COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

# SENATE

## ECONOMICS REFERENCES COMMITTEE

**Personal choice and community impacts**

(Public)

FRIDAY, 11 MARCH 2016

SYDNEY



BY AUTHORITY OF THE SENATE

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**SENATE**

**ECONOMICS REFERENCES COMMITTEE**

**Friday, 11 March 2016**

**Members in attendance:** Senators Dastyari, Leyonhjelm.

## Terms of Reference for the Inquiry:

To inquire into and report on:

The economic and social impact of legislation, policies or Commonwealth guidelines, with particular reference to:

a. the sale and use of tobacco, tobacco products, nicotine products, and e-cigarettes, including any impact on the health, enjoyment and finances of users and non-users;

b. the sale and service of alcohol, including any impact on crime and the health, enjoyment and finances of drinkers and non-drinkers;

c. the sale and use of marijuana and associated products, including any impact on the health, enjoyment and finances of users and non-users;

d. bicycle helmet laws, including any impact on the health, enjoyment and finances of cyclists and non-cyclists;

e. the classification of publications, films and computer games; and

f. any other measures introduced to restrict personal choice 'for the individual's own good'.

## WITNESSES

**BUCKLEY, Mr Gabriel Jon, National President, Liberal Democratic Party**

**DOUGLAS, Dr Samuel Paul, Private capacity**

**HALL, Professor Wayne Denis, Director, Private capacity**

**HOFFMANN, Mr Mark Nicholas, Private capacity**

**NIXON, Mr Timothy, Private capacity**

*Evidence from Professor Hall, Mr Hoffman and Mr Nixon was taken via teleconference—*

**Subcommittee met at 10:21**

**CHAIR (Senator Leyonhjelm):** I declare open this public hearing of the Senate Economics References Committee. The committee is hearing evidence on the committee's inquiry into personal choice and community impacts. The committee has appointed a subcommittee for the purpose of inquiry hearings. The Senate referred this inquiry to the committee on 25 June 2015 for report by 13 June 2016. I welcome you all here today.

The committee has received 471 submissions to date, which are available on the committee's website. This is a public hearing and a *Hansard* transcript of the proceedings is being made. Before the committee starts taking evidence, I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

Finally, on behalf of the committee, I would like to thank all of those who have made submissions and sent representatives here today for their cooperation. I welcome the witnesses. Would any of you like to add anything about the capacity in which you appear?

**Mr Buckley:** I am appearing in the capacity of a private individual.

**CHAIR:** I will now ask each of you, if you wish to, to make a brief opening statement before we proceed to questions. Mr Hoffmann, do you have to leave us?

**Mr Hoffmann:** Yes. If I could go first, that would be great. Firstly, I would like to thank the committee for allowing me to have the opportunity to express my opinion. I consider it a privilege. It is my opinion that the community at large suffers a negative impact because of the fact that cannabis is illegal, more so than any impact caused by the choice of an individual to use cannabis. The key point I would like to emphasis is that cannabis users are a part of the community, and perhaps up to 10 per cent of the community, which is not an insignificant number. When 10 per cent of a community suffers due to what I believe are unfair and unjust laws, the community as a whole suffers. I believe that full legalisation of cannabis for recreational use is the only solution that removes much of the negative impact to the community and the consenting individual.

Decriminalisation is only a half-solution, and it does not tackle most of the problem. It does prevent individuals who use cannabis from becoming victims of the criminal justice system, but it does not stop the supply chain from being controlled by organisations outside the law. A fully legal and regulated supply industry would allow users to have access to a certified, safe product and bring suppliers into line with other industries which are subject to standards and which pay their share of taxes. By doing so, the government can turn what is a cost and burden to the community—that is, law enforcement—into an industry that can create jobs, tourism and taxable revenue. I believe a federal approach is needed as it is clearly unfair that the same act is treated in different ways depending on the state in which it was carried out. Australia is no longer a collection of colonial states, and laws should be consistent across the country.

In several states of the USA, such as Colorado, recreational cannabis has been legalised. The overwhelming impacts on the community have been positive. These states are enjoying an economic benefit from the industry, which in Colorado netted more than US$500 million in taxes in the first year alone, while also cutting the cost associated with law enforcement. What this step has achieved is taking financial benefit away from criminal enterprises and putting it in back into the community.

By allowing cannabis to remain illegal, the community continues to be negatively impacted. When a user is convicted, they suffer disadvantages for the rest of their life and their job prospects are severely diminished and

this impacts the community. By allowing supply to remain outside the law, there is no way to ensure whether the product is safe. There are no standards that govern growers. They do not have to comply with any regulations. None of the users of the products know if dangerous chemicals such as pesticides or fungicides are used. A regulated industry would address this.

Prohibition simply does not work. History has proved that it has not reduced either supply or demand. It has not prevented a single user from using cannabis if they choose to. All it has achieved is to make criminals out of otherwise harmless members of the community and make many people very rich without paying any tax.

**CHAIR:** Thank you. Dr Douglas, would you like to make an opening statement?

**Dr Douglas:** All things considered, choice is good, so actions that reduce choice require justification. Likewise, reducing harm is good, so actions that increase harm also require justification. Both of these principles are important and well founded, I think; thus, we should aim for a situation where we give individuals the most choice for the least harm. How might we do this? Sometimes this might mean restricting the choices available to the individual, such as the high probability and severity of potential harm they face.

In other cases, individuals can achieve better outcomes for themselves if they have better choices available to them. I put it to the committee that, in the case of cannabis, as a society we have tried the approach of restricting individual choice. This approach has failed to protect the individual from harm. This failure is not only practical; it cuts to the core of why we make laws in the first place.

I think it is time to look at the world outside our biases, preconceptions and prejudices. It is time to try and give people a broader range of better choices. I believe that progressive policies regarding the use, possession, production and perhaps even sale of cannabis can be used to give individuals access to a broader range of better choices than they have at present. Such an approach respects the autonomy of adults to make decisions for themselves at the same time as it reduces harm to these individuals, their family and friends and the community at large.

I do not claim to know exactly what the optimal solution is at this time. Broadly, I think something along the lines of a non-commercial or restricted commercial scheme of legalisation would best achieve these aims. I would not hold out for perfection, though. I think history indicates that even a poorly regulated legitimate market is preferable to a criminally controlled black market. I appreciate that many of the relevant laws that would stand in the way of such a scheme of legalisation or at a state level. Nonetheless, I would call and federal legislators to enact changes to laws regulations within their remit in order to make room for the necessary legislation at all levels of government. Finally, I would like to say basically that when it comes to reducing harm—specifically about cannabis, but I think in general in a lot of ways—we do not have a plan; we have a ban. We need to change that.

**CHAIR:** Thank you. Professor Hall?

**Prof. Hall:** I would be quite happy to forgo an opening statement. I am happy to answer questions.

**CHAIR:** Mr Nixon, would you like to make an opening statement?

**Mr Nixon:** Yes, I would. In June 2011, the prestigious Global Commission on Drug Policy gave its report, opening with, 'The global war on drugs has failed, with devastating consequences for individuals and societies around the world.' In response to the global commission report, in January 2012 Australia 21 convened a meeting of 24 former senior Australian politicians and experts on drug policy to explore the principles and recommendations that were enunciated by the global commission. The group also included a former senior prosecutor, a former head of the Australian Federal Police, representatives of Families and Friends for Drug Law Reform and many other prominent medical and political participants. The Australian group agreed with the global commission that international and Australian prohibition of the use of certain illicit drugs has failed comprehensively. By making the supply and use of certain drugs criminal acts, governments everywhere have driven their production and consumption underground and have fostered the development of criminal industry that is corrupting civil society and governments and is killing our children. By defining the personal use and possession of certain psychoactive drugs as criminal acts governments have also avoided any responsibility to regulate and control the quality of substances that are in widespread use. Some of these illicit drugs have demonstrable health benefits and many are highly addictive and harmful when used repeatedly. In that respect, they are comparable to alcohol and nicotine, which are legal in Australia and as a result are under society's control for quality distribution marketing and taxation.

In a nutshell, the Australia 21 report's conclusions were that:

- Prohibition puts the production, distribution and control of illicit drugs into the hands of criminals …

- The harms resulting from prohibition substantially outweigh the gains …
- The harms include a large planeload of avoidable Australian deaths annually … and a flourishing drug culture that is fostered and controlled by criminal interests and a complete lack of control of the dosage and toxicity of the drugs that young people are consuming;
- International drug prohibition has, until now, been maintained through international treaties and conventions, spear-headed by a US "War on drugs". The recognition that this war has been comprehensively lost is leading to an international rethink about prohibition and about these treaties and conventions.
- The enormous profits from the black market trade in drugs means that … criminals are much better resourced than law enforcement authorities …
- Despite decades of a prohibition approach in Australia, illicit drugs are easily purchasable on our streets and in our prisons …
- Large amounts of public funds are allocated to a failed law and order approach to drug use. These resources would be better directed to managing drug use as a health and social issue as we do with nicotine and alcohol.
- National drug policy should be based on evidence of what works and what does not and the international evidence base on these issues is now both substantial and persuasive;
- It is time to stop sloganeering and insist to all of our political representatives and to our media that Australia must have an informed national debate about the alternatives to a policy that has failed disastrously and is criminalising our young.

