

# NEWSLETTER

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The British Columbia Anti-Prohibition League respects the right of adult Canadians to choose what they consume and demands the repeal of the *Controlled Drugs and Substances Act*.

## Ottawa Citizen editorials harshly criticize drug prohibition, call for alternatives

The following is a series of four editorials published over five days (April 12-16, 1997) by *The Ottawa Citizen*, one of Canada's largest circulation newspapers, and the leading newspaper in Canada's capital. The editorials are an indictment of the criminal prohibition of drugs. They call for alternative measures to deal with drugs in society.

**Decriminalizing drugs, Editorial, The Ottawa Citizen (Ottawa, Canada), Saturday, April 12, 1997**

"3 (1) Except as authorized by this Act or regulations, no person shall have alcohol in his possession. Alcohol Control Act, 1999"

Possession of alcohol is not criminal under Canada's drug laws. Were any political party to suggest that alcohol be criminalized, the sound of laughter and ice rattling in scotch glasses would be heard from Lunenburg to Chilliwack.

The long, dry years of Prohibition, particularly in its ambitious American version, taught some very profound lessons about what happens when governments use criminal law to try to address the real harms done by a drug:

- Prohibition had little or no effect on the consumption of alcohol. Elliot Ness may have inspired great television but neither he nor any number of his colleagues came close to finally corking the bottle in an era which is most famous for its jazz, gin joints, and speakeasies.
- Prohibition put a lucrative trade entirely into the hands of

organized criminals (and Canadian exporters). The crime spree spawned by alcohol's criminal status contributed to an American homicide rate that rose throughout Prohibition, to a 1933 peak of 9.7 murders per 100,000 people, higher even than the murder rate in the 1980s. And all the while, the thugs got rich.

- The impossibility of stemming the flow of booze led to ever more drastic policing, which undermined civil liberties. It has been estimated that upward of a thousand people were killed by American prohibition-enforcement agents. The first-ever laws making mere membership in a group illegal -- a gross violation of the freedom of association -- were American laws aimed at booze-running gangs.
- Perhaps most insidiously, criminalization implied that free human beings were not capable of making their own decisions about what they should ingest into their own bodies. Prohibition was an awful precedent: Citizens were infants, government the scolding parent.

The hard experience garnered in several decades of fighting alcohol with the criminal law has taught that prohibition of alcohol is folly. In fact, this is now the conventional wisdom. As a result, there will be no Alcohol Control Act of 1999.

Our society has had equally hard experience with its legal prohibition of the other drugs on society's list of the forbidden. Yet there is a Narcotic Control Act that still criminalizes certain of these drugs, many of which are little different in their physiological effects than alcohol. For some reason, most Canadians, and almost every Canadian politician, refuse to see that every lesson learned about alcohol prohibition is also a lesson about drug prohibition.

*The legal status of drugs has no substantial effect on drug consumption.*

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Marijuana was virtually unknown as a drug in Canada when it was banned in 1923. The first confirmed instance of its illicit use did not occur until 1931. Despite official vigilance, marijuana arrests in Canada remained extremely rare until the early 1960s, when changes in social values brought a massive increase in marijuana use -- against which the criminal law had essentially no effect.

Experience with harder drugs similarly shows no correlation between criminal sanction and use. In 1906, cocaine was inexpensive, legal, and fashionable in the United States. By 1980, it was only fashionable. Yet the rate of consumption in 1980 was twice that in 1906. After Ronald and Nancy Reagan's "War on Drugs" poured billions of dollars into armed interdiction and enforcement the wholesale price of cocaine dropped by 60 per cent.

Every year, enforcers seize about one-third of the cocaine produced worldwide. Yet the Rand Corporation estimates that cocaine supply in the U.S. continues to outpace demand by 60 to 100 tons. In 1992 and 1993, at the height of military interdiction efforts and with the U.S. government spending \$12 billion a year fighting drugs, there was a cocaine glut on American streets.

Even where the law does drive up prices, it still seems to have little effect on consumption. In the decade following the 1982 launch of the war on drugs, marijuana prices in the United States shot up over 400 per cent. In 1982, the number of high school seniors who said it was "easy" or "very easy" to get marijuana was 88.5 per cent; in 1994, it was 85.5 per cent.

Since Bill Clinton took office in 1993, the number of Americans arrested for marijuana offences has increased by 43 per cent, and increasingly those arrested are subjected to such measures as life sentences for growing a single plant. But teenage use of marijuana has grown throughout the 1990s.

Legalization also seems to have little effect on drug use. Ten American states have legalized possession of small amounts of marijuana for personal use with no apparent increase in consumption resulting. Holland legalized marijuana de facto in 1976 and teenage marijuana use subsequently dropped by 40 per cent. The rate of teenage marijuana use in Holland and Spain, where cannabis is also de-criminalized, is only two-thirds that in Britain, which enforces its anti-marijuana laws strenuously.

*Criminalization unnecessarily puts a lucrative trade in the hands of organized crime.*

The drug profits of organized crime measure in the billions of dollars each year. (Between \$5 and \$11 billion is spent on illicit drugs each year in the United States alone.) The thugs, organized and otherwise, who struggle for shares of this wealth are responsible for what is wrongly called "drug crime." The result: in the U.S. in 1993 alone, 1,280 murders stemmed exclusively from the drug trade. A 1988 study found that among murder cases in the 18 most populous counties in the U.S., circumstances involving the illegal drug trade, such as disputes over drugs, accounted for 18 per cent of all defendants and 16 per cent of all victims.

Though these sorts of statistics are normally used to support the criminalization of drugs, it is not the drugs that cause the crime, but their criminal status. One study of cocaine-related New York City homicides found that 87 per cent were related to territorial disputes, debt collection, or other business aspect; only 7.5 per cent were found to have been caused by the pharmacological effects of the drug itself. But the two types of drugs most likely to be associated with violent, aggressive behaviour -- alcohol and secobarbital -- are both currently legal.

