

B.C. Anti-Prohibition League

Newsletter

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The British Columbia Anti-Prohibition League respects the right of adult Canadians to chose what they consume, and advocates the repeal of the Controlled Drugs & Substances Act.

NEXT MEETING

The next meeting of the BCAPL will be on Monday February 19 at 11.30 a.m. in the basement of the James Bay United Church in Michigan Street.

AN INTERNATIONAL COURT formally known as THE ROME STATUTE

A proposed International Criminal Court, formally known as the Rome Statute, was first opened for signature on July 17, 1998. By 28 January 2001 139 nations had signed. Signing however was not enough. Ratification by the governments represented by signers is needed. The court will be established following the 60th ratification. Canada ratified the International Court on July 7, 2000, being the 14th. country to do so. The United States ratified it towards the end of December.

The intended purpose of the court is to bring to justice those who commit genocide, war crimes and crimes against humanity. I believe that the prohibition of substances is a crime against humanity because (1). It puts down humanity as being unable to decide what should go into our bodies, and (2) it uses undercover police who pretend to want, or to sell, a prohibited substance. This kind of deception in the Christian Bible is associated with the devil. John 8.42. The truth, alternatively is presented with light. John 1.9.

GRACE AND LAW

Although many see the church as upholding the law it was not always like that. Paul saw the Israelite law as confining, or restraining and Christ's coming as liberating. He wrote to the Galatians "Now before faith came (i.e. faith in Christ) we were confined under law, kept under restraint until faith should be revealed. So that the law was our custodian until Christ came, that we might be justified by faith. But now that faith has come we are no longer under a custodian; for in Christ Jesus you are all sons of God through faith." Galatians 3.23-26. The statement that "We are no longer under a custodian" Gal. 3.25 he developed more fully in this Galatian letter and also in his letter to the Romans. We should note his statement that "In Christ Jesus you are all sons of God through faith." Being a son of God through faith is seen as a work of grace -i.e. a

favor which is given. There has been discussion in the church whether this is something which God decided because Christ had come, or humanity decided individually. In which case the gift of grace depends on our response when we claim sonship.

In reply to a questioner who had asked "Which commandment is the greatest?" Jesus said "You shall love the Lord your God with all your heart, and with all your soul, and with all your mind. This is the first commandment. And a second is like it, you shall love your neighbor as yourself." Matthew 22,36-39.

Jesus was endorsing loving from the heart. He condemned the Scribes and Pharisees, and said of them that "They do all their deeds to be seen by others." Matthew 23. 5 and that "They tie heavy burdens, hard to bear, and lay them on the shoulders of others." Mathew 23.4.

Consistent with this was a law which condemned eating meat which had not been sacrificed. Jesus comment seems to attack or ignore this idea. He said "There is nothing outside a man which by going into him can defile him; but the things which come out of a man are what defile him." Mark 7.15

However the church, after three hundred years of persecution, was glad of Constantine's action making Christianity the official religion of the Empire. Unfortunately the Empire could only tolerate one religion so a law was introduced to suppress other forms of religion. This established a pattern, and centuries later nonconformists were burnt to death or imprisoned. This practice continued until a more tolerant time came. In Britain this more tolerant time was expressed with a Toleration Act passed in 1689, and continued to grow after that..

Since the beginning of the twentieth century we have a new form of intolerance which controls, through a law prohibiting some substances., - what we put in our bodies or in our veins. This is contrary to what Jesus was reported to have said in Mark 7. 15. This intolerance has become world wide through the conventions of the United Nations.

A recent victim on Vancouver Island is James Dure. He has written to the League asking for our help in the letter printed below which has been edited:

JAMES DURE'S LETTER

"I have a doctors letter stating that I use Pot as pain control for a medical condition. In spite of this I was charged with possession after an illegal search of my car at a roadside police check. I will again make a CONSTITUTIONAL CHALLENGE of this law of 'thought control' (Big Brother we are watching YOU)

My court trial will be all day long on the 22nd of March 2001 at the Duncan Courthouse. Lawyers from Abbotsford will fly over to give me the best possible defense, and they require travel funds NOT COVERED BY LEGAL AID.

DONATIONS are therefore requested to support a well prepared defense.

I sincerely appreciate all concern and help given."