That is taken from the Australia 21 report which is titled *The prohibition of illicit drugs is killing and criminalising our children and we are letting it happen*. That is from 2012.

I would also like to take this opportunity to speak to the Department of Health's submission, which is No. 444. In the same vein as the last point that I made, I would like to address the submission made by the Department of Health in relation to this issue. I was disappointed and frustrated to read that the department appears to be against changes to current drug laws, specifically those pertaining to cannabis or cannabis products. We must remember that one less illicit drug to worry about means less work for law enforcement, not more.

Unfortunately, change is exactly what is needed in the case of prohibition, and that means many things will need to change accordingly. Using change as a reason not to change, is the height of the absurdity. The laws will change and, yes, it will effect law enforcement and relative agencies positively. Just ask those ex-law enforcement personnel in organisations like Law Enforcement Against Prohibition, or LEAP, and Harm Reduction Australia, or HRA, what they think about ending prohibition as a means to improving societal health.

Despite any hospital admission statistics, it this worth remembering that, without the addition of any other substance, cannabis is completely non-lethal. From a harm reduction standpoint, producing a safer drug to compete with two of the most dangerous drugs as an alternative is clearly justifiable, particularly given that alcohol is responsible for so many negatives in our society not related to the users' health but the health of those around them.

Harm Reduction Australia, or HRA, is a network of prominent Australians in various fields related to drugs, and one of their professed goals is to work collaboratively to ensure reforms of current drug policy with the primary aims of ending imprisonment, stigmatisation, discrimination and human rights violations against the people who use or have used drugs.

Our health department, ironically, is proposing the opposite of this in their submission, in my personal opinion. This statement taken from the department's submission sums up the precise reason we need to decriminalise all drugs and regulate and control cannabis like we do alcohol. This is from the background section of their submission:

> Cannabis is the most used illicit drug in Australia. According to the *2013 National Drug Strategy Household Survey*, 35% of the Australian population reported using cannabis at some time in their lives, with 10.2% having used it in the last 12 months. 3.5% of Australians used cannabis in the previous week.

The profits from that are uncapped criminal cartel gains. Colorado and Washington are in the hands of [inaudible] and they are in the hundreds of millions. Let us take that money away from the criminal minority and put it where we need it the most. Thank you.

**CHAIR:** Mr Nixon, I am sorry. We could only understand about 25 per cent of that. Are you able to provide that opening statement to the secretariat so that it can be tabled.

**Mr Nixon:** Absolutely.

**CHAIR:** Thank you. I am sorry. We are having a lot of trouble hearing you so, when you reply to questions, subsequently, could you please be careful to speak slowly and clearly so we have a chance of understanding what you are saying. Mr Buckley, do you have an opening statement?

**Mr Buckley:** A brief one, thank you. My submission centred around the idea, predominantly, that cannabis has been established objectively to be a safer drug than both alcohol and tobacco, both of which are currently legal for sale to adults and for adults to possess and use as they see fit.

The current approach of prohibition and enforcement of cannabis prohibition has been unsuccessful in its stated aims of reducing cannabis use in Australian society. Even if we accept that the government should be responsible for determining what is and is not an acceptable level of use of cannabis, the current methodologies that they are using have been quite unsuccessful in doing that.

The current approach of prohibition and enforcement results in the criminalisation of behaviour that takes place between consenting adults and affects no-one but those voluntarily involved. We have seen from other jurisdictions around the world that the alternative approach of legalisation for recreational use by adults has been demonstrated to have only positive effects, both in economic and social terms, in terms of revenue, jobs and decreasing crime rates. As such, there are no legitimate, moral, ethical, economic or social grounds on which the prohibition of cannabis can be predicated. And, as such, any laws that seek to prohibit the use of cannabis or the sale of cannabis between consenting adults are without basis. In any society that is attempting to be a fair and equitable society, laws without basis should simply be struck off the books. That is my summary.

**CHAIR:** Just to be clear: the Commonwealth government has recently introduced legislation to enable medical marijuana use, so that really is not a fruitful area for us to discuss today. We are probably only going to make recommendations in relation to recreational marijuana. I would like you to focus your attention on that in your comments.

I have a series of questions on about three or four topics that I would like to ask your views on. As we have four of you on teleconference and only one in the room, the technicalities are a bit awkward. So if you hear somebody else say something that you would have said then let it go; do not repeat it.

I am interested in your views on 'relative harm'. By that, I mean, the relative harm of marijuana in relation to other products—alcohol and tobacco being the primary ones but also other, illicit, drugs—and also the relative harm of the availability of the various formulations of marijuana. The common thinking in relation to that is smoking but, obviously, that is not the only option. Who would like to volunteer some comments on that?

**Mr Nixon:** I certainly will. In terms of the harms relating to alcohol and tobacco as compared to those resulting from cannabis, Professor David Nutt, from the UK, an authority in the area of drug harms and the effect of drugs on the human organism, compiled a report which was a multicriterion analysis of—

**CHAIR:** Mr Nixon, I am sorry but we are not getting every word there; it is about every third word that I can understand. I will see if our people can do something about it but we might have to ask somebody else to answer that question. I am sorry about that. Professor Hall, do you have any views on this?

**Prof. Hall:** Yes, certainly. I published a paper on exactly this topic—many papers in fact. I think it is a fair statement that by comparison with the adverse effects of alcohol and tobacco, smoking cannabis is really the much less harmful drug. It is certainly much less harmful than other illicit drugs, particularly the opiates, which carry a very high risk of fatal overdose.

**CHAIR:** I will come to you in a moment, Dr Douglas. Mr Hoffman, do you have any views on this?

**Mr Hoffmann:** As a former user—I no longer use cannabis because of the legal implications, but I used cannabis for many years—I suffered no ill-health consequences as a result of my use. I have above average lung function, which I believe is one of the concerns of the health department—the effect of smoking. However, the research is not conclusive that smoking cannabis alone causes any significant health impacts.

I think a lot of the impacts of smoking cannabis may be exacerbated by people who mix cannabis with tobacco, which is quite common in Australia. One of the new developments, which is fairly recent technology—in the last 10 to 15 years—is the use of vapourisers. They enable the user of cannabis not to combust the material, and that avoids a lot of the carcinogenic smoke particles which would otherwise be created by combusting it in other forms of smoking devices. It heats the cannabis to a temperature at which it just vaporises the volatile elements and avoids the creation of carbon monoxide, tar and many of the other dangerous particles which are included in combusted smoke.

**CHAIR:** All right. Dr Douglas, at least we can hear you!

**Dr Douglas:** From what I could pick up, I think I would agree with what some of the other speakers have said. I do not want to go into specific detail about what might be a more or less harmful method of using cannabis, because I do not think I have the requisite medical expertise to talk, particularly, about that. But I think it is true that there are probably ways that are more or less harmful—we see in Colorado that a range of different products

have been developed. What is interesting to note is that looking for a less harmful way of using cannabis is really difficult to do in a situation where cannabis and almost everything associated with it is illegal. No-one is going to invest in a less harmful way of using cannabis or making a less harmful cannabis product or a less harmful way of ingesting it, when it is illegal. So the current situation makes harm reduction quite difficult.

There are probably some risks associated with cannabis use, no matter what the administration is. But relative to other risks of other recreational drugs that are available, illicit or illegal, I do not think it seems particularly excessive. I noted in my original submission that you need a legal framework or a regulatory framework in order to pursue giving people better choices and less harmful ways of using cannabis. We cannot pursue that in any way, shape or form at the moment.

**CHAIR:** Mr Buckley, you had some comments about this in your opening statement. The question that I raised was about relative harm. A suggestion has been made that some of the harm associated with use of cannabis may be attributable to the fact that it is smoked. What is your view on that? How do the various methods of consuming cannabis stack up, in relative-harm terms? How does cannabis, overall, stack up, relative to both legal and illegal options?

**Mr Buckley:** I will address that last point first and, in doing so, I would like to refer to a study put out in 2014 by the Foundation for Alcohol Research and Education in conjunction with the Victorian Health Promotion Foundation. The study was titled *Alcohol's burden of disease in Australia* and it pointed out that chronic disease and injury caused by alcohol in Australia is now at the point where alcohol is directly responsible for 15 deaths and 430 hospitalisations each day in Australia.

If you want to talk about comparative harms, we need to hark back to the fact that—as I think one of the other witnesses here this morning mentioned in their statement—cannabis, on its own, has never been responsible for a single attributable fatality. People may have mixed cannabis with others drugs and then died as a result of complications from that, but the simple act of using cannabis has never killed anyone. Peanuts kill more people in Australia than cannabis does.