No form of trade is the natural province of criminals: it only becomes their exclusive domain when the law makes that trade illegal. The end of American alcohol prohibition in 1933 was also, not coincidentally, the end of most bootlegger violence. Al Capone and the mob were replaced by today's distillers and brewers, corporate citizens no more dangerous than McDonald's or General Electric. The legalization of other drugs would take a multi-billion dollar trade out of the hands of criminals and quell the violence they cause.

Too often, our political culture equates legalizing drugs with being soft on criminals. But it is criminalization, not legalization, that guarantees wealth and power for gangs and pushers. We will argue Monday that it need not be this way.

**Decriminalizing drugs II, Editorial, The Ottawa Citizen (Ottawa, Canada), Monday, April 14, 1997**

On Saturday we focussed on two practical arguments for decriminalizing drugs: First, a drug's legal status seems to have little or no effect on its consumption. Second, criminalization unnecessarily puts a lucrative trade in the hands of organized crime.

Decades of regulatory failure should have re-directed our minds toward a fundamental re-evaluation of how we deal with drugs. But they have not. Instead, the continuing failure of the "war on drugs" and of its attendant arsenal of regulations, powers, police, soldiers, and prisons has led to more regulations, powers, police, soldiers, and prisons.

The impossibility of eradicating drug use has also led to ever more drastic measures that corrode civil liberties. In Canada, the failure of drug enforcement has regularly spawned police measures and powers that simply would not be tolerated in other areas of the criminal law. One of the earliest abuses was the "writ of assistance", introduced in 1929. These writs were issued to particular law enforcement officers who would then have *carte blanche* to conduct searches of any property or person, at any time, without a warrant. By 1977 over 240 writs were still in existence. In 1985, the Supreme Court of Canada finally struck them down as a violation of the Charter of Rights and Freedoms.

Three years later, however, Parliament passed a law that made it illegal to advocate or even make favourable comments about drug use. In 1994, this shameful law, which had no parallel in the Western world, was struck down by the courts as a gross violation of free expression.

In other areas, Canadian courts have permitted the war on drugs to serve as a justification for the country's police forces to assume extraordinary and unconscionable powers. The common law requires that police officers, when enforcing a search warrant, first knock and announce their presence before entering -- a minor limitation that takes just a few seconds. The Ontario Court of Appeal ruled, however, that when searching for narcotics, the police could ignore this requirement and simply smash in the door, since the "knock and announce" delay might allow suspects to destroy any drugs they might possess. Though the time between knocking and apprehension is often quite short, one of the most ancient principles of the common law was nevertheless diminished in order to prosecute the possible perpetrators of what is, after all, a non-violent crime.

When drugs are involved Canadian courts also often abandon their customary and commendable caution in accepting anonymous tips as the basis for search warrants. Courts have even authorized the officers who conduct drug searches to choke suspects trying to swallow tiny amounts of drugs.

In the United States, which otherwise protects civil liberties zealously, the continuing failure of the war on drugs has led many American jurisdictions to truly draconian enforcement measures. Congress created a system of fines of up to \$10,000 that can be imposed administratively when prosecutors feel they cannot get enough evidence for a criminal conviction.

Property can be seized without the owner even being charged with a crime so long as evidence of drug use is found on the property. To have the property returned, the owner must incur the cost and hardship of court proceedings and in effect prove his innocence. Police departments, who sometimes have the value of seized assets added directly to their budgets, have been accused of targeting property for seizure with little concern for actual proof of drug use.

Even when drug use is proved, the property seized is often out of all proportion to the alleged crimes. For instance, a Vermont man was given a suspended sentence by the state court for growing six marijuana plants but, under U.S. federal law, his family lost their 49-acre farm. At least he can be grateful he was charged in Vermont: Fifteen states have life sentences for many non-violent marijuana crimes. And if the amount of marijuana he had grown were larger, federal law would have allowed the death penalty, even for a first offence.

As we argued on Saturday, even extreme measures such as these have failed to halt or even substantially slow the flow of drugs. But they certainly have succeeded in diverting police resources away from the attack on violent crime.

Canadian taxpayers spent an estimated \$400 million on drug enforcement in 1992 alone. Even if just half that were spent on police, at an average salary of \$52,000 per year, 3,846 additional peace officers could have been hired.

As is their wont, the Americans have gone much farther than we have. The annual combined federal and state budget for drug interdiction and enforcement in the United States is about \$30 billion. An estimated 400,000 police officers are involved in drug enforcement, with 18,000 devoted exclusively to anti-drug units. Over-crowded American prisons have even, on occasion, given early release to murderers and rapists in order to make room for newly-convicted pot smokers subject to mandatory minimum sentences.

The recent history of drug enforcement, both in Canada and the United States, is largely a record of failure. Tax dollars are lavished on enforcement. Police powers are expanded at the expense of civil liberties. Criminal gangs grow richer. And drug use goes on regardless.

But the failure is even deeper. Tomorrow we examine how the criminalization of drugs offends the very premise that underlies liberal democracy.

**Decriminalizing drugs III, Editorial, The Ottawa Citizen (Ottawa, Canada), Tuesday, April 15, 1997**

In our Saturday and Monday editorials we made three main arguments in favour of drug decriminalization: that the legal status of drugs has little apparent effect on drug consumption; that criminalization unnecessarily puts a lucrative trade in the hands of organized crime; and that the impossibility of stopping drug use leads to ever more drastic measures that corrode civil liberties.

But practical concerns alone cannot settle an issue as complex as drug use. It also involves important philosophical considerations. Criminalizing drugs may or may not "work," but is it morally justified?

In his 1859 work *On Liberty*, John Stuart Mill made the classic statement of the liberal outlook on such matters: "The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant."

Modern democratic states, including Canada, are largely constructed on Mill's conceptual foundation. The liberal state was the first to recognize that its citizens are not children who need governors to pull their hands away from hot stoves. The material and spiritual benefits of that realization are legion.

Of course, legal systems are not philosophical treatises and the liberal axiom is often violated by Canadian law, usually in small, thoughtless ways. But the influence of Mill's principle can still be seen clearly, if mainly implicitly, in our criminal code. Suicide is not illegal. Nor is body-piercing, nor gluttony, nor sloth, nor a thousand other activities that harm only the person who indulges in them.

