LEGISLATIVE ASSEMBLY OF QUEENSLAND

PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

Report on a Review of the Criminal Justice Commission's Report on *Cannabis and the Law in Queensland*

Report No. 37

PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

	REPORT	DATE TABLED
1.	Progress Report of the Committee being the Minutes of Evidence taken on 16 and 17 July 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Report on Gaming Machines Concerns and Regulations".	22 August 1990
2.	The Committee's Report No. 1 Relating to the Report of the Criminal Justice Commission entitled "Report on Gaming Machine Concerns and Regulations".	4 September 1990
3.	Progress Report of the Committee being the Minutes of Evidence taken on 6 and 7 August 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	4 September 1990
4.	The Committee's Report No. 2 into the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	2 October 1990
5.	Report into Allegations made in South Australian Legislative Council on 10 October 1990 by Mr Ian Gilgillan, Leader of the Australian Democrats against the Criminal Justice Commission's Director of Operations, Commander Carl Mengler.	4 December 1990
6.	Report into the issues of legal representation of witnesses at public hearings of the Parliamentary Criminal Justice Committee.	6 December 1990
7.	Minutes of Evidence taken on 15 April 1991 at a public hearing between the Parliamentary Criminal Justice Committee and the Criminal Justice Commission and other material provided by the Commission to the Committee in relation to the roles and functions of the Committee and the Commission.	22 May 1991
8.	Minutes of Evidence taken on Friday 24 May 1991 in relation to the Committee's review of its monitoring and reviewing functions and related matters.	17 June 1991
9.	Review of the Committee's operations and the operations of the Criminal Justice Commission Part A, Submissions, Volume 1 - Public Submissions, Volume 2 - CJC Submissions and Minutes of Evidence taken on 6 and 13 June 1991; 2(a) and 2(b).	16 July 1991
10.	Report of the independent investigation into the allegations made by Robert David Butler and Channel 7 regarding former Inspector John William Huey and the Queensland Criminal Justice Commission.	16 July 1991
11.	The Term of Sir Max Bingham QC, Chairman of the Criminal Justice Commission.	2 August 1991
12.	Report on Prostitution.	12 November 1991
13.	Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission.	3 December 1991
14.	Report of the names of the Members of the 1986-1989 Queensland Legislative Assembly referred to in the Criminal Justice Commission's *Report on an investigation into possible misuse of Parliamentary travel entitlements by Members of the 1986-1989 Queensland Legislative Assembly* (December 1991)	7 February 1992
15.	Review of the recommendations arising out of the Criminal Justice Commission's *Report on an Investigation into Possible Misuse of Parliamentary Travel Entitlements by Members of the 1986-1989 Queensland Legislative Assembly*.	13 April 1992

16.	Report on the public hearing held on 25 June 1992 into allegations made by Mr Richard Chesterman QC (Past member of the Misconduct Tribunals), on 23 June 1992 in *The Courier-Mail* and *The Australian* newspapers.	13 July 1992
17.	The Committee's recommendations on changes to the method of appointment and conditions of service of members of the Misconduct Tribunals.	28 July 1992
18.	Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission. Part C - A report pursuant to section 4.8(1)(f) of the *Criminal Justice Act 1989-1992*.	13 November 1992
19.	Review of the Criminal Justice Commission's *Report on S.P. Bookmaking and Related Criminal Activities in Queensland (August 1991).*	12 October 1993
20.	Review of the Criminal Justice Commission's use of its powers under section 3.1 of the *Criminal Justice Act 1989*. Part A- Submissions and Minutes of Evidence taken on 30 April 1993.	12 May 1993
	Review of the Criminal Justice Commission's use of its powers under section 3.1 of the *Criminal Justice Act 1989*. Part B - Comment, Analysis and Recommendations	12 October 1993
21.	Report into allegations made by Robert David Butler and Christopher Charles Adams regarding former Superintendent John William Huey and the Criminal Justice Commission.	9 November 1993
22.	A review of the past twelve months operation of the Parliamentary Criminal Justice Committee of the 47th Parliament.	10 December 1993
23.	Review of the Criminal Justice Commission's *Report on a Review of Police Powers in Queensland* Volumes I-III. Part A - Minutes of Evidence taken on 16 and 17 December 1994.	18 February 1994
	Part B - Comment, Analysis and Recommendations	30 August 1994
24.	Report of the unauthorised release and publication of a Committee document.	16 February 1994
25.	Report on the Inquiry into the CJC's failure to account for two copies of the November 1993 monthly report to the PCJC and related matters.	5 August 1994
26.	A report of a review of the activities of the Criminal Justice Commission pursuant to s.118(1)(f) of the *Criminal Justice Act 1989*.	21 February 1995
27.	Report on the Review of the Criminal Justice Commission's Report on a Review of Police Powers in Queensland Volume IV: Suspects' Rights, Police Questioning and Pre-Charge Detention.	23 May 1995
28.	Report on the Review of the Criminal Justice Commission's Report on a Review of Police Powers in Queensland Volume V: Electronic Surveillance and Other Investigative Procedures	23 May 1995
29.	A review of the Criminal Justice Commission's Report on Telecommunications Interception and Criminal Investigation in Queensland.	23 May 1995
30.	A review of the Criminal Justice Commission's *Report on the sufficiency of funding of the Legal Aid Commission of Queensland and the Officer of the Director of Public Prosecutions, Queensland*.	23 May 1995
31.	The CJC's response to an article appearing in *The Sunday Mail* newspaper on 28 April 1996	2 May 1996
32.	Report on Operation Melody	15 May 1996
33.	Report on section 23(c) of the *Criminal Justice Act 1989* (Qld)	16 May 1996
34.	Outstanding Parliamentary Criminal Justice Committee Recommendations	23 July 1996
35.	Annual Report 1995/96	8 August 1996
36.	Report on Operation Melody - No. 2	12 September 1996

PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

48TH PARLIAMENT
SECOND SESSION

CHAIRMAN:	Hon Vince Lester MLA, Member for Keppel
DEPUTY CHAIRMAN:	Mr Gordon Nuttall MLA, Member for Sandgate
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ABBREVIATIONS

ABCI	Australian Bureau of Criminal Intelligence
AIC	Australian Institute of Criminology
AMA(Q)	Australian Medical Association, Queensland Branch
APDFY	Australian Parents For Drug Free Youth
CEN	Cannabis Expiation Notice
CJC	Criminal Justice Commission
CLC	Caxton Legal Centre Inc.
Commission	Criminal Justice Commission
Committee	Parliamentary Criminal Justice Committee
DRSQ	Doctors Reform Society of Queensland Inc.
HEMP	Help End Marijuana Prohibition
LCARC	Legal, Constitutional and Administrative Review Committee
NTFC	National Task Force on Cannabis
PDAC	(Victorian) Premier's Drug Advisory Council
PCJC	Parliamentary Criminal Justice Committee
QCCL	Queensland Council for Civil Liberties
QCHC	Queensland Coalition Health Committee
QPS	Queensland Police Service
RIRDC	Rural Industries Research & Development Corporation
TCLS	Townsville Community Legal Service Inc.
WATF	Western Australian Task Force on Drug Abuse

SUMMARY OF PCJC CONCLUSIONS

The Committee notes that whilst research into the effects of cannabis use is not conclusive, the extensive research available does reveal incidents of serious short and long term effects associated with its consumption.

The Committee also has concerns regarding the public safety effects and the possibility of cannabis users being exposed to, and moving on to, harder drugs.

For these reasons the Committee concludes that the use of cannabis should be discouraged and that this should be the central goal of any legislative scheme dealing with cannabis.

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The Committee agrees with the Commission's conclusion that the penalties currently being imposed by the Courts for minor offences relating to cannabis fall far short of the current maximum statutory provisions in the *Drugs Misuse Act 1986* (Qld).

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As the Commission noted, Queensland is not strictly bound by the terms of the international conventions. It is the Commonwealth Government that has signed these conventions, not the State Government.

Further, it is arguable that due to the separation of powers in the Commonwealth Constitution, the powers of the States are not eroded by these conventions.

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The Committee concludes that surveys as to law reform in relation to cannabis for personal use vary in their methodology and results to such an extent that it is difficult to conclusively determine public opinion in relation to the issue. However, the Committee acknowledges that a significant proportion of the population has at some stage used cannabis.

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The Committee concludes that at this stage industrial hemp trials should not be conducted in Queensland.

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SUMMARY OF PCJC RECOMMENDATIONS

After assessing in detail the material available at this stage on each of the legislative options for dealing with cannabis, the Committee recommends:

- **prohibition should remain the legislative option;**
- **however, the current penalties in relation to small scale cannabis offences need to be reviewed and certain provision should be made for first time or very occasional offenders.**

The Committee also believes that further consideration as to the introduction of a cannabis expiation notice scheme or civil penalty model should be postponed until such time as Phase 2 of the Australian Institute of Criminology's study is finalised.

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The Committee endorses the Commission's Recommendation 7.1 that:

- **legislation define separate offences of possession and cultivation of small quantities of cannabis.**
- **the lowest level cannabis possession and cultivation offences be reduced to the status of simple offences, with commensurately adjusted maximum statutory penalties.**

In addition, the Committee recommends that further consideration be given to the Field Court Attendance Notice Scheme (as recommended by the second PCJC in Report No. 23B) being used in the policing of simple cannabis offences.

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The Committee amends the Commission's Recommendation 7.2.

The Committee recommends that the possession of cannabis not exceeding 50 grams should be a simple offence and that the maximum penalty should be a fine not exceeding 13 penalty units (i.e. $975.00) provided that there is no evidence that the offender is trafficking or supplying the drug.

The Committee does not recommend that possession of any quantity of cannabis resin be a simple offence.

The Committee does not believe that imprisonment should be a sentencing option in relation to simple offences concerning possession of cannabis.

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The Committee amends the Commission's Recommendation 7.3.

The Committee recommends that the cultivation of a quantity of cannabis plants, not exceeding two plants per household, should be a simple offence, and

that the maximum penalty should be one year imprisonment and in addition to, or instead of, imprisonment, a fine not exceeding 27 penalty units (i.e. $2 025.00) provided that there is no evidence that the offender is trafficking or supplying the drug.

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The Committee amends the Commission's Recommendation 7.4.

The Committee recommends that where an offender has been found guilty of a simple cannabis offence, and:

- **the offender has not been found guilty of a similar offence in the preceding five year period; and**
- **has not previously been found guilty of any other drug offence (except a simple cannabis offence)**

the Court should:

- **not record a conviction against the offender; and**
- **impose a fine not exceeding 7 penalty units (ie. $525).**

Further, the Court should have the option to:

- **order that the offender perform community service in lieu of a fine; and**
- **in the case of a simple possession offence impose a bond in accordance with the *Penalties and Sentences Act 1992* (Qld)**

unless, having regard to the matters referred to in Part 2 of the *Penalties and Sentences Act,* it is satisfied that there are special circumstances which justify not proceeding under this provision. Where the court elects not to proceed under this provision, it shall state its reasons for doing so.

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The Committee endorses the Commission's Recommendation 7.5 that:

It should not be an offence to possess any thing for use in connexion with the administration, consumption or smoking of cannabis, or that has been used in connexion with such a purpose.

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The Committee endorses the Commission's Recommendation 7.6 that:

- **the powers contained in the *Drugs Misuse Act* authorising police to:**
  - **seize motor vehicles (s.14)**
  - **detain a person and require him or her to submit to an internal body**

cavity search (s.17)

- **enter and search premises without a warrant {s.18(12)]**
- **use tracking devices (s. 24)**

be limited to the investigation of indictable drug offences and should not apply to the investigation of the simple offences recommended in this report.

- **the powers contained in the *Drugs Misuse Act* authorising police to:**

  - **stop and search and remove motor vehicles (excluding the power to seize vehicles) (s.14)**
  - **detail and search people and anything in their possession (s.15)**
  - **enter and search premises with a warrant [s.18(1)-(11)]**

  should continue to apply to the investigation of the simple cannabis offences recommended in this report.

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The Committee endorses the Commission's support for the continuing development of more comprehensive education strategies relating to both licit and illicit drugs.

The Committee recommends that the State Government, continue to implement properly designed drug education and information strategies and programs directed towards not only school children but also the general public. The Committee further recommends that these strategies and programs are properly evaluated to ensure that they are in practice achieving their stated objectives.

The Committee also recognises that any changes in the laws relating to cannabis should be accompanied by public education strategies as to those changes.

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The Committee recommends that the current laws in Queensland relating to the confiscation of property and moneys received as a result of, and in connection with, drug dealing be reviewed. In particular, the Committee recommends that the issue of revenue generated from confiscations being placed into a special trust fund, moneys from which may be used for specific law enforcement, drug rehabilitation and education purposes, be considered.

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The Committee recommends that in 1998 the Parliamentary Criminal Justice Committee conduct a further review of cannabis laws in Queensland.

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CHAIRMAN'S FOREWORD

This report represents the culmination of an extensive inquiry by both this Committee and its predecessor, into issues raised by the CJC's report on *Cannabis and the Law in Queensland*. As with the CJC's report, the focus of consideration has been on the legal options for dealing with possession and cultivation of cannabis for personal use.

Since the tabling of the CJC's report some significant research in relation to cannabis has been released. We have been fortunate to have had regard to some of this most up-to-date and comprehensive research including reports of the National Task Force on Cannabis, the Western Australian Task Force on Drug Abuse and the Victorian Premier's Drug Advisory Council.

As a result of our assessment of the material available at this stage on each of the legislative options for dealing with cannabis, we have recommended that whilst prohibition should remain, current penalties in relation to small scale cannabis offences need to be reviewed. Therefore, we have recommended that legislation define separate offences for possession and cultivation of small quantities of cannabis and that the lowest level of cannabis possession and cultivation be reduced to simple offences.

We have also made recommendations concerning the abolition of cannabis paraphernalia offences, a reduction in police powers in the case of investigation of the simple offences recommended in the report, the continued implementation of properly designed, implemented and evaluated drug education and public information strategies, and a review of the current laws in Queensland in relation to the confiscation of property and moneys received as a result of, and in connection with, drug dealing.

An additional issue considered in this inquiry and not addressed by the CJC in its report, was the cultivation of cannabis for commercial purposes. Whilst we recognise hemp's numerous uses and its environmentally friendly aspects, our research on point revealed that there is a need for further market analysis in terms of hemp's end uses and market potential. On this basis we have concluded that at this stage industrial hemp trials should not be conducted in Queensland.

We recognise that given cannabis is a popular recreational drug, there must be innovative solutions introduced in order to break the connection between commercial dealers and recreational users. Given significant research projects which are being conducted in the short term, we believe that another review of Queensland's legislative approach to cannabis should be undertaken by the PCJC in 1998. It is hoped that such a review will not only enable that Committee to assess the operation of the recommendations contained in this report as implemented, but also allow it to consider their appropriateness in light of the findings from current research and the experience in other jurisdictions.

On behalf of the Committee I wish to thank and acknowledge the work of the former Research Director, Mr Neil Laurie.

Hon Vince Lester MLA
Chairman

14 November 1996

1. WHAT IS CANNABIS?

Cannabis, hashish and hashish oil are all derived from the indian hemp plant, genus Cannabis Sativa L. The psychoactive chemical component in cannabis is the cannabinoid delta-9 tetrahydrocannabinol (THC) and it is found in varying concentrations throughout the plant.

Cannabis comes in three main forms:

- Cannabis leaf/head (marijuana). Marijuana is made from the chopped dried flowers and leaves of the cannabis plant and contains between 0.5-5 per cent THC, while the "sinsemilla" variety with "heads" may have 7 to 14 per cent THC.
- Cannabis resin (hashish/hash). Cannabis resin is extracted from the cannabis plant and then dried and compressed into blocks. Hash is more potent than cannabis leaf with up to 15 per cent THC.
- Hashish oil. This is an oil distilled from the plant or resin and usually has the highest THC content (up to 60 per cent THC), thereby being the most potent cannabis product.

According to the 1994 Australian Bureau of Criminal Intelligence (ABCI) "Australian Illicit Drug Report" the majority of cannabis leaf consumed in Australia is domestically grown. However, the ABCI reports that cannabis products particularly cannabis oil and hashish are largely imported. [ABCI 1995:11]

The ABCI also reported that some hybrid varieties of cannabis had been identified in Australia. One of these is called "skunk" which is a very high strength (THC) cannabis plant grown in Holland and named because of its pungent odour. Another hybrid specifically cultivated for its high THC content is "sinsemilla". [NCTF 1994:No. 25: 31]

Means of Administration

Cannabis is usually smoked in hand rolled cigarettes called "joints" which are the size of cigarettes or larger. It may also be mixed with tobacco to assist burning and extend its duration, and a filter may be added.

Hash can also be mixed with tobacco and smoked as a joint, but it is more often smoked through a waterpipe, either with or without tobacco. These waterpipes called "bongs" are popular because they cool the hot smoke before it is inhaled and there is little loss through sidestream smoke.

Due to its potency hash oil is used sparingly. A few drops may be put either on a cigarette and smoked, or placed in a pipe mixture.

Regardless of which method is used, smokers will usually inhale deeply and hold their breath in order to ensure maximum absorption of the THC.

Hashish can also be mixed with food and eaten (usually cakes and cookies). When eaten the psychoactive effects of cannabis are usually delayed for about an hour. [NTFC 1994 No. 25:32]

Dosage

A typical joint contains between 0.5-1.0gm of cannabis plant matter which can vary in THC content between 1-15 per cent. The actual amount of THC which is ingested is estimated at 20-70 per cent of that in the cigarette. [NTFC Vol 25:32]

A single joint may be sufficient for two or three people as only a small amount of cannabis (for example 2-3mg) is required to produce a "high". A heavy smoker may consume five or more joints per day. [NTFC 1994 No 25:33]

Psychoactive Effects

Blood levels of THC peak within about 10 minutes of smoking cannabis, and then quickly decline to about 5-10 per cent of the initial level within an hour of smoking. The initial decline is due to the conversion of THC by the lungs and liver to its metabolites, some of which are psychoactive. The distribution of unchanged THC to body tissues is also responsible for the rapid decline in blood levels. [NTFC 1994:12]

THC is highly fat soluble and may be stored in the fatty tissue from which it is gradually released into the bloodstream. This means that THC can be detectable in the blood for several days or weeks. [NTFC 1994:12]

Research indicates that THC is cleared from the body significantly more quickly for regular or experienced users and that body levels of THC are subject to individual variability. Therefore, it is difficult to determine how recently cannabis has been smoked from blood levels of THC. [NTFC 1994:12]

The storage of cannabinoids in fatty tissues and its health effects have not been fully determined. However, it is clear that the subjective psychoactive effects of cannabis intoxication do not persist beyond a few hours. It is also very unlikely that marijuana flashbacks would result from this gradual release and there is no evidence to suggest that the release can produce noticeable psychoactive effects or measurable impairment of psychomotor performance. [NTFC 1994:12-13]

Hemp

In addition to the forms of cannabis discussed above, all of which have high levels of the psychoactive constituent THC, it should be noted that some varieties of the cannabis plant have minute amounts of THC such as the hemp varieties used for industrial/commercial purposes.