In terms of the different methods of consuming cannabis, everyone knows the obvious smoking ones. It can be smoked simply in a cigarette or in a pipe, as with tobacco. It is quite often smoked through various water pipes of different degrees of complexity and intricacy that serve to cool the smoke and take some of the impurities out of the smoke while letting the psychoactive chemicals pass through. Vaporisers were mentioned in some of the opening statements. They act in a different mechanism in that they do not combust the material, but release the oils in the cannabis material that contain the volatile compounds. Then, of course, there are a vast range of edible products. There are the traditional cookies and brownies that are made by cooking cannabis material in butter and then using that butter as you normally would for baking a batch of brownies or cookies. The active ingredients in cannabis are soluble in oil, so they come out of the cannabis plant material into the oil and the butter or oil can then be used in your cooking. And as was pointed out, in jurisdictions where cannabis is legal, there are a number of different edible products. There are lollipops and all sorts of different edible products that are coming out of Colorado, Washington and other places where cannabis has been legal and where people are allowed to experiment with safer and more enjoyable ways of consuming it. Obviously, inhaling smoke of any burning matter is not going to be good for people, but at this point there is not a huge amount of choice, whereas if cannabis were to be legal finding safer methods of consumption would be a lot easier.

**CHAIR:** Where do synthetic cannabinoids sit in all of that? What is driving their development? How do they compare in relative scale?

**Mr Buckley:** The synthetic cannabinoids have come about simply because of this stigmatisation of cannabis users that has arisen out of the prohibition of cannabis. Cannabis is a chemical that hangs around—the metabolised by-products of cannabis can hang around in the user's system for a very long time. Coincident with the mining boom, a lot of people started getting drug tested for work on a regular basis. If you were to have some cannabis on a Friday evening, there is a good chance that if you were forced to take a workplace drug test on Monday that cannabis would still be detectable in your system even though the psychoactive effects of it had passed days prior. So the idea of the synthetic cannabinoids came about when people were trying to avoid these drug tests that really had no basis.

These new cannabinoids are various herb and chemical blends that aim to have similar effects. I do not know; I will not try them. I far prefer the real deal. Luckily, I work in a field where drug testing is not very commonplace. There have been deaths and injuries and people who have suffered neurological damage from using these very untested blends of herbs and chemicals that are attempting to replicate cannabis just to beat these workplace testing regimes that really have no basis in reality anyway. If we could legalise cannabis and render it socially equivalent to alcohol in terms of its acceptability within society, then a lot of the drug testing will focus on drugs

that actually are causing workers to be impaired at work, and people will be able to safely use cannabis without having to resort to chemical blends where they might not know what is in them. It is the same story—prohibition just serves to obfuscate user choice and the ability to safely procure known quantities and known concentrations of drugs.

**Prof. Hall:** I want to make the point that all the problems are not going to go away if you legalise them. The obvious example here is Colorado. There is been a big increase in poisonings: young children ingesting some of these edible cannabis products and being hospitalised and treated in intensive care units. The idea that consumer choice is going to solve all these problems is a bit naive. Legalisation has eliminated some of the respiratory risks, and I agree that it is possible to avoid those, but there are serious concerns about high-dose cannabinoid products that people are ingesting and some of those problems. In fact, the common claim that no deaths have been attributed to cannabis is something that might well be contested, because there have been a couple of deaths of young children in Colorado that have been attributed to accidental ingestion of very high-potency oral cannabis products.

I think that goes to the point earlier about the risks of synthetic cannabinoids, because these are more potent forms of drugs that act on the same receptors as THC. I think we do need—if we do legalise—to adopt some regulations around the way in which these drugs are provided. The assumption that they are completely safe and there are no risks is potentially misleading. There is a case to be made for legalisation—I am not contesting that. I just want to make the point that there are risks that people do run, particularly when they use very high-potency forms of this drug.

**Mr Hoffman:** With regard to the synthetic cannabinoids, I think the biggest danger is that there is absolutely no labelling as to what is contained within these products. The formulations of the different chemicals that are used can vary greatly, and there is absolutely no research because of the novel aspect of these chemicals. They are brand-new research chemicals for all intents and purposes. There is very little data as to the safety of them, and the user does not know what they are getting themselves into by using them.

Users of the whole cannabis plant—unrefined in any way—I believe are relatively safe from some of the harms that Prof. Hall just mentioned. I do not think there have been any attributable deaths to people who have consumed the whole plant in the usual formats. It has been used safely for thousands of years. In fact, it is one of the oldest plants in known human cultivation.

**Dr Douglas:** I think there is a higher risk associated with the synthetic cannabinoid products, not least just because there is no idea what is in the actual product. People bought these when they were available and they are still in circulation now, even though they are not technically legal anymore. There is no testing and there is no tradition of use like there is with cannabis. Also, there are deaths that have clearly been attributed to the use of synthetic cannabinoids, which is frustrating.

One thing that I would add is that not all use of synthetic cannabinoids, I believe, is in avoidance of workplace testing. I think people were using them just to avoid the potential criminal sanction of using cannabis. And had some of these people who have been injured or killed using synthetic cannabinoids used cannabis, yes, they might face risk with the use of cannabis, but they would probably still be alive if they had used that instead of the synthetic cannabinoids.

**CHAIR:** I want to get onto ideas for a regulatory regime for legalisation of recreational use and thoughts on whether Colorado has got it right and what would be changed. Senator Dastyari?

**Senator DASTYARI:** Thank you for your submissions and for your participation in this inquiry. Before we move on to the point that Senator Leyonhjelm is trying to get us to, which is steps forward, I just want to get an understanding of where the consensus seems to be. Perhaps rather than have five people saying the same thing, I might say what I understand the consensus seems to be and then if people have more to add or want to disagree with that, let me know.

The general consensus from your submissions seems to be that there are negative effects, perhaps, associated with the use of cannabis, but there are factors in play. Firstly, there is different science on it, and, secondly, not all cannabis products are exactly the same, so you are not necessarily comparing apples with apples—a synthetic product with other chemicals associated with it which may go by the name of cannabis will be different from something that someone has grown in their backyard. There are negative effects perhaps associated with it, but those negative effects are comparable to the negative effects associated with tobacco, alcohol or a whole bunch of other activities that are regulated under Australian law. We will get onto the plan for it, but the consensus, from the experts and from what you are saying, seems to be that there needs to be an acceptance that the approach to

date has failed. So, noting that Dr Douglas said that no approach is going to be perfect, the question becomes: what is a better approach? Is that a fair assessment of where you are all at?

**Mr Nixon:** Hopefully you can hear some of the things that I am saying?

**Senator DASTYARI:** It is a bit of a bad line. Dr Douglas, would you like to jump in there?

**Dr Douglas:** I think that is it. Even recently you had the MLC Peter Phelps talking about the risk regarding eyeball tattooing, which has nothing to do with this, and I am not going to quite go there. But there are lots of activities that carry relative risk. I think it would be disingenuous to say that there is no risk associated with cannabis use. But my feeling on it—and a lot of us are in broad agreement—is that there is a better way to manage that risk. There is this idea that the risk is best managed by telling people, 'Don't do this.' Well, sometimes the best way to manage risk is to look at a different way of regulating it and to give people better and safer choices and make the better choices easier than the bad choices, possibly—something along those lines. But I think there is broad agreement across lots of areas.

**Senator DASTYARI:** Professor Hall, in one of your papers called 'A cautious case for cannabis depenalization' you write: 'Those who defend it'—and when you say 'it', you mean those who defend keeping cannabis illegal; those are my words, not yours—'argue that the rates of cannabis use would be much higher if the use was legal.' Then you go on to outline an argument that is often put forward that says that, yes, most people in their teens statistically have experimented with marijuana, but there is an argument that says the act of decriminalisation or legalisation, or 'depenalisation', as you call it, would result in more use. You can have an argument about whether that is a good or bad thing and whether people should be allowed to use it, but could you touch on that point. I thought it was an interesting point, because I have heard that argument made before, so I was wondering if you could expand on it.

**Prof. Hall:** I think it is fairly obvious. People have made sweeping statements about what a failure prohibition is. But if you look at the rates of cannabis use in the Australian population the number of people who have used it in the last year is under a 10 per cent. That compares with 80 per cent for alcohol, for example, and 15 per cent for tobacco. That is in the past year. The proportion of the Australian population that use cannabis on a daily basis is probably one or two per cent as against, as I said earlier, 15 per cent for tobacco and probably 10 to 15 per cent for alcohol. So the rates of use under a prohibition regime are a lot lower because a lot of people are deterred by the fact that the drug is illegal. So I think if you legalised a drug it would be remarkable if use did not increase. As a general rule with any drug, whether it is alcohol, tobacco or cannabis, the more people there are who use a drug the more problems you are going to get as a consequence of that use.

We have not talked about what the harms are, but the two obvious harms from a public health point of view are traffic accident risk, if people drive while intoxicated—and we are likely to see more of that, even though the risk of an accident from a cannabis-impaired driver is a lot less than a drinker. There is still a risk there, and it puts other people's lives at risk.

But I think the underappreciated risk, particularly with daily cannabis use, is the development of dependence. People find it very difficult to stop using when they want to. It is quite clear that that is a problem with cannabis use in places such as the Netherlands, where it has been legalised for the last 50 years and you have a de facto legal supply. Cannabis is the second most common drug that people take into addiction treatment services in the Netherlands. So that is what we would expect to see—more use and probably a larger proportion of people getting involved in regular use that puts them at risk of dependence.

