemp. I will read to the House an extract from the report "Legislative Options for Cannabis Use in Australia" by the Australian Institute of Criminology under the heading in chapter 3, "Cannabis in history" -

Its major use in Europe during the Middle Ages and into the time of the colonial expansion of the European powers was to produce ropes and cordage - especially for ships' rigging and anchor ropes. In Italy, hemp was a major crop, particularly important in establishing states such as Venice as seafaring powers. The Venetians operated a state-run hemp factory as a way of achieving quality assurance.

The historical importance of hemp is evidenced by a decree issued by Henry VIII in 1533 that 'for every sixty acres of arable land a farmer owned, a quarter acre was to be sown with hemp. The penalty for not doing so was to be three shillings and four pence' . . .

'During the 17th century Indian hemp was the basis of the American colonialists' trade and commerce, and so great was the need to equip the British Navy that James 1 issued a Royal Decree to instruct colonialists to increase their hemp production.'

The United States census of 1850 counted 8 327 hemp plantations - with a minimum acreage of 2 000 - growing hemp for cloth, canvas and cordage. It also informs that Benjamin Franklin started one of America's first paper mills with hemp, which allowed America to have a free colonial Press without having to beg or justify paper from England.

I have carefully studied the outcome of the Western Australian hemp growing trials. The Minister for Primary Industry is to be congratulated for initiating them. The results indicate that more work needs to be done before hemp production could be commercially viable in Western Australia. We need to test wider seed provenances, to extend the range of the trials to the northern part of the State and to develop a range of product feasibility studies. Hemp clothing is now well known; however, it is only one aspect of a wide range of environmentally friendly products which can be manufactured from hemp, such as medium density fibreboard and paper. Hemp paper is especially important and it was used for centuries due to its exceptional durability. This durability is not a feature of chlorine-bleached paper, which is causing a crisis in libraries throughout the world as books in national collections are starting to disintegrate. Another very interesting use of hemp is under investigation, according to the North American Industrial Hemp Council, in BMW's current experiments with hemp materials in automobile bodies in an effort to make cars recyclable.

The Greens (WA) are aware of enormous popular support for exploring the potential of this industry. The removal of the legislative impediments is an important step on this course. It is the precursor to the establishment of growers' associations, breeding work and market research. The definition of "low-THC cannabis" in this legislation is "cannabis, the leaves and flowering heads of which do not contain more than 0.35 per cent of tetrahydrocannabinol". This is the level which has been used in the Western Australian trials and which is set in the Victorian statute.

The legislation contains provisions for a police clearance to be obtained for any person applying for an authority to cultivate hemp, and the Minister for Primary Industry has the ability to demand any information required to determine whether the applicant is a fit and proper person to be given an authority. The minister is prohibited from issuing an authority if the applicant has been convicted of a serious offence in the 10 years preceding the application. The authority to cultivate hemp will also take into consideration the suitability of the applicant's property in relation to location, soil types and facilities available. The authority, when issued, will cover a period of five years and may be renewed at the end of this period.

A new section 5A will be inserted into the Poisons Act, which will exempt from the operation of the Act certain processed products made from cannabis or cannabis seed which do not pose a drug risk. New part IVA empowers the minister to authorise any person holding a position under the Public Sector Management Act 1994, or any other appropriately qualified person, to be an inspector for the purposes of this new Act. It also gives general and wide powers to the inspectors in order to determine whether the hemp crops have been grown in accordance with the Act.

Since the original second reading of this Bill in March of this year, I have been made aware that the Minister for Primary Industry is having similar legislation drafted which allows for the commercial production of hemp. I have given him an undertaking that if I consider his legislation is adequate and covers all my concerns, I will withdraw the parts of this legislation dealing with hemp. If we are both working towards the same goal, I shall be very pleased to support a government Bill instead of my Bill.

As members will have realised when listening to this outline, the cannabis law reform package has been formulated very carefully. I have been very conscious of the Court Government's conservative approach on these issues and, quite frankly, they are conservative Bills designed precisely as a step forward that any Government can take with confidence. They will put the cannabis laws in Western Australia alongside those of the conservative Government of caretaker Premier Jeff Kennett. This Bill acknowledges that cannabis, apart from its popularity as a recreational drug, also has an important role to play in both medicine and agriculture.

Finally, although it is not part of my circulated second reading speech, I add that today the Premier of New South Wales, Mr Bob Carr, announced that his Government would investigate the use of cannabis for medicinal purposes. The Premier of New South Wales issued a press release saying that he felt "we owe the 27,000 people in NSW who are diagnosed with cancer each year a full investigation of a drug which could ease their suffering." The terms of reference of the working study are -

To assess the efficacy of cannabis for medical purposes.

To review the extant medical and scientific literature.

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To establish what further research is required.

To establish if cannabis can be effectively administered with the least harm to patients.

To establish if cannabis, or any of its extracts or synthetic analogues, should be supplied for medical use and how diversion for recreational use or dealing or trafficking could be avoided in these circumstances.

To identify legal, ethical, pharmacological, physiological, mental, general health and community implications and issues concerning the use of cannabis.

To make recommendations to the Expert Advisory Committee on Drugs.

The fact that this announcement was made on the other side of Australia today is a coincidence, although I have been working with people throughout Australia in various States who support this measure. It is a case of many like minds thinking along the same direction.

With the endorsement of the approach of a Government in another State, although this is breaking completely new legislative ground in Western Australia and Australia generally, it can be seen that there is a movement throughout this nation to accept that medicinal use of cannabis may have an important role to play in relieving the suffering of people in the community. On that basis, I commend the Bill to the House.

Debate adjourned, on motion by Hon Ray Halligan.