2. THE PARLIAMENTARY COMMITTEE REVIEW PROCESS

2.1 Introduction

On 15 September 1995, the Queensland Parliament passed legislation which provided for a new system of parliamentary committees for the Legislative Assembly. The *Parliamentary Committees Act 1995* (Qld) established six permanent statutory committees, one of which being the Legal, Constitutional and Administrative Review Committee (LCARC).

The LCARC basically encompassed the monitor and review functions of two former committees: the Parliamentary Criminal Justice Committee (PCJC) and the Parliamentary Committee for Electoral and Administrative Review.

However, by virtue of changes to that Act (through the *Parliamentary Committees Legislation Amendment Act 1996)* the LCARC's functions were reduced and the former PCJC was re-established [see now s.115 of the *Criminal Justice Act 1989* (Qld)]. The third PCJC was appointed by resolution of the Legislative Assembly on 18 April 1996, its membership being as follows:

- Hon Vince Lester MLA - Chairman
- Mr Gordon Nuttall MLA - Deputy Chairman
- Mr Bill Baumann MLA
- Mr Ray Hollis MLA
- Mr Stephen Robertson MLA
- Mr Luke Woolmer MLA

Section 37 of the amending Act also provided that if the LCARC had not tabled a report about an issue which it had started considering and the PCJC had previously started to consider the issue (but had not tabled a report), then the new PCJC may deal with the issue as if it had dealt exclusively with the issue from the beginning. As is explained below, the subject of this report falls squarely within this provision.

2.2 The Criminal Justice Commission's Report - The Review Process

On 13 July 1994, Mr R O'Regan QC, the then Chairman of the Criminal Justice Commission (CJC), handed to the Honourable the Speaker the Commission's Report titled *Cannabis and the Law in Queensland.*

The initial review of the Commission's report arose pursuant to s.118(1) of the *Criminal Justice Act 1989* which provides that the functions of the PCJC, amongst others, are:

> *(a) to monitor and review the discharge of the functions of the Commission as a whole and of the Official Misconduct Division in particular; and*
>
> *(c) to examine the annual report and other reports of the Commission and to report to the Legislative Assembly on any matter appearing in or arising out of any such report.*

As part of its responsibilities outlined above, the then second PCJC embarked on a monitor, review

and report process.

An advertisement calling for public submissions was placed on 13 August 1994, the closing date being 7 October 1994. Submissions were received from the following:

- Australian Parents for Drug Free Youth (APDFY)
- Help End Marijuana Prohibition (HEMP)
- Queensland Police Service (QPS)
- Doctors Reform Society of Queensland Inc. (DRSQ)
- Queensland Council for Civil Liberties (QCCL)
- Australian Medical Association, Queensland Branch (AMA(Q))
- Queensland Coalition Health Committee (QCHC)
- Dr J C A Dique
- Townsville Community Legal Service Inc. (TCLS)
- Caxton Legal Centre Inc. (CLC)
- Hilda Brooks
- J V Webb
- Dr D L Backstrom

These submissions were tabled in the Legislative Assembly by the then Chairman of the PCJC, Mr Ken Davies MLA, on 20 February 1995.

Additionally, to assist in its review of this report, the second PCJC resolved to hold a public hearing in relation to the issues raised therein. A public hearing was subsequently held on 20 April 1995 and the following persons appeared and presented submissions to the Committee:

- Mr Herschel Baker representing the Australian Parents for Drug Free Youth
- Mr Roger Brand, Mr John Jiggens and Mr Tony Kneipp representing Help End Marijuana Prohibition
- Assistant Commissioner Graham Williams representing the Queensland Police Service
- Dr William Bor representing the Doctors Reform Society of Queensland Inc.
- Mr Peter Applegarth representing the Queensland Council for Civil Liberties
- Dr Dana Wainwright representing the Australian Medical Association, Queensland Branch.

Additionally, Members of the second PCJC visited Wellington, Auckland, Adelaide and Sydney during the period 9 to 17 October 1994. The purpose of this exercise was to meet with various law enforcement agencies, bodies and committees and gain, amongst other matters, a greater understanding of the legislation, enforcement procedures and law reform with respect to cannabis in other jurisdictions.

At its meeting on 17 May 1996 the current Committee resolved to complete the review of the Commission's report. After perusing the substantial material already gathered by its predecessor Committee, the Committee made two observations:

- substantial research, culminating in a number of reports in a number of jurisdictions had been released since the second PCJC had addressed the issues; and
- numerous approaches had been made to the Committee regarding the issue of industrial hemp.

As part of the current Committee's review process, during the period 23-28 June 1996 the Committee travelled to Wellington, Melbourne and Adelaide. One of the purposes of this visit was to gather further information in respect of cannabis laws, their enforcement and law reform in other jurisdictions. The Committee was able to meet and discuss issues with representatives from bodies responsible for some of the most up-to-date research in the area, including the Victorian Premier's Drug Advisory Council.

2.3 The Scope of the Commission's Report and Subsequent Events

The Commission defines the scope of its report to be the consideration of legal options for dealing with possession and/or cultivation of cannabis for personal use. The following matters are not specifically addressed:

- a comprehensive review of the *Drugs Misuse Act 1986* (Qld);
- the medical uses of cannabis; and
- the commercial use of cannabis.

Whilst the Committee likewise considered that the first two of these matters require particularly large and specialised inquiries, it did resolve to consider the issue of commercial use of cannabis.

Since the release of the Commission's report in 1994 some significant events have occurred.

Concurrent with the Commission's research, there has been a detailed examination of issues relating to cannabis conducted on behalf of the National Drug Strategy by the National Task Force on Cannabis (NTFC). The NTFC was convened as a result of a meeting on 15 April 1992 of the Ministerial Council on Drug Strategy when the then Minister for Justice, Mr Michael Tate, called for more information on cannabis use and its health effects.

The NTFC was formed in order to gather a solid foundation of research as opposed to developing a national policy. Therefore, its terms of reference were to summarise the evidence on levels and patterns of consumption of cannabis as well as the health and psychological effects of consumption, and to review laws in other countries and jurisdictions in order to evaluate the benefits and feasibility of each legislative option. Further, the NTFC was to report on cost-effective options for reducing cannabis consumption and minimising harm associated with its use.

As a result, in late 1994 the National Drug Strategy released its comprehensive *Report of the National Task Force on Cannabis* which consists of an executive summary and four technical

briefing papers prepared by commissioned specialists. These papers concern:

- The health and psychological consequences of cannabis use;
- Legislative options for cannabis in Australia;
- Patterns of cannabis use in Australia; and
- Public perceptions of cannabis legislation.

The Committee has had the advantage of considering the thoroughly researched work of the NTFC and has referred to it, where applicable, in its recommendations.

Following the release of the NTFC's report, the Australian Institute of Criminology (AIC) was commissioned by the National Drug Strategy Committee, at the request of the Ministerial Council on Drug Strategy, to undertake a study on the social impacts of various actual and potential legislative means of dealing with cannabis. In particular, minor cannabis offences were to be the focus of the study. The need for this study had been identified by the NTFC which recommended that Australian States and Territories consider discontinuing the application of criminal penalties for minor cannabis offences.

The report on Phase 1 of the study titled *Social Impacts of the Legislative Options for Cannabis in Australia, Phase 1 Research* was released in April 1995.

This initial phase was undertaken by collaborators co-ordinated by the AIC who represented various National, State and Territory agencies with an interest in cannabis-related issues. This Phase 1 report contains interim findings and steps to be taken in terms of further research and policy directions.

The second and final phase of the study has commenced and is expected to conclude during 1997. It will entail more in-depth research into the Phase 1 work with particular focus on identified research issues.

In September 1995 the Government of Western Australia's Task Force on Drug Abuse (WATF) released its report titled "Protecting the Community". The Task Force was established in order to review all aspects of drug abuse problems in that State and to develop a practical program of action. Cannabis was one of the drugs canvassed in the WATF's comprehensive report.

In summary, it was recommended that cannabis policy reflect unambiguous opposition to cannabis use and seek to discourage its use, and that public education programs on cannabis be developed. Further, it was recommended that there be a continuing focus by law enforcement agencies on higher level traffickers and street dealers.

In March 1996 the Victorian Premier's Drug Advisory Council (PDAC) released its report *Drugs and our Community*. This review culminated in the Council recommending that, whilst the trafficking in marijuana and the trafficking, possession and use of the more potent cannabis products and other currently illicit drugs should remain an offence, it should no longer be an offence to use marijuana or have personal possession of it. Further, it was recommended that growing of up to five cannabis plants per household for personal use no longer be an offence.

In June 1996 the Victorian Government responded to the recommendations made in that report in a document titled "Turning the Tide". Whilst the Government accepted the majority of the Council's recommendations, particularly those relating to education, treatment, rehabilitation and law enforcement and committed up to $25 million a year to implement those recommendations, it did not propose that use, possession and cultivation of marijuana be decriminalised at this stage.

Further, the Government announced that two committees will be charged with the development and implementation of the recommendations and the evolution of policy framework. The first of these, a new Cabinet Committee to be chaired by the Premier, is to be responsible for ensuring continued co-ordination of government efforts to implement strategies to fulfil the objectives of the recommendations.

The second committee is the Drug and Crime Prevention Committee of the Victorian Parliament. This Committee has terms of reference to independently monitor the implementation, and to evaluate the effectiveness, of these changes with the priority of commissioning significant research projects into the link between marijuana and schizophrenia and other mental illnesses, and the effects of marijuana use on driving.

Members of the current PCJC had the opportunity of meeting with Members of this Parliamentary Committee during their visit to Melbourne.

Additionally, in order to consider the viability of industrial hemp production in Queensland, the current Committee took the opportunity to meet with a representative of the Department of Primary Industries in South Australia in order to discuss the industrial hemp trials which have been conducted in that State. The discussion at this meeting proved most beneficial to the Committee's deliberations.

3. OVERVIEW OF THE COMMISSION'S REPORT

3.1 The Use and Effects of Cannabis

3.1.1 The Use of Cannabis

The Commission reports that cannabis is the most widely used illegal drug in Australia. According to the 1993 National Campaign Against Drug Abuse (NCADA) survey, 29 per cent of adult Queenslanders have tried cannabis at least once and around three per cent use it on a weekly basis, or more often. Also reflected in the survey is the prevalence of use of cannabis being related to gender and age. [CJC 1994:10] [NTFC 1994:30]

Although the Commission recognises that it is difficult to measure usage trends, on the data available it surmised that the level of cannabis use in Queensland appears to have stabilised in recent years. [CJC 1994:11]

3.1.2 The Effects of Cannabis

The Commission recognises that one of the main arguments for maintaining current prohibitions on cannabis use is both the short and long term associated harms. The converse argument advanced by opponents of prohibition is that many legal drugs have more serious health and social consequences. The Commission's report concludes that despite the substantial amount of medical and scientific research into the effects of cannabis, there remains a great deal of uncertainty, particularly about the long term effects. [CJC 1994:11]

<u>Short-Term Effects</u>

The Commission notes that the immediate intoxicating effects of small doses of cannabis are relatively short-lived and include:

- a feeling of well being (euphoria)
- cardiovascular effects, i.e. increased heart rate and blood pressure which can aggravate existing cardiac conditions
- impairment of motor and cognitive skills
- dissociation
- perceptual distortion
- lowered attention span and short-term memory disruption
- drowsiness
- loss of inhibitions. [CJC 1994:13]

The Commission also notes that depending on the user and the manner in which cannabis is taken, larger doses may result in one or more of the following short-term effects:

- confusion

- anxiety or panic
- feelings of excitement. [CJC 1994:13]

According to the Commission's report, all of these effects are considered to be "fully or predominantly reversible". However, it is noted that in some users (particularly those with heart complaints or mental disorders) some short term effects may become long term. [CJC 1994:13]

Long-Term Effects

The Commission's report focuses on four main effects of cumulative use of cannabis.

- Respiratory Conditions

The Queensland Cancer Fund submission to the Commission states that when cannabis is smoked, it produces carcinogenic "tars" similar to those produced by tobacco, and that there is obvious potential for cannabis smoking to lead to lung cancer. The difficulty appears to be quantifying the extent to which cannabis use increases the risk of lung cancer. [CJC 1994:17]

- Reproductive Effects

The Commission notes that there has been conflicting evidence on the effects of high doses of cannabis on the human reproductive system. As a result claimed correlations with lower birth weights, birth irregularities, child development or congenital conditions have not been conclusively established. [CJC 1994:17]

- Psychopathological Effects

Reference is made in the Commission's report to studies which have asserted an association between some mental conditions and cannabis use. However, the Commission notes that interpretation of these research findings is complicated by factors such as the likelihood of people with mental disorders tending to self-medicate and that drug use amongst them is prevalent. The Commission notes that care must be taken not to combine the evidence in relation to an *association* between cannabis use and some mental conditions, with the argument that cannabis use is the *cause* of those mental conditions. [CJC 1994:18]

- Dependency Effects

Stressed in the Commission's report is the distinction between casual or recreational cannabis use and cannabis dependency; the latter resulting in symptoms such as lethargy, and attention and memory problems. [CJC 1994:19]

The following extract from a 1994 report of the National Drug and Alcohol Statistics Unit is included in the Commission's report:

> *Users of cannabis do not appear to develop physical dependence to any significant degree however mild tolerance does appear to develop after prolonged use.* [CJC 1994:19]

3.1.3 Public Safety Effects

Following a review of research on point, the Commission concludes that:

- Cannabis intoxication undoubtedly adversely affects psychomotor skills, which in turn could impair a person's ability to perform tasks such as driving and using machinery.
- The lack of suitable methodology for measuring cannabis intoxication makes it difficult to determine the role of cannabis in traffic accidents and fatalities.
- Studies have concluded that there is no evidence that cannabis use is implicated in violence. [CJC 1994:15]

3.1.4 Cannabis as a "Gate-way" Drug

It is often argued that strict prohibition against cannabis should be enforced because it leads people to harder drugs. The Commission's review of this argument concludes that exposure to cannabis does not necessarily "cause" people to move on to harder drugs and that the connection is more likely as a result of psychological or sociological factors, rather than the pharmacological properties of cannabis. [CJC 1994:25]

3.1.5 CJC's Conclusion

The Commission concludes that many research findings in relation to cannabis use are inconclusive and that it is difficult to measure the effects of cannabis use, particularly over the long term. Hence, it is not certain that cannabis is more harmful than some legally available substances, although heed must be paid to the health and social costs associated with already legal drugs. [CJC 1994:26]

3.1.6 Arguments Raised in Public Submissions

The Queensland Coalition Health Committee (QCHC) states that if cannabis is made more freely available and decriminalised, its use by workers in high risk responsible occupations would be difficult to supervise and that the testing of such workers may, in the interests of public safety, become necessary in the near future.

Australian Parents for Drug Free Youth's (APDFY) written submission also stated:

> *We have over 13 000 research papers to date and not one gives cannabis a clean bill of health.*
>
> *... Surely there is enough data to warn us not to allow another drug to become legal or more freely available in the community.*

The Australian Medical Association, Queensland Branch (AMA(Q)) agreed with many of the Commission's noted short and long term effects of cannabis and the public safety effects. However, the AMA(Q) stressed the duration of these effects:

> *... what was omitted in this report is the duration of these effects which is dose dependent. There is good scientific evidence that impaired skills motor performance has been detected 24 hours after use by aeroplane pilots and with careful measurement short-term*

memory defects have been found persisting as long as four weeks after cannabis use.

Additionally at the public hearing, Dr Wainwright on behalf of the Association added that the Association's findings were exactly the same as the scientific contributors to the CJC and endorsed all of the CJC's findings.

Conversely, the submission from HEMP noted:

- Criminalisation of cannabis creates an unsafe environment for (predominantly young) users to consume cannabis. Users are exposed to real criminals who deal in large quantities, junkies who are supporting heroin habits with cannabis sales, unsafe rituals of consumption such as sharing joints (and germs) and the pressure to smoke more in order to remove the "evidence".
- The high cost of cannabis results in users not being able to consume cannabis orally, a far healthier medium than smoking.
- Prohibition prevents any kind of rational education campaign regarding safe ways to use cannabis. Prohibition also discourages users admitting use to family or friends who are able to offer support and advise those in need.
- In contrast to tobacco and alcohol, cannabis is widely acknowledged to be non-addictive. This quality also gives cannabis more credibility as a recreational drug (as does its ability to induce a tranquil effect rather than the aggression typically associated with alcohol).
- Cannabis prohibition almost certainly engenders a forbidden fruit syndrome which encourages more young people to use the drug.

The Townsville Community Legal Service (TCLS) also opined that even assuming that there are long term health effects, the social and economic costs of prohibition far outweighs the health effects and the national health costs. It reasoned that the savings made from legalisation could be expended on the national health costs and on education.

However, TCLS supported the introduction of comprehensive laws prohibiting the use of motor vehicles and machinery whilst under the influence of cannabis.

With respect to the health and safety issues, the Caxton Legal Centre (CLC) concluded that there appeared to be no conclusive evidence that the safety and health risks associated with cannabis use are any more serious than legal drugs, and that in fact the evidence suggests that cannabis is less harmful.

In response to the argument that decriminalisation of cannabis would add another drug to the already long list of legal drugs causing harm to the community, CLC counter-argued that evidence shows cannabis is already widely used, that decriminalisation is unlikely to lead to significant increased usage, and that the consequences of discrimination and criminalisation by maintaining cannabis as an illegal drug are far more harmful to the community.

CLC submitted:

- Whilst not conclusive the available research indicates that the health effects of cannabis are minimal and reversible within a very short period of time, and therefore pose no great health risks or cost burdens on the community.
- There is no conclusive evidence that cannabis is an addictive drug on the scale of any of the legal drugs (ie alcohol and tobacco) or other illicit drugs (ie heroin and cocaine).
- Any relaxation of the present laws would not produce any increased risk to public health and safety.

At the public hearing Dr W Bor represented the Doctors Reform Society of Queensland (DRSQ). Dr Bor is a child and adolescent psychiatrist and has also trained as an adult psychiatrist. Whilst he agreed with the conclusions of the Commission's report, Dr Bor made the point that the argument over medical harm has been overstated by some groups.

The DRSQ also did not support the argument that cannabis by itself leads to the taking of "harder" drugs.

Both in the written submission and at the public hearing in response to a question from Hon Lester, Dr Bor stated that the reasons why individuals proceed down the path to heavier drugs are complex and more due to pre-existing personality problems than due to cannabis itself. [Hansard 1995:28]

3.1.7 Analysis and Comment

Use

Since the publication of the Commission's report there has been further research conducted into levels of cannabis use.