But the consumption of many drugs, even by adults, is illegal. As a result, although the criminal law permits Canadians to close the garage door and fill their lungs with carbon monoxide for the purpose of inducing death, they may not fill those very same lungs with marijuana smoke for the purpose of inducing pleasure. Dickens Mr. Bumble was wrong: The law generally is not "a ass". But the logic of this contradiction in Canadian law escapes us: you may do ultimate harm to yourself, but not the minor harm (if minor harm there is) in smoking marijuana. By contrast, the logic of the liberal principle is inescapable -- drugs should be legalized.

Many who accept the wisdom of Mill's principle nevertheless are uncomfortable with its logical implications. In spite of what their reason tells them, they want to keep drugs illegal. Or they desperately want to censor pornography. Or imprison homosexuals. Or ban home schooling. And so they twist the notion of "harm."

Mill and the great liberal thinkers who shaped modern society understood harm in narrow, commonsensical terms: Jones bops Smith on the nose, or sets fire to his barn. If the definition of harm is expanded beyond this, however, then drug users, pornographers, homosexuals or others who reside on someone or other's list of undesirables could be hit with violations of the criminal law without such persecution seeming to be in any way illiberal.

In fact, in a growing number of universities, law faculties, courts, and ministries, the liberal principle is being turned entirely on its head simply by redefining "harm." Feelings of humiliation or the creation of a "hostile environment" are deemed to be harms on a moral par with physical force. With such a broad definition of harm, all that is needed to justify bans or proscriptions on various kinds of behaviour is a finely honed sense of grievance and a sophisticated vocabulary.

Similarly, it is often argued that whether to use drugs should not be an individual's choice alone because it may do harm to others. There is no doubt that harm the drug user does to himself may cause distress and anguish among family members. He may become addicted and social bonds may be strained as he degenerates. And so, this thought has it, society is justified in banning drugs to prevent this "harm to others."

But people constantly engage in any number of activities that, like drug use, physically endanger only themselves but risk inflicting emotional trauma on others should something go wrong: scuba diving, skiing, driving Highway 401. Others may be traumatized when sons marry outside the family religion, daughters form sexual relationships with other women, or parents divorce. With harm stretched beyond its original, liberal meaning, almost any activity that

attracted a vociferous lobby group and applause-seeking politicians could be outlawed. If we are to have a free society in any meaningful sense, J.S. Mill's great liberal maxim must be re-invigorated, but with the original, narrow definition of harm intact. And Canada, secure in the knowledge of what is right in a free society, should allow its citizens to make their own decisions about whether or not to use drugs.

**Decriminalizing drugs IV, Editorial, The Ottawa Citizen (Ottawa, Canada), Wednesday, April 16, 1997**

In the first three editorials of this series, we argued that:

- The legal status of drugs has no substantial effect on drug consumption.
- Criminalization unnecessarily puts a lucrative trade in the hands of organized crime.
- The impossibility of stopping drug use leads to drastic measures that corrode civil liberties.
- The essence of freedom is the right to choose what to do with one's body, including choosing to ingest drugs.

For all these reasons, we support the decriminalization of drugs.

Taken to its limit, our way of thinking would remove virtually all constraints on adults ability to ingest what they will. Adult should be emphasized, of course. None of the concerns that lead us to support legalization need permit minors to use drugs. In a free society, paternalism for adults is offensive and unnecessary but paternalism for children is perfectly appropriate.

In contemporary Canadian society, however, the extreme libertarian position, whatever its merits in logic, is simply not on in the near future. (Though we have been thinking about drugs we have not actually been smoking them.) We therefore propose an incremental approach to decriminalization.

The first step would be the legalization of marijuana. For over a century, one commission after another has found that marijuana is no more harmful than alcohol or tobacco and may be much less so, given that marijuana-induced death is virtually non-existent, whereas in 1992 alcohol was at least implicated in 6,701 deaths and tobacco in another 33,498 deaths. Many such commissions have taken the next logical step of recommending legalization, most notably the 1972 LeDain Commission. In fact, in the 1977 throne speech Pierre Trudeau's government promised to legalize possession. Recently several senators braved the tough on crime mood to publicly support legalization. It is important to realize that marijuana would not be the first drug to undergo legalization. Alcohol has that distinction, and the framework that governs that drug's legal existence could provide a model for marijuana regulation.

Though we favour less government control of the alcohol trade, to allay public concerns about a future marijuana trade, producers could be licensed and taxed and sales permitted only through licensed establishments and government control boards -- though if things went well, we would then begin militating for the privatization of both alcohol and marijuana sales.

As already noted, those under 18 years of age would not be permitted to buy marijuana. Products would be labelled so consumers would know precisely what they were buying. And government inspectors would test to ensure the consumer was not receiving contaminated goods. Canadians would have an orderly marijuana sales and regulatory system mirroring that for alcohol. It

would be safe, efficient, free of criminal violence -- and eventually, we hope, subject to privatization.

Would legalization cause a sudden jump in consumption, particularly by minors? Would the use of harder drugs increase? Would crime inspired by the marijuana trade swell? Almost a century's experience with drug regulation in jurisdictions around the world suggests these indicators would either be unaffected or dramatically improve, but if this were not the case we would have ample opportunity to decide whether any changes in consumption should override personal freedom.

A next obvious step, five or 10 years down the road, would be the legalized possession of other currently illicit drugs. Again, we expect this would not lead to a great rise in consumption. And it would provide an appropriate background for helping those truly hurt by drug abuse: addicts.

There is no doubt that the use of many drugs -- legal and illegal alike -- can escalate into full addiction and the suffering that entails. A society that legalizes drugs will escape the many miseries that criminalization imposes, but it must find effective ways to deal with the damage drugs can do.

In fact, the number of people who use illicit drugs and slide into the abyss of destructive addiction is a small fraction of those who have used illicit drugs at one time or another. A typical study of cocaine use in Ontario, for example, found that 95 per cent of users used it less than once a month. The best way to fight addiction is not by prohibition but by helping those relatively few individuals who suffer destructive addiction.

