

Legislative Council

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**CONTROLLED SUBSTANCES (OFFENCES RELATING TO INSTRUCTIONS)
AMENDMENT BILL**

The Hon. A. BRESSINGTON (18:05):

I rise to indicate my position on the Controlled Substances (Offences Relating to Instructions) Amendment Bill 2010 introduced by the Attorney-General in another place earlier this year. I did not hear all of the Hon. Stephen Wade's contribution, but I do not think I will be quite as charitable as he has been.

As I understand this bill, it was the former attorney-general, the member for Croydon, who announced the intention for this bill in the Labor Party's 2010 election community safety policy, which stated:

South Australia's drug paraphernalia laws will be amended to restrict the availability of material which informs people on how to cultivate or manufacture drugs. By making it an offence to possess such material, it will close the current loophole identified in the existing law. By banning the possession of such material, the proposal will restrict the sale and production of publications that inform people how to grow, cultivate or make illegal drugs. The possession of the material will be an offence under the Controlled Substances Act 1984 section 33LA.

However, as members elected prior to 2010 would be aware, this parliament in 2007 made the possession of such instructions unlawful when it passed the Controlled Substances (Possession of Prescribed Equipment) Amendment Act 2007. That act, which inserted section 33LA, included in the definition of prescribed equipment, 'a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant'. So, one must assume that the former attorney-general, as chief law officer of the state, had identified a loophole that undermined the effect of that act and required correction.

However, such an assumption would be quite wrong. Given that this bill, when introduced, simply restated verbatim the possession offence in section 33LA in the then proposed section 33LAB, it is clear that no loophole had in fact been identified and, instead, the Labor Party's 2010 election policy committed this government to amending what was then believed to be an operational offence.

Instead of simply conceding this error, the attorney-general sought to distract from the non-existent loophole by creating new offences of supplying and selling instructions. As honourable members following the debate and the amendments in another place would have seen, the attorney-general moved an amendment to include a definition for the term 'document' for the existing definition in the Acts Interpretation Act 1915, which was relied upon in the existing offence and which had been identified by the Law Society as deficient.

So, following an election promise purporting to address a non-existent loophole, the government through a submission by the Law Society was informed of a loophole not only in the existing provision but also in the bill introduced to distract from the non-existent loophole. This is all very complicated. One cannot help but laugh. If only the attorney-general's staff had uncovered the deficient definition of 'document' prior to the bill's

introduction and the Law Society submission, then the current and former attorneys-general would not have egg on their face as they do today.

Regardless of how it reached us, we have before us a bill that creates five new offences relating to instructions for the manufacture of a controlled drug or the cultivation of a controlled plant, namely: to sell instructions; to possess instructions with the intention to sell those instructions; to sell instructions to a minor; to possess instructions with the intention to sell to a minor; to supply instructions; and to possess instructions with the intention to supply those instructions.

I have serious doubts as to whether anyone will ever be prosecuted for breaching these new offences. Such instructions are widely available on the internet and can be located via a Google search. Most are hosted on international servers, especially out of the Netherlands, meaning they are presumably beyond the jurisdiction of the supply offence. As such websites are free to access, there is no market for anyone seeking to actually sell any instructions.

So, again, that offence is redundant, meaning that the only offence likely to be of practical use is the existing possession offence. It is hard to escape the conclusion that this is a pointless bill. While reducing drug use and related harm should continue to be an election issue, the problem is pointless 'tough on crime' announcements, many of which are not worth the ink used for the headlines, such as this particular bill, and the real reform needed is ignored.

Where is the reform of the drug courts, the investment in recovery-based treatment and prevention initiatives, the bills to encourage people into enduring rehabilitation, or the policing initiatives to crack down on street-level dealing? Such announcements would not only be deserving of the headline but would actually make a meaningful difference to those families enduring the addiction of a loved one and even prevent such tragedies occurring. Instead, this government chases the cheap—both in the literal and metaphorical sense—law and order headline whilst refusing to address the desperate need in the drug and alcohol sector.

As evidence of this government's schizophrenic approach to illicit drug use, I point to the recent hysteria over Kronic, a plant-based product sprayed with a synthetic form of cannabis' main psychoactive compound, THC. As the synthetic THC compounds, known as CP 47,497 and JWH-018, differ significantly in molecular structure to THC, despite eliciting the same psychoactive effects, the manufacturers of Kronic and other brands such as Puff, Voodoo, Kaos, Kalma and Mango Kush have until recently been able to sell such products legally, marketing them as a legal alternative to cannabis.

Responding to media inquiries and detecting another cheap headline, the government was quick to express its concern and, last Friday, announced the prohibition of Kronic and its ilk. While I support the ban wholeheartedly, I find it difficult to get past the hypocrisy of the government's approach to synthetic cannabis in comparison to the real thing. While little is known of the short-term or long-term effects of the consumption of CP 47,497 and JWH-018, there is no suggestion that they are more harmful than the THC in cannabis.

The Western Australian branch of the Australian Medical Association is reported in the media as stating that they cause severe paranoia, anxiety, panic attacks, high heart rates, agitation and restlessness and are linked to the onset of psychosis. That sounds a little like cannabis to me.

Despite this, the government was quick to make the sale and possession of synthetic THC products an offence with a maximum penalty of two years' imprisonment, despite the

real THC and the other 50 or so psychoactive cannabinoids in cannabis being quasi-legalised, with the possession of up to 100 grams only attracting an expiation fine of \$300.

As I made plain when introducing my Controlled Substances (Simple Cannabis Offences) Amendment Bill, the 100 gram limit—the highest in the nation—allows street-level dealers to sell with impunity. How the government can reconcile its prohibition of Kronic and the decriminalisation of cannabis is absolutely beyond me. As I said, one must be schizophrenic to see the logic.

Unfortunately, however, this government does not suffer alone. As was reported in Adelaidenow last Friday under the banner 'Calls to ban "legal marijuana" Kronic in South Australia', the member for Heysen urged swift action to ban Kronic from the shelves. However, the Liberal Party supports cannabis remaining an expiable offence, although I do note the Liberal Party's support, unlike the government, for my past bill.

Likewise, the Western Australian government, the first to ban Kronic (although Tasmania did announce its intentions earlier this month), also whipped itself into hysteria in the pursuit of a headline, first claiming that Kronic was rife in their prison system and then later that day admitting that it had not ever been detected. I might add, however, that cannabis surely has been. They, too, have prohibited Kronic and its variants, while cannabis remains an expiable drug.

I do not say this as a criticism per se, although I know members find that hard to believe. As I said, I support the ban, but I seek to make the point that this is what the populace law and order approach to drug use has descended to. Either we can be serious about addressing illicit drug use and tackle the real need for reform or we can continue to chase headlines and dither with pointless bills such as the one we are debating. I have no doubts about what our community would prefer.

Is it any wonder that the people of this state have totally lost confidence in this government's ability to lead this state or to provide cohesive public policy which is supposed to provide a balanced and consistent approach to the social issues which are faced by many South Australian families? As I said earlier, instead we get legislation for a cheap headline in response to media pressure that is ill thought out and literally unable to be enforced.

Debate adjourned on motion of Hon. I.K. Hunter.