In 1994 the NTFC conducted a random telephone survey of 1608 individuals across Australia and established that 39 per cent had tried cannabis. [NTFC 1994 No.28:25] In addition, the NTFC reviewed the findings of the NCADA surveys together with limited data from school surveys to conclude that, although the changes in sampling and questionnaire items between surveys made it hard to draw strong conclusions, the prevalence of cannabis use has increased over the past 20 years. [NTFC No. 27 1994:x]

In this regard the NTFC recommendations included that the Commonwealth Drugs and Dependence Branch continue the monitoring of trends in cannabis use through National Drug Household Surveys and consider the funding of further research into patterns of cannabis use including the initiation and continuation of cannabis use and the use of other drugs. [See Recs 16-20 and 25]

The WATF also referred to a number of recent Australian studies, including school surveys, to conclude that adolescent use of cannabis rose steadily with age and that a greater percentage of 15-16 year old males (34.5%) had used cannabis compared to females (32%) and that males were more likely to be regular users (21.8% compared to 14.1%). [WATF 1995 Vol 2:176]

Indeed, the WATF concluded that *patterns of cannabis use are very similar in different countries, with the prevalence of use higher among men than it is among women, and highest among young adults in the early 20's and the prevalence of regular cannabis use is much lower than of experimental or occasional use.* [WATF 1995 Vol 1:91]. Although, the WATF goes on to note that trends may be changing as a Western Australian high school survey shows similar usage levels by both males and females and there is some limited evidence to show that cannabis users may continue using beyond their 20's. [WATF 1995:Vol 1:191]

The Victorian PDAC Report included data from the 1995 Victorian Drug Household Survey (which was part of the 1995 National Drug Strategy Household Survey) to conclude that marijuana is by far the most common illicit drug ever used with 29 per cent of Victorians in 1995 having used marijuana/hash. However, only 12 per cent were reported as having used marijuana/hash within the past 12 months. [PDAC 1996:11-12]

The figures relating to cannabis use in Queensland as per the 1995 National Drug Strategy Household Survey showed 26 per cent of Queenslanders had ever used marijuana, whereas 10 per cent had used it within the past 12 months.

The Committee notes that much of the data relating to cannabis usage is scant and somewhat unreliable due to the survey methodology employed. By and large usage rates have been determined by surveys of a small sample of members of the community and the Committee queries the accuracy of responses given in relation to questions about use of an illicit substance.

However, the Committee notes that it is well recognised that cannabis is the most widely used illicit drug in Australia with approximately 1/3 of the population reporting that they had tried the drug, and approximately 1/10 reporting that they had used it within the last 12 months.

Health Effects

An entire volume of the NTFC's report was dedicated to the health issues relating to cannabis use, and is titled *The Health and Psychological Consequences of Cannabis Use*. The NTFC claims this to be the most significant international review of the literature on this issue since the one undertaken jointly by the Addiction Research Foundation and the World Health Organisation in 1981.

The Committee notes the following facts regarding effects from chronic cannabis use which emerged from the NTFC's review:

Effects on the immune, cardiovascular and respiratory systems, cellular effects and reproductive effects

- Cannabis smoke is potentially carcinogenic (cancer-causing) but this is related to the fact that carcinogens are created by smoking rather than the cannabinoids themselves.
- There is no conclusive evidence that cannabis significantly impairs immune functioning.
- Whilst there is no evidence that chronic cannabis use causes permanent damage to the cardiovascular system, the risk may be greater for people with certain conditions.

- Heavy cannabis smoking may cause symptoms of chronic bronchitis and may predispose users to develop respiratory cancer.
- Whilst it is uncertain whether cannabis use during pregnancy results in an increased risk of birth defects, it probably impairs foetal development resulting in lower birth weight. [NTFC 1994:14-15]

Psychological Effects

- With respect to adolescent development, cannabis use has been associated with poorer school performance and job instability in young adulthood. Although this could be exaggerated due to lower aspirations among those who use cannabis, there may be a modest effect of cannabis use on educational performance.
- It would be rare for amotivational syndrome (which involves lack of motivation and enthusiasm leading to dropping out of education and/or work) to result from chronic cannabis use.
- In the case of chronic cannabis users there is a probability that a cannabis dependence syndrome occurs and that mild withdrawal symptoms are experienced. The risk of cannabis dependence may be similar to alcohol dependence, and is likely to be highest amongst daily cannabis users.
- Whilst long term heavy cannabis use does not appear to produce severe impairment of cognitive function, it may produce subtle impairments in higher functions such as memory, attention and information organisation. Cognitive impairment seems to be more pronounced the longer the cannabis use.
- There is no reliable evidence to suggest that chronic cannabis use leads to gross structural changes in the brain but it does not exclude the possibility that changes may occur at the cellular level.
- It is likely that heavy cannabis use can produce an acute toxic psychosis characterised by confusion, amnesia, delusions and anxiety. This syndrome resembles other toxic psychoses and remits rapidly after cessation of use.
- Some evidence suggests that chronic use may precipitate a latent psychosis in vulnerable persons, or exacerbate psychotic symptoms in individuals with schizophrenia. [NTFC 1994:15-17]

The Committee also notes that the Victorian Government's response to the PDAC Report, specifically stated that the all-party Drug and Crime Prevention Committee will be required to commission two research projects, one of which being the use of marijuana and any effects it may have on the onset of schizophrenia.

Public Safety Effects

With respect to the public safety effects and, in particular, driving whilst under the influence of cannabis, the Committee has referred to the current inquiry of the Road Safety Committee of the Parliament of Victoria into *The Effects of Drugs (Other than Alcohol) on Road Safety*. This Committee has held public hearings in relation to issues under consideration in capital cities in Australia and expects to table its final report in late 1996.

The NTFC also recognised that the major acute health risk from cannabis use arises from its effects on psychomotor performance. Whilst it was stated that it is difficult to estimate the magnitude of risk of being involved in motor vehicle accidents due to cannabis intoxication, it is known that cannabis-intoxicated persons drive more slowly and take fewer risks than alcohol intoxicated drivers.

Nevertheless, the NTFC based on the evidence received, recommended that there should be restrictions on cannabis use when driving, particularly when use is combined with alcohol and noted that a method of measuring cannabis related impairment (like a breath test for alcohol intoxication) would be desirable. [NTFC Rec 22 1994:13]

The Victorian PDAC viewed the effect of cannabis intoxication on motor skills and performing skills like driving and operating machinery as a principal concern arising from the short-term effects of cannabis use. In this regard the Council recommended that research should be funded to establish a test for short-lived metabolites of cannabis products in saliva or breath to allow for the introduction of roadside testing for cannabis in a manner comparable to alcohol breath testing. [PDAC Rec 7.11 1996:131]

Further, the Council recommended that protocols be developed to assist the policing of provisions stipulating that learner or provisional permit drivers found guilty of driving offences whilst affected by marijuana should be disqualified from driving for an extended period and required to participate in education programs. [PDAC Rec 7.10 1991:131]

The Council also stressed that implementation of its recommendations should be considered alongside the forthcoming report of the Parliamentary Road Safety Committee. [1996:131]

These recommendations were subsequently supported by the Victorian Government which also stated that the all-party Drugs and Crime Prevention Committee will be required to commission a research project into the effects of marijuana on driving.

The Committee notes with some concern that there is currently no reliable ‘roadside' test to enable detection of persons driving under the influence of cannabis.

Cannabis as a ‘Gateway' Drug

After an extensive analysis of the available research on point the NTFC noted that:

> *... the use of cannabis itself does not have a direct causal role in initiating the use of the illicit drugs; other social factors are much more critical in determining progression from the use of one drug to another. In fact, recent Australian findings suggest that alcohol and tobacco may be more important ‘gateway' drugs for the use of amphetamines, heroin and other illicit drugs than is cannabis.* [NTFC 1994:34]

The WATF report considered the NTFC's analysis and concluded that whilst it would be incorrect to conclude that those who experiment with cannabis will inevitably go on to use heroin, *it requires an extraordinary interpretation of the evidence not to conclude that use of cannabis is an important precursor to use of heroin and other drugs.* [WATF Vol 1 1995:195]

The Victorian PDAC report also discusses an American study concerning the marijuana-heroin link. The Council noted that whilst the study confirmed a relationship between heroin and heavy users of marijuana, the link did not seem to be the drug as such. Rather, the Council stated, heavy marijuana use was likely to lead to involvement in drug dealing which in turn gave adolescents both the money and avenue to purchase heroin. [PDAC 1996:75]

Whilst the Committee recognises that it cannot be said cannabis will, because of its properties, lead users to use harsher drugs such as heroin, it is consistently reported that cannabis use may nevertheless lead to use of harsher drugs as a result of psychological factors or simply through the exposure to illicit drug markets.

3.1.8 PCJC Conclusion

The Committee notes that whilst research into the effects of cannabis use is not conclusive, the extensive research available does reveal incidents of serious short and long term effects associated with its consumption.

The Committee also has concerns regarding the public safety effects and the possibility of cannabis users being exposed to, and moving on to, harder drugs.

For these reasons the Committee concludes that the use of cannabis should be discouraged and that this should be the central goal of any legislative scheme dealing with cannabis.

3.2 Current Law and Practice in Queensland

3.2.1 Current Legislative Provisions

The *Drugs Misuse Act 1986* (Qld) presently contains all of the Queensland statutory provisions relating to illegal drugs. Broadly, in relation to "dangerous drugs", the Act prohibits trafficking, supply, production and possession and possession of things used in the administration of, or in connection with an offence under the Act. A “dangerous drug” is defined in s.4 of the Act as a thing that is specified in Schedule 1 or 2 of the Act. Included in Schedule 2 is a reference to cannabinoids and cannabis sativa.

The maximum penalty which can be imposed under the *Drugs Misuse Act* is 25 years imprisonment and it applies to trafficking and supplying dangerous drugs.

Sections 8 and 9 of the Act prohibit the production and possession of dangerous drugs. Pursuant to these provisions a maximum penalty of 20 years imprisonment may be imposed where the quantity of cannabis produced or possessed exceeds 500 grams or 100 plants. For possession or production offences where the quantity of cannabis is less than 500 grams or 100 plants the maximum penalty is 15 years.

Unlike other Australian jurisdictions, the Act does not provide separate provisions for possession or production of small quantities of cannabis. Therefore, a person who has in his/her possession 450 grams of cannabis or 90 plants, is liable to be punished under the same provision as a person who is in possession of a couple of grams of cannabis or a "joint".

Section 10(2) of the Act also makes it an offence to possess anything (not being a hypodermic needle and syringe) for use in connection with the administration, consumption or smoking of a dangerous drug. The maximum penalty for this offence is two years imprisonment.

3.2.2 Provision for Summary Proceedings

The absence of separate provisions dealing with possession and cultivation of small amounts of cannabis for personal use means that theoretically a person charged in relation to possession or cultivation of small quantities can face a maximum penalty of 15 years imprisonment.

However, this maximum penalty will only apply if the matter is dealt with by the Supreme Court.

Section 13 of the *Drugs Misuse Act* provides that specified offences can be dealt with summarily in the Magistrates Court. In these cases the maximum penalty which can be imposed is two years imprisonment and/or 100 penalty units (ie. currently $7,500).

The Commission's research found that, in practice, in Queensland around 94 per cent of drug possession cases and 91 per cent of cases involving the manufacturing or growing of drugs are prosecuted in the Magistrates Court. [CJC 1994:30]

Also noteworthy is that the *Drugs Misuse Act*:

- fails to distinguish between personal scale and commercial scale offences;
- requires all persons charged to appear in court; and
- excludes the operation of s.659 of the *Criminal Code*. The result is that a summary conviction of any indictable offence under the *Drugs Misuse Act* will mean the offender is recorded as being convicted for an indictable offence and not a simple offence (even in cases involving the smallest of quantities of cannabis).

In relation to this last point, indictable offences are the most serious of criminal offences and conviction of an indictable offence can severely hamper a person's chances of gaining employment and travelling overseas. On the other hand simple offences are less serious criminal offences and are prosecuted in the Magistrates Court.

Another implication of being charged with an indictable offence (albeit heard summarily) as opposed to a simple offence, is found in the *Criminal Law (Rehabilitation of Offenders) Act 1986 (Qld)*. That Act provides that, in general, after the expiration of a rehabilitation period there shall not be disclosure of convictions against a person. Where a person is convicted upon indictment that rehabilitation period is 10 years. In the case of persons convicted otherwise the period is five years.

3.2.3 Police Powers

Police have extensive powers to search persons and premises under the *Drugs Misuse Act*. These powers include:

- Power to stop, search, seize and remove motor vehicles [s.14]
- Power to detain and search persons [s.15]

- Power to require a body cavity search of a person [s.17]
- Power to enter and search property [s.18(12)]
- Power to use tracking devices [s.24]
- Power to apply to a court for a warrant to place a person under electronic surveillance [s.25].

These powers apply in relation to the investigation of all offences under the Act, with the exception of s.25, which applies only where an offence carrying a penalty of 20 years or more is suspected.

3.2.4 Offences and Penalties in Other Jurisdictions

The Commission reports that the *Drugs Misuse Act* contains the most severe penalty structure of any jurisdiction in Australia, particularly for minor possession and cultivation offences. As a result, much higher maximum statutory penalties apply to small scale cannabis offences in Queensland than in other States and Territories.

Expiation Notice Schemes

South Australia (via the *Controlled Substances Act Amendment Act 1986*) and the Australian Capital Territory (via the *Drugs of Dependence (Amendment) Act 1992*) have cannabis expiation notice (CEN) schemes whereby tickets imposing standard fines are issued for minor cannabis offences.

Under the South Australian scheme offenders are issued with a standard infringement notice and they can "expiate" the offence by paying a prescribed penalty. The penalties are as follows:

- $150 possession of 25 grams or more but less than 100 grams of cannabis
  possession of 5 grams or more but less than 20 grams of cannabis resin
  non-commercial cultivation of 10 or fewer plants
- $50 possession of 25 grams or less of cannabis
  possession of 5 grams or less of cannabis resin
  consumption of cannabis other than in a public place (consumption in a public place is considered a more serious offence and can not be expiated)
  possession of equipment for consuming cannabis
- $10 possession of equipment for consuming cannabis (when in combination with an offence above)

If the fine is paid no court appearance is required and no criminal conviction is recorded. If a notice is not paid (or expiated) it is dealt with in the usual manner by the courts.

The Commission's report cites information from the South Australian Office of Crime Statistics which indicates that, in the majority of cases where a person fails to expiate and is found guilty of the offence, a conviction is recorded. [CJC 1994:39]

Unlike the South Australian cannabis expiation notice scheme, under the Australian Capital Territory's scheme the police have a discretion as to whether to issue an expiation notice to an

offender, or to proceed against the person by arrest or summons. A notice can be issued imposing a fine of $100 for possession of not more than 25 grams of cannabis and cultivation of not more than five cannabis plants. [CJC 1994:40]

3.2.5 Queensland Law in Practice

The Commission reports that in practice sentences being imposed by Queensland courts for lower-scale cannabis offences bear little relation to the penalties prescribed by the *Drugs Misuse Act*. Further, most cannabis offences are prosecuted in the Magistrates Court (where the maximum penalty is now two years and/or now a $7,500 fine) and terms of imprisonment are rarely imposed. [CJC 1994:41- 44]

The *Penalties and Sentences Act 1992* (Qld) requires the court to consider a number of factors when sentencing all criminal offenders as well as whether to record a conviction against a person found guilty of an offence. The Commission reports that, consistent with Supreme Court decisions, first-time offenders found guilty of possession or cultivation of small quantities of cannabis, or possession of things for smoking cannabis, do not usually have convictions recorded against them. [CJC 1994:45]

3.2.6 The Costs of Cannabis Prosecutions

Highlighted in the Commission's report is the substantial cost associated with the prosecution of lower-scale cannabis offences. Cited are the following estimated total costs of processing and prosecuting persons charged with possession of cannabis and cannabis-related utensils as principal offences in Queensland for the year 1991/92:

- possession of cannabis – $2,132,000
- possession of cannabis-related utensils – $463,000.

3.2.7 CJC's Conclusion

The Commission stresses the disparity between sentences imposed by the courts for small scale cannabis offences, and the penalties contained within the *Drugs Misuse Act.* It is noted that this is in contrast to other Australian jurisdictions which do not set similarly high maximum statutory penalties.

3.2.8 Analysis and Comment

The research presented by the Commission clearly indicates that the penalties imposed by the courts for minor offences relating to cannabis fall far short of the much higher statutory limitations.

In relation to the Commission's costings detailed in Appendix 2 of its report, the Commission outlines the methodology used to calculate these costs and attempts to demonstrate the likely savings which would flow from introducing a CEN scheme for minor possession offences and abolishing paraphernalia offences.

According to the calculations detailed in the Appendix the estimated savings (based on 1991/92 figures) from:

- introducing expiation notices for the possession of cannabis is about $735,000;
- introducing expiation notices for the possession of cannabis-related utensils is about $235,000; and
- abolishing the possession of cannabis-related utensils offence is around $463,000. [CJC 1994:A 29]

Whilst the Committee has not embarked on a thorough evaluation of the Commission's costings, or undertaken a costing exercise of its own, the Committee does note that the Commission's figures were prepared with numerous limitations, including:

- the making of several assumptions due to the lack of suitable data;
- a rider that the figures presented should be regarded as approximate only;
- a notation that by varying one or more assumptions, it would be possible to obtain significantly higher, or lower, estimates of the coast of various schemes;
- costs and potential savings were calculated only for cases where possession of cannabis, or paraphernalia was the principal offence and not where persons are charged with these offences in conjunction with more serious offences; and
- due to unavailability of data there was no attempt to calculate costs and potential savings for cultivation offences. [CJC 1994:A 15]

Indeed, the Commission goes on to state that it is doubtful that any reform short of legalisation of cannabis is capable of generating significant savings. [CJC 1994:92]

Given these limitations, the Committee has some reservations as to the Commission's costings.

Further, the Committee notes that in recommending the creation of simple offences for possession or cultivation of smaller quantities of cannabis, the Commission concedes that the implementation of this option would not reduce criminal justice system costs.

Indeed, the Commission suggests that if savings are possible they can perhaps be achieved by other means, such as the use of Field Court Attendance Notices. [CJC 1994:92] The Committee has canvassed this option in its discussion on CJC Recommendation 7.1 at paragraph 5.1.4.

The Committee also notes that whilst the issue of costs should not dictate the outcome of a legislative scheme, it is a factor to be taken into consideration. The enforcement of all criminal laws cost the community. The issue remains as to whether cannabis use should be a criminal offence.

3.2.9 PCJC Conclusion

The Committee agrees with the Commission's conclusion that the penalties currently being imposed by the Courts for minor offences relating to cannabis fall far short of the current maximum statutory provisions in the *Drugs Misuse Act 1986* (Qld).

3.3 The Effect of International Drug Conventions

3.3.1 The Current Position

In undertaking its analysis, the Commission proceeded on the assumption that any legislative scheme recommended for dealing with cannabis should comply with Australia's obligations under international drug conventions.

Four conventions which Australia has ratified impose obligations upon signatory countries to ensure that their domestic laws are consistent with the terms of the conventions.