This is the principle of harm reduction, the philosophy which guides most work in the field of illicit drug addiction. Harm reduction programs treat addicts not as criminals, but as dignified, if troubled, individuals. These programs have successfully brought addicts into treatment while reducing the peripheral social effects associated with addiction. Legalization of drug possession, although not a prerequisite for harm reduction programs, would greatly help this work by removing the threat of criminal sanction that currently hangs over addicts.

The history of drug use confirms that we will never live in a drug-free society: Too many people inevitably just say yes. But we can have a society in which the worst effects of drug addiction are minimized, and those who are addicted are helped. We can have a society where mafia and biker gangs are not made rich and powerful by the ban on drugs.

Most importantly, we can have a society where the criminal law reflects not expediency and prejudice but principle. We can work toward a society clearly and consistently founded on the great liberal maxim of John Stuart Mill, that: "The individual is not accountable to society for his actions, insofar as these concern the interests of no person but himself."

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## Report on Ian Hunter's Case

Victoria Times Colonist, April 8, 1997 (p. A3)

"If cultivation of these plants is a crime, then God is a criminal and Mr. Hunter is only his accomplice" -- Rev. Henry Boston.

"There's nobody who could give evidence on whether or not God is supreme in Canada" -- Justice Montague Drake.

City man tries to convince justice drug laws are unconstitutional.

By Kim Westad (TC Staff)

The Victoria man who wants to decriminalize marijuana took his pitch to the establishment Monday, arguing in B.C. Supreme Court that several drug laws are unconstitutional.

Garbed in a grey flannel suit, his side burns subdued as mutton chops can be, Ian Hunter seemed to fit right into the legal scene. "When in Rome, dress as the Romans do," said Hunter, who is representing himself in a three-day constitutional argument. But the 35-year [old] didn't completely forgo his belief in all things hemp. Hunter said his boxers were made of the material, and half his 97-page legal argument is typed on hemp paper.

"It may be the first time hemp has been in Supreme Court, but you never know. There are a lot of people who believe in it," Hunter said.

Hunter is trying to have laws making possession and cultivation of marijuana and psilocybin mushrooms ruled contrary to the Charter of Rights. He cites several breaches of the Charter - from religious grounds to protecting Canada's multicultural heritage - as reasons the judge should strike down the drug laws.

"We are doing a full-frontal attack, saying all these sections are pertinent. This issue brings together so many important rights."

Hunter was charged last July with possession of magic mushrooms, and cultivation and possession of marijuana for the purpose of trafficking. Victoria Police seized 22 seedlings, believed to be marijuana, a package of seeds and a small amount of what is thought to be magic mushrooms.

Freedom of religion is a key plank in Hunter's argument. He says people should be free to worship as they please, and if cannabis is part of it, so be it. Hunter wants the court to acknowledge that marijuana and mushrooms were originally created by God, so are worthy of the same protection from the court that would extend to other living species.

"God supports growing cannabis because it was placed on the Earth for us to use," Hunter argued, adding there is no demonstrative proof that it is harmful. "If it's not harmful, why is it a crime to possess it?"

Hunter is backed up by Rev. Henry Boston, who sat in court as Hunter's spiritual adviser. Boston says the Charter of Rights must be interpreted taking into account that the Charter preamble says that God is supreme. God created cannabis and mushrooms and also provided the nutrients in the soil and water necessary for their cultivation, said Boston. "If cultivation of these plants is a crime, then God is a criminal and Mr. Hunter is only his accomplice," Boston said.

But Justice Montague Drake wouldn't let Hunter present evidence about God's supremacy. "There's nobody who could give evidence on whether or not God is supreme in Canada. Who is qualified to do that?" asked Drake. The argument continues today.

#### The Hemp Council Media Alert, April 14/97

Judge decides against Hunter's constitutional arguments, Jury trial in September.

Victoria B.C. : B.C. Supreme Court Judge Montague Drake decided against Ian Hunter's constitutional argument saying his five day trial amounted to an "elaborate confession" and rejected most of his arguments as political and nothing he could deal with. Justice Drake

made history by ruling hemp seeds to be a Narcotic "and not separate from the Cannabis Sativa plant.

Trial is set for September 8 this year.

Drake dismissed Hunter's religious and discrimination arguments and said that "hooliganism" would occur if there was any such defence allowed.

Between now and September are several court battles around the world and North America most notably Chris Clay of London Ontario and his Constitutional Court Challenge of April 28th. He was charged with selling clones and later charged with selling viable seeds. Marc Emery of Hemp BC's trial is in July for a preliminary date and then a later trial expecting to last nearly a year. Gene Ross Balzar, 32, in Olympia Washington county Superior Court, was granted a stay of proceedings on religious grounds during the prosecution's closing arguments, after Superior Court Judge Richard Hicks found that Balzar could claim as his defense that his actions were protected under the 1993 Religious Freedom Restoration Act. Hicks' ruling then left it to jurors to decide whether the defense has merit. Balzar's trial was the same week as Hunter's.

Ian Hunter, with the able assistance of Chris Bennett, spent five days defending himself before the B.C. Supreme Court and will now go on to the jury trial to be held Sept. 8th. If Hunter had won his trial, the crown may not have appealed, and Hunter would not be able to go before the B.C. Court of Appeal, Hunter's goal. He has 30 days to appeal the ruling.

"I was expecting it," Hunter says, "but I was hoping the Judge would be brave enough to do the right thing and do something historic." The charges arise out of a July 26/96 police raid on Mr. Hunter's shop Sacred Herb - The Hemp Shop in downtown Victoria B.C.. Hemp plants had been growing in the window of his shop for four months before they raided. He had been selling seeds openly out of his shop for more than a year, and the police also found a quarter gram of mushrooms on the premises during the raid.

Mr. Hunter was subsequently charged with Possession with Intent To Traffic Marijuana, allegedly for the seeds. He was also charged with cultivating one 8 to 10 inch marijuana plant and 22 seedlings and with the possession of magic mushrooms. Over the course of the five day court battle (April 7 - 11th) Mr. Hunter laid out his case in a 97 page legal brief for the three counts and his seven charter challenges.

