Regulator of Medicinal Cannabis Bill 2014
Final report of the Senate committee reviewing the Regulator Bill 2014

Discussion by John Ransley for Queensland Council for Civil Liberties
Medical Moratorium Forum West End, September 2015

Every few years the illegal status of cannabis comes up for review and this is another occasion. QCCL has always maintained that the laws prohibiting cannabis use cause much more harm that the plant ever has. For more than two decades our representatives have issued press releases, done multiple media interviews and written substantial submissions making this argument. The law has changed but only incrementally.

Cannabis has been demonised in Australia since before World War II. In 1938, the *Daily Telegraph* in Sydney wrote about an 'evil drug ... blamed recently in America for many sex crimes'. In June 1971 President Nixon called for a 'war on drugs', with cannabis the principal target. Without cannabis in the system's remit, the proportion of illegal drug-users in the global population is just over 1%—far too small to justify the vast legal and bureaucratic edifice with which this so-called war is fought.

I am therefore surprised and pleased to announce that the Senate committee has produced a very professional and well constructed report. The senators impress as 'good people', well intentioned and sympathetic to the plight of those Australians who could benefit from medicinal cannabis but are currently prevented by draconian laws. It is clear the senators have been particularly persuaded by personal testimonies from users who have come forward despite the risk of police prosecution.

The fact that many thousands of Australians have for years been privately using cannabis as a medicine has not had any real effect on public policy till this point.

QCCL Submission to the Senate Committee

QCCL lodged a submission to the Senate committee on 18 March 2015. Its main features were:

1. Potted history of the sequence of events that led to the development of the cross-party private members bill;
2. The crucial role of lobbying by users like Daniel Haslam in NSW and in Adam Koessler in Queensland backed by strongly supported petitions;
3. Conclusion that, apart from Victoria, granting discretionary powers to the police were as far as the premiers of the States and Territories were prepared to go;
4. Progress on legalising medicinal cannabis was stuck at the state level;
5. QCCL support for the concept of a federal Regulator of Medicinal Cannabis;
6. Warning that cannabis research has been corrupted by biased funding;
7. Concern that the Bill did not define the categories of patients who would be given legal access to cannabis;
8. Adoption of the eligible patient categories in the NSW Greens legislation; and
9. Concern that qualified support for clinical trials would be used by state premiers to kick the medicinal cannabis issue into the long grass, delaying action for years.

QCCL Press Release

Before offering some comments on the senate report, I want to sound a note of caution, as set out in QCCL's press release of Wednesday 11 August 2015, the day the senate report was tabled. This press release was written before sighting the report, but it was already known the senate committee unanimously recommended proceeding with the Bill. The press release grapples with the politics around the Bill, with a principal concern being that legalisation could still be a long way in the future.

Here are some extracts from the press release.

QUEENSLAND COUNCIL FOR CIVIL LIBERTIES
MEDIA RELEASE 11Aug15

Medicinal Cannabis Report: Palaszczuk Should Act Now

The Queensland Council for Civil Liberties has called upon the Palaszczuk government to immediately legalise medicinal cannabis in the wake of the final report of the Senate committee reviewing the Regulator of Medicinal Cannabis Bill 2014.

QCCL President Michael Cope said the senate committee's endorsement of the Regulator concept was very welcome, but there still remained an urgent need to legalise cannabis for several medical conditions, including terminal illness, cancer, intractable childhood seizures and chronic pain.

"Even assuming Abbott government support—so far the Prime Minister has only said he supports clinical trials—it will probably take 1-2 years for the new Regulator to commence operations", Mr Cope said.

"In the meantime state governments need to deal urgently and realistically with the current mess around medical uses of cannabis, as thoroughly documented in the senate committee's submissions and report."

Mr Cope said the 'war on drugs' ideology was apparent in many of the submissions to the committee, reflecting the two deeply entrenched divisions in Australian drugs policy between 'legal' and 'illegal' drugs, and 'medical' and 'non-medical' drug use.

Mr Cope noted the renewed push for legalisation of medicinal cannabis had been inspired by a handful of brave souls who had chosen to go public with their medical use of cannabis.

"At the state government level this push has stopped with the quasi-legalisation of plant cannabis for terminal illness sufferers, formalised in the NSW TICs scheme but left to the discretion of the police everywhere else", Mr Cope said. Together with clinical trials of imported 'pharmaceutical' cannabis this was as far as the states were prepared to go, he said.

Mr Cope said well designed and conducted trials could always add to the body of research on medicinal cannabis. "The recent announcement by the NSW government that a Newcastle university group has been chosen to conduct an initial clinical trial is welcome", the QCCL president said. "The announcement by Health Minister Cameron Dick that Queensland will be a party in this trial is also welcome", he added.