The Commission notes:

- A divergence of legal opinion exists about what is required by the conventions.
- All commentators agree that the conventions do not allow the legalisation of possession, cultivation or use of the drugs listed in the schedules attached to the conventions.
- Any scheme which demands a court appearance (at least when the charge is disputed), and which prescribes more than "nominal" penalties, would be consistent with Australia's treaty obligations.
- There is some doubt as to whether cannabis expiation notice schemes, such as adopted in South Australia and the Australian Capital Territory, comply with the international drug conventions. [CJC 1994:56 and 57]

In this regard the Commission concludes that it is it is unnecessary to make a final decision on this point of disagreement as this issue is not specifically relevant to the Commission's final recommendations. Although, the Commission does state that whilst Queensland is not strictly bound by international conventions which have been ratified by the Commonwealth and not incorporated into State law by statute, any recommendations with respect to the reform of cannabis laws in Queensland should comply with such conventions. [CJC 1994:49]

The CJC has recently, in its response to proposed changes to the *Juvenile Justice Act 1992* (Qld), reiterated this stance in relation to international treaties. In that submission the CJC also stated that if the Queensland Government were to pass legislation inconsistent with a treaty to which Australia is a party, it would be open to the Commonwealth Government to pass legislation giving effect to the treaty and overriding the State legislation. The CJC goes on to state that the Commonwealth may even be compelled by action taken by a third party.

The NTFC report notes that Australian drug laws have closely followed the international drug treaties, and that these treaties have been significantly influenced by the United States. The NTFC concludes that legislative change with respect to drug laws must take into account Australia's obligations under these treaties, although it recognises that there is some debate as to options available within the scope so defined. It is noted that total prohibition currently adopted by most of the Australian States is clearly one of the available options. [NTFC 1994:21]

Indeed, the fact that the Australian Government being a signatory to these international treaties may affect a State Government's capacity to reform cannabis laws was recognised by the Victorian

PDAC. The Council recommended that amendments to existing legislation in line with its recommendations should take account of international treaty obligations and expert legal advice should be sought in this regard. [PDAC Rec 7.9, 1996:131]

This recommendation was subsequently supported by the Victorian Government.

3.3.2 Arguments Raised in Public Submissions

The Townsville Community Legal Service (TCLS) opposed any government having the right to infringe people's liberties when the individual is causing no harm to others. In this regard it referred to the right of the individual to self determination as recognised by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Additionally, the TCLS noted the following with respect to the Commission's discussion on the international conventions:

> *We submit that if Australia sought to modify the treaty to enable it to implement a policy of legalisation on the basis that among other things it wished to rid our society of the social and economic costs of the policy, including for example the black market, and as an alternative to a legal and penal policy, then we fail to see how this could be seen as a radical application by most of the international community.*

The Doctors Reform Society of Queensland (DRSQ) recommended a move towards the legalisation of all illicit drugs although it conceded that this could take several years of legislative reform and also recognised the international constraints on Australia moving unilaterally to change the law.

Caxton Legal Centre (CLC) stressed that cannabis was only included in the conventions because it was defined as an opiate or narcotic; an inclusion it termed unjustified because there is no evidence that cannabis has any association with hard drugs such as heroin.

It also noted that Articles 3.4(b), (c) and (d) of the 1988 Convention allow the provision of "measure of treatment, education, aftercare, rehabilitation and social integration as an alternative to conviction or punishment of drug offenders. On this basis CLC argued that State laws based on the social integration of persons using cannabis for personal consumption can be introduced to allow a system of partial decriminalisation of minor cannabis offences.

With respect to the debate over whether the South Australian and ACT schemes breach the conventions, CLC's submission refers to the Commonwealth Attorney-General's office's advice of 24 February 1994 which states that those schemes are consistent with both conventions on "personal consumption".

3.3.3 PCJC Conclusion

As the Commission noted, Queensland is not strictly bound by the terms of the international conventions. It is the Commonwealth Government that has signed these conventions, not the State Government.

Further, it is arguable that due to the separation of powers in the Commonwealth

Constitution, the powers of the States are not eroded by these conventions.

3.4 Views on the Current Law

3.4.1 The Commission's Conclusion

After studying community views about current cannabis laws as expressed in submissions and recent public opinion surveys, the Commission concludes that:

- Between one quarter and one half of adult Queenslanders support the legalisation of cannabis for personal use. However, generally opponents of the legalisation option feel more strongly about the issue than supporters.
- Considerable community resistance remains towards proposals to legalise cannabis, but there seems to be a fairly widespread acceptance that possession and/or cultivation of cannabis for personal use only should be regarded as a relatively minor offence. According to its public opinion survey, most respondents who were opposed to legalisation considered an "on-the-spot" or court-imposed fine to be a sufficient penalty for such offences. Only a small minority supported imprisonment as an option.
- The severe penalties in relation to minor offences in the *Drugs Misuse Act* do not accord with community views. [CJC 1994:72]

3.4.2 Analysis and Comment

The NTFC conducted a random national telephone survey in order to gain up-to-date information about the public perception of cannabis legislation in Australia. It reports that the majority of respondents believed that activities relating to large amounts of cannabis, or supply/sale of cannabis should be illegal. But, between 52 per cent and 55 per cent thought that production or possession of cannabis for personal use and possession of implements for smoking cannabis should be legal. This view received the most support in the Northern Territory (68 per cent) and the least support in Queensland (44 per cent). [NTFC 1994:36]

The survey also showed that:

- Around 75 per cent of respondents believed that growing or possessing cannabis for personal use and possessing implements for using cannabis should not be a criminal offence. [NTFC 1994:36];
- Of those respondents who thought that personal cannabis use should remain illegal, there were a significant percentage who did not believe that it warranted criminal penalties. Over 50 per cent of respondents from Queensland and South Australia who felt that possession of cannabis for personal use should remain illegal, believed that it should not be a criminal offence, as opposed to about 35 per cent from New South Wales, Victoria and Tasmania; and
- There was large support for driving under the influence of cannabis intoxication being a criminal offence. [NTFC 1994:36-37]

However, the 1995 National Drug Strategy Household Survey also sought to measure public opinion for legalisation of cannabis. A sample of the population was questioned as to what extent

they would support or oppose the personal use of cannabis and asked to respond according to a scale of 1-5. Of the Queenslanders surveyed, 25 per cent either supported or strongly supported personal use of cannabis being legalised, 17 per cent did not oppose or support the reform and 59 per cent either opposed or strongly opposed such reform.

That survey also revealed the following of the Queenslanders surveyed:

- 39 per cent thought that the possession of small quantities of marijuana should be legal;
- 29 per cent thought that the possession of small quantities of marijuana should be a criminal offence
- 24 per cent thought that the possession of small quantities of marijuana should be illegal, but not a criminal offence.

3.4.3 PCJC Conclusion

The Committee concludes that surveys as to law reform in relation to cannabis for personal use vary in their methodology and results to such an extent that it is difficult to conclusively determine public opinion in relation to the issue. However, the Committee acknowledges that a significant proportion of the population has at some stage used cannabis.

4. LEGISLATIVE OPTIONS FOR DEALING WITH CANNABIS

4.1 The Options Addressed by the Commission

Three legislative options for dealing with cannabis were most frequently addressed in submissions received by the Commission namely:

- legalisation;
- retention of existing laws; and
- the introduction of a cannabis expiation notice scheme.

The Commission also briefly reviewed the Victorian model, which provides a statutory sentencing scheme for first offenders.

4.1.1 Legalisation

The legalisation option is rejected by the Commission on the following grounds:

- Whilst the effects of cannabis may not be significantly more harmful than some licit drugs, this is not sufficient reason for legalisation, particularly considering the national health costs associated with already licit drugs.
- The legalisation of cannabis (even under a tightly regulated scheme) would probably lead to an increase in usage. This is concerning because of:
  - uncertainty regarding the long-term health effects of cannabis use; and
  - the effects that cannabis intoxication could have on road and workplace safety, coupled with the lack of suitable methodology to measure cannabis intoxication.
- Australia's obligations under various international drug conventions preclude legalisation. [CJC 1994:76]

4.1.2 Retention of the Status Quo

Retention of existing laws is rejected by the Commission on the ground that the present legislative scheme in Queensland creates too wide a gap between the penalties set down in the legislation and the penalties actually imposed by courts. This approach is stated to:

- be indefensible in principle;
- be of questionable deterrent value;
- create the potential for inconsistency in sentencing; and
- contribute to loss of respect for the law by the community at large. [CJC 1994:81]

4.1.3 An Expiation Notice Scheme

The Commission does not believe that a Cannabis Expiation Notice scheme should be adopted in Queensland because:

- The penalties under existing schemes are arguably too low and defined quantities too high, especially in the case of cultivation.
- The schemes rely on the threat of a criminal conviction as an inducement to people to expiate and therefore disadvantage people who exercise their right to contest a matter.
- Evidence in South Australia suggests that the scheme has resulted in more people being issued with expiation notices than would have been charged under the previous system. This could reflect an increase in usage or the fact that the scheme has had a net widening effect.
- It is possible that the South Australian scheme has contributed to some increase in the rates of cannabis use.
- Such schemes do not contain a hierarchy of penalties for repeat offenders, thereby permitting people to disregard the law and re-offend particularly where they are able to pay the fines.

4.1.4 The Victorian Model - Bond Without Conviction for First Offenders

The Victorian *Drugs Poisons and Controlled Substances Act 1981* establishes a scheme imposing pre-conviction bonds on first-time offenders charged with certain minor drug offences. The provision is expressly limited to persons who do not have previous drug related convictions in Victoria or elsewhere in Australia.

A Magistrate, upon finding a person guilty of a minor offence, and having regard to the circumstances of the case (including the character and antecedents of the person) and the public interest, is required:

- not proceed to a conviction; and
- adjourn the matter for a period not exceeding 12 months and release the person upon his or her entering into a bond.

Although the court retains a discretion to record a conviction against the offender in circumstances where the Magistrate considers it appropriate, if the conditions of the undertaking are observed by the offender, the Court *must* dismiss the charge without any further hearing. [1994:38-39]

The Commission preferred this option as:

- it provides for more substantial penalties to be imposed on second and subsequent offenders;
- a bond acts as a formal denunciation by the community of drug use as unacceptable behaviour;
- it is a more consistent approach; and
- it results in more certain sentencing outcomes when dealing with first offenders. [CJC 1994:87]

4.2 CJC's Conclusion

The Commission's key conclusions are that:

- Although none of the three options are appropriate for Queensland, the existing offence and penalty structure in the case of minor cannabis offences should be modified.
- The Victorian model provides a useful starting point for developing a statutory scheme for Queensland. [CJC 1994:88]

4.3 Arguments Raised in Public Submissions

Opposers of Decriminalisation/Legalisation

The Queensland Coalition Health Committee (QCHC) was of the view that legalisation or decriminalisation of cannabis would be a most retrograde step. Its approach was one of education, harm reduction, rehabilitation and containment with enforcement to be linked with other associated policing functions already in existence. The QCHC refuted the suggestion that if cannabis was legalised criminal organisations would be removed from the scene as it did not appear to be the case in horse racing, gambling, some entertainment venues and certain aspects of tourism.

Dr Dique felt that the Commission's report should not have advocated any concession towards cannabis usage for recreational purposes and that it should have more strongly advocated an educational program.

He also opposed the argument advocated by Help End Marijuana Prohibition (HEMP) and Queensland Council for Civil Liberties (QCCL) in the Commission's report that in a free society all people should have the right to engage in any activity which they desire, including self-injurious activity provided that the activity does not harm others. Dr Dique states that this argument loses its validity when it is realised that any harm done to individuals immediately calls into action organisations which are responsible for providing assistance irrespective of cause (for example - police, search parties, ambulance and other health services) and that people have the duty to the public not to indulge in activity which may be harmful to themselves.

At the public hearing Australian Parents for Drug Free Youth (APDFY) concluded its recommendations to be:

> *1. We wait until we have a complete, long term, independent evaluation of the South Australian theory or model*
>
> *2. We send a report on Cannabis and the Law in Queensland to recognised organisations in research for comments, for example, the World Health Organisation, NIDA etc*
>
> *3. We implement with extreme urgency drug education in Years 5 to 12 using the latest scientific data on marijuana.* [Hansard 1995:3]

The Australian Medical Association, Queensland Branch (AMA(Q)) does not consider legalisation or even decriminalisation acceptable, but believes imprisonment should be avoided with first offence and compulsory rehabilitation preferred for the users of cannabis.

Supporters of Decriminalisation/Legalisation

The Doctors Reform Society of Queensland (DRSQ) did not fully agree with the conclusions of the CJC's report, however, supported the recommendations to simplify the law on the matters of possession/cultivation of small quantities of cannabis. Further, the Society recommended that the Commonwealth and the States move towards a system of legalisation of all illicit drugs, the benefits being dramatic savings to the police and judicial system.

The Society agreed with the attitude of QCCL and HEMP that consent to harming oneself should not result in activation of civil or criminal proceedings.

HEMP recommended a solution whereby certain outlets such as coffee shops are licensed to sell cannabis, small scale growers are licensed to produce cannabis for distribution only to these outlets and licences are provided for the personal cultivation of cannabis. The benefits were advocated to be dissolution of the black market, regulation of cannabis consumption and severance of the links to harder drugs.

The Townsville Community Legal Service (TCLS) advocated "decriminalisation" and the implementation of laws equivalent to those in the ACT.

The Caxton Legal Centre (CLC) also advocated that the advantages of implementing an expiation notice scheme in Queensland would be:

- a display of a realistic community view as to the prohibition of cannabis;
- savings in police and court system resources and time; and
- appropriate educational programs in a decriminalised environment.

The CLC recommended the use of expiation notices in Queensland and that the following features be adopted in that scheme:

- *fines to be slightly lower then those presently used in the ACT and SA*
- *people from lower socio-economic backgrounds be given options as to method of payment of their fine without having to attend court due to non-payment. This could be done by giving the following options:*
  - *paying fines by instalments, administratively adjusted according to income received and reasonable periods to pay the fines*
  - *suspended fines if under extreme economic hardship; and*
  - *counselling rather than fines for people with cannabis dependency such as occurs with some driving offences.*
- *under new cannabis laws the police be given strict guidelines as to the issuing of fines*
- *police guidelines restrict fine issuing sprees, but focus their resources on more pressing problems such as large scale production and importation of cannabis*
- *persons who are repeat minor offenders not to be labelled criminals, but to pay higher fines than the first offender. Computer data on previous fine notices could permit a points system such as with loss of drivers licence.*

- *a comprehensive education program be adopted and sustained, so that all sectors of the community understand the operation and effect of the scheme to the community.*

The CLC also recommended that the Queensland Government undertake further research into marijuana use, monitor the new laws closely, and review the new laws effect five years from their introduction.

At the public hearing Mr Applegarth representing the QCCL, approached the question on a cost/benefit analysis; that is, what are the benefits of the present regime and what are the costs of the present regime. These costs include not only direct costs but the costs of policing and the social and health costs. Mr Applegarth stated:

> *... the Council's position is that the present policy of prohibition is wrong in principle and it has failed in practice. To briefly state why we say that: it has not worked in practice because there has not seemed to have been any great diminution in use, so far as we can make out, from policies of prohibition here or elsewhere. It is highly discriminatory in its effect.*
>
> *... There are other consequences - that a large proportion of the population find themselves outlaws; that the people who do not take the drugs treat the law with a certain degree of contempt; that a lot of Government expenditure is directed at law enforcement and that it does not have the desired effect when that expenditure could be diverted to more useful means.*
>
> *The Council acknowledge the need for special measures in the area that Mr Barton referred to earlier where there may be the need for regulation of people who use cars and machinery under the influence of marijuana or cannabis. But in summary, the Council's position, which I elaborated on in some detail, is that the policy of prohibition is not soundly based; it has numerous costly and undesirable consequences which outweigh its marginal benefits, and it has resulted in a black market which is completely out of control. It has not been demonstrated to have reduced cannabis use. The policy of prohibition has been a costly failure.* [Hansard 1995:35-36]

4.4 Analysis and Comment

The Committee recognises that a major argument behind cannabis law reform is whether the social harm caused by the arrest and criminal conviction of cannabis users outweighs the harm that the drug may cause to users' health.

It is recognised that the law reform movement in this area is supported by mainstream bodies and professionals. The most recent initiative in this regard was the Victorian PDAC which concluded that cannabis use is relatively widespread in the community and that strategies aimed at abuse/reduction in use are most likely to be effective if cannabis use is no longer a criminal offence. Instead the Council recommended regulation which it considers will in turn facilitate education and treatment. To this end the Council proposed that use and possession of a small quantity of marijuana should no longer be an offence. ('Household' was defined as excluding everything other than private residences.) [PDAC Rec 7.1 and 7.2 1996:129]

During its meeting with Members of the Council it was stressed to the Committee that the Council sought to break the nexus between small scale 'personal' cannabis users and drug dealers.

These recommendations were subsequently not supported by the Victorian Government.

The Victorian Government's overall response to the relevant recommendations was that before the decriminalisation of marijuana is considered further, a better co-ordinated, better resourced, more innovative and carefully focussed education, treatment and law enforcement strategy should be given a chance to work.

At the outset the Committee also notes the confusion regarding the term "decriminalisation". It is a term which has been used to describe a number of legislative options, including:

- A situation where penalties have been reduced or where imprisonment has been abolished as an option rather then the removal of a criminal conviction and penalties altogether (as exists in the United States).
- The approach in the Netherlands whereby the Public Prosecutions Department has a broad discretion not to prosecute in cases where prosecution would have no beneficial effect in reducing the risks involved.
- Expiation notice schemes such as that in South Australia where it does not mean that small-scale cannabis offences are no longer criminal offences, but they are no longer prosecuted as though they were.

The Committee defines decriminalisation as a scheme under which there is no criminal conviction recorded in relation to the offences.

The NTFC Analysis of Options

The Committee notes that the NTFC report canvasses five legislative options for cannabis control. Briefly they are:

1. Total prohibition - This model entails prohibition with criminal offences for all cannabis offences. It is the system currently applying in Queensland. The NTFC notes that this policy as implemented in the United States and most Australian States (with the exception of South Australia, the Australian Capital Territory and now the Northern Territory), has not been successful in eradicating or substantially reducing drug use. It is also noted that the financial and social costs of law enforcement under these systems are high.

The Netherlands also has total prohibition but operates on the basis of the 'expediency principle' which means that dealing, possessing or producing small amounts of cannabis do not require police investigation, arrest or prosecution. This approach has apparently been successful in separating the cannabis market from the markets for other more harmful drugs, and has not resulted in an increase in cannabis use. In fact cannabis use levels are noted to be lower in The Netherlands than in the United States where prohibition is enforced. [1NTFC 994:22-23]

2. Prohibition with civil penalties for minor offences - This model contemplates that possession and cultivation of small amounts of cannabis for personal use result in a civil penalty being imposed (for example paying a monetary penalty) rather than criminal sanctions such as court

imposed fines or imprisonment.

