



## Legislative Council

2/06/88

### DRUG MISUSE AND TRAFFICKING (AMENDMENT) BILL

#### Second Reading

#### Extract

**The Hon. R. S. L. JONES** [11.50]: In rising to give this my first real maiden speech, as opposed to my last pseudo maiden speech, I should like to thank honourable members for being so kind to me in my hour of crisis and generally. I have some good news and some bad news for honourable members. The bad news is that this speech will be quite long; the good news is my future speeches will be very short, concise and lucid.

I should like to thank Wendy, my wife, who has put up with me for the past several months. She is a political widow at the moment. I congratulate the other new members of the House. I should also like to thank the 36 other Democrat candidates who stood and who had almost no chance of being elected but who valiantly strove as though they were going to be elected. I should like to thank members of the campaign team who spent nearly 24 hours a day in the last weeks of the campaign making sure I was at least elected, and giving our lower House candidates a good chance of getting a decent vote. I should like to thank all those hundreds of people who walked the streets putting leaflets into letter boxes and the hundreds who stood for hours on end handing out how-to-vote leaflets at polling booths.

At this point I should say that we should do away altogether with the handing out of how-to-vote leaflets. It intimidates the older voters and intimidates the first-time voters. Handing out millions of how-to-vote leaflets is an enormous waste of time, energy, paper and trees. I should like to thank also the thousands of people who worked so hard for the other parties from whom I received my preferences. By these I mean Aboriginal Millie Ingram and her team, Milo Dunphy, my good friend Chris Townend and the Envirovote team. Jack Munday and his team of Community dependents, Colin Chariton and the Nuclear Disarmament Party, which has worked tirelessly for world peace, not to forget Vito Radice and the Humanists. Our total green vote, as we call it, in this election was 7.93 per cent. Some people wrote us off as not being worth very much. These small parties got together and swapped their preference so that if I had not been elected, either Jack Munday or Milo Dunphy would have been elected. I have been elected to represent all those who voted Democrat and all those who voted for the smaller parties. Above all I have been elected to represent the liberty of the individual, particularly those in danger of being exploited by people in powerful positions. I have been elected also to protect the environment and wild and domestic animals from those who wish to exploit and destroy them. In my view I am here in the position of watchdog for the underdog, which brings me to this bill.

I support the bill but I have severe reservations about the way in which the Government is heading. I understand there is a major drug problem, a major crime problem and a major Acquired Immune Deficiency Syndrome problem. A few months ago my home was burgled by two heroin addicts. It was a distressing experience for us. We had to find these people ourselves, have them arrested and recover our own stolen goods. I should like to look, first, at what is called the second wave of AIDS infection. The second wave of AIDS infection is via intravenous drug users. I refer to a document called "The Second AIDS Epidemic: Spread via Needle-Sharing to the General Community: A Review" by Messrs Drew and Taylor. This has not yet been published but is a valuable document. It shows exactly how AIDS is increasing among intravenous drug users.

In New York 22 per cent of infected women are the sexual partners of intravenous drug users. In Italy and Spain 43 per cent of notified paediatric cases are children of intravenous drug users and one child in 61 in New York develops AIDS. Statistics of the World Health Organisation in respect of AIDS in the European region show a sharp increase in the proportion of heterosexual intravenous drug users among European AIDS cases, from 1 per cent in December 1984, 7 per cent in December 1985, 14 per cent in December 1986 and 18 per cent in September 1987. As at September 1987, intravenous drug users accounted for 62 per cent of all AIDS cases in Italy, and 53 per cent in Spain. We are seeing the second wave of AIDS

coming via users of heroin by their needle sharing.