(Signed) James D. Dure

James has requested that "Donations should be made to the BCAPL which can be donated to the law firm" for travel.

The medical certificate, dated May 29 2000, and signed by Chris Derocher, M.D., F.R.C.P. Psychiatrist .states that "Mr. Dure has a chronic medical condition for which he smokes marijuana on a regular basis as an aid to pain control".

Another letter we have received is printed below.

GOVERNMENT AND MARIJUANA

Democratic governments have three branches: 1) Executive, which makes the laws (e.g. parliament in Canada), 2) Enforcement, (police), 3) Legal system, (courts, judges, attorneys and lawyers).

The LeDain Commission, in the 1960's recommended decriminalization or legalization of marijuana. Public attitude continues to become more tolerant towards decriminalization of marijuana, especially for medicinal use. About 2/3 of Canadians believe that marijuana should be decriminalized, and legalized for medical use. As noted below, this would have an adverse effect on some of our authorities and would be opposed by the USA authorities for the same reasons. Authorities have stated that the marijuana trade is controlled by organized crime and they want to stop it. If marijuana was decriminalized, the price would drop and organized crime would not be interested, as happened with alcohol.

Legislatures of many countries are pressured by the USA to ban marijuana, with threats of economic sanctions if they do not comply with USA standards. The duty of the police is to enforce the law, and they are pressured by the USA Drug Enforcement Agency (DEA) to crack down on drugs, notably marijuana. DEA agents operate in Canada, contravening our laws and sovereignty. Marijuana is an easy target for our police and it occupies much of their time in investigation, charges and testifying in court.

The legal system probably has a sub-conscious vested interest in maintaining the status-quo of marijuana laws. Much of the time of police and the court system is taken up with marijuana cases, thus benefiting those involved. Those prosecuted are frequently easy targets such as youth, poor, sick, etc. It is rarer to prosecute the wealthy or organized crime.

The marijuana community is not well organized as a lobby group, perhaps because of fear of intimidation, as follows: A medical user wrote to the RCMP proposing that they spend more effort on more major crimes. He did not state that he was a user. Shortly thereafter he was stopped at a road check and an illegal search and seizure was made. The constable claimed the search was justified because he had a copy of the letter! This was both intimidating and illegal.

Only by continuous, patient and widespread lobbying can change be brought about. We are not, and never have been users of Controlled Substances. We are over 75 and both have university degrees."

Signed: Two Concerned Citizens.

HISTORY OF CONTROL THROUGH THE LAW 325-2001

Governments make laws and have not recognized or accepted any kind of control over this action.. In the year A.D. 325 Constantine made Christianity the official religion, and being the official religion it was supported by the law. This led to the condemnation of other forms of religion and the persecution of heretics. More than a thousand years later. in 1430, Joan of Arc was burnt to death for using witch herbs. This was seen as a condemned religious practice.

The prohibition of substances is a twentieth century development of this. If we go back to the beginning of the century, to 1906, the President of the United States of America, Theodore

Roosevelt called for an international opium conference. This was held in Shanghai in 1909 and led to the Hague Convention of 1912, which attempted to regulate the distribution and use of opium. Before that Canada, in 1908, and New Zealand even earlier, made laws controlling opium.

The Hague Convention was responded to by the United States in 1914 with the Harrison Narcotic Act. This permitted physicians, dentists and veterinary surgeons to supply the drug (and to quote the words of the law) "in the course of his professional practice only." This was interpreted by law enforcement officers to mean that a doctor could not prescribe opium to maintain an addiction. Physicians who did this were arrested and imprisoned. In 1924 a law was enacted prohibiting the importation of opium even for medical use.

In 1922 Dr. Harry Campbell was sent from the British Government's Rolleston Committee to the United States to observe and report on the effectiveness of the Harrison Narcotic Act. He gave back word, reported in the Consumers Union "Licit and illicit Drugs" that "In the United States of America a drug addict is regarded as a malefactor even though the habit has been acquired through the medicinal use of the drug, as in the case of American soldiers who were gassed and otherwise maimed in the Great War."