Examples of this model are the current schemes which were introduced in South Australia in 1989, the ACT in 1992 and the Northern Territory in 1996. Positive considerations regarding this mode are stated to be:

- Civil penalties separate the cannabis market from other drug markets.
- There are considerable costs and workloads associated with requiring minor cannabis offenders to appear before the courts.
- Total prohibition schemes have not been effective in reducing cannabis use levels.

The NTFC reports that the introduction of such systems in some American States, South Australia and the ACT have not led to an increase in cannabis usage levels.

It is also suggested that further adjustments could overcome the social class differences caused by such a system. These adjustments would aim to remove the possibility of conviction for some who fail to expiate because of financial reasons.

The NTFC concludes:

> *While there may be scope for improving civil penalty schemes in terms of their application and operational efficiency, the schemes of this type which have been implemented to date have not led to undesirable effects on the community.* [NTFC 1994:23-24]

3. Partial prohibition - This option maintains a prohibition on production and distribution of commercial quantities of cannabis, but it is not an offence where personal use quantities are involved. The NTFC reports that whilst this system has not been fully implemented and evaluated in any country, it is likely that it would reduce the financial and social costs of making personal use quantities of cannabis an offence and it is unlikely that it would lead to an increase in usage. [NTFC 1994:25]

4. Regulation - Under a regulated system the production, distribution and sale of cannabis would be controlled by the Government and trafficking outside this system would be a criminal offence. There would be no penalties associated with personal use. It is similar to the current regulation of alcohol.

Ideally this would remove the incentives for a black market in cannabis, although it is conceded that there could be high administrative costs involved. [NTFC 1994:25]

5. Free availability - It is reported that there are currently no countries which have no legislative restrictions on cannabis production, importation, sale, supply, possession or use. This is not seen as a current viable option. [NTFC 1994:26]

In summary, the NTFC supports the view that:

> *... the total prohibition model, in providing criminal penalties for minor cannabis offences, results in significant social harm, through the imposition of criminal records on large numbers of people, and by increasing the likelihood of involving cannabis users in*

> *illicit drug markets and criminal activity. It is believed that such harms generally outweigh any personal or social harms which may result from the moderate use of cannabis.* [NTFC 1994:26]

It is noted that, in contrast, civil penalty options seek to avoid or minimise potential harms associated with having a criminal record, or with involvement in illicit drug markets.

The NTFC therefore recommended that whilst the possession, unsanctioned cultivation, sale and non-therapeutic use of cannabis in any quantity should remain illegal and the law enforcement focus on the detection and prevention of the importation, sale and unsanctioned cultivation of cannabis should be maintained, jurisdictions should consider discontinuing the application of criminal penalties for the simple personal use or possession of cannabis, without compromising activities aimed at deterring cannabis use.

The NTFC also recommended that the provision of information on the health consequences of cannabis use, and possible treatment options be considered as a routine adjunct to the issuing of civil penalty notices for minor cannabis offences, even where other penalties such as non-custodial sentencing prevail. [NTFC Recs 8,9,10 and 11, 1994:xii]

Expiation Notice Schemes

Recommendation 21 of the NTFC recommends further research be conducted into the effects and efficiency of cannabis expiation schemes operating in South Australia and the ACT, including comparisons with approaches in other States. [NTFC 1994:xiii]

As noted in the introduction, in accordance with that recommendation, the Australian Institute of Criminology (AIC) is currently coordinating a larger project looking at the social impacts of the cannabis laws in various jurisdictions throughout Australia.

The objectives of the study currently being carried out by the AIC are:

1. To implement the Ministerial Council on Drug Strategy resolution that research be undertaken into the social impact of the various actual and potential legislative responses to cannabis, the main focus being on minor cannabis offences.
2. To describe and analyse the social impacts of legislative responses to cannabis and the patterns of enforcement of those legislative responses.
3. From the research, to make recommendations which will contribute to the development and implementation of national and State/Territory policies on cannabis law and its enforcement.

This study is being conducted in two phases, the first of which was completed in April 1995.

Broadly, the findings of Phase 1 of the study support the notion that the legislative approaches operating in South Australia and the ACT have less negative social impact than does the total prohibition approach on those offenders who pay the expiation fee.

However, there is evidence that the South Australian scheme has had a substantial netwidening effect; that is, more people are receiving expiation notices than would have been expected had the

scheme not been introduced.

It was noted that negative social impacts flow from this netwidening, particularly in the case of people who fail to expiate. Therefore, in Phase 2 of the study ways of fine-tuning the expiation approach with the aim of minimising netwidening, and maximising the rate of payment of expiation fees, will be explored.

The following points of interest are also noted from the findings:

- Approaches such as those in South Australia and the ACT in relation to minor cannabis offences, have had little impact on levels of cannabis consumption.
- Enforcement of legislation relating to minor cannabis offences is costly. In 1991-92 cannabis law enforcement was estimated to cost $329 million.
- Driving whilst under the influence of cannabis, especially when combined with alcohol, increases the likelihood of accidents.
- The legal status of the drug is widely unknown by members of the public.
- The fact of cannabis use as opposed to receiving a criminal conviction for such use, may be the main source of adverse impact on people's educational and employment opportunities.
- Overseas travel may be restricted as a result of a conviction or arrest for even the most minor cannabis offence.
- There is a great disparity between jurisdictions as to the penalties that drug offences attract, and the intent of the legislation and the way the offences are dealt with in practice.
- The use of cannabis in South Australia has increased only slightly with the introduction of the CEN scheme, and at a rate similar to those States which do not have expiation schemes.
- Approximately 45 per cent of CENs in South Australia are paid and it is possible that inability to pay is one factor in the expiation rate not being higher. Most of the non-payment cases which proceed through the courts result in a conviction.
- Insufficient information is available to determine whether the Simple Cannabis Offence Notice (SCON) scheme in the ACT has had a similar netwidening effect. Results of this more recent scheme indicate that a slightly higher proportion of SCONs have been paid that CENs expiated in South Australia but a discretion to issue SCONs (which does not exist in South Australia) may impact payment rates.

Phase 2 of the study which aims to conduct more in-depth research is currently underway and is to conclude during 1997.

Some of the research issues which this stage of the study will focus on include:

- The impacts of minor cannabis convictions on young people’s lives.
- The reasons for failure to expiate offences in South Australia and the Australian Capital Territory.

- Social class differentials in expiation patterns.
- The reasons for the apparent failure to find financial savings within the criminal justice systems under the South Australian and the Australian Capital Territory expiation schemes.
- The extent, nature and cause of netwidening in South Australia and the Australian Capital Territory.

In April 1995 the Drug and Alcohol Services Council of South Australia released a report titled *The Operation and Effects of the Cannabis Laws in South Australia* for submission to the AIC study. That report confirmed the following:

- The number of cannabis offences dealt with under the CEN scheme increased from around 6200 expiable offences in 1987/88 to over 17 000 offences in 1993/94.
- The increase in cannabis-related detections seems more likely to be related to changes in police operations and detection methods.
- The rate of expiation of CENs has declined slightly since the CEN system began, and seems to have stabilised at about 45 per cent. The reasons for this low rate are uncertain but may be related to socio-economic status, the inability to pay fines and the fact that the offenders involved already face other charges and have little incentive to expiate CENs.
- Extensions to the 60 day payment period for CEN's, time-payment schemes, and community service options have been suggested as possible ways to increase the rate of expiation of notices.

With respect to analysis of the available court data, this report states:

- The available court data is limited to cases where cannabis was involved in the major offence for which the person was charged or convicted, and therefore the statistics underestimate the total number of cannabis offences dealt with.
- There has been an increase in court appearances which is likely to be because of an increase in detections generally, and the resulting increase in appearances before courts by offenders defaulting on CEN fines, along with an increased number of appearances for non-expiable minor cannabis offences.
- In 1993 a conviction with penalty was the most common outcome (94 per cent) for cannabis possession/use offences.
- The majority of convictions for cannabis offences dealt with by Magistrates Courts in 1993 resulted in fines with less than 1 per cent of offenders being given community service orders or prison sentences. The fines for minor offences corresponded closely with the prescribed CEN penalty for the same offence.

During its visit, the Committee met with various representatives of law enforcement and other bodies and discussed the operation of expiation notice schemes. The following comments were made during those discussions:

- The schemes tended to trivialise the offence and create a perception that it is legal to grow 10 plants.

- Networks had developed whereby a person/s would arrange for individuals to grow 10 plants each. The organisers would then collect and distribute the combined harvest. (The ABCI also reported that the introduction of the expiation notice scheme in South Australia has alerted the South Australia police to a trend for enterprising people to organise individuals to grow 10 plants each in order to minimise the risk of detection. [ABCI 1995:22])
- There is a clear link between cannabis dealing and organised crime.
- Under the South Australian scheme a person possessing or cultivating expiable amounts must be issued an expiation notice even where there is evidence of commercial rather than personal use.
- It is possible to catch the same person 10 times in one day with an amount just within the limit and such offenders are still only subject to an expiation notice.
- There is some suggestion that people from lower socio-economic groups are not paying fines. This is a deficiency and perhaps they have to offer community service as an alternative means of expiating.

With respect to the issuing of Simple Cannabis Offence Notices (SCON) in the ACT since March 1993, the ABCI noted that the ACT appeared to have a higher expiation rate then South Australia, but that the ACT's rate is decreasing with 60 per cent of notices paid in 1993 and only 52 per cent in 1994. [ABCI 1995:24]

The ABCI report also quotes the Australian Federal Police's ACT region as reporting that they believe that there has been a marked decrease in the use and supply of cannabis resin and oil following the introduction of the ACT scheme. [ABCI 1995:20]

The Committee recognises the support for the introduction of schemes such as that in South Australia and ACT. Further, the Committee recognises that a number of the problems identified with these schemes could perhaps be rectified, for example by:

- reducing the defined quantities, particularly that of 10 plants and make it based on weight or plant/produce dimensions;
- giving police a discretion whether to issue an expiation notice where the amounts in question are “expiable” but there is evidence of commercial rather than personal use;
- so as not to disadvantage people from lower socioeconomic backgrounds, giving offenders the option of paying a fine, doing community service or implementing some other similar alternatives; and
- so as not to disadvantage people who exercise their right to contest a matter, providing that no conviction necessarily be recorded in the event that a person who contests a notice is found guilty of a first offence.

However, the Committee believes that, at this stage, the disadvantages outlined above outweigh the benefits to be gained from the introduction of an expiation notice scheme in Queensland similar to that currently operating in other jurisdictions. The Committee concludes that further consideration as to the introduction of a cannabis expiation notice scheme should be postponed until such time as Phase 2 of the AIC’s study is finalised.

The Civil Penalty Model

On 1 July 1996 a variation on the CEN scheme came into effect in the Northern Territory by virtue of the *Misuse of Drugs Cannabis Amendment Act 1996* (NT).

Under this scheme an "infringement notice" can be issued to adults for offences which involve the cultivation of not more than 2 cannabis plants or possession of not more than:

- 1 gram of cannabis oil
- 10 grams of cannabis resin
- 50 grams of cannabis plant material (being any part of the cannabis plant, including the flowering or fruiting tops, leaves, stalks and seeds)
- 10 grams of cannabis seed [ss.20A and 20B]

The penalty payable for any of the offences listed above is $200.00. [s.20D]

The provisions dealing with the enforcement of infringement notices is contained within Division 2A of the *Justices Act 1979* (NT). The scheme established by that Division operates in a manner similar to traffic tickets. Therefore, failure to pay a penalty enforcement order and costs is treated like non-payment of a debt and can result in the person being imprisoned or the amounts being recovered by a warrant. Unlike Cannabis Expiation Notice schemes, a criminal conviction is not recorded for non-payment. However, should a person challenge an infringement notice and fail, costs may be incurred and a conviction may be recorded.

Whilst the Committee recognises that this model partly eliminates one of the problems identified with a CEN scheme, other problems such as dealing with repeat offenders and inability to pay still remain. Further, a conviction can still be recorded if a person chooses to challenge the infringement notice in Court. Thus, the Committee remains of the view that further consideration as to the introduction of such a scheme should be postponed until such time as Phase 2 of the AIC's study is finalised.

The New Zealand Approach

As mentioned in Chapter 1, part of the PCJC's review process of the Commission's report included a visit to other jurisdictions in order to discuss, amongst other matters, different approaches to the legalisation of cannabis.

The *Misuse of Drugs Act 1975* (NZ) prohibits dealing, possession and cultivation of all drugs (including cannabis) and classifies them into three categories. Class A encompasses the hardest drugs (such as heroin and cocaine), Class B includes cannabis oil and resin, and Class C includes the cannabis plant.

However, in 1993, 44.5 per cent of minor cannabis offences were not dealt with by way of prosecution but by another method such as warning, youth aid follow up or diversion.

The diversion program applies to all lesser offences including drug related ones, committed by first time offenders who are remorseful and admit their guilt. They have the opportunity to receive counselling and on successful completion of sessions, have the opportunity of having the charge withdrawn by leave of the court. Therefore, without decriminalising the drug, offenders do not end

up with a conviction being recorded against their name.

New Zealand like Australia is signatory to the *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* and at the 6th plenary meeting in 1988 endorsed Article 14 which requires a commitment to eradicate illicit cultivation and illicit demand for narcotic drugs including cannabis. Therefore, current New Zealand legislation reflects commitment to the United Nations Convention.

PCJC Conclusion

The Committee considers that of all legislative options, one of the following are viable in the current Queensland context:

- maintain the status quo, that is prohibition with current penalties;
- maintain prohibition but create lesser/simple offences for personal use of cannabis; or
- maintain prohibition with some/only civil penalties, for example a cannabis expiation notice scheme or the 'civil penalty' model.

In addition to the analysis detailed above, the Committee also notes a recent paper by Dr Brereton (the Director of the Commission's Research and Co-Ordination Division) which concludes that the introduction of a cannabis expiation notice scheme, or a civil penalty scheme, would have little effect on the level of cannabis-related crime. Further, whilst it was believed that controlled legalisation could have a greater effect on such crime, the extent would depend upon the Government excise imposed. Excises sufficient to keep cannabis prices around their current level would result in little change to cannabis-related crime. Conversely, reducing cannabis prices could result in greater consumption and with that an increase in social and health costs. [1995:14]

The Committee notes that no country in the Western world has formally legalised cannabis.

After assessing in detail the material available at this stage on each of the legislative options and based on the above analysis, the Committee concludes:

- prohibition should remain the legislative option;
- however, the current penalties in relation to small scale cannabis offences need to be reviewed and certain provision should be made for first time or very occasional offenders; and
- a cannabis expiation notice scheme or civil penalty model should not be introduced in Queensland at this stage.

4.5 PCJC Recommendation

After assessing in detail the material available at this stage on each of the legislative options for dealing with cannabis, the Committee recommends:

- **prohibition should remain the legislative option;**
- **however, the current penalties in relation to small scale cannabis offences need to be reviewed and certain provision should be made for first time or very occasional offenders.**

The Committee also believes that further consideration as to the introduction of a cannabis expiation notice scheme or civil penalty model should be postponed until such time as Phase 2 of the Australian Institute of Criminology's study is finalised.

5. THE COMMISSION'S RECOMMENDATIONS

The Commission proposes the following outline of recommendations which, in its view, incorporate the best features of approaches in other jurisdictions while avoiding the problems associated with an expiation notice scheme.

5.1 Recommendation – Creation of Simple Offences

5.1.1 CJC Recommendation 7.1

> *The Commission recommends that:*
>
> - *legislation define separate offences of possession and cultivation of small quantities of cannabis. [See Recommendations 7.2 and 7.3]*
> - *the lowest level cannabis possession and cultivation offences be reduced to the status of simple offences, with commensurately adjusted maximum statutory penalties. [See Recommendations 7.2 and 7.3)*]

5.1.2 Background to Recommendation

As already discussed, the current penalty structure under the *Drugs Misuse Act* only provides for one penalty for offences where the quantity of cannabis is up to 500 grams or 100 plants.

The Commission's solution is to create simple offences for the possession or cultivation of smaller quantities of cannabis together with commensurately adjusted maximum statutory penalties.

Whilst recognising that this may not reduce police and court workloads or criminal justice system costs, advantages proposed by the Commission are:

- Redefining minor cannabis-related offences as simple offences would more accurately reflect community views regarding these offences.
- The penalties would be more in line with current sentencing trends.
- Prosecutions of minor cannabis-related offences would continue to be kept out of the higher courts.
- The approach does not significantly alter current sentencing practices and so should not diminish the deterrent effect of the law. [CJC 1994:92]

5.1.3 Arguments Raised in Public Submissions

The Caxton Legal Centre (CLC) did not consider that the Commission's recommendations would deter or prevent cannabis use, or address the social view of cannabis (or not mitigate other social consequences of cannabis use, such as driving under the influence, or workplace safety) but, would continue to criminalise otherwise law-abiding citizens.

Instead CLC recommended that:

> *... legislation be introduced to define separate offences of possession and cultivation and*

> *that possession and cultivation of small quantities of cannabis be decriminalised. These offences should be repealed from the Drugs Misuse Act. This would follow the clear reasoning that cannabis is different to opiates and narcotics. More serious offences should be dealt with in the Criminal Code (or in both the Criminal Code and Simple Offences Act if it is drafted).*

The Doctors Reform Society of Queensland (DRSQ), the Australian Medical Association, Queensland Branch (AMA(Q)) and the Townsville Community Legal Service (TCLS) also supported the recommendations to simplify the law on the matters of possession/cultivation of small quantities of cannabis.

However, Australian Parents for Drug Free Youth (APDFY) opposed the recommendations made by the Commission in respect of simple possession and cultivation offences and special provision for minor cases.

The Queensland Police Service (QPS) also did not support the recommendation for the creation of newer simple offences for the possession and cultivation of small quantities of cannabis to be dealt with only in the Magistrates Court. [1994:21] At the public hearing Assistant Commissioner Williams stated:

> *Experienced Queensland Police Drug Squad investigators have found that there is often no correlation between the amounts of cannabis seized and the extent of the person's involvement in the commission of serious drug offences. In other words, often searches only reveal small quantities of cannabis when reliable information indicates that more serious offences such as trafficking and supplying are taking place. I would like to point out to the Committee that the courts have ample discretionary powers at present to treat each case on its merits and to impose appropriate penalties as dictated by the prevailing circumstances. With respect, obviously the courts are using those discretionary powers appropriately.* [Hansard 1995:21]

5.1.4 Analysis and Comment

In accordance with the Committee's conclusion in Chapter 4 that prohibition remain the approach to cannabis in Queensland but that penalties for smaller scale offences be reviewed, the Committee agrees with the Commission's recommendations that simple offences be created in relation to some minor cannabis offences.

The Committee's reasoning is based on the fact that the current laws are in need of reform as the law contained within the *Drugs Misuse Act* is not being applied in practice, and it is in line with society's views that minor cannabis offences be treated as simple offences rather than more serious indictable offences.

However, as the Committee considers that cannabis possession and cultivation should remain illegal, it also believes that the laws should still have a deterrent value as previously recognised by the Committee to be important.