The charter challenges are based on: God is Supreme (as in the preamble to part one of the Charter); 2a Freedom of Religion; 2b freedom of expression; 7 Life, liberty and security of the person; 15 protection from discrimination; 26 prior existing rights and 27 multiculturalism.

"For now the focus has to be the Federal Election coming up and use the momentum from these trials and apply it where it counts in this campaign," Hunter says noting that Justice Drake and other Judges are reluctant to second guess parliament. "They say their hands are tied," says Hunter. "We have to get to those who tie their hands."

Victoria Times Colonist, April 15, 1997 (p. A3)

By Kim Westad (TC Staff)

Hemp honcho Ian Hunter lost the battle Monday to decriminalize marijuana, but he says he's far from out of the war. "The decision wasn't entirely unexpected," Hunter said after B.C. Supreme Court

Judge Montague Drake turfed his constitutional challenge to several drug laws.

The 35-year-old head of the B.C. Hemp Council has long lobbied for changes to the laws that criminalize cannabis and magic mushrooms. Being charged last summer with possession and cultivation of marijuana and possession of mushrooms gave him a platform to challenge narcotic laws under the Charter of Rights.

Hunter argued that sections of the Food and Drug Act and the Narcotic Control Act were contrary to several sections of the charter, including religion. Drake said Hunter's arguments were largely outside his control, being political, not legal.

"It was an elaborate plea of confession and avoidance," he said of Hunter's five day argument, much of which he called "massive irrelevant matter". Hunter's submissions ranged from an obviously researched 97-page legal argument, to telling the judge about his religious conversion to marijuana use in a field.

As for Hunter's argument that smoking marijuana is an integral part of his religion as a minister in the Mission of Ecstasy, Drake was having little of it. Cannabis is the tree of life, Hunter argued, and as such, has great spiritual value in his church. Smoking is a part of his religion.

But, said the judge, such use is an unlawful act. "A religion condoning the commission of an indictable offence is no religion at all, as far as the Charter of Rights is concerned," said Drake. The judge also noted Hunter had testified it wasn't mandatory for church members to smoke marijuana, though Hunter hadn't come across any who chose not to inhale.

Hunter goes to trial before a jury Sept. 8. He says jurors as young as 14 - the average age people first smoke marijuana - should be allowed, to combat the generation gap he says is part of the stance against decriminalizing marijuana. The older generation approves of alcohol and cigarettes, he said, but not marijuana.

Hunter is philosophical that change may take some time, "The system we have now has been rolling along for decades." He says charging "40,000 people a year is a major part of the justice system. They are putting people through to fill up cells and court time. It has become an economic power base." Hunter says there are some 2,500,000 cannabis and hemp users in Canada. "They have jobs, businesses and include lawyers, politicians, accountants."

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## Cannabis Day in Halifax

Excerpts from a speech delivered by Professor Peter March of Saint Mary's University (SMU) at the Halifax, Nova Scotia Cannabis Day celebrations, July 1, 1997

### Equity.

It is legal to make wine and beer in your home and marijuana is not more damaging than these. Those who prefer marijuana ought to have equal rights as those individuals who prefer alcohol.

### Liberty

It is the responsibility of the state to protect and promote the liberty, the freedom of its citizens. For this reason the state can not unnecessarily restrict the freedom of its citizens by the enforcements of unreasonable punishments. The punishments which have been visited on those who consumed marijuana are indeed unnecessary

and they therefore represent unreasonable limitations on the citizen's liberty.

The possession of marijuana did not threaten the well being of others; the possession of marijuana did not threaten property; those who have gone to jail for possessing marijuana presented no threat to others and enjoyed their pleasure at no cost to others. Their liberty should not have been compromised: their liberty was unnecessarily, unreasonably and wrongly denied to them when they were sent to jail for possession.

.... What does the state owe to those whom it has persecuted?

How much do you pay a person for a year in jail? The Donald Marshall case and other similar cases should be studied carefully. Those who have been wrongly incarcerated have been given compensation in the past and in the future, so also compensation will have to be paid to those who were wrongly, unreasonably and unnecessarily incarcerated for the possession of marijuana. And the longer these disgraceful laws persist, the more the state will owe those whom it has unreasonably persecuted.

How much do you pay a person for the humiliation suffered when he/she is sent to jail unnecessarily? Remember that this humiliation continued long after the sentence was served, and that it involved the loss of job prospects, and that many lost their careers.

.... There never was any evidence that marijuana was any more harmful than alcohol or tobacco - indeed there has always been plenty of evidence that both of these drugs, taken in moderation, represent a much larger danger than marijuana taken in moderation. Nor has there been any evidence that marijuana represents a danger to society: marijuana users are not violent and not particularly rebellious. Marijuana users are not more anti-social than alcohol users, are not even more of a nuisance, they are not noted for causing property damage.

So what was the justification of the laws against marijuana and why do these laws still remain on the books.?

The only adequate answer today, ladies and gentlemen, is that the laws are an expression of prejudice. The laws against marijuana which we have today are on a par with the laws in Salem which prohibited games and dancing. The laws against marijuana represent a bigoted and cruel prejudice in the law. These laws are a bigoted and cruel prejudice which has sent thousands to jail for no reason whatsoever, sent thousands to jail without any just benefit to the state, without any just benefit to any individual.

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## It's time to bust our drug laws.

Donna Laframboise

The Globe and Mail, May 31, 1997, page D3.

Pressure to decriminalize illicit drugs has been building for years. An impressive parade of police, lawyers, health workers, politicians and the media agree that when it comes to drug use, the cure is worse than the disease. Why won't the government listen up?

In 1995, nearly 43,000 Canadians were charged with almost 62,000 drug offences. Seventy-one per cent involved cannabis, 18 per cent were for cocaine and 2 per cent involved heroin. Roughly two-thirds of all drug charges each year are cannabis-related. Statistics on sentencing patterns are not available but we do know that over the past 20 years, nearly 700,000 Canadians have been arrested on

cannabis charges and more than 500,000 of those were charged with possession. (Sharing a joint with a friend is considered "trafficking," while growing a plant in your backyard is "cultivation" and carries a more severe penalty than simple possession.)