**CHAIR:** We are struggling here with bad audio, but I want to get the views of each of you in terms of your approved regulatory regime. I should ensure that Mr Buckley puts it on the record that he is the president of my political party and he probably does not think a regulatory regime is required at all. The Netherlands has taken a decriminalisation approach; it is still illegal to supply and traffic. California has a very broad definition of 'medical'. And then we have Colorado, which has a taxed and regulated recreational approval. I am not sure how Washington, Oregon and those other states that have now legalised recreational use are handling it. So perhaps those of you who are giving evidence here may be able to enlighten us. Mr Hoffman, I noticed that you mentioned a 'certified safe product', so you obviously have views on that.

**Mr Hoffman:** Correct.

**CHAIR:** Perhaps each of you could tell me how you would like cannabis availability to be regulated.

**Mr Hoffman:** I would like to start if that is okay. I would like to see a system where licences are issued to growers and producers and they are subject to conditions which they must adhere to in order to be able to supply under a seal of approval. Whether that approval is under an organic seal—or it could be hydroponic—does not really matter, as long as the product can be guaranteed to be free from harmful chemicals such as pesticides,

fungicides and any other residual chemicals which may be used in its production which could adversely affect the health of anyone who potentially uses that product afterwards. As I made clear in my opening statement, currently there is really no way for anyone to know whether the product they are using is 'safe'—that is, free from chemicals such as pesticides and fungicides. That is something a regulated industry should be able to address. If licences are issued, conditions must be met. There could be inspections and a regulatory body that manages that whole process. That is my preferred way to move forward.

**CHAIR:** Professor Hall, do you have a preferred regulatory regime?

**Prof. Hall:** If we do decide to legalise, I think we should adopt regulatory regimes more like that for tobacco than for alcohol. We should tax the product to deter heavy use, we should put bans on advertising and the promotion of use, and we should have reasonable restrictions on availability so that it is not too accessible to people under age. I think what we are seeing in Colorado and, to a lesser extent, in Washington and Oregon is commercialisation of the cannabis market, very much like that we had with alcohol. I think that is likely to expand use and increase harm.

**CHAIR:** Just to be clear—your first few lines were a bit muffled there—could you just go over what you think it should be again, please.

**Prof. Hall:** I was just saying that the regulations for cannabis should be more like those for tobacco than for alcohol. My concern is that what is happening in the US is following the alcohol model very much, and that will allow widespread promotion and reduce price by competition and use.

**CHAIR:** So I assume you are thinking of restrictions on availability, advertising—is that right?

**Prof. Hall:** That is right—yes.

**CHAIR:** What about the product itself? How would you suggest it be packaged—any labelling, and that sort of thing?

**Prof. Hall:** Of course—yes. Obviously, there would need to be regulation of content, testing of THC content and labelling, and clear warnings of potential health risks from very heavy use.

**CHAIR:** Thank you. Does somebody else want to join this conversation?

**Mr Nixon:** In terms of a system of legalisation and regulation, I believe that a combination of the Portuguese model, which is the decriminalisation of all drugs, combined with Colorado's system of cannabis regulation would be best. There are a couple reasons. I think that from a harm reduction standpoint, decriminalisation of all drugs is a massive step forward, but, in terms of the regulation of cannabis, I think we have an opportunity to label the product with full cannabinoid profiles so that consumers know exactly what is in it and how it has been produced.

In terms of licensing, in the licensing regime it should be difficult to obtain a licence and very easy to lose it. I believe there should be allowance for personal cultivation. Also, if I could just quickly speak to Professor Hall's concerns about increased use of cannabis, I believe that from a harm reduction standpoint that is a good thing because it will take some of the market share away from the two most harmful drugs—namely tobacco and alcohol. By making cannabis use more prevalent, we will see far less of the negative health outcomes of tobacco and alcohol use which, I have to stress, are fatal. Cannabis, as was mentioned earlier, is nonfatal in its natural state. Alcohol and tobacco, either immediately after an alcohol overdose or over a long period of time with tobacco use, are fatal and carcinogenic. I do not think it is helpful for us to classify cannabis, tobacco and alcohol in the same category of harm because they patently are not.

**Dr Douglas:** One of the first things I want to say is that a system of decriminalisation would, I think as many people have said, be a step forward. But in no way do I think that is the be all and end all.

My preferred option—and I am still weighing this up a bit in my own mind—is something along the lines of a non-commercial or a fairly regulated commercial regime. There are options. You mentioned Portugal and Colorado as examples. There are examples of decriminalisation and there are examples of full-scale commercialisation. There are not many examples of something that sits in between those, but in the situation, I am led to believe, in Spain—and it does not come up very often—people can either grow cannabis themselves or form cannabis social clubs where they can grow, collectively, a certain amount of cannabis between them. This is inadvertent. I do not think it is because the way Spanish law was specifically written; but it has a lot to do with decisions of the courts in Spain. These clubs are not-for-profit organisations. It is not decriminalisation, but it is not full-blown commercialisation. I would urge the committee and legislators thinking about this to look at some of these options.

As it turns out, really recently—this week—the Liberal Democrats in the UK circulated a document that they had commissioned by a panel of experts. It was a framework for a regulated market for cannabis in the UK. The

cannabis social clubs in Spain was specifically sighted as a way. So you would allow people to grow two plants per person. But, as not everyone has the time, the space or the gardening skill to actually make use of that, you could actually get 100 people and you could pool your allocation of plants in a non-profit setting and grow cannabis collectively that way. They also recommended a regulated commercial scheme—which seems quite commonsense—of fairly plain packaging which you put health warnings on and different grades of the strength of cannabis that you are selling. I guess that is the advantage of something like this over decriminalisation. Once you sell things you can do health warnings at the point of sale. With the situation we are in now, I do not think many drug dealers ask asking their clients what the history of mental illness is in their family. Whereas under a fairly regulated commercial regime, you could do that and have health interventions at the point of sale rather than at the point of arrest or crisis when they front up to the hospital.

**CHAIR:** Mr Buckley, I have the same question for you: what regulatory regime would you propose? And perhaps you might touch on the issue that Dr Douglas just raised of personal cultivation.

**Mr Buckley:** I was planning on doing just that. In the preferred scenario that I would like to see, I think the only prohibition-type laws that can be found to have any sort of ethical or moral basis are laws designed to prevent children from getting access to cannabis. Outside of that, it is an objective fact that tomatoes cause greater harm in Australian society than cannabis. Some people are allergic to tomatoes and die as a result of consuming them, or get very sick when they consume them. I am not under the impression that cannabis should necessarily be subjected to any more stringent regulatory approach than tomatoes are—on that basis.

If we have a look at alcohol, which, as I have previously mentioned, causes 15 Australians to die every day, on bottles of alcohol we have a mild admonishment for people to enjoy alcohol responsibly. I certainly do not see that we need anything greater on cannabis products. The entire idea of a regulate and tax approach, while it might sound good in theory, merely just shifts the goalposts. Instead of people being arrested for possession, they are arrested for possession without a permit. Instead of being arrested for cultivation, they get arrested for cultivation without a licence. It really does not change the game anymore; it just adds a few anointed chieftains to grow and sell the cannabis and derive the benefit that was previously allocated to organised crime gangs. It is not a harm-reduction strategy at all, really; it still has all the social and economic harms. We know there is no real physical harm when you compare it to other drugs that are currently legal, like alcohol and tobacco.

In terms of that, I would say just legalise it. It is something consenting adults have been using for 6,000 years. We do not really need to worry about what is in it, because it is a plant. It grows in the ground. There is a reason why they call it weed: it will pretty much grow anywhere. You wander through cities like Tashkent in Kazakhstan, and it just grows on the side of the road. They certainly do not have to worry about a harm-reduction strategy. I really cannot see that we need to treat this. The whole idea of setting up these schemes, labels and warnings—the idea that we somehow need to curtail grown adults from taking responsibility into their own hands and making decisions about which drugs they would like to consume smacks, to me, of the old puritan fear that somewhere someone out there might be having a good time.

**Senator DASTYARI:** Is it safe to say you are not in the tax-and-regulate space for this?

**Mr Buckley:** Where cannabis would be sold through normal commercial outlets, there would be GST applied to it, and I really do not see why the government needs a bigger share of the pie than that.

**CHAIR:** The only thing is it would be argued that children are not the only people potentially at risk. There would be people with pre-existing mental illness and there would also be drivers on the road adversely affected if somebody were driving under the influence of cannabis and not driving safely. How would you deal with those?

**Mr Buckley:** We currently have legal alcohol throughout this country, and plenty of people every day get on the road influenced by alcohol. I would like to think our police forces are relatively adept at spotting drivers who are behaving erratically and being a danger to others on the road. They also set up booze buses and that sort of thing. Cannabis testing is something that is fraught with complications at the moment, and I do not believe the scope of this inquiry would let us go there, but I do believe that the ability to test for actual impairment is probably not far off. Again, if cannabis were legal, it would be a lot easier for people to come up with these sorts of tests.