With respect to the policing of simple cannabis offences, the second PCJC in Report No.23B considered the Commission's recommendation that a Field Court Attendance Notice scheme, similar to that being implemented in New South Wales, be introduced. Under this scheme police are authorised to issue notices to suspects where arrest is not necessary to achieve such objectives as

establishing the identity of a person, ensuring the person's appearance before a court etc.

This scheme is an alternative to the complaint and summons procedure which has numerous problems associated with it and considerable costs.

As noted by the second PCJC, this system would be less time consuming, prevent the unnecessary waste of resources, and be an incentive for police to use rather than utilise arrest. It was also noted that this system received universal support.

Ultimately, the second PCJC not only endorsed the Commission's recommendation that a Field Court Attendance Notice Scheme be introduced, but also recommended that consideration be given to many minor offences being dealt with by an "on the spot" ticket system. [Report No. 23B 1994:218] Whilst the Committee does not agree that “on the spot” tickets should apply in relation to simple cannabis offences, as explained in the discussion in the previous chapter on cannabis expiation notice schemes, the Committee recognises that a Field Court Attendance Notice Scheme could be used in relation to simple cannabis offences.

5.1.5 PCJC Recommendation

The Committee endorses the Commission's Recommendation 7.1 that:

- **legislation define separate offences of possession and cultivation of small quantities of cannabis.**
- **the lowest level cannabis possession and cultivation offences be reduced to the status of simple offences, with commensurately adjusted maximum statutory penalties.**

In addition, the Committee recommends that further consideration be given to the Field Court Attendance Notice Scheme (as recommended by the second PCJC in Report No. 23B) being used in the policing of simple cannabis offences.

5.2 Recommendation – Scope of Simple Possession Offence

5.2.1 CJC Recommendation 7.2

In relation to cannabis possession, the Commission proposes that:

> *The possession of a quantity of cannabis not exceeding 100 grams or of cannabis resin not exceeding 20 grams shall be a simple offence. The maximum penalty shall be six months imprisonment, and, in addition to or instead of imprisonment, a fine not exceeding 25 penalty units (i.e. $1,500) [now $1,875].*

5.2.2 Background to Recommendation

Although providing a rationale for selecting the above monetary penalties and terms of imprisonment, the Commission states that these have not been calculated according to systematically applied criteria and are suggested only. The Commission stresses that the key feature of the recommended approach is the *structure* of the scheme. [1994:93]

5.2.3 Arguments Raised in Public Submissions

The Australian Medical Association, Queensland Branch (AMA(Q)) agreed with this recommendation and similarly the Queensland Police Service (QPS) position as stated by Assistant Commissioner Williams at the public hearing was:

> *If recommendation 1 is accepted by the Government, the quantities specified and the penalties imposed in this recommendation, as far as I am concerned, appear reasonable in keeping with the current court procedures.* [Hansard 1995:21]

Conversely, the Caxton Legal Centre (CLC) recommended that:

- possession of a quantity of cannabis not exceeding 100 grams or cannabis resin not exceeding 25 grams be made a quasi criminal offence (similar to traffic offences like speeding) attracting a penalty of no more than $100.00, notifiable by an infringement notice.

5.2.4 Analysis and Comment

The Commission has recommended that possession of up to 100 grams of cannabis should be a simple offence. As previously stated, a typical joint consists of 0.5 - 1 gm of cannabis, one joint may be sufficient for two or three people to get a "high" and a heavy user may smoke five or more joints per day. Therefore, the Committee strongly queries whether possession of sufficient cannabis to make up to 200 joints would be solely for personal use.

In addition, during the Committee's various meetings on its visit, comment was sought as to the appropriateness of the Commission's penalties. All law enforcement bodies were in agreement that to set the limit for minor offences as high as 100 gms and 20 gms for plant and resin respectively would be far too high and did not reflect personal use.

In determining the quantity of cannabis that a person should possess for "personal use" the Committee notes that most cannabis “deals” are for 25 grams or less. [CJC 1994:97] Further, in recommending that the use and possession of a small quantity of cannabis no longer be an offence, the Victorian PDAC recommended that “small quantity” should be defined as no more than 25 grams. [PDAC Rec 7.1]

The Committee also notes that the smallest penalty for possession of cannabis in South Australia and the Australian Capital Territory is for 25 grams or less, and in the Northern Territory possession of not more than 50 grams of cannabis plant material is the only amount of plant material which can be dealt with via an “infringement notice”.

On the above figures 25 grams of cannabis would translate to 25-50 joints. Based on the NTFC's conclusion that a heavy user would smoke 5 joints a day, the Committee is satisfied that possession of up to 50 grams of cannabis is at the very upper limit of "personal use” and therefore it should be the maximum quantity for a simple offence.

With respect to resin, the Committee was consistently advised that as a much more concentrated form of cannabis, offences relating to resin are more serious. For example, under New Zealand law

resin is a Class B drug, as opposed to marijuana which is a lower class C drug.

The Committee's inquiries have also revealed that whilst the majority of marijuana is grown in Australia, cannabis resin and oil are largely imported. [ABCI 1994:11] It also follows that as a concentrated form of cannabis it is smaller in size and easier to illegally import.

In addition, the fact that resin, unlike marijuana, cannot be homegrown is in the Committee's opinion at odds with classifying resin in the same simple offence/personal use offence category.

The Committee agrees with the rationale that the penalty for possession of 50 grams of cannabis should be reduced in proportion to the current maximum penalty which can be imposed in the summary jurisdiction, namely 2 years imprisonment and/or a fine of 100 penalty units (ie. $7,500) for possession of up to 500 grams.

The Committee also notes that the Commission reports the current fines for possession of drugs in the Magistrates Court (which could include up to 500 grams of cannabis or other drugs) ranges from $100.00 to $1500.00. [CJC 1994:94]

In terms of imprisonment, the Commission reports that during a six month period in all cases of imprisonment for a drug possession offence (most likely not being cannabis) the penalty was in addition to imprisonment for another offence or with a term of imprisonment already being served. On this basis it would seem extraordinary that a court would order a term of imprisonment solely for possession of less than 50 grams of cannabis. Indeed, such an approach would, in the Committee's opinion, reflect the general community view that imprisonment for such an offence would be excessive. It is also noted that this is in accordance with the sentencing guidelines in s.9 of the *Penalties and Sentences Act 1992*, in particular s.9(2)(a) which provides that a sentence of imprisonment should only be imposed as a last resort.

However, the Committee stresses that this reasoning applies only to possession of cannabis and that any evidence of an offender having a commercial purpose would leave open a prosecution for more serious offences relating to trafficking or supply.

5.2.5 PCJC Recommendation

The Committee amends the Commission's Recommendation 7.2.

The Committee recommends that the possession of cannabis not exceeding 50 grams should be a simple offence and that the maximum penalty should be a fine not exceeding 13 penalty units (i.e. $975.00) provided that there is no evidence that the offender is trafficking or supplying the drug.

The Committee does not recommend that possession of any quantity of cannabis resin be a simple offence.

The Committee does not believe that imprisonment should be a sentencing option in relation to simple offences concerning possession of cannabis.

5.3 Recommendation – Scope of Simple Cultivation Offence

5.3.1 CJC Recommendation 7.3

> *In relation to the offence of cultivation of cannabis, the Commission proposes that: The cultivation of a quantity of cannabis plants, not exceeding 10 plants, shall be a simple offence. The maximum penalty shall be two years imprisonment, and, in addition to or instead of imprisonment, a fine not exceeding 100 penalty units (i.e. $6,000)* [now $7,500].

5.3.2 Background to Recommendation

The Commission's research showed that:

- 72.5 per cent of the cannabis cultivation offences for which quantities or numbers were recorded involved the cultivation of 10 plants or less; and
- 91 per cent of prosecutions for cannabis cultivation proceeded in the Magistrates Court. [CJC 1994:95]

The Commission proposes a higher penalty for cultivation than possession because of the potential for larger quantities of cannabis to be produced from mature plants. Two years imprisonment is also the maximum penalty which can be imposed summarily. Further, the Commission considers that to try and distinguish between different size plants would present difficulties for legislative drafting and for the police in practice.

The Commission emphasises that, as with the simple possession offences, if the cultivation is for commercial purposes, a person can still be charged with the more serious offences of trafficking or supply. [CJC 1994:95]

5.3.3 Arguments Raised in Public Submissions

Whilst the Australian Medical Association, Queensland Branch (AMA(Q)) agreed with this recommendation, Caxton Legal Centre (CLC) recommended that cultivation of up to five plants be made a quasi criminal offence (similar to traffic offences like speeding) attracting a penalty of no more than $100.00, notifiable by an infringement notice and that cultivation of more than five and up to 20 cannabis plants be a simple offence with a maximum penalty of six months imprisonment, and in addition to, or instead of, imprisonment a fine not exceeding 25 penalty units (now $1,875).

Assistant Commissioner Williams stated the Queensland Police Service's (QPS) position on this recommendation at the public hearing as follows:

> *The Queensland Police Service does not support the recommendation that cultivation of up to 10 plants be a simple offence. Queensland Drug Squad investigators recently located cannabis plants individually weighing in excess of 10 kilograms, the weight of dried cannabis from such a plant would be 2 kilograms, with a potential street value- and I just say a potential street value- of $15000.00. Therefore, cultivation of 10 plants of that size would more likely indicate a serious offence of trafficking. In most cases a 10 plant cut-off would be appropriate. However, there needs to be, if there is legislative change, an alternative maximum plant weight, I submit, of a total of 100 grams of simple cultivation.* [Hansard 1995:21]

5.3.4 Analysis and Comment

During the Committee's meetings with representatives from New Zealand and interstate bodies many interesting points were raised relevant to this particular recommendation. On the whole the Committee was advised that 10 plants produced far too much cannabis for personal use. For example, the Committee was advised that in New Zealand there have been cases of up to three pounds dry weight of top grade "head" being obtained from one well tended plant.

In this regard the Committee found discussions with South Australian bodies most informative. (It will be recalled that in South Australia a cannabis expiation notice carrying a penalty of $150.00 can be issued for non-commercial cultivation of 10 or fewer plants.) The Committee was advised:

- The 10 plant limit had been set in 1987 and not reviewed since. Therefore, it did not take into account the more refined hydroponic growing methods which can increase foliage and allow year-round harvesting.
- Ten plants was a lot, bearing in mind that a single plant could be extremely large with a capacity to produce cannabis worth $4000.00 (and carrying a relative fine of $150.00). (In this regard 10 plants would be likely to produce much more than 100 grams which the Commission recommended for the simple possession offence.)
- There was evidence that the scheme had led to backyard 'syndication' by dealers whereby a dealer employed a network of individuals each to grow 10 plants, such syndications being feasible because of the amount of leaf able to be produced from 10 plants.

In this regard the ABCI report also noted the increasing incidence of indoor and hydroponic cultivation of cannabis which typically involved growing hybrid and dwarf varieties of cannabis. [ABCI 1995:18]

Given that defining the cultivation penalty in terms of a number of plants would also appear to be deficient considering the evidence received as to variations in plant size, the Committee considered whether an alternative means of measurement should be adopted. For example, whether the weight of the leaf produced from the plant (as suggested by the QPS) or dimensions of the plant could be stipulated.

However, discussions with a number of other law enforcement agencies revealed that, on the whole, it was believed that such restrictions would place an impractical onus on police officers to weigh and measure cannabis plants and by-products "in the field". The South Australian Police believed that given the difficulty of setting a number of plants or weight of cannabis material from those plants, it was necessary to give police a discretion as to whether to issue a CEN or revert to a large penalty if there was any evidence of commercial cultivation.

The Victorian PDAC recommended that cultivation of up to five cannabis plants per household, as opposed to per person, for personal use should no longer be an offence. 'Household' in this regard was defined to exclude everything other than private residences. [PDAC Rec 7.2]

The Committee also notes that under the recently established Northern Territory scheme cultivation of not more than two cannabis plants is the only cultivation offence which can be dealt with via an

"infringement notice".

The Committee is satisfied from its research that two plants per household would be sufficient for personal use and that any more plants indicate a commercial purpose.

In relation to the penalties for cultivation, the Committee proposes a higher monetary penalty for cultivation than for possession together with the option for imprisonment.

The Committee's rationale is that the cultivation of cannabis indicates a lesser likelihood of the offence being "one-off" as it may well be in the case of possession and it indicates that offenders are treating the law with impunity.

Again, considering that the current maximum term of imprisonment for drug offences being tried summarily in the Magistrates Court is 2 years imprisonment and that the Commission's research showed that 72.5 per cent of the cannabis cultivation offences involved cultivation of 10 plants or less, the Committee believes that the term of imprisonment for 2 plants should be reduced.

Further, given that cannabis plants can grow to produce large amounts of leaf, especially with the use of hydroponics, it is feasible that two mature plants could produce more than 50 grams of leaf. Therefore, the Committee believes that the fine should be greater than for the simple possession offence.

Finally, the Committee again stresses that should evidence indicate that an offender is cultivating cannabis for a commercial purpose, for example by growing extremely large plants, it would leave open a prosecution for more serious offences relating to trafficking or supply.

5.3.5 PCJC Recommendation

The Committee amends the Commission's Recommendation 7.3.

The Committee recommends that the cultivation of a quantity of cannabis plants, not exceeding two plants per household, should be a simple offence, and that the maximum penalty should be one year imprisonment and in addition to, or instead of, imprisonment, a fine not exceeding 27 penalty units (i.e. $2 025.00) provided that there is no evidence that the offender is trafficking or supplying the drug.

5.4 Recommendation – Special Provisions for Minor Cases

5.4.1 CJC Recommendation 7.4

Where an offender has been found guilty of a simple cannabis offence, and:

- *the offender has not been found guilty of a similar offence in the preceding three year period; and*
- *has not previously been found guilty of any other drug offence; and*
- *the quantity of cannabis which is the subject of the charge did not exceed 25 grams, 5 grams of cannabis resin or one cannabis plant;*

the Court should:

- *not record a conviction against the offender; and*
- *where it sentences the offender to a fine, impose a fine not exceeding $500*

unless, having regard to the matters referred to in Part 2 of the Penalties and Sentences Act 1992, it is satisfied that there are special circumstances which justify not proceeding under this provision. Where the court elects not to proceed under this provision, it shall state its reasons for doing so.

5.4.2 Background to Recommendation

The Commission considers it important that provision is made for one-off or occasional minor criminal offences. The quantities above were chosen because most cannabis "deals" are for 25 grams or less and a single plant is the smallest quantity that can be cultivated.

The Commission also states that this recommendation is:

- not intended to derogate from the sentencing discretion of the courts [1994:98]; and
- unlikely to reduce the deterrent value of existing cannabis prohibitions, as the proposed penalties are very close to those which are currently being imposed by the courts [1994:98] and, it is routine for first offenders charged with possession of cannabis to receive a fine with no conviction recorded. [CJC 1994:96]

The Commission reasons that:

- in contrast to an expiation notice scheme:
  - a court appearance is required which arguably has more of a deterrent effect than simply paying a fine via the mail; and
  - re-offenders face the prospect of escalating penalties whereas an expiation notice scheme is little more than a tax on those who are willing and able to pay. [CJC 1994:98]
- in contrast to the Victorian approach:
  - a bond would be one of the sentencing options available to the magistrate, but would not be mandatory; and
  - the Victorian scheme applies only to first offenders whereas the Commission's proposal applies also to those who do not commit a similar offence within three years, provided they have not previously committed any other drug offence. [CJC 1994:99]

5.4.3 Arguments Raised in Public Submissions

The Townsville Community Legal Service (TCLS) and the Australian Medical Association, Queensland Branch (AMA(Q)) supported the recommendation to introduce a statutory sentencing

scheme for minor offences. The Queensland Police Service (QPS) also agreed with the recommendation except it proposed five years instead of three years as the time limit for previous drug offences. [Hansard 1995:22]

The Caxton Legal Centre (CLC) recommended that the first part of the recommendation be amended as follows:

> *... where an offender has been found guilty of a simple offence involving cannabis possession and/or cultivation, and*
>
> - *the offender has not been found guilty of a similar offence in the preceding 2 years period; and*
> - *has not previously been found guilty of any other drug offence; and*
> - *the quantity if cannabis which is the subject of the charge does not exceed 200 grams (or 50 grams of cannabis resin) or 10 cannabis plants whose net weight is less than 200 grams*

5.4.4 Analysis and Comment

The Committee notes that the figures already cited in relation to cannabis use indicate that a large percentage of Queenslanders have at some stage at least tried cannabis. In particular, these figures indicate a high level of experimentation among males in their 20's.

In this regard the Committee has already noted the practice under the *Penalties and Sentences Act* that first-time offenders charged with cannabis possession receive a fine and no conviction. However, the Committee also notes that under the current legislation the discretion remains in the court and therefore there is potential for inconsistency in sentencing.

The Committee concurs with the Commission's view that it is important to make explicit allowance for one-off or very occasional behaviour and that isolated incidents should not result in a person's record being marred by a long-term criminal conviction.

Therefore, the Committee considers that special provision should be made for offenders who have not previously been found guilty of any other drug offence. However, in the case of previous convictions, the Committee agrees with the QPS that the period should be five and not three years.

In the above circumstances, the Committee agrees that no conviction should be recorded and that the maximum fine should be reduced to $500.00. Further, as the Committee has reduced the amounts for cannabis possession and cultivation, and specifically excluded resin from the simple offences, the Committee does not believe that the small quantities defined by the Commission should be included as a special provision.

In respect of the options available to the courts in such cases, the Committee believes that in addition to the matters noted in the Commission's recommendation, the court should have the discretion to impose a bond. The Commission states that under its proposal a bond would be one of the sentencing options available to the Magistrate, but would not be mandatory. The Committee concurs with this option and notes that s.31 of the *Penalties and Sentences Act* specifically allows for an offender to be released if he/she enters into a recognisance in such amount as the court

considers appropriate, on the condition that the offender keep the peace and be of good behaviour for a period (not longer than one year) fixed by the court.

However, the Committee believes that the bond option should only apply in the case of possession and not cultivation. For the reasons already stated, the Committee believes that cultivation is a more serious offence than possession.

The Committee also believes that the other sentencing option available to the judge should be community service. In this regard the Committee notes that s.101 of the *Penalties and Sentences Act* currently provides that a court can make a community service order only where an offender is convicted of an offence punishable by imprisonment or a regulatory offence. The Committee believes that the court should also be able to make such orders where an offender is convicted of a simple offence punishable by fine.

Finally, the Committee agrees with the Commission's recommendation that it is necessary for the court to have the ability to elect not to proceed under this provision in "special circumstances".

The Committee recognises that in addition to matters which the Commission lists as possible "special circumstances" [CJC 1994:97] there may well be other situations which justify the court in not proceeding under this provision. The Committee believes that the added rider of the court being required to state its reasons for so doing should operate against the court exercising this discretion on anything other than solid grounds.

5.4.5 PCJC Recommendation

The Committee amends the Commission's Recommendation 7.4.