Following a year-long inquiry into 331 heroin overdose deaths in British Columbia in 1993 (up from 39 deaths five years earlier), the province's Chief Coroner Vince Cain declared: "The so-called 'war on drugs' which is conducted by the justice system can only be regarded as an expensive failure." Noting that illicit drug use was the leading cause of death in B.C. residents aged 30 to 45, he called for the decriminalization of simple possession of both hard and soft drugs.

Dr. Cain may as well have been speaking in Klingon for all the good it did. Nevertheless, pressure to rethink the way Canada deals with illicit drugs continues to mount. Since the Liberals took office in 1993, an impressive list of mainstream organizations and individuals has been advocating a change of course. Some groups argue that prohibition is a fundamentally flawed concept - regardless of whether it is alcohol, marijuana or heroin. Others advocate the decriminalization of small amounts of cannabis only. The point is something must be done to wipe clean the criminal records of the hundreds of thousands of Canadians already convicted of minor drug offences. Here is what some of these groups and individuals are saying:

#### The lawyers

The 34,000-strong Canadian Bar Association is among the groups that say such drug policies are misguided. In March, 1996, spokesperson John Conroy told a Senate committee that while lawyers would lose business, his organization has been advocating the decriminalization of marijuana since 1978. "We submit that it is folly to continue in the present direction," he said. "People who have been working in the field are saying that this continued approach does not work; it is doing more harm than good." Despite many Canadians' tolerance of cannabis, Mr Conroy points out that thousands of people are still being sentenced to jail terms for such crimes.

The Criminal Lawyers Association of Ontario takes a similar stand. Spokesperson Irwin Koziebrocki told a Senate committee last year that while his group believes cocaine and heroin pose a threat to the community, the harmful nature of cannabis is questionable. Since a criminal conviction for cannabis hampers a person's employment prospects and can result "in tremendous restrictions on one's ability to travel" decades later, the damage inflicted by the legal system seems disproportionate to the offence. Drug laws are usually defended as being necessary to protect young people, but Mr Koziebrocki says there appears to be no relationship between the illegality of cannabis and its use by youth. "Walking through [Ottawa's] Rideau Centre yesterday," he informed the Senate committee, "I passed three young people who were openly discussing the merits of smoking a joint. Last week, I asked my son - who goes to a reputable school in Toronto - if he could obtain this type of substance. He told me that it was very easy to do."

#### The police

While there are differences of opinion among law-enforcement personnel, many police also favour a new approach.

In 1993, the Canadian Police Association, representing 40,000 officers, urged Parliament to remove cannabis possession from the Criminal Code by making it a ticketable offence similar to a speeding violation.

In 1994, Ottawa Police Chief Brian Ford called for its decriminalization, declaring that the risk of things going wrong during marijuana busts is too high. (Three years earlier, his officers fatally wounded a man during a raid on a private home that turned up only a few grams of marijuana.)

With 35 years' experience as a law-enforcement officer in three U.S. cities, Joseph McNamara, Kansas City's former chief of police, also thinks decriminalization is the way to go. "It's the money, stupid," he says, "that is my message to the righteous politicians who obstinately proclaim that a war on drugs will lead to a drug-free America. About \$500 worth of heroin or cocaine in a source country will bring in as much as \$100,000 on the streets of an American city. All the cops, armies, prisons and executions in the world cannot impede a market with that kind of tax-free profit margin." Mr McNamara adds that the large amounts of money involved in the illicit drug trade also contribute to police corruption in the form of bribe-taking and thefts of both drugs and cash.

Beginning in late 1995, police in British Columbia were advised to stop laying marijuana charges because of court backlogs, a serious concern in many jurisdictions. At a rock concert I attended in Toronto two years ago, people were openly smoking dope on their way into the stadium. The dozens of police officers in attendance looked the other way.

#### The health workers and criminologists

Dr. Diane Riley began her 25-year career researching the effects drugs have on the brain. On the staff of the Canadian Centre on Substance Abuse until Ottawa slashed funding, she says: "We have to face up to the fact that drugs are with us," that some (but not most) people abuse them and that our prohibitionist approach is making it more difficult to save lives. "The World Health Organization has cautioned that if one does not keep the country's level of HIV infection in injection-drug users below 10 per cent, then one faces an explosive epidemic," says Dr. Riley. In Montreal, that level is currently around 20 per cent. In a test city in England - where drug abuse is being treated as a health matter rather than a criminal one and people aren't afraid to seek help - Dr. Riley says the HIV infection rate among intravenous drug users has been reduced to less than 1 per cent.

HIV is 10 times more prevalent in prisons than among the general population. Nearly 40 per cent of inmates in Kingston's Prison for Women who agreed to be tested are hepatitis C positive. Everyone admits drug use is rampant in such facilities. Although prison inmates are at particularly high risk of contracting HIV and other diseases from dirty needles, Dr. Riley points out that Corrections Canada spent \$1.2 million on drug-testing, and less than one-sixth of that amount on AIDS prevention. In fact, drug testing is aggravating the already high-risk situation since inmates - here as well as in other countries - are apparently switching to harder drugs because cannabis is detectable via urinalysis for 30 days or more, while cocaine and heroin dissipate within 72 hours. "The war on drugs is a crusade," says Dr. Riley. "And nobody wins in a crusade."

Line Beauchesne is a criminology professor at the University of Ottawa and the author of a book about youth drug-abuse prevention programs. "We must define our objectives," she says. "Is it to reach a point where people will no longer take any drugs, legal or illegal, or medication, or alcohol, or do we want them to consume drugs in a moderate way?"

Prof. Beauchesne says that if her daughter suddenly began eating large amounts of chocolate, her first reaction would be to wonder what was wrong, rather than to ban chocolate. "In order to be able to say that there is no more drug abuse, I would have to be able to

say that there are no more unhappy people, that the world is perfect and that there is no reason left to want to numb one's feelings."