New South Wales does not have clear statistics as to how many heroin users there are. It is believed there are 10 000, though it may be up to 15 000. What we do know is that the number of people who are AIDS positive is increasing dramatically. In the Netherlands in 1984 a program of exchanging sterile needles and syringes was introduced. In Amsterdam they have kept their positive levels to about 30 per cent. In other cities where there has not been a needle exchange program, heterosexual intravenous drug users with positive returns ranged from 0.7 per cent in 1979 to 35 per cent in 1985 among a cohort of 139 intravenous drug users in Milan and from 7 per cent in 1981 to 52 per cent in 1985 among 131 intravenous drug users in Geneva, and from 0 per cent to 51 per cent between 1983 and 1985 among 164 intravenous drug users in Edinburgh. In New York 60 per cent of heroin addicts are AIDS positive. This same situation is becoming apparent in Australia.

Turning to the actual deaths from drugs, as reported by the Commonwealth Department of Community Service and Health, in 1986 there were 249 opiate deaths—heroin and other opiates, 3 465 alcohol deaths, and 17 070 tobacco deaths. So we can see this enormous discrepancy in heroin deaths and tobacco deaths. The answer proposed in this document is that what would be most attractive to heroin addicts, and most effective in eradicating needle sharing, would be free access to a supply of their preferred drug, heroin or dexamphetamine, in a pre-packaged, non-reusable needle-syringe. The technology is available to provide drugs in pre-packaged, non-reusable needle-syringes, of which IMS Min-l-Jet is an example. It would seem to be a dramatic change of policy to make such a drug freely available through a needle supply system. That would represent only an extension of the present policy of supplying oral methadone on prescription as a substitute for illegal heroin. There is no legal reason why heroin and amphetamines should not be available on prescription for intravenous use.

The fact that Australia is a signatory to the Single Convention on Narcotic Drugs 1961, and that Australia prohibited the importation of heroin in 1953, does not prevent such a policy being implemented. The Single Convention on Narcotic Drugs 1961, and the Protocol Amending the Single Convention on Narcotic Drugs 1961, do not contain any specific provisions for moderating policies except for a total denunciation of the convention. In particular, article 2 paragraph 5 (I) reads:

A party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health welfare, prohibit the possession and use of any . . . drug.

However, in that no issue was made at an international level when the use of methadone was introduced as a legally prescribed substitute for illegally obtained heroin (even though methadone is listed in Schedule I and is covered by the Convention), presumably the use was accepted as "medical treatment" or use for a "medical purpose" (Article I. I (c)). Accordingly it can be argued that a decision to provide heroin as a legally prescribed substitute for illegally obtained heroin should be acceptable, internationally, on the grounds that it is "medical treatment", or use for a "medical purpose", like methadone.

The fact that Australia prohibited the importation and exportation of heroin in 1953, before the entry into force of the Convention, does not prevent a decision being taken to allow its use on medical prescription now. It seems that that decision (in 1953) was not taken on the basis of a formulated "opinion" that it was "the most appropriate means of protecting the public health and welfare", and hence that decision is not binding in terms of the Convention. In any event, it is open to the Government to review its opinion from time to time in the light of prevailing conditions. Australia is not obliged to maintain a prohibition on the use of heroin.

An editorial that appeared in the *Canberra Times* on 2nd November, 1987, reads:

Operation Noah has uncovered some illicit drug leads which police throughout Australia and in Canberra are investigating. But, important as this aspect of discovering drug-pushers and their supplies is, the operation will hardly scratch the surface of the illicit drug trade in Australia. At best it will introduce some addicts to the medical and counselling services they need; it will pick up a few pushers and it may reduce, for a short period, the availability of adulterated, illicit drugs which cause so much harm to young people in the community. At worst, however, it will increase the furtive way in which the illicit drug trade operates: it will increase the price of prohibited drugs and that, in turn, will increase the

incidence of the crime committed by addicts to pay for their habit ....

It is in the interests of the major illicit-drug entrepreneurs to maintain prohibition. Without it, and a constant law-and-order campaign, they would be largely out of business . . . The manipulators of this trade are dealing in hundreds of millions of dollars. When a few hundred thousand dollars can induce an official to turn a blind eye: when the going rate for a drug-related murder is less than \$10,000: when right-minded and caring people insist on protecting the trade with prohibition, how on earth can the police do more than make what amounts to a token assault on the problem?