The Committee recommends that where an offender has been found guilty of a simple cannabis offence, and:

- **the offender has not been found guilty of a similar offence in the preceding five year period; and**
- **has not previously been found guilty of any other drug offence (except a simple cannabis offence)**

the Court should:

- **not record a conviction against the offender; and**
- **impose a fine not exceeding 7 penalty units (ie. $525).**

Further, the Court should have the option to:

- **order that the offender perform community service in lieu of a fine; and**
- **in the case of a simple possession offence impose a bond in accordance with the *Penalties and Sentences Act 1992* (Qld)**

unless, having regard to the matters referred to in Part 2 of the *Penalties and*

***Sentences Act,* it is satisfied that there are special circumstances which justify not proceeding under this provision. Where the court elects not to proceed under this provision, it shall state its reasons for doing so.**

5.5 Recommendation – Abolition of Cannabis Paraphernalia Offence

5.5.1 CJC Recommendation 7.5

> *It should not be an offence to possess any thing for use in connexion with the administration, consumption or smoking of cannabis, or that has been used in connexion with such a purpose.*

5.5.2 Background to Recommendation

Section 10(2) of the *Drugs Misuse Act* makes it an offence for a person to have in his or her possession anything that has been used, or is for use, in connection with the administration, consumption or smoking of a dangerous drug. (Hypodermic syringes and needles are exempted from this provision as a result of a strategy to reduce HIV infection associated with intravenous drug use.) The maximum penalty for the offence is two years imprisonment.

The Commission reports that the vast majority of prosecutions under section 10(2) relate to the possession of things used for smoking cannabis, particularly "bongs" (homemade waterpipes often made out of a plastic juice bottle and pieces of garden hose). [CJC 1994:100]

The Commission opines that retention of this offence can only be justified if it can be shown that the existence of this offence makes people less likely to use the drug concerned. Although this may be the case with heroin which is normally injected intravenously, the Commission considered cannabis to be different because prohibitions on cannabis paraphernalia:

- are only likely to impact on the manner in which the drug is consumed not the extent of use; and
- do not make it more difficult for potential users to access these items. For example waterpipes can be homemade unlike syringes and needles which must be manufactured. [CJC 1994:102]

Further the Commission notes:

- where a person is found in possession of cannabis there is little to be gained from charging them with the additional offence; and
- the abolition of the paraphernalia offence could result in savings of approximately $463 000 to the criminal justice system. [CJC 1994:102]

5.5.3 Arguments Raised in Public Submissions

The Australian Medial Association, Queensland Branch (AMA(Q)), the Caxton Legal Centre (CLC) and the Doctors Reform Society of Queensland (DRSQ) all agreed with this recommendation.

Help End Marijuana Prohibition (HEMP) applauded the recommendation to abolish the crime of possessing implements for the purpose of consuming cannabis. Its submission stated:

> *If there ever was a law steeped in ignorance, it is this one. A pipe or bong is the only way to avoid using tobacco to regulate the amount of cannabis one consumes. When cannabis is smoked most users only require two or three puffs to obtain a high. When a joint is used in the absence of a pipe, cannabis must be mixed with tobacco to facilitate smoking. Cannabis users are then liable to form tobacco addictions and incur serious health damage.*

However, the Australian Parents for Drug Free Youth (APDFY) was opposed to this recommendation on the basis that unquestionably drug paraphernalia promotes drug use and it foresaw that if this law is relaxed, it will allow business enterprises to promote to the young many different and subtle ways of using drugs.

The Queensland Police Service (QPS) also did not support this recommendation. Assistant Commissioner Williams stated at the public hearing:

> *It is considered that the possession of cannabis paraphernalia should remain an offence. This is likened to a crime of break and enter and steal where the possession of house breaking implements is an offence. Cannabis is cultivated and possessed with the ultimate aim of consumption or smoking. Therefore, possession of things used for consumption or smoking of cannabis should remain an offence.* [Hansard 1995:20]

5.5.4 Analysis and Comment

The Committee notes that whilst some other Australian jurisdictions have cannabis paraphernalia offences with penalties comparable to Queensland, the ACT, Victoria and South Australia whose schemes have been discussed earlier do not. In the case of South Australia the penalty is $50 for possessing equipment for cannabis use, or $10 if in combination with another simple cannabis offence. No such offence exists in the ACT and Victoria. [CJC 1994:36-37]

The Committee sees merit in the argument that an offence in relation to cannabis paraphernalia can only be justified if it makes people less likely to use the drug. Given that the various manners in which cannabis can be consumed includes home made pipes and rolled cigarettes, the Committee considers that if the prohibition had any effect it would only be in relation to the manner in which the drug is consumed and not its actual consumption.

5.5.5 PCJC Recommendation

The Committee endorses the Commission's Recommendation 7.5 that:

It should not be an offence to possess any thing for use in connexion with the administration, consumption or smoking of cannabis, or that has been used in connexion with such a purpose.

5.6 Recommendation – Use of Powers

5.6.1 CJC Recommendation 7.6

The powers contained in the Drugs Misuse Act authorising police to:

- *seize motor vehicles [s. 14]*
- *detain a person and require him or her to submit to an internal body cavity search [s. 17]*
- *enter and search premises without a warrant [s. 18(12)]*
- *use tracking devices [s. 24]*

should be limited to the investigation of indictable drug offences and should not apply to the investigation of the simple offences recommended in this report.

The powers contained in the Drugs Misuse Act authorising police to:

- *stop and search and remove motor vehicles (excluding the power to seize vehicles) [s. 14]*
- *detain and search people and anything in their possession [s. 15]*
- *enter and search premises with a warrant [s. 18(1) - (11)]*

should continue to apply to the investigation of the simple cannabis offences recommended in this report.

5.6.2 Background to Recommendation

With the exception of the power to obtain listening and visual surveillance devices, the powers available to police under the *Drugs Misuse Act* currently apply to all drug offences. Many of these investigative powers are not available for the investigation of other serious indictable offences such as rape and murder. The Commission sought to achieve a balance between the offences being investigated and the intrusiveness of the powers being used to investigate those offences. In this regard the Commission referred to its recommendations made in previous reports. [CJC 1994:104]

The Commission noted that its recommendation to retain the powers under ss.14, 15 and 18 made in Volume II of its *Report on a Review of Police Powers in Queensland* were made in relation to offences under the *Drugs Misuse Act* which carried penalties of 15, 20 and 25 years imprisonment.

However, the Commission's recommendations in relation to some search and enter powers without warrant were confined to offences carrying a maximum of seven years imprisonment or more. Consistent with that approach, and on the basis that the Commission now recommends that offences relating to possession and cultivation of small amounts of cannabis for personal use carry penalties with a maximum of two years imprisonment, the Commission has recommended that certain powers under the Act not be available for offences carrying a maximum penalty of less than seven years. [CJC 1994:104]

The recommendation that powers in relation to searching motor vehicles and persons in respect of simple cannabis offences is justified on the basis that this procedure is the most likely means of

gathering evidence. [CJC 1994:105]

5.6.3 Arguments Raised in Public Submissions

The Doctors Reform Society of Queensland (DRSQ) and the Caxton Legal Centre (CLC) supported the recommendation to reduce police powers in the *Drugs Misuse Act*.

However, the Queensland Police Service (QPS) did not support this recommendation. At the public hearing Assistant Commissioner Williams stated:

> *A recent report to the Criminal Justice Commission identified the need for uniformity in relation to police powers of search and seizure. If this recommendation was adopted, there would be less uniformity.*
>
> *In relation to seizure of motor vehicles - it would be most unlikely that a vehicle would be seized and made liable to forfeiture under part 5 of the Drugs Misuse Act for a simple possession or small-scale cultivation offence. I have never known of one in my service where that has happened.*
>
> *In relation to the power to order internal body cavity searches - if police hold a reasonable suspicion that there are drugs in a person's body cavity, it would not be until completion of the search that the type and quantity of drug could be determined. Therefore, the classification of offence as simple cannot be made until after the search is completed. Approval for such searches must presently be authorised by a commissioned officer of the Queensland Police Service, that is, an Inspector of Police or above, and as such provides an in-built control over the exercise of this power.*
>
> *In relation to the power to enter and search premises without a warrant - in almost all instances it would not be possible to determine if a simple offence or a more serious offence is being committed until after entry and search of the premises has been completed. If police powers of entry to premises without warrant were limited to simple offences, only hindsight would show whether such a search warrant was justified.*
>
> *In relation to the power to use electronic surveillance equipment - the Drugs Misuse Act currently provides that such devices can only be used in the investigation of crime. If the law was changed in relation to simple offences, of course, it would be inapplicable; it would not be used. The Queensland Police Service rejects the Commission's assertion that these proposals will not hamper the investigations of large-scale trafficking and suppliers. Police regularly target large-scale suppliers to break into larger drug production and distribution networks. Any limitations of the police's current powers would hamper such investigations.* [Hansard 1995:22]

5.6.4 Analysis and Comment

Many prior recommendations of the second PCJC are relevant to this recommendation namely:

- In Report No. 20B the second PCJC endorsed the Commission's recommendation that the power conferred by s.18(12) to enter premises without a search warrant in special or urgent circumstances to search for evidence of the commission of a drug offence be retained, including the requirement that a record of such search be entered in the Search Register. [1994:128]

- In Report No. 28 the second PCJC amended its previous Recommendation 4.10.5 of Report No.23B so that it read that the current s.17 of the *Drugs Misuse Act* be amended to require that a person consent on video to an internal or body cavity search and, if the person does not so consent, the police should seek the approval of a stipendiary magistrate in a manner similar to that contained in s.259 of the *Criminal Code*. The second PCJC also concurred that the provisions allowing the person to have present, where reasonable, two persons of his or her choice (such as a doctor) while the search is being conducted should be included in s.17. [1995:122]
- In Report No. 23B the second PCJC endorsed the Commission's recommendation that the problem of drug detection and the ease of concealing dangerous drugs on the person justifies the continuation of the power to search the person for anything that may afford evidence as to the commission of an offence under the *Drugs Misuse Act* in circumstances where the police officer has reasonable grounds for suspecting the person of such possession. [1994:24]
- In Report No. 28 the second PCJC recommended that the police powers contained in Part III of the *Drugs Misuse Act* (ss.14-23) should be repealed and that a similar Part, subject to all previously recommended safeguards, be contained within the proposed Police Powers and Procedures Act. [1995:12]
- In Report No. 28 the second PCJC also endorsed the Commission's recommendation that warrants for listening devices be available only in respect of an offence under Part II of the *Drugs Misuse Act* punishable by 20 years or more imprisonment. [1995:28]
- Further in that report the second PCJC recommended that the power to search a conveyance without a warrant be available where a police officer has reasonable grounds to believe that a conveyance or anything in it may afford evidence of the commission of an offence under the *Drugs Misuse Act* 1986, and that the exercise of these powers is subject to the information-giving and record keeping requirements of PCJC Recommendation 8.6.5 of that report. [1994:52]

However, it must be stressed that the above recommendations by the second PCJC were made in the context of a *Drugs Misuse Act* which did not distinguish between serious offences and relatively minor drug offences.

The current Committee believes that the more intrusive police powers currently available under the *Drugs Misuse Act*, such as the power to conduct a body cavity search, are not warranted in the case of simple offences involving possession of small amounts of cannabis as outlined in CJC Recommendations 7.1, 7.2 and 7.3.

5.6.5 PCJC Recommendation

The Committee endorses the Commission's Recommendation 7.6 that:

- **the powers contained in the *Drugs Misuse Act* authorising police to:**
  - **seize motor vehicles (s.14)**
  - **detain a person and require him or her to submit to an internal body cavity search (s.17)**
  - **enter and search premises without a warrant {s.18(12)]**

- **use tracking devices (s. 24)**

be limited to the investigation of indictable drug offences and should not apply to the investigation of the simple offences recommended in this report.

- **the powers contained in the *Drugs Misuse Act* authorising police to:**
  - **stop and search and remove motor vehicles (excluding the power to seize vehicles) (s.14)**
  - **detail and search people and anything in their possession (s.15)**
  - **enter and search premises with a warrant [s.18(1)-(11)]**

should continue to apply to the investigation of the simple cannabis offences recommended in this report.

5.7 The Need for Education

5.7.1 CJC Conclusion

At page 109 of its report the Commission states:

> *The importance of drug education has been emphasised at the federal level through the National Drug Strategy (formerly NCADA) and is beginning to win recognition at state-level as well. Consistent with this approach, the Commission supports the development of more comprehensive education strategies relating to both licit and illicit drugs. Provided that they are properly designed and evaluated, such initiatives should be funded as a matter of priority.*

5.7.2 Background

In its report the Commission refers to the findings of a recent survey of New South Wales school children which shows that the most cited reason for children avoiding cannabis on one or more occasions was the fear of health problems.

This is in turn cited as support for the proposition that education strategies aimed at young people which focus on health effects as opposed to law enforcement, have more potential to impact on usage levels. [1994:108]

5.7.3 Arguments Raised in Public Submissions

The importance of educating the public about the risks of using cannabis from primary school level up was stressed in all submissions to the Committee.

The Caxton Legal Centre (CLC) recommended that in conjunction with the decriminalisation of minor cannabis use, and lesser penalties for more serious offences, a State education and media campaign be introduced to warn of the potential consequences of marijuana and drug use generally. CLC envisages that the campaign should include:

(A) The media (television, newspapers, magazines)
(B) Educational Institutions

(C) Religious Institutions
(D) Parents (seminars, Government information)
(E) Governments through
- videos
- pamphlets
- advertising in the media
- school seminars etc

(F) Employers and Unions
- work place safety seminars (Drugs in the workplace)

Help End Marijuana Prohibition (HEMP) also supported drug education. At the public hearing Mr Jiggens on behalf of HEMP stated:

> *When you replace prohibition, you should replace it with drug education. Part of that education should be discouraging people from driving while they are stoned or operating machinery while they are stoned.* [Hansard 1995:18]

5.7.4 Analysis and Comment

The NTFC made recommendations that:

> *13. the National Drug Strategy Committee develop a consistent and nationally focused public education campaign to provide accurate information on the health effects of cannabis, with the specific aims of:*
>
> *a) increasing awareness among current cannabis users and those at risk of initiating cannabis use, about the range, extent and severity of health problems attributable to cannabis use, especially heavy use, including:*
>
> - *the risk of motor vehicle accidents associated with cannabis intoxication, and the additive effect on risk of combining cannabis and alcohol use*
> - *the risks of cannabis use during pregnancy*
> - *the risk of respiratory cancer and other respiratory diseases associated with cannabis smoking*
> - *the risk of toxic psychosis resulting from heavy cannabis use, and the potential for cannabis use to precipitate latent psychoses in vulnerable individuals*
> - *other identified likely health risks*
>
> *b) attempting to delay the onset of cannabis use among adolescents*
>
> *14. other targeted education activities be directed at current users of cannabis, with the aim of minimising the possible long term harms associated with cannabis use, including information on lessening the likelihood of respiratory damage and cannabis dependence.*

The WATF also recommended that a major program of public education on cannabis be developed as part of a comprehensive drug education program addressed to the public and targeted at groups such as school students. This recommendation was based on the Task Force's conclusion that many members of the public are inadequately informed about cannabis use and public education

will be necessary to explain the overall approach it considered appropriate.

Likewise, the Victorian PDAC saw education and availability of accurate information as critical factors in the community's capacity to respond to drug use:

- in assisting individuals to make decisions about drug use; and
- in enabling parents to discuss the issues with their children.

Therefore, the Council recommended that the Victorian Government support a sustained and integrated information and education strategy that deals with both illicit and licit drugs such as alcohol and tobacco. Specific recommendations in this regard concerned:

- drug education in schools;
- increasing community awareness of, and ability to gain access to, material and information on drug issues;
- training for persons whose work brings them into contact with people who may use drugs so as they have the knowledge and skills to communicate effectively and offer appropriate support;
- developing strategies to provide information to parents to assist them provide information and support to their children; and
- developing peer education and outreach services in consultation with drug user groups. [PDAC Recs 1.1 - 1.13, 1996:120-122]

All of these recommendations were subsequently supported by the Victorian Government.

The Council further made recommendations regarding members of the community with drug dependency problems. These included recommending that the Victorian Government:

- establish a Youth Substance Abuse Service;
- upgrade services for people who come into contact with the adult corrections system and who have serious problems resulting from their drug misuse (including the establishment of an independent and specialist court advice service);
- support the continued development of appropriately designed drug and alcohol services (including the establishment of a trial cannabis treatment service for problem cannabis users with suitable links to alcohol and tobacco services); and
- support the development of an Agency for Drug Dependency to provide leadership and co-ordination in this area. [PDAC Recs 2 - 5.3, 1996:122-126]

The majority of these recommendations, with the exception of those relating to the Agency for Drug Dependency, were subsequently supported by the Victorian Government.

Current Education and Information Strategies in Queensland

The Committee notes that under the National Drug Strategic Plan, the States and Territories have agreed to develop three to five year strategies which not only reflect the strategies and

priorities outlined in that Plan, but also address priorities and problems unique to each jurisdiction. The Queensland Drug Strategy 1995-1997 (QDS) was produced as a basis for ongoing development of strategic directions relating to alcohol and other drug issues in Queensland. This document outlines indicators of drug-related harm and the manner in which they will be addressed over the three year period. It also designates which Government Departments are responsible for the implementation of the various strategies.

Overseeing the implementation of the QDS is the Queensland Drug Strategy Committee which consists of representatives from the relevant Departments. The Committee has been advised that this committee meets every 3-4 months, either before or after the National Drug Strategy Committee meeting. Further, the Committee understands that a report is currently being compiled outlining the success of the various Departments in implementing those parts of the QDS for which they are responsible.

The Committee notes that in Queensland, the education of students and the training of teachers with regard to the effects of drug use is primarily the responsibility of the Department of Education.

The QDS contains objectives and strategies that have been identified and accepted as appropriate responsibilities of the Department of Education, and include drug education policy and cannabis education.

A policy for schools, entitled *Drug Education: Policy, Procedures, Guidelines* was released in 1995. As part of the implementation of this policy, schools may conduct programs that address marijuana use. The policy outlines the responsibility of schools and other sections of the Department of Education for drug abuse prevention programs. Its aim is to ensure that priority issues of the Queensland Drug Strategy, including marijuana use, are adequately resourced and taught and at the appropriate year levels. A copy of the policy was also provided to all non-government schools. The Department of Health also encourages Health workers to work both within this policy and the nationally developed *Principles for Drug Education in Schools*.

The Committee has also been advised that:

- A *Queensland Community and School Drug Education Forum* is to be held in late 1996 which is aimed at improving drug education in schools and increasing community knowledge of what can be done by schools. This project is jointly funded by the Department of Education and the Queensland Drug Strategy. The forum is to include representatives from school personnel, parents, community members, non-government organisations, health and police personnel and students.
- Education programs addressing a range of issues related to reducing marijuana use, as well as minimising the harm associated with such use, are to be introduced into Queensland schools by September 1996. In addition, a prevalence survey of all drug use, including illicit drugs is to be conducted in 1996 of students from years 7 to 12.
- Regional centres are provided with funding ($20,000 for 1995/96) to enable schools and support centres to develop specific programs, resources and training initiatives to meet local needs for drug education.