For her, decriminalization is a means to an end. If society's goal is to have as healthy a population as possible, providing drug treatment for addicts rather than consigning them to prison makes more sense. Such programs that do exist in Canada have scandalously long waiting lists and are often chronically underfunded, even though addiction treatment costs much less than caring for an AIDS patient.

#### The media

Last month, The Ottawa Citizen ran four editorials in five days advocating the gradual decriminalization of all illicit drugs. The Toronto Star published editorials in 1993 and 1996 urging the decriminalization of marijuana. A 1995 Globe and Mail editorial, based on a 19-country World Health Organization study that found little evidence of lasting harm from the use of cocaine, argued that decriminalization would ease pressure on our overburdened courts and police forces.

A year ago, Montreal Gazette national-affairs columnist William Johnson admitted to using cannabis, urged decriminalization and declared that the "supposed cure, prohibiting some drugs, is infinitely worse than the disease." Toronto Star columnist Frank Jones has called for cannabis to be legalized and distributed by the provincial Liquor Control Board. Southam News columnist Andrew Coyne has written it "should be evident by now that much of the harm of the illegal drugs has more to do with their illegality than with the drugs themselves."

#### The politicians

Nor is political leadership entirely lacking on Parliament Hill. Last year, Canadian senators Sharon Carstairs, Richard Doyle, Duncan Jessiman, Rose-Marie Losier-Cool and Pierre Claude Nolin all publicly supported the decriminalization of cannabis. A handful of MPs were also leaning in that direction. Bloc Québécois MP Pierre de Savoye acknowledged that "young people can indulge in escapades. We don't want to ruin their lives over such incidents." Bloc MP Pauline Picard declared that "illegal drug use is much more of a health problem than a crime problem." NDP MP Nelson Riis called for the decriminalization of cannabis, while BQ Pierrette Venne said she had "reservations about the way possession of cannabis" is currently being handled.

Technically, there is no "war on drugs" in Canada. That term isn't officially used by Ottawa as it continues to pursue decades-old punitive measures, often against people who consume illicit drugs responsibly with no apparent ill effects.

In 1980, while serving as justice minister in Pierre Trudeau's cabinet, Jean Chrétien told Canadians it was the government's "intention to bring about changes which will serve to lessen the severity of penalties for possession" of cannabis. Seventeen years later, we are still waiting. The Prime Minister advised students in Prince Edward Island last year that decriminalization wasn't one of his government's priorities.

What has to happen before it becomes one? How many people need to earn criminal records for marijuana offences? How high do HIV and hepatitis rates need to climb? How many heroin overdose deaths will it take? How many more people need to lose their lives in drug turf wars between Quebec biker gangs before we acknowledge that police powers that threaten civil liberties are not the answer?

As Senator John Bryden observed last year, "If we cannot control the access to drugs (hard drugs, soft drugs and otherwise) and if we

cannot keep intravenous needles out of top-security prisons, I would think that is a commentary on how we might think we are able to control, by criminal law, the access of general citizens to these things."

Indeed, this is the crux of the matter. If we are prepared to live under a totalitarian regime in which not only prison inmates but virtually every citizen is subject to 24-hour monitoring to ensure we don't ingest, inhale or inject prohibited substances, the war on drugs can be won. The question is: Are we willing to pay that price?

If we are not, our policies need to change. Dozens of organizations and individuals who have made presentations to Parliament in recent years say there are less harmful, more constructive ways to deal with illicit drugs. When are our politicians going to listen up and do the right thing?

(Donna Laframboise is a Montreal writer with an interest in criminal-justice issues. Like Alexa McDonough, Jean Charest and Gilles Duceppe, she too has inhaled.)

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## Vancouver Province Editorial - And A Response

Vancouver Province, June 6, 1997

Our View - Vancouver Mayor Philip Owen has seen enough. He's calling for a new type of war on drugs.

#### Alternatives

It's been more than two years since the chief coroner examined B.C.'s epidemic of drug overdose deaths. Vince Cain concluded that drugs should be dealt with primarily as a health problem, not a criminal one.

Despite widespread agreement in police and court circles, little has changed in the way senior governments handle the problem. Drugs continue to claim too many lives and fuel human misery, especially in Vancouver's downtown east side.

Vancouver Mayor Philip Owen has seen enough. Before the Federation of Canadian Municipalities this weekend in Ottawa, he'll call for a new type of war on drugs.

Instead of hauling drug addicts off to jail, Owen and the city's Urban Safety Commission want more detox centres, drug treatment facilities, and safe houses for juvenile prostitutes.

Owen told The Province he's even willing to discuss "soft" drug decriminalization, as called for by Cain. The safety commission's report notes drugs and alcohol are a factor in 90 per cent of crimes in Canada, and Owen is fed up waiting for resources while drug-generated crimes such as home and vehicle break-ins are on the increase.

The mayor also wants the B.C. government to replace the Pender detox centre which closed in 1995; to review the downsizing of Riverview Hospital; and to expand needle-exchange programs throughout the Lower Mainland.

Other recommendations pertain to the criminal justice system. Owen wants increased search and seizure powers under the Narcotic Control Act, and an easier way to return people wanted on



charges elsewhere in Canada. He wants a crackdown on businesses linked with crime such as pawn shops.

He also criticizes the justice system for failing to provide enough facilities and programs to deal with minor criminals diverted away from jails and into alternate forms of sentencing.

Owen's frustration is easy to understand, and is shared by residents. It is one thing for senior governments to talk about changing the way these problems are dealt with, but the talk is not accompanied by the delivery of necessary alternatives. It is hypocritical of the province to talk about the need for options when it is busy slashing funds for the Carnegie Centre or downsizing Riverview without providing sufficient transition housing.

By all means let's throw drug traffickers behind bars for long periods. But police, judges and the coroner agree: Addicts are not criminals, they're victims. And victims need help, not jail.

The problems addressed by Vince Cain are still with us. So are his suggestions - and until they're acted upon, cities like Vancouver will continue to pay the price.