In terms of people with pre-existing mental conditions, we also have people with pre-existing liver conditions. They can go to a bottle shop, buy a bottle of Jack Daniels and drink it, and no-one is going to tell them not to. No-one is going to ask them if they have a pre-existing liver or kidney condition or whether they are a recovering alcoholic. I really do not see why we need to apply those tests to cannabis when we do not apply them to alcohol, which objectively causes a great deal more harm in society than cannabis does.

**CHAIR:** Under the circumstances—we are really struggling with sound here—I think I might wind it up there. Thank you very much for your submissions and also for giving evidence today. Your statements to the extent that they are discernible by Hansard will be published in *Hansard*. You will get the opportunity to correct them, so, if there have been difficulties with audio and it results in you being said to say something you did not intend to say, you will get the opportunity to correct it. Thank you very much for your contribution.

**Proceedings suspended from 11:24 to 11:43**

**BROOKE, Ms Fiona, Policy Adviser, National Rural Health Alliance**

**GREGORY, Mr Gordon, Chief Executive Officer, National Rural Health Alliance**

**STUDDERT, Dr Lisa, First Assistant Secretary, Population, Health and Sport Division, Department of Health**

**TURNER, Mr Noel (Bill), Assistant Secretary, Office of Drug Control, Department of Health**

**CHAIR:** Welcome. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim. Thank you for appearing before the committee today. I invite you to make a brief opening statement should you wish to do so, and then the committee will ask questions.

**Dr Studdert:** We have no opening statement.

**Ms Brooke:** We have a brief opening statement on behalf of the National Rural Health Alliance. Thank you for inviting the National Rural Health Alliance to provide additional information to the committee as you undertake your work examining personal choice and community impacts. Personal choice is a key issue in the health sector. It contributes to both illness and health in so many ways, both directly and indirectly, but not all people have the same degree of freedom to make personal choices or to act upon them once made. Many personal choices have a price which can be better afforded by some than others. So it is not appropriate to leave an equivalent degree of personal choice to all people, as if the choice is just as easy for all of them, or as if the consequences of the choice are the same for all people.

What might be called the free-market approach to decisions and choices discriminates against those with less information, less financial means and less cognitive capacity. We would ask you will recall that, on average, rural people are disadvantaged on all of those variables. Personal choices about diet, smoking, alcohol, cannabis and physical activity have dramatic impacts on the health of individuals, but it must be recognised that the state, the public purse, is also affected by these choices. Undertaking an activity that results in what should have been an avoidable hospitalisation is not just a poor choice for an individual to make but also a poor choice for a health sector to permit, given the cost of hospitalisation.

Scientific evidence against the deleterious health impacts of certain personal choices has led to governments legislating or regulating to protect people from themselves, with beneficial implications for public health expenditures. Often governments protect people not from their own choices but from the consequences of the choices of others. When we note with regret the lag between emergence of an issue—for example, mesothelioma from the use of asbestos based fluff used in home insulation, and asthma and lung disease from exposure to cigarette smoking—that is tantamount to saying we wish the dynamics of the system had been clearer sooner, as well as the resulting public action.

Many people object to a loss of freedom of action but can be persuaded by reference to the greater public good, which is surely the sign of a civilised society. Even clearer are situations in which the exercise of personal choice has potentially deleterious effects on others. Personal freedoms need to be balanced with the protection of other people. The alliance is in the business of helping governments and working with governments and other agencies to address rural health inequalities. Place matters, and we urge this committee to examine the geographic, socioeconomic and cultural context within which individuals seek to exercise personal choice.

Community development and local action are important and wonderful things. We support the growth of local community based measures to address problem drinking and drug use, community arts and health programs, and development of alcohol-free sport and leisure options for young people, but governments can, do and should make all the difference. Some interventions have both good and bad effects for the same individuals. The mandatory wearing of bicycle helmets has resulted in a significant decrease in fatal head injuries but has also led to the reduction in the number of adults using cycling for physical activity.

Obesity is a major contributor to the development of chronic disease. Trying to address it and promoting healthy lifestyle choice is a crucial element of any program to address chronic disease, but the aim is not to limit personal choice, rather to ensure people are aware of the full range of choices and are able to exercise those choices. Blaming people for being overweight and suffering from a range of chronic diseases ignores the fact that

the real causes are much deeper than simply what foods people eat and how much physical activity they undertake. How is it that commercial entities driven by profit can supply soft drink in remote communities at city prices while blackened lettuces crawling with maggots cost a fortune? Is this sensible or fair? Should the state not intervene?

I have with me today some brief work that we are doing on food security and the impact of food insecurity on people, which I will table rather than read into *Hansard*. This is particularly relevant in considering these issues with regard to obesity, diabetes and chronic disease in rural and remote areas. I will table that shortly.

**CHAIR:** The question is whether that is relevant for us today. This inquiry is on marijuana.

**Ms Brooke:** I am happy to forward that to you for consideration at the appropriate time.

**CHAIR:** Perhaps if you send it to the secretariat. We will consider how to deal with it at that point.

**Ms Brooke:** I am happy to do that.

**CHAIR:** Is that the end of your statement?

**Ms Brooke:** Not quite. Almost. Much of our current belief about the role of government had its antecedents in the 1942 report of the UK parliament by Sir William Beveridge, S*ocial insurance and allied services,* in which he outlined proposals for a new welfare state. In the Australian context there was also the compact that Menzies agreed with those returning from World War II. Our understanding of our right to pensions stems from that time, as does our belief that government ought to pay a lead role in protecting the vulnerable and helping them to regain their independence. This means that addressing inequalities is an important role for government. One of the conversations we should be having as a nation in 2016 is what we expect of our government in terms of health, welfare, housing, arts and culture, and education.

Let me finish with the personal story. In our submission I mention the role of governments in banning the use of asbestos. On 16 and 17 December I sat by my father's bed holding his hand while he died from mesothelioma. His exposure was in the HMNZS *Royalist* in 1954-55 in Korea and then in Malaysia and Borneo. It took many years for the evidence of the dangers of asbestos to lead to the banning of its use in Australia on health grounds in the eighties. Today we would no more use it in building or in our naval vessels than we would deliberately expose ourselves to Ebola. It leaves behind pain, suffering and a legacy of disaster for anyone exposed. If governments had not stepped in we would still be mining it, using it, exporting it and killing people with it. So it is all very well to talk about and complain about a nanny state and demand government step out of our lives, but if we expect governments to be there for us when things go wrong, the quid pro quo is that we let them into our lives as well. Thank you.

**Senator DASTYARI:** I think that is an important point you are making there, Ms Brooke, about the impact and, at times, the need for regulation. What we are looking at here is: what is the right balance, and how do you get that balance right? I think the point you are making is completely right. The question is: how do you best manage harmful effects? You are completely right with an example like asbestos. It is something that for a long time people turned a blind eye to, and then you look at the impacts and the dangers associated with that.

On the specific issue of marijuana and cannabis, I would not mind getting some feedback. It appears that there seems to be a will at the moment to moving towards medical marijuana legalisation as an interim measure. That appears to be a consensus view amongst the community—I am sure there are people with different views, but that seems to be a view that has been built over a period of time and there seems to be a fair bit of community support. I would not mind getting you each to touch on that. Also, to what extent is that perhaps a safe gateway for us to start exploring the decriminalisation of recreational use of marijuana? You are obviously going to start with it for medical uses, but that may lead to a staged approach. I would not mind getting your take on that.

**Dr Studdert:** I think you are correct in noting that there has been quite a lot of community discussion about this—certainly, from the perspective of the public service. We and our minister are aware of that. You would be aware that in response to that, late last year Minister Ley announced that the government would move to introduce laws that enable the legal cultivation of cannabis for medical and scientific purposes. That bill passed both houses just two weeks ago.

We very much approach that work mindful of the international conventions that Australia is a signatory to. That does limit the legal use and legal mechanisms that a country can make laws regarding medical and scientific purposes. This relates to the Single Convention on Narcotic Drugs, which was adopted in the early 1960s and has been the basis for the Australian government's legal positioning on this since that time.

**Senator DASTYARI:** The 1960 convention; it was the convention on—what was it called?

**Dr Studdert:** The Single Convention on Narcotic Drugs.

**Senator DASTYARI:** I think that was in your submission too?

**Dr Studdert:** Yes.

**Senator DASTYARI:** How do other nations get around that?

**Dr Studdert:** How do they get around that?

**Senator DASTYARI:** Other nations that are signatories to this have very different regimes. We talked a bit about Colorado and I think California is heading down that path as well. Obviously, the Netherlands are known for this.

**Dr Studdert:** It is difficult for me to comment in detail on other countries, but Colorado is not a country and nor is California. From our perspective, you would find that the United States government, as in the federal government, does not have laws that enable legal cultivation or other uses. They have a system where, maybe a bit like Australia, they have states having their own law systems and the federal government not necessarily being in alignment with those. I should not say that is 'like Australia'; it is not, but I guess there are similar challenges with federation. Similarly, our understanding of other countries is that not all would be viewed to be in compliance with the single convention.