The British on the other hand pursued a practice of allowing people addicted to opium to obtain it with a physicians prescription., and this led to a steady reduction of those addicted. In 1935 there were 700, in '36 there were 566, in '47 there were only 191. But after that Canadians and Americans who were addicted to opium started coming to London to obtain legal heroin and the numbers gradually increased. Of course this would not have happened if other countries had allowed people to get opium. or to get it on prescription..

IS THERE A PURPOSE?

The concept of an international court, (see first article) raises the question whether such a court could enforce a law which would enable humanity to fulfill a purpose. Such a law might possibly free a country from addictive substances but could real freedom be obtained through a law? Is the purpose of the world to be fulfilled in the enforcement laws? Can humanity be free by obeying a law.? There is need to define areas over which the law should exercise control and areas which it should not invade. Law has prohibited substances, but freedom to choose substances is surely not too much. Even animals can do that.

Freedom demands that we should be able to express ourselves. This has been seen by some as selfishness and there is a demand that we should submit to a law instead. Submission to a law is seen as unselfishness, and it may be unselfish if the submission to a law issues from love of nation or patriotism. The Bible presents an alternative concept suggesting that the law may be written in the heart.

The earliest reference I know to a law written on the heart comes from Jeremiah. Jeremiah wrote "This is the covenant which I (God) will make with the house of Israel I will put my law within them, and I will write it upon their hearts." Jeremiah 31.33. Jesus saw that this writing on the heart was something which had to be expressed, and if it were it would enable those who expressed it to be free. As this writing on the heart was an act of God he saw it as the truth and told his disciples that the truth would make them free. John 8.32. Laws prohibiting the

possession of substances prevent some people from doing things which they need to do for their health as for example using marijuana after chemotherapy. to suppress nausea.

Freedom is found in expressing what has been put “within” and written on the heart. Laws written by a government may have been written on the hearts of those who introduced them, or they may not be. The trouble is that often laws are not written on anyone’s heart and are made by people who want to control other people. Some laws are necessary such as those which suppress murder, theft and slander and offences against society. The law should protect innocent people from interference from others, and still allow them freedom to express themselves so long as that does not interfere with the freedom of others.

We live at a time when some people have lost faith in there being a purpose. They suppose that there is no purpose other than that which we create for ourselves.. They no longer believe the Bible or the creeds of the church and this leads some to reject Christianity. One of the reasons why some people do not believe the Bible is that Bishop Usher, based on the Bible, calculated that creation took place 4004 BC, that is about six thousand years ago, but astronomers tell us that the universe began with a big bang about 15 billion years ago, that is 15,000,000,000. which is more than two million times 6000. Most thinking people accept what the astronomers say, but astronomers cannot tell us what caused the big bang. This makes it possible to believe what they tell us and still believe that a supernatural force caused the big bang.

The creation concept of the Bible is based on the science of the time when the Bible was written. Christianity may not depend on the idea that God created the world, although testimony to the creation of the world is how the Bible begins, and it is also reported in the creeds of the church. We can accept modern science without rejecting the Bible as a whole. Finding error in one part does not invalidate the rest. The Bible contains history as well as speculation. If we find the science or astronomy of the Bible defective that does not mean that the history of the Bible is also defective.

If we observe life on the planet we see that all the creatures pursue their freedom except mankind which is governed by law. Animals exercise their freedom to find food, and to escape predators. But the crux of Christianity lies in the cross. Crux is the Latin for cross. In the cross Jesus was powerless, and yet he and his cross have become examples for Christians. The victory of the cross in the church tells us that wrong power will not last.

The Christian faith affirms that there is a purpose. That there is a purpose is assumed in the creeds of the churches. The Apostles creed begins “I believe in God the Father almighty maker of heaven and earth,” and ends with an expression of faith in “The communion of saints; the forgiveness of sins; the resurrection of the body and the life everlasting.”

The hope of everlasting life provides us with a purpose and because of that we have evidence supporting faith in creation. Unbelievers on the other hand suppose that if creation is in doubt then all Christian faith is also in doubt. The difficulty about basing faith on creation is that in the nature of the case nobody could testify to it.. We may feel that our faith requires creation as part of it, and this belief may be true. It may be true that God created the world but

this is not the basis of our faith. The basis for believing the Christian faith lies in other things such as morality, as for example the feeling that we should act in accordance with love. If there is a purpose then we must see it defined in the things of which we approve such as love, courage and self sacrifice, which are felt by all Christians.

