

Dissenting Report–Liberal Democrats

1.1 The inquiry into this bill heard no evidence that would justify a recommendation for the bill to not be passed. Furthermore, the evidence confirmed that the status quo is untenable.

1.2 The intent of the bill is to remove Commonwealth offences and civil penalty provisions for dealings in cannabis, leaving it to State and Territory governments to legalise and regulate cannabis. As the inquiry heard, widespread domestic cultivation generally makes the trafficking of herbal cannabis into Australia unnecessary and unprofitable.

1.3 Passage of the bill would not make recreational cannabis legal, but would allow genuine competitive federalism as each jurisdiction determined its own course and learnt from each other's experience.

1.4 The policy of prohibition is a failure. Cannabis is the most widely used illicit drug in Australia, as confirmed by the Australian Institute of Health and Welfare (AIHW) 2016 household survey which showed for people aged 14 and over in Australia, 35 per cent (or approximately 6.9 million people) had used cannabis in their lifetime and 10.4 per cent (or 2.1 million) had used cannabis in the prior 12 months.

1.5 The futility of a crime-based approach was confirmed by Mr Mick Palmer, former Commissioner of the Australian Federal Police, whose submission stated:

...the reality is that, contrary to frequent assertions, drug law enforcement has had little impact on the Australian drug market or for that matter, on the drug markets of most, if not all, countries in the world.

Australian police are better resourced, better trained, and more effective than ever and yet their impact on the drug trade, on any objective assessment, has been minimal.¹

1.6 It is not necessary to approve of cannabis or to recommend it, in order to accept the futility of the current policy.

1.7 Supporters of the bill pointed to the cost of maintaining a policy of prohibition - the resources committed to law enforcement, lives damaged by criminal convictions (80,000 cannabis arrests in 2015-16), profits for organised crime, and links to criminals who sell more harmful illegal drugs. They also claim more consideration should be given to relative harm, for example in comparison with alcohol.

1 *Submission 33*, p. 3.

1.8 The reservations of the Therapeutic Goods Administration (TGA) regarding the bill warrant a specific response.

1.9 The TGA claimed the proposed amendments to the Narcotic Drugs Act would mean Australia was no longer compliant with its international treaty obligations, which would affect its ability to cultivate opiates for medicinal use and compete with countries such as Turkey, Portugal, Spain and India.

1.10 The legalisation of cannabis would have no impact on the cultivation of opium poppies in Tasmania and it is difficult to believe the International Narcotics Control Board would fail to recognise that. Moreover, cannabis is already legal in Spain, deregulated in Portugal, and freely available in Turkey and India. In the largest producer of legal opium, the Czech Republic, up to 180g of cannabis dry matter can be legally obtained on prescription from pharmacies.

1.11 In any case, Australia should not base its policies on the potential for an irrational application of international treaties.

1.12 The TGA argued that passage of the bill, with its provision preventing cannabis from being listed on the Poisons Standard, would result in an absence of quality controls on medicinal cannabis and an inability to approve therapeutic claims for cannabis extracts.

1.13 The concern in relation to quality controls is not valid; existing consumer safeguards would continue to apply. However this concern, as well as the issue of registered claims, can be easily addressed through a minor amendment to the bill to allow those products to be scheduled (much like nicotine in patches and gums) while otherwise excluding cannabis from the Poisons Standard (much like nicotine prepared and packed for smoking).

1.14 The concern of the Scrutiny of Bills Committee, which says the bill introduces drug offences relating to the defence force that involve a reversal of the onus of proof, is not correct. In fact, the bill merely removes cannabis from existing drug offences. The confusion arises from the fact that the bill achieves this by first repealing the existing offences and then reinserts identical offences but with references to cannabis removed.

1.15 The Liberal Democrats believe public policy on drugs should not be based on disapproval, but on harm. A growing number of countries agree and it is time Australia did as well.

Recommendation 1

1.16 That the bill be passed subject to a minor amendment to allow therapeutic claims to be made for cannabis extracts.

Senator David Leyonhjelm