"However, there is a problem", Mr Cope said. "Australian clinical trials are not a reasonable justification for delaying immediate legalisation, especially when the vast majority of over 100 published research trials have already demonstrated the efficacy of medicinal cannabis for a variety of medical conditions."

"The NSW trial will only involve 30 participants and is to be followed by a much larger trial that will take several years. Thousands of Queenslanders who could benefit from medicinal uses of cannabis can't wait years for clinical trials to be completed and turned into legislation", Mr Cope said. "There is also a real danger that clinical trials will be used as an excuse by politicians to once again kick the issue into the long grass", the QCCL president warned.

Mr Cope said it was very concerning that in 2013-2014 police made a record 66,684 cannabis arrests across Australia, the highest in a decade. "There is no doubt these arrests include an unknown but nevertheless significant number of people who are using cannabis for medicinal purposes", Mr Cope continued.

"The extraordinarily poor takeup of the NSW TICs scheme shows that people don't trust quasi-legal solutions that rely on police discretion, which places both police and medicinal cannabis users in a twilight zone of legal uncertainty," the QCCL president said. "All parties need the clarity afforded by legislation", Mr Cope said. "Without it thousands of Australians will continue to suffer needlessly."

Vioxx

To those parties who demanded that the government should wait for approval from the Therapeutic Goods Administration before legalising medicinal cannabis, Mr Cope said the story of Vioxx was salutary:

"The pain relief drug Vioxx, which went through a standard TGA/FDA government approval process in Australia and the US, was kept on the market for five years despite credible reports it was killing tens of thousands of patients", Mr Cope said. "The only approval process that plant cannabis has gone through is the wisdom of the street. "Unlike Vioxx, cannabis has never killed anyone", he said.

Mr Cope said the really heartbreaking fact was that many thousands of Queenslanders who could benefit from medical uses of cannabis were denied this option, or, if they chose to access it from the illegal market, were forced to live in constant fear of police prosecution.

"Legalisation of medicinal cannabis is a 'no-brainer'" the QCCL president concluded.

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Troy Langman of *Tasman Health Cannabinoids*

Just yesterday I came across this government news dated 4May15 expressing similar concerns about trial-related delays for people suffering crippling pain: https://www.governmentnews.com.au/sick-of-stalling-patients-forced-onto-cannabis-black-market-by-regulatory-delays/

"Any positive steps are encouraging but it worries me that they may wait five years [before the trials] allow this very safe medication to be distributed more widely. We know it's safe, side effects are minimal and people prefer it over many currently prescribed medications, which in many cases are nowhere near as effective as cannabis," he says. "People prefer access to a more natural medicinal product, rather than having to deal with the side effects that a lot of pharmaceutical products can bring."

"[Cannabis] is a complex medication – it contains over 500 different compounds and can be used for a huge variety of conditions, from depression to cancer. It's just not feasible to do individual clinical studies to determine what it should be used for, for the sake of satisfying a peer reviewed study, when there is a desperate need for this medicine now."

"The public is behind this issue more and more. The fact is people are not going to stand for waiting five years and are using medicinal cannabis already, facing prosecution and visits from DOCS."

NSW Private Members Bill

In May 2013 a NSW parliamentary committee comprising members of five political parties unanimously recommended making medicinal cannabis available for selected conditions, and recommended the government "add a complete defence to the use and possession of cannabis, so as to cover the authorised medical use of cannabis by patients with terminal illness and those who have moved from HIV infection to AIDs."

The defence recommendation was rejected by the O'Farrell government, despite the fact the committee included members from the government side. Just because a parliamentary committee includes cross party members is no guarantee of government support. In addition, it is well known that government's hate private member's bills, not to mention their feelings about the Greens.

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Senate Report Comments

There are many things of interest in the report and I'm still going through it. I would like to draw attention to a few items.

Grades of medicinal cannabis: 2.16-2.20
NDARC: Pharmaceutical, Medical-Grade Herbal, Herbal.

Cannabis is a useful medication: 2.8-2.15
Inarguable: Emeritus Professor Laurence Mather. Dr Alexander Wodak AM

Little proven evidence and/or further research needed: Professor Wayne Hall UQ. Royal Australian College of Physicians. PainAustralia. Associate Professor Lintzeris UnivSyd [SC like]. Professor Iain McGregor UnivSyd [SC like].

Cannabis causes harms: 2.23-2.26

The report's opening sentence "submitters and witnesses … noted cannabis can cause significant harm."

Emeritus Professor David Pennington: Precipitation of psychotic symptoms, negative effect brain development 15-25 years. Royal Australian & New Zealand College of Psychiatrists: may cause significant psychiatric morbidity.

Submitters: smoking poses clear health risks, respiratory, cancer: [One sentence, no quote].