Have the universes been created by a power which seeks to bring us all under control, or are we free to follow our own purposes? Is the purpose of the universes to allow us freedom to pursue our own purposes finding fulfillment in a kingdom of God wherein the deepest desires we have require that people can express themselves?

Alan and Eleanor Randell have sent us the following article.

MARIJUANA LAWS INTERFERE WITH LIBERTY

Karren Selick

Courts in Alberta and Ontario have recently made headlines by striking down portions of federal law that prohibit the cultivating or use of marijuana for medical purposes. In Calgary on Monday, Justice Darlene Acton of Alberta's Court of Queen's Bench said it was absurd for the federal government to exempt medicinal users when there is no legal supply of marijuana available. In so ruling, she stayed charges against Calgary Grant Krieger for growing and cultivating cannabis. She hoped that within a year, the federal government will have addressed these legal inconsistencies. The Ontario Court of Appeal also made headlines when it decided recently that epileptic Terry Parker has a constitutional right to use marijuana as medicine.

What most news reports barely mentioned was that on the same day it released its decision in R v. Parker, the court released another decision, R. v. Clay, with a dismayingly different outcome. The court held that the ban on pot violated the Charter guarantees of liberty and security of the person for Mr. Parker, a medical marijuana user, but not for Mr. Clay, a recreational user. Less than two months earlier, the B.C. Court of Appeal had reached a similar conclusion regarding recreational users in the case R. V. Malmo-Levine.

I have long been puzzled by the peculiar interpretation that Canadian courts have placed on the word liberty in Section 7 of the Charter of Rights and Freedoms. Among other things, they have said, "(liberty does not extend) to an unconstrained right to transact business whenever one wishes." They've said, "There is no Charter-protected right to freedom of contract." And again: "...the rights protected by Section 7...do not include a right to engage in a particular type of professional activity...." Why the devil not? Here's precisely what Section 7 of the Charter says: "Everyone has the right to life, liberty and security of person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." The word "liberty" stands naked and unadorned. It's not embellished by qualifiers or exceptions. There's no footnote saying only epileptics or cancer patients are entitled to it. It doesn't say we have liberty in our homes but not in our businesses. It doesn't say we have the liberty of making wise decisions but not foolish ones. It just says liberty - plain vanilla liberty. Why is that word so hard for our politicians and judges to understand?

Christopher Clay argued that the Charter right to liberty must surely include the right to intoxicate oneself with marijuana in the privacy of one's own home Sounds logical to me. However, this argument drove him smack into the brick wall of previous Supreme Court of

Canada judgements. According to the SCOC, "In a free and democratic society, the individual must be left room for personal autonomy to live his or her own life and to make decisions that are of fundamental personal importance." Elsewhere, the SCOC has said, "The Charter does not protect against insignificant or "trivial" limitations of rights"

The conclusions drawn by the Ontario and B.C. Courts of Appeal after considering these passages were that the non-medicinal use of marijuana is not a decision of fundamental importance, that the criminalization of pot for recreational purposes is an insignificant or trivial limitation on liberty, and that 'toking up' is not the sort of thing the Charter guarantee of liberty was designed to protect.

These conclusions are all highly subjective and therefore quite debatable. Maybe they'll be overturned on some future appeal to the Supreme Court. However, I'm not optimistic. Not much can be expected from jurists whose mind-set is that the constitution guarantees us liberty for those rare, momentous decisions in our lives, but not for the day-to-day small stuff. Does this mean that if the state decides to prescribe what time we must rise in the morning, what colour our clothing must be and how many times we must chew our food before we swallow, we're still living in a free country? How many trivial violations of liberty can they heap on us before we're forced to admit that this is stifling authoritarianism, not freedom? Besides, what's the logic of having different rules for decisions of fundamental importance and decisions of trivial importance? If citizens are so stupid or irresponsible that we can't handle the little stuff without direction from the state, where will we suddenly acquire the wisdom and character to handle the big stuff? Both courts attempted to do a balancing act, weighing the harm to the recreational pot user of keeping marijuana illegal against the harm to "society" of legalizing it. But they omitted one item from the equation - the harm a society suffers when its members become so used to having the minutiae of their lives governed for them that they consider it right and normal. The government must now decide whether to re-enact legislation outlawing marijuana but exempting medicinal use, or do nothing and effectively legalize pot. Although I've never touched the stuff in my life and don't plan to even if they legalize it, I'm voting for option two. Every little bit of liberty helps.