What is needed is a totally new approach to a growing problem. The first step is to remove the illicit drug trade from the hands of those who are making enormous profits from it. This can only be done by governments recognising that drug addiction, whatever the cause, is an illness that must be treated. One form of treatment is to continue to supply unadulterated drug of dependence to the addict either free or at a nominal cost, thus undercutting the black market and, to a large extent eliminating the crime that now has to be committed to finance a habit. Registered addicts can then be treated in a variety of ways already devised by doctors and social workers.

I refer to another article that appeared in the *Canberra Times* on 23<sup>rd</sup> December, 1987. I shall not read the entire article, but basically it says that Justice Russell Fox, a former Chief Judge of the Australian Capital Territory Supreme Court, also recommends the decriminalization of heroin use.

Dwelling on the sordid cost of AIDS deaths, each death costs us \$35,000. If we do not alter the present situation, if we continue with a policy of drug prohibition, approximately 5 000 heroin addicts will die of AIDS each year, plus untold numbers of others people who contract AIDS from heterosexual partners or partners of partners or others who have been with people who use heroin intravenously and who have contracted AIDS. I read to the House another portion of the report:

There is, however, good reason to believe that there will not be a dramatic increase in heroin use in general, and that this policy might even lead to a fall in heroin use among the young (under 18 years) over time. There is no evidence that a substantial number of people are dissuaded from using heroin because it is illegal.

If heroin is made available legally then the illegal trade in heroin will wither away from lack of profitability, and the pressure exerted on the young to use heroin will disappear.

Heroin should be supplied on prescription, such prescriptions being renewable every three months. Those prescriptions should be dispensed through participating private pharmacists who should be given training, professional support, and a financial incentive to participate in the program; and through public clinics. The cost of the production of heroin, which can be produced in Tasmania where there are poppyfields, and its packaging in single use cartridge syringes would be of the order of \$2.00 per dose. To supply 30 000 regular users with four injections per day for 365 days a year would cost \$90 million per year. That gives an idea of the number of people in our community who will die from AIDS as a result of cross-infection from needle sharing. If we ignore the problem we will lose many thousands of our young and not-so-young people.

The other side of the coin from losing large numbers of people from AIDS is the association between crime and heroin use. Two or three studies have been conducted on this matter. One of those studies is called "Drugs and Crime, Research Study No. 2" conducted by Ian Dobinson and Pat Ward from the Bureau of Crime Statistics and Research. In that study the people interviewed were in gaol for property and heroin offences. Of the 78 users interviewed, 78.2 per cent derived their chief income from property crime. More than half of these people averaged an income of more than \$ 1,000 a week. When our house was burgled the thieves stole \$10,000 worth of goods and managed to pawn \$6,000 worth. They received less than 10 per cent of the total value of the goods stolen, which amount was enough to last those addicts about three or four days. The cost of crime is absolutely horrendous.

I shall cite for the House some figures from the study called "Drugs and Crime, Phase 2, a study of individuals seeking Drug Treatment". The people who took part in this study actually volunteered for treatment for drug addiction. This study was also conducted by Ian Dobinson and Patricia Ward. The 127 people they interviewed committed an average of 18 break and enter offences per person per annum. Only 26 per cent of those people actually committed break and enter offences, but the average number of offences was 18. Those who received money from larceny committed an average of 24 robberies per annum. This study

shows a substantial increase in their criminal activity after they started using heroin. For instance, before commencing to use heroin, only six of these people committed break, enter and steal offences; 32 committed such offences after they started using heroin, an increase of 533 per cent. Of those who committed larceny, only one committed that crime before commencing to use heroin and 10 did so afterwards, which is a 1 000 per cent increase. One can see a clear correlation between heroin use and crime.