**CHAIR:** Do you have a view as to what policy the department would adopt in the event of a state government legalising recreational cannabis as Colorado has done in the United States?

**Dr Studdert:** I do not have a view, no. I think that would be something we would need to—

**CHAIR:** The department has not contemplated what its position might be in that eventuality?

**Dr Studdert:** We have; there are a number of scenarios which would be a matter for the government. I think with the fact that we have now put in place the legislation for the cultivation, our understanding—and we have had quite intensive discussions with the states and territories—is that this, to a large extent, facilitates what some governments are trying to do at the state and territory level.

**CHAIR:** The medical application?

**Dr Studdert:** Yes, to enable medical use.

**CHAIR:** If one of our Australian states said, 'Well, we're going to do the same as Colorado and Washington and Oregon have done in the United States against the wishes of the United States federal government'—which is obviously a signatory to the same convention that Australia is a signatory to—and the state said, 'Well, irrespective of what you think, we're going to allow recreational use,' how do you think our government would respond? In what ways do you think the Commonwealth government would be able to overturn and prevent that sort of thing?

**Dr Studdert:** Again, I could not really comment on what our government might be inclined to do. Our understanding and advice is that this would put Australia at risk at being noncompliant with the single convention and being viewed to be that. For Australia this is quite—

**CHAIR:** Presumably, no more than America is.

**Dr Studdert:** True. That is right. But Australia has a particular interest in being seen to be a compliant nation because of our poppy industry. The mechanisms by which we are able to grow licit poppies for technical morphine is through our compliance with the convention and the mechanisms that enable that.

**Senator DASTYARI:** Sure. But, Dr Studdert, the Americans do not exactly have a small pharmaceutical industry themselves. I am not quite sure if that flows through.

**CHAIR:** They do not grow poppies, though, do they?

**Dr Studdert:** No.

**CHAIR:** I do not think so.

**Mr Turner:** The difference between Australia and the US in this space is that Australia supplies 50 per cent of the world's licit opioid narcotics. It is a significant production for the global production. The US does not produce any. Australia is relying on its international reputation, built up over 40 years of being a safe, reliable, robust system for managing licit narcotics. The US does not have that particular concern.

**Dr Studdert:** Or reputation.

**Senator DASTYARI:** I think it is very warranted to have a debate and say, 'Where do you draw the line in terms of decriminalisation, legalisation'—whatever title you want to use—'of cannabis?' Obviously, as a nation we have now moved the goalposts and said that we are going to allow it for medical purposes. The legislation passed recently. To me it seems like a bit of a long bow to have the debate about whether you should or should

not move the goalpost again, but to also say that by moving the goalposts and having a regulated regime around marijuana decriminalisation would risk the Australian poppy industry. To say that people would not be buying our opiate products because of our credibility seems like a bit of a long bow to stretch. We are not talking about an unregulated system here.

**Mr Turner:** Just to explain that, the opioid market globally is not considered to be a trade commodity by the INCB—the International Narcotics Control Board. It is very strictly regulated with respect to the amount that can be produced annually. Accumulation is not allowed to happen. At the moment Australia has 50 per cent of that share. It is regulated through estimates—effectively a quote-type system which the INCB approve annually. If there were concerns about Australia's ability to manage narcotics as a whole—and cannabis is considered a narcotic under the single convention—it may be used as a wedge by other countries who wish to increase their share of that global market. That is where the risk lies.

**CHAIR:** Those countries presumably have a restrictive regime on cannabis as well. Do they?

**Mr Turner:** They would have to if they are growing cannabis. I would not like to speculate about which countries may wish to use that as a wedge. The risk is that it affects our overall estimates for production every year.

**CHAIR:** Just as a matter of interest, what is our poppy market worth?

**Dr Studdert:** I think I have heard a figure of about $100 million-plus.

**CHAIR:** $100 million?

**Dr Studdert:** I can certainly check that.

**CHAIR:** Interesting. We had the Parliamentary Budget Office do an estimate of the GST revenue that would be raised from legalising recreational marijuana. It was three times that.

**Dr Studdert:** You might have to take that up with the Tasmanian poppy growers.

**Senator DASTYARI:** I will move on from this. Mr Turner, I think the key phrase you used there was, 'if we appeared like a nation that is not able to manage narcotics.' I can understand that if you look like you are a rogue nation on the drug front some could argue internationally that it would forfeit your status. I do not know. I just could not see if a managed regime of marijuana decriminalisation or legalisation would necessarily be interpreted as us being unable to manage narcotics if it were done in a regulated system. We are not saying, 'You can do whatever drugs you want on the streets here.' There are places around the world—let's not kid ourselves, Mr Turner and Dr Studdert—that perhaps have on paper more restrictive regimes against narcotics, but in practice anything goes. I want to draw you to the bigger policy front. Dr Studdert, in the preparation, obviously you have had a look at the legal implications, internationally, of decriminalisation of marijuana for medical purposes, as that is now government policy. Is that correct?

**Dr Studdert:** Just to be clear, it is not decriminalised for medical purposes. There is a licit pathway for allowing use for medicinal purposes, if that makes sense. I know I am being a bit—

**Mr Turner:** Can I just elaborate on that a little bit. There has always been a licit pathway for the use of cannabis for medicinal purposes. What the new legislation does is create a supply source to feed into those pathways, because the biggest barrier to using cannabis for medicinal use was supply, globally, that was cultivated consistent with the Single Convention on Narcotic Drugs and which could be imported for those uses.

It has been imported for medicinal uses on a limited number of occasions. I was checking this yesterday and I think the number is about 27 in the last 10 years or so. So it has happened and it could have happened but the global supply has not been there. The cultivation scheme set up by this latest legislation will provide a ready, reliable, safe supply that can be utilised through those pathways.

**Senator DASTYARI:** Thank you for that important clarification. I am not going to hold you to my language. I used the term 'decriminalisation'. You talked about 'legal pathway'. To a layman they are the same thing. I understand that in a technical sense they are very different things, so I appreciate that. Has the department prepared, in the process of having the debate around decriminalisation—they are my words not yours, this legal pathway or whatever you want to call it; I am confusing myself, do not worry—

**Dr Studdert:** I know what you mean.

**Senator DASTYARI:** in the preparation of that, has the department itself done work on the international legal ramifications, going back to what Senator Leyonhjelm asked, if a state were to 'go it alone'?

**Dr Studdert:** I am just trying to recall; we have had a lot of advice. Yes, I think we have had advice that if a state were not acting in ways that were compliant with the convention, then, Australia would be viewed as not being compliant with the convention. What our options were at that point we have not gone into.

**Senator DASTYARI:** Has the department been approached by any state indicating in these discussions that they were exploring, themselves the option of going alone?

**Dr Studdert:** We certainly have had lots of discussions with the states and territories and, in particular, in recent months, with the state of Victoria, which announced it was pursuing an access scheme. Before that, the New South Wales government announced it was going to support clinical trials. So we have been very aware of what the states have been looking at and working very much in conjunction with them to ensure that we were all understanding what each other was doing and what we were doing. Our minister was quite clear. She wanted to facilitate to the extent that the Commonwealth had some of the levers, some of those approaches. It is fair to say that the Victorian approach, based on the advice of their Victorian Law Reform Commission, has sought very much to ensure it was compliant with international conventions as well. That was my understanding and our understanding from the conversations with officials.

**CHAIR:** If one of the states were to go it alone and the property market were to come under competitive challenge from other countries that sought to enter that market—how that would shake out in the big scheme of things—I guess the question would be, ultimately: who would decide whether our property market paid a price or competitor countries that sought to grow poppies were permitted to join that market?

**Dr Studdert:** As Mr Turner was explaining, the International Narcotics Control Board operates a system of managing estimates and reconciling those over periods of time with global supply and use. The estimates that we provided here—Bill can say a bit more on this in a minute—are given the approval of the INCB in that they marry up with the global estimates of usage for that period. I would expect—again, I will let Bill say something—that, if we were operating outside of that or other countries had been given approval to grow consistent with global estimates, we may encounter problems with manufacturers who would not want to use our supply.

**CHAIR:** Is INCB a UN agency?

**Mr Turner:** Yes.

**CHAIR:** And its mandate is that international narcotics treaty?

**Mr Turner:** Yes, the Single Convention on Narcotic Drugs. The Single Convention on Narcotic Drugs is, effectively, about establishing the controls on which narcotics which otherwise would be banned can be used for licit purposes. It goes to some of this in that the licit purposes that are outlined include medical and scientific research, of which we have talked. It does allow provision for what they call horticultural or industrial use. Through reading the convention, that is not recreational use as it were; it is more for fibre and that sort of thin. The convention controls put in place are explicitly about preventing diversion away from medicinal purposes. Everything a country has to do is about ensuring that the cultivated crop is not used in an illicit fashion.