Karen Selick is a lawyer in Belleville, Ont. and a columnist for Canadian Lawyer magazine, where a version of this article first appeared.

AFTER PROHIBITION:

AN ADULT APPROACH TO DRUG PROHIBITION POLICIES IN THE TWENTY FIRST CENTURY

Edited by Timothy Lynch Foreword by Milton Friedman

(This book may be purchased on-line from the CATO Institute. Paper-back \$9.95US.)

More than 10 years ago, federal officials boldly claimed that they would create a 'drug-free America by 1995.' To reach that objective, Congress spent billions on police, prosecutors, drug courts, and prisons. Despite millions of arrests and countless seizures, America is not drug free. Illegal drugs are as readily available today as ever before. Drug prohibition has proven to be a costly failure. Like alcohol prohibition, drug prohibition has created more problems than it has solved. The drug war has destroyed the lives of inner-city residents, corrupted law enforcement, and distorted our foreign policy. Yet drug prohibition is still seen as a viable strategy by our political leaders. Paradoxically, alternative drug policies—such as legalization—fall outside of

the parameters of serious debate in our nation's capital. No one maintains that drug legalization would be a panacea. There is no question that drug abuse would continue to be a problem even in the face of legalization. But drug prohibition is a blunderbuss approach that treats Americans with very little respect. It treats them like children. It is time to deal with adult drug use in a more open, honest, and mature manner. The drug war has been given a chance to work, but it has failed miserably. Timothy Lynch is associate director of the Cato Institute's Center for Constitutional Studies and a graduate of Marquette University School of Law. He is a member of the Wisconsin and District of Columbia bars and writes frequently on legal issues.

"You cannot read this book without recognizing the social tragedy that has resulted from the attempt to prohibit people from ingesting an arbitrary list of substances designated 'illegal drugs.' . . . Not since the collapse of the attempt to prohibit the ingestion of alcohol has our liberty been in such danger as it now is from the misnamed 'war on drugs.'"

-Milton Friedman

"The nation is crying for an honest weighing of the dollar and societal costs of the drug war against its limited accomplishments in reducing the admittedly serious problem of drug abuse. This volume addresses the many ways in which America is paying for its drug war many billions of dollars spent, encroachment on individual constitutional rights, distortion and corruption of policing, and incarceration of over 400,000 people in a futile attempt to keep the drug market from responding to domestic demand."

-Alfred Blumstein

University Professor, H. John Heinz III School of Public Policy and Management, Carnegie Mellon University

Sex, Drugs, Death, and the Law Essay on Human Rights and Overcriminalization

Chapter 4 — Drug Use and the Rights of the Person

David A. J. Richards

David A. J. Richards has practiced law in New York and is currently professor of law, criminal law, and jurisprudence. His publications include *A Theory of Reasons for Action* (1971), *The Moral Criticism of Law* (1977), *Toleration and the Constitution* (1986), and numerous articles on law, philosophy, and political and moral theory. *Sex, Drugs, Death, and the Law* ©1982 by Rowman and Littlefield. ISBN 0-8476-7525-4 (pbk.)

VI. CONCLUSION: AGAINST PROHIBITION

We have argued that judgments of the immorality of drug use are wrong; indeed, the right to use many drugs currently criminalized is one of the rights of the person which the state may not transgress. We have identified as the basis for these powerful moral judgments a formerly religious but now secular ideal of moral perfectionism, and have tried to show why this ideal cannot, consistent with human rights, be enforced through the criminal law.

In conclusion, we may take a more affirmative stance against the prohibitory force of this perfectionist ideal in the area of drug use, recognizing, first, the deep tension that exists between

the enforcement of this ideal and a basic respect for the person and, second, the existence of a moral evil in enforcing a Manichean ideal through the medium of the law.