Statistics show that there has been a substantial increase in break, enter and steal offences between 1979 to 1985, from 1000 break and enters per 100 000 population to 1 576 such offences. Of the 127 addicts who took part in this study, 14 committed 2 828 crimes over six months. It can be seen that there is a direct correlation between the increase in heroin use during this period and the number of break, enter and steal offences. The relative increases are almost identical. According to these figures, about 80 per cent of break, enter and steal offences are committed by heroin users after they commenced to use those drugs. There is a very severe problem of crime associated with heroin use in particular. If we are to tackle that problem, we must do so at its roots. If these drug users were able to buy their drugs legally—say, \$2 per hit, I suppose one would call it, by obtaining a prescription from a doctor—they would not have to break into our homes. Apart from that, the people who break into our homes are AIDS carriers. Who says that we should legalize heroin? The *Economist* does. On 2nd April, 1988, in a cover story called "Getting gangsters out of drugs", the editorial stated:

The expert criminal organisations that were so enriched by the attempts on earlier American governments to prohibit alcohol and gambling (another addictive practice) are applying Capone's old murderous skills to the internal narcotics business.

A small group of criminals now probably launders tax-free sums of over \$100 billion each year, more than the GNPs of 150 of the 170 nations of the world. If these huge mark-ups went to governments in tax, as a big slice of profits from drugs like alcohol and tobacco does, they would use it for better purposes, including reducing addiction. Is that the right way?

There have been escapes from tragedies as great as today's narcotics trade, significantly almost all along this same road. America's effective answer to Capone's bootleg gangs was not gang-busting but the legalised, taxed and regulated sale of quality-controlled liquor. The best enemy of the numbers racket is the state lottery and the off-course, licensed, taxed betting shop.

In the United States marijuana is now virtually tolerated, because tens of millions of Americans have smoked it or have eaten it in cookies. They think it about as befuddling per dollar as alcohol, as bad for their health as cigarettes, and less habit forming than either. The great worry about marijuana is that, while the addict gets his tobacco and whisky from a law-abiding and taxpaying publican, he gets his joint from a sinner who sometimes sells adulterated poison, pays no tax and—this is important—is often keen to lead his customers on to much more harmful drugs.

A sensible public policy might be to treat all three—alcohol, tobacco, marijuana—the same, with licensing, taxes and quality control.

Cocaine most needs to be brought under the aegis of controlled and thus legal suppliers, either by treating it like alcohol, tobacco and marijuana or like heroin.

Heroin is different. It is more addictive than tobacco, and damages the health far more rapidly. It can enslave the mind, so addicts want more to satisfy a craving that obsesses them so that they cannot work. Without work, they have two ways of affording more: stealing or, more easily, dealing.

Legislation pretends that heroin is not significantly more dangerous than marijuana or cocaine.

...best policy towards existing heroin users might be to bring them within the law, allowing them to register for the right to buy strictly limited doses. Taxes should be high enough to help deter consumption, but low enough to put illicit dealers out of business.

If there were a lasting answer to drug abuse, it would lie beyond all this, in the chemists' dream of the good drug, the soma, driving out bad poisons by its controllable merits. It may lie close in the future, if research for it can be brought into the open. That is another reason why the worst policy is the present one of making the supply of noxious drugs illegal, so that only dreadful illegals engage in their supply.

Another article in the *Economist* echoed the same sentiments. In the *New Scientist* of 20th September, 1984, in an article entitled "A case for legal heroin" Michael Cross said:

It is the idea that addicts are more likely to develop these resources if their lives do not revolve around criminal drug-dealing that led the programme's producer, Jenny Hughes, to consider loosening controls as a good idea. Not surprisingly, many addicts would prefer to get their supplies legally. One registered addict who appears in the programme says: "The most important thing about getting it legally is that it gives you the chance to lead an ordinary life. You can work, drugs don't dominate your thoughts any more. You get some sort of discipline in your life."

Another addict, the mother of a small child, echoed this view when interviewed for the programme. Legal heroin, she said: "gives you the chance to sort out some of the problems that come through heroin use, not particularly because of the drug but because of the problems of expense and illegality."