#### And the unpublished response.

June 7, 1997

Dear Editor:

Both your June 6 editorial, Alternatives, and the comments of Vancouver Mayor Philip Owen that it supported, are chilling demonstrations of the power of government and media propaganda to convert seemingly decent and caring people into angry, hypocritical, racist bigots. Because the minds of both Mayor Owen and your editorial writer have been poisoned by hate, their comments, while admittedly a tiny step toward an honest approach toward drugs, are painfully, dangerously, wide of the mark.

That Mayor Owen and the editorialist truly HATE drug dealers, "traffickers" in mediaspeak, there can be no doubt. But as any child can soon discover after spending an hour or so researching the facts, they have no logical reason for feeling that way. They may as well focus their hatred upon the Liquor Distribution Branch or the local pharmacist. Chief Coroner Cain fell into the very same trap in his otherwise very important report, it pains me to say.

A person without hatred in his or her heart would be able to learn that these prohibited drugs are relatively harmless and that the true cause of the "drug problem" is the fact that they are prohibited by law.

Further, such a person would soon find out that these prohibition laws were spawned during the early years of this century by virulent racism directed by whites against non-white "inferior races" such as blacks, Chinese and Hispanics.

Finally, that fortunate individual would realize that, even though we know all about the terrible effects of the prohibition of alcohol in the US, we are too hypocritical, too bigoted, to be able to learn from this knowledge, and are thus condemned to suffer the consequences as history repeats itself.

Thank God that human beings do not live forever so that ingrained hatreds can eventually be flushed away as new generations replace the old.

Alan Randell

## Vancouver Island Cannabis Buyers Club

In 1995 Ted Smith initiated Hempology 101, a non-profit society dedicated to educating the public about hemp, marijuana and prohibition. Early in 1996, Ted began supplying marijuana to people in Victoria who need it medically. In November of the same year, he presented the program to the Victoria City Council and a report about it appeared in the Victoria News three weeks later.

Excerpts from his November, 1996 speech to the Council are given below:

Thank you, Mr. Cross and Council members for letting me speak on behalf of the Vancouver Island Cannabis Buyers Club.

We sell marijuana and marijuana products to chronic and terminally ill patients. We have forms that these people must have signed by their doctor verifying that they have an ailment and that their doctor is aware they are using marijuana. Once we have a letter, and their membership is paid, we supply them with marijuana and marijuana products such as this salve right here, (Ted showed them the salve) good for application on the body. It is good for cuts and burns, and is the best antibiotic and the safest and most effective one known to human kind. It is also good for arthritis and skin diseases and such forth, and is an example of the products available to club members. We have recently expanded coverage from Victoria to rest of Vancouver Island. We see this as something that will soon be springing up all over Canada. Since we began operation 11 months ago, we know of three others have been started in Canada.

This is the first presentation made on behalf of the club to elected officials, and it is timely. In Arizona and California in the recent US election, votes were cast in favour of the legalization of marijuana. Conversation about marijuana and other drugs and their effects upon our society is necessary to combat disinformation. We need to discuss the effect, problems and solutions to prevent fatalities.

For more information contact Leon 'Ted' Smith at 7-1007 Johnson St., Victoria BC V8V 3N6, Telephone: 250-381-3262, E-mail: acidhead@islandnet.com

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## Fellowship Or Community Of Faith?

A message from our President, Henry Boston.

Someone said there would be no need for the BC Anti-Prohibition League if its goals were obtained. It was at a BCAPL meeting and I replied impulsively that I did not think the goals of the League would be realized in a hundred years. I felt that some members were shocked, and I was surprised at myself for saying it.

I did not mean that the law would not be changed in a hundred years. There will, I hope, be significant changes in the not too distant future, perhaps in my own lifetime, but I did not want to think about the League ending, because it has been only in the League that I have found the kind of fellowship I sought. More than half a century ago I was ordained as a minister of the church, but it has not until 1989 that I found not in the church but in the friendship and support of others who wanted to see a change in the law what I had sought.

The BCAPL has been inspired by a value which is denied by the law, and it exists because it recognizes this value. The value which gives it life is respect for the rights of others. A person has the right to choose what substance goes into his or her own body. This is a

basic choice, because it effects the relationship between a person and the planet which is our home. It is this which it gives life to the League and drives it to seek a change in the law, and after the law has been changed the value will still be there holding the League together.

Here are some of the purposes which I think the League could continue to fulfill after the law has been changed.

1. It would continue to support members in their personal search for the meaning and purpose of life. This would include support for members who use a psychedelic substance sacramentally and an interest in what this does for them.
2. It would foster dialogue between groups who interpret the meaning of the word sacrament differently.
3. It would give mental and emotional support for members who have addiction problems and help them to feel accepted.
4. It would support legislation which respects individuals and their rights, and oppose legislation which expresses the interest of one group in society at the expense of another group.

### New Mission Statement

You may have noticed that we have changed the Mission Statement we print under the title on page one. We hope you agree that it is an improvement over the previous one. Let us know.

### Please renew your Newsletter subscription

Subscriptions to our newsletter have been our main source of funding, not only for the cost of printing and mailing, but also for telephone and rally expenses.

The cost is reasonable, only \$8 per year.

Unless we hear from you, we will stop sending you the Newsletter when your subscription runs out. Let us hear from you!

You can purchase a subscription to the BCAPL Newsletter from the League or from any of our associates:

The Fane Box 8179, Victoria, B.C., V8W 3R8	Hemp Council # 106 - 561 Johnson Street Victoria, B.C.
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Vancouver Island  
Libertarian Assoc.,  
P.O. Box 8245  
Victoria, B.C., V8W 3R9

### Annual Prohibition Awareness and Memorial Event

This year's event is scheduled for Saturday, September 20, 1997 in the B.C. legislature grounds in Victoria. For more information, you may either attend one of our regular 7:30 pm meetings (2nd Monday of every month) in the South Room (up the ramp and through the office) of the James Bay United Church in Victoria, 511 Michigan Street, or you can call us in Victoria at 250-385-9306.

*In the Therapeutic State toward which we appear to be moving, the principal requirement for the position of Big Brother may be an MD degree.*

*From The Second Sin by Thomas Szasz, 1973, p 121.*

**B.C. Anti-Prohibition League** P.O. Box 8179, Victoria, BC V8W 3R8

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