First, temperance has, since Plato,^[321] been identified as a moral virtue, a desirable and appropriate character trait for every good person. The sense of temperance in Plato, however, is not that of the American temperance leagues. It is not the elimination from human life of all intoxicants, euphorants, hallucinatory visions, or ecstasies of the transcendence of self, but the control of such experiences in the service of a balanced and humane life. Temperance, in this classical sense, assumes that ordinary people of good will have the capacity, when treated with decent respect, to regulate their own lives. When they fail, they do so as responsible beings who themselves ultimately bear the costs and degradation of their own disorder. When the perfectionist ideal in the United States took the form of compulsory prohibition of certain forms of drug use, it not only misinterpreted temperance, substituting an absolute prohibition for the Platonic balance and moderation, but it also deprived persons of the experience that makes virtuous action worthy of respect: namely, the self-mastery of appetite and temptation. In aspiring to create a New Jerusalem of saints, the moral perfectionists failed to observe the boundary conditions of minimal respect for human persons.

Second, the perfectionist ideal, implicit in America's prohibitory drug laws, is Manichean. Drug users are branded as the Puritans branded their deviants: evil and willful outcasts whose criminal stigma reflects the demarcation between the ideals of the saints and the inexplicable and satanic evils of the sinner.^[322] We have disclosed this cruel vision for what it is: not a critical moral judgment, but a remnant of a sectarian ideology secularized into a moral ideal of emotional self-control. Such a conception fails to acknowledge the confluence of condemned forms of drug use and reasonable human interests and aspirations and isolates and denies both the common humanity underlying many disparate styles of life and the cultivation of experience they reflect. The moral condemnation of forms of drug use reflects such isolation and denial, disfiguring the reasonable perception of the forms and ways we cultivate experience. It draws sharply moralistic distinctions between the decent and the indecent which reflect no consistent or defensible theory of harm, and which blinds social perception to the underlying moral reality of a continuum of personal modes of expression and fulfillment. The consequence is the remarkable spectacle of harmless conduct transmogrified by a perverse social imagination into a powerful stereotype of radical evil. Moreover, the balance of harm and good implicit in all patterns of drug use is dramatically shifted to the self-fulfilling prophecy of the worst possible consequences of drug use. We know that patterns of drug use fit into larger patterns of social intercourse, which often ameliorate the harms of the drugs and magnify their social and human benefits.^[323] The American prohibitionist perfectionism, expressing a moral theory of extirpation and total denial, has not only failed to foster the kind of framework of legal regulation that could facilitate such social patterns, it has insured that its own vision of radical evil will produce the worst possible consequences for drug users and society at large.^[324] This vision appears to feed on itself—immune to evidence, ferocious in the extent of penalties it is prepared to impose, and savage in its violations of basic human rights. We must, I believe, disencumber our conception of criminal justice of these perfectionist ideals, which pursue no aspiration that the state may justly compel and which work violence to basic human rights.

321. See Plato, *Charmides*, in *The Collected Dialogues of Plato* supra note 154, at 100 22.

322. See also K. Erikson, *Wayward Puritans* (1966). For an incisive application of this conception to American views of drug users, see R. Blum, supra note 14, at 323-41.

323. The extremes of harms that a drug may work are thus domesticated by a social context of use; for example, caffeine is ingested in forms so diluted as to make excessive doses unlikely, wine is taken with meals, and liquor drunk in controlled social contexts of mutual regulation. See, E. Brecher, supra note 1, at 205-06. See generally N. Zinberg & J. Robertson, supra note 1, at 12; R. Blum, supra note 14.

324. This theme was importantly sounded in the debates that led the British to resist the American example of prohibition of heroin use. See H. Judson, supra note 107, at 17-18.

This information has been received from
RELIGIOUS LEADERS
FOR A MORE JUST AND COMMPASSIONATE DRUG POLICY
RACE AND PRISON

These figures are from bureau of Justice Statistics of the United States of America. for 1998. In 1997 there were an estimated 386 white men in prison per 100,000 white male residents of the U.S.. And 3,209 blacks per 100 ,000 black residents of the U.S..

DRUGS AND RACE

According to Federal estimates whites make up 74% of the drug using population, blacks 13% , and Latinos 11%.

VOTING RIGHTS

Ten states in the US permanently take away the right of convicted felons to vote. In addition to these ten, most other states place some form of restriction upon the right of convicted felons to vote. Currently one in four black men residing in these ten states have permanently lost their voting rights

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