The Australian and New Zealand Journal of Criminology of December 1986 has an article entitled "Prohibitions Against Heroin Use: Can They Be Justified?" written by Ian Leader-Elliott. I will not read all this but it says there is only one possible ground on which the prohibition can be defended, the argument that this is the best way and perhaps the only way in which a substantial number of susceptible individuals can be saved from inflicting serious harm on themselves. Existing drug legislation cannot be defended on the ground that it provides a weapon against organized crime. The prohibitions create criminal organizations whose business is to ensure clandestine supply at extortionate prices. This is the primary mechanism of containment and control. Neither can laws directed more particularly against drug users be defended on the ground that many of them are thieves. The drug prohibitions provide the most potent of inducements to increase rates of property crime. Existing prohibitions do not benefit opiate users. Our laws aggravate the harms which they risk by their indulgence. There are many of these.

Bruce Alexander of the Simon Fraser University wrote an article entitled "When Experimental Psychology Is Not Empirical Enough: The Case Of The 'Exposure Orientation' ". He explained that in nineteenth century America, when heroin was legal and available in huge quantities, there was no significant problem. The best estimates are that the number of addicts in the nineteenth century United States did not reach one-half of one per cent of the population. Heroin use in the United Kingdom is legal in some cases. In 1972 British physicians prescribed 29 kilograms of heroin to the organically ill.

Yet another paper concerns drug policy, and the views of women users and agency workers in Sydney, London and Amsterdam. It was written by Margaret Sargent and Vivienne Smith as a tertiary education research project in Sydney. That paper says the same thing; that heroin should be legal and available. John Marsden, the national president of the Council for Civil Liberties said the same thing in an article entitled "Drug Addiction—A Community Responsibility". He described the criminal justice system, in relation to addicts, as spiteful and unfeeling, a system dependent on punishment and deterrents; one that has failed to grasp that heroin addiction is a living punishment and perhaps itself the ultimate deterrent from the capacity to live and love. His paper added that the first, most immediate step, is to allow the registration of addicts through medical channels, and to make available, without Judgment, heroin to the addict. He said that ideally, under caring medical supervision—without dealing with the addict mentality in terms of its degree of criminality—a program of self-help could assist some to be cured, and that an addict could live a normal life, remembering that for an addict it is normal to "hit up" the drug but not normal to go out and steal for it.

Two pharmacists in Newcastle said the same thing. An article in the *Newcastle Herald* of 18th May, entitled "Pharmacists back Liberalisation of Drug Use to help stop Disease" was written by Greg Ray, health reporter. He said that two experienced Hunter pharmacists believed that drug addicts should be registered with the Government and supplied with free drugs. There was much more. Mr Justice Staples, in the *Sun-Herald* of 24th June, 1984, in an article entitled "The Hopeless 'War'" said that laws against heroin have never worked. He said that everyone suffers because heroin is scarce and expensive and that we must face about and change direction. He added that a first step would be to divert the revenue, which sustains the vast resources we now apply domestically in Australia to the war on heroin, to the purchase of a proportion of the Thai and Turkish crops sufficient to supply the Australian market at prices that would eliminate the need for heroin consumers to engage in crime to feed their habit.

Probably the best authority of all these is the Premier, Nick Greiner. In the *Sun-Herald* of 10th June, 1984, appeared an article entitled "Greiner Plan: Free Drugs for Registered Use". In saying what he did, he was way ahead of his time. From London he said that heroin addicts in New South Wales should be given free drugs by their local general practitioner. Mr Greiner at that time was the Leader of the Opposition in this State. Mr Greiner told the *Sun-Herald* in London that there had to be a radical and probably controversial rethinking of attitudes to drug-taking if the demand for hard drugs was to be controlled. He said that too much time was wasted looking for the mastermind behind Sydney's horrible drug scene and that finding the top man in the drug world may be important but would be unlikely to be the complete solution. He said that we should look at the other side, turn from chasing the supplier and look at the demand, bringing in users from the blackmarket where they are prey for the criminal underworld.