**CHAIR:** If a country such as Australia—or any other, for that matter—took the view that cannabis were improperly linked to narcotics and was not a narcotic, with the argument something along the lines that there should be a sharp distinction for drugs that are clearly addictive and lead people into criminal activity and that sort of thing. Cannabis is not in that category. Presumably, for any country that was a signatory to that treaty, the only options for them other than to wriggle around inside the treaty would be to seek to have the treaty amended. Would that be correct?

**Dr Studdert:** I think you are right but I would probably have to refer to international law minds wider than mine.

**CHAIR:** How many signatories to that treaty are there?

**Dr Studdert:** I am not aware.

**Mr Turner:** It is 100-plus countries. I can find out.

**CHAIR:** How longstanding is it? It goes back—

**Mr Turner:** It is a 1961 treaty.

**CHAIR:** Yes, I thought it was.

**Mr Turner:** It has been amended by a 1972 protocol, but that is not relevant to the cannabis side.

**CHAIR:** Right. That is probably enough for me on that one. I have just looked it up; it has 185 countries, including Spain and Portugal. Interesting. Presumably, neither Spain, Portugal nor the Netherlands seek to join the opioid market.

**Mr Turner:** Our understanding is that those cannabis regimes are considered to be compliant. In the Netherlands, for example, there is a single company that is permitted to grow, and that is under government control and consistent. Netherlands had a reputation, and the government in recent times has legislated to reduce what they were calling pot tourism.

**CHAIR:** Yes, the coffee shops. They have reduced it to now having to be a local to access them, I think. That was in somebody's submission.

**Mr Turner:** Yes.

**CHAIR:** You are right that that was driven at least in part by pressure from the INCB.

I am going to change the subject a little bit and do need to ask you folks some questions as well but will continue with the department. In your submission you focus on the health implications and costs of cannabis use. I do not think any of our submissions have suggested there are no health implications and therefore no cost. This also goes for rural health folks: have you considered setting them off against the law enforcement costs? Have you done any analysis along those lines where you on the one hand have health costs and on the other have the law enforcement costs?

**Dr Studdert:** I would have to say I am not aware of any work that has been done on that. I assume that, if we had it, we would have given it to you, but I am certainly happy to take that on notice and get you some more information.

**CHAIR:** Just to verify that you do not have it.

**Dr Studdert:** Yes.

**CHAIR:** If you would. Mr Gregory or Ms Brooke, have you looked at that?

**Mr Gregory:** No, we have not, but let me make some comments on the discussion so far. I am sure you have a good understanding that Lisa and I are very close in geographical and spatial situation, but we are a non-government organisation. Government finishes on the table there and non-government starts here!

**CHAIR:** Don't feel neglected; I have some questions for you.

**Mr Gregory:** On the discussion you have just had: I want you to understand that we are the peak non-government organisation. We bring together 36 national bodies, so we are a huge network. In terms of the medical use of marijuana, we are delighted at the change that has been effected. I am sure you are aware that one of our 36 member bodies is the Country Women's Association of Australia, which has actually been a leading advocate for the medical use of marijuana. We do not have a position on the recreational use of marijuana. That is simply because we are a broad church and, frankly, we have not given it a priority.

**CHAIR:** You do not have a position on recreational?

**Mr Gregory:** We do not have one. Corporately, all 36 organisations have not come together to discuss it explicitly, so we do not have an explicit position.

**CHAIR:** Okay. I have some questions I will seek your views on in a moment, but I will continue with the department for a moment.

For the costs that you attribute to cannabis—$1.9 billion in your submission—did you draw a distinction between the private and social costs or have you attributed all the private costs to the overall figure in the same way that Collins and Lapsley did in their paper on the social costs of tobacco?

**Dr Studdert:** As you can see from the submission, we are citing research studies. Personally I am not familiar with those and I would be happy to take that on notice and give you a bit more information.

**CHAIR:** Yes. The reason is that I want to know if there has been any effort to distinguish between private and social costs in that $1.9 billion. If you could take that on notice, that would be good.

**Mr Gregory:** Let me add that we do not have a position but we do have numbers. As with so many things, the numbers are slightly different between major cities, inner regional, outer regional, remote and very remote areas. The recent user stats for people aged 14 years and over in 2013 is eight per cent in major cities,8.6 in inner regional areas, 10.4 in outer regional areas and 11 in remote and very remote areas. There is a slight increase in the rate of usage as you move from major cities to remote areas.

**CHAIR:** That leads me to a point I was going to raise with you which you referred to in your submission. In some remote Aboriginal communities cannabis use reaches over 90 per cent, which is obviously much higher than the average for the community. The other thing is that we have heard evidence that Aboriginals are incarcerated at disproportionately higher rates for cannabis offences. A lot of Aboriginals are being locked up because of

cannabis. The question for us to consider is: which has a more deleterious effect on Aboriginals—using cannabis or getting locked up for using cannabis? What do you think?

**Mr Brooke:** Getting locked up for using cannabis is infinitely more dangerous.

**CHAIR:** I would have thought so, and yet the prohibition policy on cannabis—which is that cannabis is too dangerous to make available for, at least, adults to choose for themselves—is what is leading to the situation where Aboriginals have been locked up because of cannabis. Do you think that is good?

**Mr Gregory:** As Fiona said, it is clearly the wrong way around. It is clearly much more damaging to their life opportunities and their quality of life and their health to be locked up.

**CHAIR:** I share that view.

**Ms Brooke:** I would totally agree with that view. It is an extremely complex area. Undoubtedly, being imprisoned creates much worse long-term effects and impacts on the individual and on the community than the use of marijuana may do, irrespective of whether it has health impacts. Certainly, the social impacts of marijuana in communities is terrible and that includes both imprisonment impacts and the cost in terms of money that is taken out of communities and is not being used for other vital contributions to the community. The cost of marijuana use in those situations is very dire.

**CHAIR:** Yes, you make the point in your submission that spending money on marijuana diverts funds away from food and other necessities. Are you aware of the extent to which the prohibition on cannabis makes cannabis much more expensive?

**Mr Gregory:** No.

**Ms Brooke:** No.

**CHAIR:** Do you think that, if it were not prohibited, it would be cheaper?

**Ms Brooke:** That is a really difficult question to answer because every good that is transported out to remote communities is much more expensive. It would certainly be likely to decrease the cost, but it is still likely to be expensive compared to city costs.

**CHAIR:** Inevitably.

**Senator DASTYARI:** [inaudible] regulation of taxes get applied to [inaudible]

**CHAIR:** It would depend on the tax regime that is applied. You are quite right.

**Senator DASTYARI:** You are a big fan of taxes, Senator Leyonhjelm.

**CHAIR:** I have never seen a tax I did not like!

**Mr Gregory:** I was once an economist and I see no reason why the normal rules of supply and demand would not relate to cannabis as they do to anything else.

**CHAIR:** Under that basis, you would think that supply would rise to meet demand and prices would fall, wouldn't you?

**Mr Gregory:** You would.

**CHAIR:** And therefore, with those who insist on using cannabis—and I am no advocate of cannabis consumption; I do not recommend it and I do not use it myself—legally or illegally, the rise in availability, increased supply and falling costs would at least allow greater availability of funds for food and other necessities, would it not?

**Mr Gregory:** Your speculation is certainly in line with what one would expect from the principles involved—yes.

**Ms Brooke:** The other thing that you have to consider in that context is the imposition of income management and the effect it is having on this whole scenario. I do not know that there is actually data and evidence yet on the complete impact, but—

**CHAIR:** It is a bit early, I think. I do not think you would be able to buy your supply of dope on your card!

**Ms Brooke:** No, but what I have seen suggests that a lot of trading goes on after goods have been bought on the card.

**CHAIR:** I see. That would be predictable.

**Ms Brooke:** Yes.

**CHAIR:** I would like to go back to your opening statement in which you referred to not all people making informed choices—they have less information, less financial capacity, less cognitive capacity. I am not sure

whether I agree with you. I want you to elaborate on this bit. How does having less financial capacity reduce your ability to make an informed choice?

**Mr Gregory:** It may not reduce your ability to make the choice, but it certainly reduces your ability to act on a choice where there are costs involved. The point we are making is that there are many differences between people living in remote areas and major cities, as you are well aware, but it is worth remembering how they impact on the capacity to choose anything. They have fewer years of completed education, they are older, there are a greater proportion living with a disability, they have lower income and they have higher costs. This is what we call the free market approach to freedom of choice. The notion that it is the same for people in remote areas is quite false because the circumstances they face are so different.

**CHAIR:** So they have less information available, they have fewer practical choices available to them because of their remoteness and they have reduced financial capacity, but you also referred to less cognitive capacity. What were you referring to?

**Mr Gregory:** There is a syndrome. One of the things the Rural Health Alliance talk about all the time is the rate of smoking in rural areas, which is higher, as you know, and much more difficult to get down, and the rate of misuse of alcohol is considerably higher. We frequently confront the reality that there is, if you like, a syndrome where people are born into a way of life which has, by definition, low-socioeconomic status, poor modelling and they live in a place where there are limited employment prospects, and that influences one's approach to education. If you cannot see anything around you in the small town where you were born and raised that would be an incentive for you to get an education, you are more likely not to get further education. There is that whole syndrome. We believe that one has to be very careful all the time not to blame people. In other words, not to look at rural people and say, 'You are to blame because you're doing something in terms of smoking rates and alcohol misuse rates,' which is palpably wrong, because it is part of the syndrome which, for cultural, historical, social and economic reasons is their inheritance. Therefore, we have to work very hard to make sure that we are not blaming the victims.