- Assistance is provided to non-State schools, including invitations to participate in professional development seminars, the provision of free resource material and by involvement in regional health and drug education networks.
- The *National Initiatives in Drug Education Project* is funded by the Commonwealth Confiscated Assets Trust Fund. The project provided a $72,000 grant to Queensland which was allocated to regions to support the implementation of regional action plans. These funds were in addition to departmental grants provided to regions to support drug education in schools.
- The Department of Education receives additional funding from Queensland Health to assist with the education of students, the training of teachers and for resources related to addressing substance abuse in the school environment.

In relation to drug education in the broader community, Queensland Health provides funding for various drug awareness programs to government and non-government organisations, including:

- Queensland Police for addressing substance use in the community. In this regard the Committee has been advised that the Queensland Police Community Drug Education Guidelines have recently been completed through both financial and collaborative support from Queensland Health.
- District Health Services to address drug related harm in both preventive and treatment contexts. These bodies, as part of their overall program, have been involved in substantially improving community awareness and access to relevant material on drug issues. Information aimed at parents is generally part of this overall approach.
- The Alcohol and Drug Foundation of Queensland and Drug Arm for community awareness and education activities.
- A 24 hour Alcohol and Drug Information Service and the Alcohol and Drug Library which provides information on research regarding the use and effects of alcohol, tobacco and other drugs and pamphlets, brochures and booklets on all substances, including cannabis.
- A Statewide Alcohol and Drug Training and Resource Unit in Brisbane which provides training to people involved in working with clients whose use of drugs requires intervention.
- The Queensland Drug Offensive Strategy which conducts the "100% in Control Campaign" which targets 12 to 18 year olds in the promotion of an alcohol and drug free message.
- The Australian Medical Association of Queensland to develop a brochure on cannabis for distribution in doctors surgeries and waiting rooms.

Whilst the Committee believes that the drug education and information strategies outlined above appear, in theory, to be addressing the Committee's concerns, the Committee has not undertaken an inquiry as to their implementation in practice. The Committee stresses that evaluation as to the effectiveness of all strategies and policies is a critical element to their success.

In this regard the Committee is aware of research which indicates that early school drug

education is generally considered to be ineffective in preventing or delaying use. [Qld Health 1996:6] However, the Committee stresses that evaluation should also be undertaken as to whether current education and information strategies are being effectively put in place and resulting in an increase in knowledge.

Conclusion

The Committee agrees that drug education in the community is an important part of deterring drug use in our society. In particular, the Committee believes that properly designed and evaluated education and information strategies should be directed not only towards school children but also the general public. It is imperative that parents must also be aware of drug use and misuse in order to educate and support their children.

The Committee believes that the continued allocation of funding and the development of drug education programs and policies is essential for both the Queensland education curriculum and for the provision of information to the broader community by government and non-government community organisations.

It is noted that it has been argued by some that prohibition prevents any kind of rational education campaign regarding cannabis. The Committee does not accept this argument. Education campaigns in relation to the harm caused by drugs, as with abuse of other substances such as alcohol and tobacco, does not depend on the legalisation of the drug. Awareness campaigns in themselves will bring the topic into the public arena.

However, the Committee does also believe that any change in laws relating to drugs should be fully explained to the community. The lack of information as to cannabis law reform could cause confusion and misconceptions as was evident in South Australia with the introduction of the CEN scheme.

5.7.5 PCJC Recommendation

The Committee endorses the Commission's support for the continuing development of more comprehensive education strategies relating to both licit and illicit drugs.

The Committee recommends that the State Government, continue to implement properly designed drug education and information strategies and programs directed towards not only school children but also the general public. The Committee further recommends that these strategies and programs are properly evaluated to ensure that they are in practice achieving their stated objectives.

The Committee also recognises that any changes in the laws relating to cannabis should be accompanied by public education strategies as to those changes.

6. OTHER MATTERS CONSIDERED BY THE COMMITTEE

6.1 Industrial/Commercial Cultivation of Cannabis

6.1.1 Issue for Consideration

The Commission's report specifically did not consider the cultivation of cannabis for commercial purposes. However, in light of matters brought to the Committee's attention it elected to canvass the issue.

6.1.2 Background

From ancient times until the late 19th century the fibre from the cannabis sativa plant was used in the manufacture of rope, fabric and paper. Known as "hemp", this industrial cannabis with its strong fibre, finally met its decline due to the mechanisation of cotton processing, the reduced need for ropes and sails for sailing ships and the introduction of synthetic fibres. Further, during this century the introduction of drug laws in Australia did not distinguish between low and high THC cannabis varieties therefore making hemp cultivation illegal.

However, in the last decade or so there has been a resurgence in industrial hemp, particularly in Europe. In fact, the European Community commenced a farm subsidy programme in 1970 which included hemp and since 1984 cultivation of low THC varieties of hemp has been permitted. It is understood that the hemp subsidy programme is due for reassessment after the current season, at which time it will be determined whether the program should continue. It has been suggested that the majority of income received by farmers growing hemp fibre under these arrangements is actually from the subsidy and that without that subsidy the growing of hemp fibre would not be profitable. [RIRDC Conference Paper, 1995:22]

More recently, experimental crops of a low-THC variety of cannabis have been grown in places including the Australian States of Tasmania, South Australia, Victoria, New South Wales and Western Australia.

These trials have been prompted by the diverse uses of hemp and its by-products including fibre, seed and oil. Some of these uses include:

- paper production;
- building materials including particle board and cement blocks;
- environmental matting;
- textiles including fabrics, handbags and apparel;
- foods including oil, margarine and granola;
- technical products including paints, varnishes, ink, fuel and solvents;
- cosmetics; and
- animal feed. [RIRDC Conference Discussion Paper 1995 p.7]

There is evidence to suggest that there are strong environmental and other arguments for the growing of hemp. The NTFC report [1994 No. 26:106] quotes sources which state:

- every 4 months each one acre of hemp will produce 10 tons of fibre;
- hemp can produce 4 times the amount of paper per acre than 20-year-old trees and it requires less bleaching than pulp from timber'
- because it is a very densely growing crop, weeds are choked and there is less need for pesticides and herbicides; and
- hemp requires less watering and pesticides than cotton and produces a fibre that is argued to be more durable than cotton fabrics.

The NTFC concludes that cannabis with a very low THC content could be grown for industrial uses but it would require changes to existing drug legislation. [NTFC 1994 No. 26:106]

Hemp varieties are nearly devoid of THC with contents of less than 0.3 per cent meaning that the plant has no psychotropic effect. As noted earlier, drug-type cannabis varieties vary widely in THC content from 1-2 per cent to over 10 per cent.

6.1.3 Arguments Raised in Public Submissions

The TCLS was critical of the Commission's report for failing to address the commercial uses of hemp. TCLS submitted that Australians are missing out on important potential export earnings from the commercial production of hemp, as well as more environmentally friendly alternatives to current fibre and paper manufacture. It believed that the community was entitled to be fully informed of the facts about hemp.

The Committee has also received a request from a member of the public who wishes to grow an experimental crop of hemp in order to determine the economic feasibility of growing such a crop in Queensland.

6.1.4 Analysis and Comment

The Committee, recognising that there is a potential for industrial hemp to be grown for commercial purposes undertook the following:

- made enquiries of all States currently trialing industrial hemp;
- met with Mr John Hannay from the South Australian Department of Primary Industries during its visit to Adelaide; and
- reviewed extensive literature in relation to this point including the Discussion Paper and Conference Papers from the conference jointly convened by the Australian Institute of Agricultural Science and the Rural Industries Research and Development Corporation on 13-14 December 1995.

The Committee recognises that the benefits of hemp include its numerous uses, environmentally friendly aspects and the fact that it potentially could create employment. However, whilst the Committee recognises that the trials being conducted in Australia have revealed that some areas may be suitable for the growing of the crop, there is a need for

further market analysis in terms of hemp's end uses and market potential.

It was recognised in the RIRDC Hemp Discussion Paper that many gaps exist in current knowledge with regard to:

- cost of production;
- technologies for processing; and
- return compared with alternatives. [RIRDC 1995:10]

Research into this aspect of industrial hemp is primarily being conducted in South Australia and Tasmania, those places being further advanced in the trialing process.

Tasmania in particular is emphasising its research on production of hemp fibre for paper. In South Australia evaluation of cut and baled hemp harvested from the trial crops is being conducted. Already in South Australia the high cost of processing has been identified as the major impediment to the viability of hemp as a commercial crop.

As was noted in the RIRDC Discussion Paper, it is essential in the development of the hemp industry that the requirements of the end user become the starting point for assessment and development of the required processing and harvesting technologies. [RIRDC 1995:25]

In addition to the above the Committee notes the following as a result of its enquiries:

- An assessment would have to be undertaken as to the effect that industrial hemp would have on competing markets such as cotton.
- There are research costs associated with determining end use, market potential, production costs, effect on markets, evaluation of crop trials and seed varieties etc.
- There are administrative costs associated with licensing growers, regulating crops for THC content, obtaining the necessary clearance from Customs in order to import the seed etc.
- There are security measures and procedures that would need to be implemented both in respect of persons applying to grow cannabis and the physical security of the crop including the likelihood of break-ins.
- The appearance of both high and low-THC cannabis plants is similar, therefore, there is an issue as to whether commercial hemp crops could "mask" high THC crops. (Although, because of the end use of the hemp crop, plants are usually taller and have less foliage than high-THC cannabis plants.)

Therefore, at this stage the Committee does not believe that there is sufficient information and justification to pursue the investigation as to the viability of industrial hemp and warrant the authorisation in Queensland of the growing of trial crops of low-THC cannabis.

6.1.5 PCJC Conclusion

The Committee concludes that at this stage industrial hemp trials should not be conducted in Queensland.

6.2 Funding for Law Enforcement from Proceeds of Crime

6.2.1 Background, Analysis and Comment

Whilst strictly beyond the scope of discussing offences for personal use of cannabis, during the Committee's research it became obvious that the confiscation of profits derived as a result of dealing in drugs was a major deterrent in drug trafficking. This issue became of relevance to the Committee's inquiry given its general approach to discourage drug use.

Although the Committee has not embarked upon an in-depth inquiry into the *Crimes (Confiscation) Act 1989* (Qld), the Committee does believe that more attention should be directed into this aspect of drug law enforcement. Under this legislation the proceeds from all tainted property (which includes property used, intended to be used or derived as a result of the commission of a serious offence) is allocated to Consolidated Revenue.

The Committee notes that under the *Commonwealth Proceeds of Crime Act 1987* (Cth) proceeds from confiscated assets are deposited into a trust fund, moneys from which may then be applied by the Attorney-General for numerous purposes including those related to law enforcement, drug rehabilitation and education.

A number of Australian state jurisdictions have established similar statutory trust funds under confiscation of profits legislation, from which moneys are applied for similar purposes as under the Commonwealth scheme. In addition, a number of States apply moneys from their funds for the compensation of victims of crime.

No similar statutory trust fund has been established in Queensland. In the *Report of a Commission of Inquiry Pursuant to Orders in Council*, Mr G.E. Fitzgerald QC recommended that law enforcement resourcing should be reviewed. In considering options for such resourcing, he stated:

> *… significant results have been achieved in the United States by channelling the confiscated proceeds of crime to law enforcement agencies. This should be pursued in co-ordination, where appropriate, with the Commonwealth and other states.*

In the *Report of the Attorney-General's Confiscation Legislation and Education Review Committee* [1992:144], that Committee recommended, amongst other things, that revenue generated from confiscations should not be deposited into Consolidated Revenue. The Committee proposed that such funds should be utilised for three major purposes:

(a) equitable sharing with the Commonwealth and States;
(b) the enhancement of law enforcement projects and programs; and
(c) to fund criminal injury compensation.

The Review Committee recommended that after funds were paid pursuant to any equitable sharing arrangement with the Commonwealth or a participating State, a percentage of the Trust Fund should be applied to compensate victims of crime, and the remainder should be made available for the enhancement of law enforcement projects and programs.

Further, the Committee recommended that "law enforcement projects" be accorded a similar

meaning as under the *Proceeds of Crime Act 1987* (*Cth).* For example:

> *'law enforcement project' means a project or program that is developed by, or with the assistance or support of, a prescribed law enforcement agency, being a project or program that promotes the investigation or detection of, or the prosecution of persons for, breaches of Queensland criminal law, and may include education and research.*

The Review Committee recommended that whilst drug rehabilitation was a worthy cause, resources from the statutory trust fund should not be used for this purpose as the goal of reducing the number of drug dependent persons in society may be better achieved by attacking the cause of the problem and not the result. In addition, the Review Committee noted that programs for drug rehabilitation were funded from the Commonwealth Fund.

The Committee acknowledges the arguments proposed by the Review Committee in relation to drug rehabilitation. However, the Committee believes that moneys from the trust fund may also be applied for this purpose, at the discretion of the body administering the fund. The Committee believes that this body would be in a better position to assess the allocation of moneys from the fund.

At numerous meetings it was suggested to the Committee that the advertisement of police property being funded through drug seizure funds would be both a more effective educative tool and deterrent to drug dealers. The Committee believes that the Commonwealth system would be more amenable to the implementation of such a concept.

The scope for improvements in the pursuit of assets of people involved in the drug trade was also recognised by the Victorian PDAC. [PDAC Rec 6.9 and 6.10]

6.2.2 PCJC Recommendation

The Committee recommends that the current laws in Queensland relating to the confiscation of property and moneys received as a result of, and in connection with, drug dealing be reviewed. In particular, the Committee recommends that the issue of revenue generated from confiscations being placed into a special trust fund, moneys from which may be used for specific law enforcement, drug rehabilitation and education purposes, be considered.

7. FUTURE CONSIDERATIONS AND CONCLUSION

Throughout its inquiries into cannabis and the law in Queensland, the Committee has made certain observations as to the various legislative options for dealing with cannabis use and its regulation.

The Committee is cognisant of the fact that cannabis is, and will remain to be, a popular recreational drug. In this regard the Committee has referred to research which indicates that whilst drug education and information strategies may increase awareness as to the effects of drug use/abuse, it does not necessarily decrease consumption.

Accepting that cannabis will remain a popular recreational drug, the Committee feels that there are some important issues that will need to be addressed in the longer term.

In its 1993 Discussion Paper the Commission estimated the Queensland cannabis industry, in street terms, to be conservatively worth $632.8 million annually. Further, whilst the Commission concluded that the precise interactions between organised criminal interests, illegal markets and law enforcement were far from clear, it was recognised that some cannabis consumers are dependent on both medium scale/regional growers and "criminal"/large scale growers for their cannabis supply. Organised criminal interests were found to be apparently heavily involved in the large-scale production and distribution of cannabis. [1993:55-66]

The Committee recognises that there must be innovative solutions introduced in order to break the connection between these commercial dealers and recreational users and thus minimise exposure, particularly of young people, to the range of major crime figures and street dealers and their unscrupulous tactics.

The Committee was alarmed to discover that in other jurisdictions it has been found that some harder drugs are price competitive with the market price of cannabis as determined by the commercial cannabis industry. Serious implications arise with respect to the attractiveness of such harder drugs particularly in so far as young people are concerned.

Whilst ways to break this nexus have been grappled with in other States, and indeed worldwide, no proven solution has yet met with general acceptance. Likewise, the Committee has deliberated this issue and found itself as wanting as others for an ideal answer.

Nevertheless, the Committee stresses that the issue needs to remain under review and that the tabling of this report does not in any way close the debate in solving the problem. In fact, the Committee trusts that this report will have the dual purpose of both reforming Queensland's current laws with respect to cannabis and prompting further review in this most important area.

As already outlined, the Committee is aware that significant research is currently being conducted into cannabis in Australia, including:

- Phase Two of the Commonwealth Study concerning Social Impacts of the Legislative Options for Cannabis in Australia which is due to be completed in 1997; and

- The Victorian Government's commitment to implement recommendations relating to education, treatment, rehabilitation and law enforcement including studies into roadside breath testing of cannabis use and the link between schizophrenia and cannabis use.

The Committee will also be monitoring the recently implemented Northern Territory scheme in order to assess its success or otherwise.

Given these and other significant research projects which may be conducted in the short term, the Committee believes that another review of Queensland's legislative approach to cannabis should be undertaken in the near future. Such a review will not only enable the Committee to assess the operation of the recommendations contained in this report as implemented, but also allow it to consider their appropriateness in light of the findings from the research noted above and the experience in other jurisdictions.

The Committee recommends that in 1998 the Parliamentary Criminal Justice Committee conduct a further review of cannabis laws in Queensland.

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PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

48TH PARLIAMENT
SECOND SESSION

MEETING ATTENDANCE						
DATE	BILL BAUMANN	RAY HOLLIS	VINCE LESTER	GORDON NUTTALL	STEPHEN ROBERTSON	LUKE WOOLMER
30 APRIL 1996	✓	✓	✓	✓	✓	✓
1 MAY	✓	✓	✓	✓	✓	✓
2 MAY	✓	✓	✓	✓		✓
3 MAY	✓	✓	✓		✓	✓
3 MAY JOINT PCJC/CJC	✓	✓	✓		✓	✓
14 MAY	✓	✓	✓	✓	✓	✓
15 MAY	✓	✓	✓	✓	✓	✓
17 MAY	✓	✓	✓	✓	✓	✓
11 JUNE	✓	✓	✓	✓	✓	✓
26 JUNE	✓	✓	✓	✓		✓
27 JUNE	✓		✓	✓		✓
9 JULY	✓	✓	✓	✓	✓	✓
12 JULY AM	✓	✓	✓	✓	✓	✓
12 JULY JOINT PCJC/CJC	✓	✓	✓	✓	✓	✓
12 JULY PM	✓	✓	✓		✓	✓
23 JULY	✓	✓	✓	✓	✓	✓
26 JULY	✓	✓	✓		✓	✓
6 AUGUST	✓	✓	✓	✓	✓	✓
8 AUGUST	✓	✓	✓		✓	✓
19 AUGUST			✓	✓	✓	✓
26 AUGUST	✓	✓	✓	✓	✓	✓
3 SEPTEMBER	✓	✓	✓	✓	✓	✓
6 SEPTEMBER AM	✓	✓	✓	✓	✓	✓
6 SEPTEMBER JOINT PCJC/CJC	✓	✓	✓	✓	✓	✓
6 SEPTEMBER PM	✓	✓	✓	✓	✓	✓
12 SEPTEMBER	✓	✓	✓	✓	✓	✓
20 SEPTEMBER	✓	✓	✓	✓	✓	✓
8 OCTOBER	✓	✓	✓	✓	✓	✓
29 OCTOBER	✓	✓	✓	✓	✓	✓
31 OCTOBER	✓	✓	✓		✓	✓

4 NOVEMBER	✓	✓	✓	✓	✓	✓