The article said that Mr Greiner was impressed with the work of an English Home Office working party which was investigating London's drug problem and which advocated controlled legalization of heroin. The newspaper said that under Mr Greiner's plan all New South Wales doctors should be allowed to supply heroin, or alternative drugs such as methadone, to registered addicts, and that in this way demand for the drug might be switched away from criminals, undercutting their power. According to the article, he said that he would prefer to have all heroin users stop using the drug but, until they were motivated to come off heroin they would not do it, and that by bringing them into the system rather than leaving them outside in the cold at the mercy of the criminal suppliers the demand at least could be controlled and then an attempt made to motivate the addicts to get off their drugs of addiction. He said he was not sure that this policy would win a lot of votes, but that thinking people would see sense in it, and that a very large part of criminal activity in New South Wales, whether it be bashing up old ladies, or burglary, was substantially hard-drug related. He is the finest authority of the lot. He was very courageous in saying that in London about Sydney in those days. I agree totally with what the Premier said.

I will not go into the case for marijuana. It is sufficient to say that Australian Democrats policy in New South Wales is that the use and possession of marijuana should be legalized, and all criminal records of persons charged with offences relating to that drug be destroyed. Marijuana is a drug of recreation, used by one and a half million people. Its use was sanctioned by Henry VIII. According to the *Concise Herbal Encyclopaedia* Henry VIII gave permission for people to use all herbs.

The majority of drug-related deaths is not from illegal drugs but from legal drugs such as tobacco and alcohol. In 1986, of those in the age group of 15 to 24 who entered Australian hospitals to be treated for drug poisoning, 254 were treated for alcohol abuse. The other causes of poisoning were from paracetamol, 193; benzodiazepines, 489; antidepressants, 134; major tranquillizers, 59; cannabis, 10; opiates, 70. The problems were caused by the use of legal drugs. I can name the major drug dealers in Australia.

**The Hon. E. P. Pickering:** Illicit or legal?

**The Hon. R. S. L. JONES:** Currently legal. Those people are: John Utz, Chairman of Rothmans Holdings Limited; Michael Little, Vice-Chairman; Stanley Costigan, Managing Director of Rothmans Holdings Limited; James King, Managing Director, Philip Morris, Australia; Louie Walter, and Trevor Page, directors of Old Gold Cigarettes; Edward Comelli and Bruno Comelli, directors of Carson Town Proprietary Limited; Dean Wills, Chairman and Managing Director of W. D. and H. O. Wills (Australia), and of Amatil Limited. I refer also to people such as John Elliott and Alan Bond. The growing of tobacco is subsidized by the taxpayer. The people I mentioned are the types of people accepted by society as honourable people, but who are responsible for drugs that kill nearly 20 000 Australians a year. These are the people and the drugs to which we should pay attention—not the illegal drugs. I should like to foreshadow an amendment to the Drug Misuse and Trafficking (Amendment) Bill. At page 7, schedule I, after the words "cannabis leaf" I will move to omit the quantities "300.0g", "30.0g", and "1000.0 g"; and after the words "cannabis plant" omit "5" and "50". I will move an amendment that at page 13, schedule I, after the line commencing with the word "Nicomorphine", there be inserted the word "Nicotine". The amendment is that the trafficable quantity of nicotine is to be 0.075 grams; a small quantity 0.025 grams—which is equivalent to one packet of cigarettes; an indictable quantity 0.125 grams; a commercial quantity 12.5 kilograms; and a large commercial quantity 15 kilograms. I will move a further amendment that at page 15, schedule I, after the line commencing with the word "Thiofentanyl", there be inserted the words "tobacco leaf". The trafficable quantity is to be 300 grams; a small quantity 30 grams; the indictable quantity 1 000 grams; a commercial quantity 25 kilograms; and a

large commercial quantity 100 kilograms. I am not suggesting the immediate prohibition of tobacco, because that would be hypocritical of me. I am trying to point out that this is the major killer drug in our society and we should be diverting at least 95 per cent of the attention paid to drugs towards the killer drugs of tobacco and alcohol