All drugs are potentially harmful, cannabis not unique: Assoc Professor Lintzeris [SC like]

COMMENT

The report gives short thrift to the "submitters" who claim cannabis poses significant health risks. The only harm they appear to take seriously is the potential for mental disturbance. About this it is worth making a few comments.

Although not mentioned in the body of the senate report (interesting in itself), submissions from the Australian Christian Lobby and the AMA highlighted the claimed links between cannabis use, schizophrenia and psychosis.

For example, based on the titles, and excluding op cits, 26 of the 41 references in the AMA's May 2014 'Position Statement on Cannabis Use and Health' refer to negative health outcomes associated with cannabis use, and of these 26 references, 10 refer directly to adverse mental health effects. Only 2 of the 41 cited papers refer to therapeutic benefits.

This is not just a reflection of the biassed research funding issue that is discussed in QCCL's submission. This is a different kind of selection, a reflection of a particular mindset. It is part of the 'war on drugs' mentality favoured by the AMA and the ACL.

The idea that smoking cannabis drives people mad has been with us since the 1930s 'Reefer Madness' movies. It is trotted out every time there appears to be some movement towards a more scientifically based public policy. I'm not saying there is no issue for a small number of susceptible people but it is a manageable issue. Many people find the mental side-effects of morphine unpleasant, but love the pain relief. As Lintzeris says, in effect, perceived or proven harms should not be an obstacle to proceeding with its medicinal uses.

The senate committee received 97 submissions which were labelled as 'confidential' or 'name withheld'. Presumably fear of police prosecution is the common factor in these. Other submissions, such as those by QCCL and Lucy Haslam, included stories of people illegally using cannabis for terminal illness and other conditions. If psychiatric side-effects had been an issue in any of these submissions it is likely the report would have mentioned it.

Cannabis beneficial: 2.27-2.28

NDARC US evidence: lower alcohol consumption, reduction in opioid overdose fatalities.

Emeritus Professor Mather: cannabis is relatively fail-safe medicine, better than opioids and nonsteroidals. Does not cause fatalities.

TGA or Regulator: 4.31 ff

4.32 Submissions identify two extremes in regulating medicinal cannabis:

- approaches which legalise or decriminalise medicinal cannabis, providing high availability to patients but limited quality control and greater risk of leakage into the illicit market; and
- approaches which only allow for pharmaceutical-grade medicinal cannabis products subject to stringent testing regimes, with supply being tightly controlled.29

FOR Regulator: Associate Professor Lintzeris. Emeritus Professor David Pennington. Public Health Association of Australia. University of Sydney Academics Group. Dr Alex Wodak. ACT Government.

AGAINST Regulator: AMA. ANZ Society for Palliative Medicine. Pharmacy Guild of Australia. Medicines Australia. Cancer Voices Australia. Professor Wayne Hall.

TGA VIEW: Market Authorisation Group: TGA's expertise is limited to approval of products such as Sativex for therapeutic use. The Regulator concept goes much beyond what is covered in the TGA Act. Principal Legal Advisor: the TGA role is limited to pharmaceuticals such as Sativex. The TGA is just a kind of slice of a whole system including customs and state territories' laws.

Adherence to Australia's international treaty obligations: 4.62 ff

4.63 The Pennington Institute noted that other signatories to the international narcotics treaties have already approved the use of cannabis for therapeutic purposes through various regulatory structures.

Application of the Bill to participating states and territories: 4.67 ff

4.68 Emeritus Professor Mather highlighted that several states are advancing the regulation of medicinal cannabis, and that the existence of a single, federal regulator as proposed under the Bill would be preferable to individual states and territories advancing their own schemes.

4.73 The Victorian Government confirmed its commitment to investigating legislative reform options to allow people to be treated with medicinal cannabis in exceptional circumstances. It stated that the Victorian Law Reform Commission's (VLRC) final report due August 2015, would inform its deliberations, including its final position on the Regulator Bill.

Appropriatness of the rule-making power in the Bill: 4.75 ff

TGA and ACT government have reservations. Conversely, Professor Ritter of NDARC thought it was a positive feature, allowing flexibility.

Proposed register of medicinal cannabis products: 4.80 – 4.88

Complaints about unclear wording.

Which patients will get access: 4.94-4.00

Emeritus Professor David Pennington: legislation should allow for listing of recipient groups in line with emerging research and clinical trial results.

Professor Wayne Hall: government should not be involved in supplying medicinal cannabis to patients outside of the context of clinical trials. BUT, if it was so to be made available, this should be for registered patients and for a limited time period (eg 5 years) rather than an open ended commitment.

RANZCP: need for register for patients vulnerable to negative psychiatric consequences.

Need for Doctor's prescription: 4.100-4.109

FOR: Dr Alex Wodak: all doctors should be authorised to prescribe, but not allied health professionals. Professor Ritter, NDARC: allied health OK so long as accredited.

AGAINST: AMA. Professor Philip Morris, RACP.

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