**CHAIR:** On the basis that they are victims, does that mean that that increases the legitimacy of making a choice for them?

**Mr Gregory:** Yes.

**CHAIR:** For example, is there an argument for saying, 'We might be more willing to give people living in metropolitan areas the freedom to make a choice'—say, about smoking, alcohol or marijuana—'than people living in rural communities'?

**Ms Brooke:** I would turn that around. I would look at it in terms of the situation in rural areas being different to urban settings. I was listening earlier to one of the witnesses via teleconference talking about liberalisation of access to recreational marijuana and basically saying that you would expect to see the police checking people for marijuana use if they were driving and so on. That is very difficult in rural and remote areas. It is not an approach that would work in rural and remote areas because there is simply not the police force. You are also faced with the situation where people may be both drunk and under the influence of marijuana driving and having an accident. Getting them to a hospital is harder. They are much more likely to either die or suffer very severe sequelae of the accident. The whole cost thing is approached very differently when you look at it in a rural setting. So, rather than ask, 'Should we make decisions that are more generous towards city cousins and less generous towards country cousins?' I think what we have to find is an approach that is going to work in both city and country and that takes into account the very different barriers that you face in the country.

**Senator DASTYARI:** What you are saying is obviously completely valid; there are different pressures and different environments and what may necessarily work in the city will be different in different regions—of course that is the case. It is always going to play out differently based on people's socioeconomic circumstances. All these things are inherent truisms. But let's say the government makes a decision that the goalposts now for medical marijuana are such that there is a path to production and whatnot. Then let's say that a decision is made by the parliament in the next couple of years to move the goalposts again and say, 'We're going to allow recreational use under these circumstances.' You would expect in this scenario, as with drinking alcohol, that smoking marijuana and driving would be illegal. The view would be that it harms others—it puts other people at risk, the same as drink driving. Drink in your own house, but putting others at risk is a different matter.

Yes, inherently, those kinds of regulations would play out differently in different regions, but so what? I could make a completely different argument to you that, if I am a rich, white, Anglo-Saxon male living in the eastern suburbs of Sydney and I get caught with a small amount of marijuana, the impact that will have on my life is very different than if I were an Indigenous youth living in a low socioeconomic area, where I am not going to have a

QC represent me at the local District Court and have the whole thing thrown out. Do you know what I mean? It cuts across different ways. I suppose the point you are making, that this is different in regional areas, is true, but the entire legal framework—and this is going into a different debate—around this also plays very differently based on socioeconomics circumstances and what you can and cannot do. I could make an argument here that—

**Ms Brooke:** I think it cuts to the basic inequalities that exist in our society. What you are saying is perfectly true and absolutely accurate, and I do not know how we deal with that level of inequality in a way that makes things better.

**CHAIR:** A fundamental issue here, though, is that where we are heading with this discussion is that people in remote areas are unable to make the same valid, informed choice as people living in other areas—metropolitan areas, for example—because of various points you mentioned. Would you agree with me so far? That was the opening statement you made, essentially: that people living in remote areas—

**Ms Brooke:** There are barriers in their way, yes, I agree.

**CHAIR:** There are barriers to them making choices on the same basis, with the same information. Financial and cognitive capacities can be reduced in regional areas. Are you with me so far on all of that?

**Ms Brooke:** Absolutely.

**CHAIR:** The point is: what is an appropriate government response to that? Should the government be more prescriptive about what you can and cannot do?

**Mr Gregory:** It is not so much the choice you make but the operationalisation of it. Let me try to use NDIS as an example. The National Disability Insurance Scheme is giving sovereignty to the individuals in terms of choice. That is the whole purpose of it. We at the Rural Health Alliance obviously support the sovereignty of individual choice—freedom to choose—but the reality is that, where NDIS is concerned, actually operationalising and making real that choice is a different matter. You go to the person living with a disability and you technically assess all they need to optimise their life from the point where you find them until they die. But then you need to operationalise that, meaning that they need an occupational therapist or a speech pathologist or a podiatrist, and they are not there, so the consequences of the choice and the practicability of actually acting on the choice are quite different in this case because of a shortage of health professionals.

**CHAIR:** So let me extend where I am going with this argument. In the case of welfare, we have income management. We now have the BasicsCard being trialled. That will apply in—so far there are trial areas, but that will apply to welfare recipients in those areas. They have been chosen because they have a high Indigenous population. In a sense, we are saying to people in mostly remote areas: 'You have less capacity to manage your welfare money than people in other areas have a capacity to manage their welfare money. The government is saying your capacity to make choices is less.' Is that right?

**Ms Brooke:** That is certainly the intent of that policy. Whether or not it could be approached differently comes into question because there are many ways to achieve better outcomes.

**CHAIR:** Nonetheless, the principle I am getting to—you are with me, I think, in that what we are agreeing on is that the government is saying, 'Your capacity to make a choice as to what you do with your welfare money is less than what it is in other areas where this is not going on'—is that correct?

**Ms Brooke:** That is correct.

**CHAIR:** All right. So there is a policy issue here for government: how far do you extend that? The obvious end point is to say there are some people who are capable of voting and there are some people who are not capable of voting. If we do not trust people to spend their own welfare money, how can we trust them to vote? Isn't that a logical extension?

**Ms Brooke:** It is the thin end of the wedge argument. I do not disagree with where you are going with the argument; I am not sure that I agree that there are not other options to be explored.

**Mr Gregory:** The right to cast a vote is a fundamental part of the sovereignty of freedom of choice I would have thought.

**CHAIR:** Indeed, but what we are saying to people is that they have this absolute right, and it is a massive responsibility, but then we are not going to let them manage their own welfare money where it could easily extend that—we do, in some cases, although admittedly it is not government directed. Some communities are dry and if they go to the government, the government will back them on that. We are saying to adults, 'No, you cannot smoke marijuana by your choice.' It is the governments making that choice. We are increasingly saying to people, 'You can't smoke cigarettes or tobacco either'. And yet the Indigenous community is probably one of the highest

users of all of tobacco. If we are not going to say to people they can make their own choices, good or bad, on marijuana or alcohol or tobacco, then how can we possibly say they can make their own choices on voting?

**Ms Brooke:** I think making choices about things that can have a negative impact on our health is slightly different to making choices that are connected with our role as a citizen.

**CHAIR:** They might elect people like Sam!

**Ms Brooke:** They might elect you!

**CHAIR:** I know! Even worse!

**Ms Brooke:** It is a worry! At the end of the day, we come down to the old question of what are the policy options about public education of the right to vote and the way we exercise our citizenship rights. Again, we need to work with communities rather than impose solutions on them. My fundamental opposition to the whole question of income management is that it is an imposed scheme. I am not going to say it should go away—mine is a personal moral opposition—but at the same time we need to start working with communities more to find the solutions. The solutions are there, but we need to find ways to listen and to actively engage with a group that are fundamentally disconnected and disadvantaged. Yes, the path you are going down is a path that I hope we do not go down in this country.

**CHAIR:** Nor do I; I agree. I was really only trying to test your consistency.

**Ms Brooke:** Yes, you were being very evil there, Senator.

**Mr Gregory:** The votes of rural people is weighted less anyway because the electorates are larger.

**CHAIR:** Go and live in Tasmania if you want to have more influence!

**Unidentified speaker:** True.

**CHAIR:** Sam, do you have any more questions?

**Senator DASTYARI:** I will make an observation that I would like to put on the record. Going back to what we were saying before: my concern about the policy around this area is that there seems to be a legal framework that has been built around medical advice—that legal framework was quite a restrictive legal framework around the use of marijuana, which again has been advised on by medical advice, and that may change in coming years. My concern about it is largely—touching on what you said before, Ms Brooke; pointing out the inequalities within the system—that it is not as if this is a uniform blanket rule that applies to everybody. Part of my real concern about this is—if we had said as a nation or a system, 'There's one set of rules that's going to apply to everyone, and it's going to be handed down the same way', then that is one thing, and we can have the debate. But it seems to me that in practice you have a situation where it is largely decriminalised for one section of the community, and having access to funds and legal representation and other matters makes it a very different prospect than what it does if you come from a lower socioeconomic area or from a highly policed area. I want to put that on the record, that my concern here is it is not a level playing field. When we look at these laws, when we look at where the goalposts want to be next, perhaps we should do that with a view to the fact that this is not equitable and it is not fair.

**CHAIR:** Done?

**Senator DASTYARI:** Done. That is my rant.

**CHAIR:** Thank you. That concludes today's hearings. Thank you to all of the witnesses who appeared. I would ask that questions you have taken on notice be delivered to the secretariat by 25 March.

**Committee adjourned at 12:42**