

by Susan O'Donnell
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"I'm paranoid of cops," says Eric as he walks down the street, his eyes shifting in a constant and almost unconscious search for bi-coloured cars and men in uniform. Eric has been on the lookout since he was busted for marijuana possession almost nine years ago when he was 16.
"I obey the law in every respect but one," he says. "I smoke dope. Since I was arrested, all that's changed is that now I smoke it more discreetly."
"There is no law that has created more disrespect for the system of justice and the government than the inclusion of marijuana under the narcotic control act," says Andy Rapoch, national president of NORML Canada (the National Organization for the Reform of Marijuana Laws).
Rapoch calls the marijuana laws "the most extreme example of injustice in the country."

Canada annually arrests more of its citizens per capita for cannabis possession than any other country in the world. During the past 10 years, criminal charges were brought against 300,000 young Canadians for possession of small amounts of cannabis. The cost of enforcing the law against simple possession of cannabis is estimated at \$100 million per year.

The Le Dain Commission (into the non-medical use of drugs) in 1972, the Canadian Medical Association and the Canadian Bar Association have all called for the removal of criminal sanctions against simple possession of cannabis. American proponents of decriminalization of cannabis possession include Jimmy Carter, the American Medical Association, the National Commission of Marijuana and Drug Abuse, the American Bar Association and the National Council of Churches.

"What each of these advocates of law reform have in common is their belief that the criminal prosecution of cannabis users is more harmful both to the user and to society than cannabis itself," writes C. Michael Bryan, who was special assistant to the Le Dain Commission and former Senior Policy Officer for the federal department of Health and Welfare.



Ontario's Addiction Research Foundation (ARF), one of the most respected authorities on marijuana use in the world, questions society's acceptance of the light use of alcohol when "after all, the evidence for damage to health from heavy use of alcohol is much stronger than the evidence concerning cannabis."

In her book Cannabis Criminals, Patricia Erickson, a criminologist with the ARF, finds that being criminalized for cannabis possession has no effect on a person's cannabis use. But it does have negative consequences in other aspects of the person's life.

"The implication of Erickson's findings is a stark indictment of the logic of our cannabis laws," says John Hagan, Ph.D., of the University of Toronto's sociology department. "The role laws have played in creating 'cannabis criminals' is a social embarrassment it may no longer be possible to ignore."

A federal survey estimates that more than four million Canadians have used marijuana. More than half of all Canadian high school graduates since 1970 have possessed marijuana. A 1977 survey revealed that more than 70 per cent of students at Toronto's Ossegoe Hall Law School intended to continue to use marijuana after graduation.

"Those law students are today's young lawyers: they make a mockery of our marijuana laws. Their behaviour loudly proclaims that the law is an ass," writes Neil Boyd, associate professor of criminology at Simon Fraser University.

More than 38,000 Canadians were convicted of importing, trafficking, cultivation and possession of narcotics in 1980. Ninety-five per cent of those convictions involved marijuana.

"Since Trudeau came into power in 1968, we have created over half a million criminal records for possession of marijuana," says Rapoch. "The people that started smoking marijuana when he was elected are now forty years old."

But 13 per cent of those convicted last year were under 18 years of age and only 17 per cent were 25 or older.

The present way of dealing with offenders is simply not feasible in the long run according to Rapoch. "A law which can only be enforced in a haphazard and accidental manner is an unjust law. It falls with great unevenness upon the population of offenders," says the civil libertarian.

The Oulmet Commission (on criminal reform) found the public has little trouble learning that a person has a criminal record, as the information is kept on many files and widely distributed. The committee regarded the difficulty of finding employment as "one of the debilitating social consequences of a criminal record".

A criminal record has been described by various witnesses at a senate hearing as a restriction or ban in connection with the formal study or practice of law, medicine or teaching, the operation of a taxi, employment by racetrack or liquor control commissions, and employment by numerous other businesses that require bonding or licensing.

The Le Dain Commission found in 1972 that apart from its impact on thousands of young lives, such a scale of law enforcement will place an intolerable strain upon our resources. "It is already overburdening the system very severely."

And so advocates of marijuana reform are "hanging their hats on the charter".

"Sooner or later, the charter will be used to force the government to bring legislation before the Commons to overturn the marijuana laws," says Rapoch.

"The government will not do so voluntarily, they will say to the electorate 'we didn't WANT to change the laws, we HAD to'."

Canadian law on marijuana has remained essentially unchanged since 1969. Although not itself a narcotic, cannabis was brought under the federal Opium and Narcotic Drug Act in 1923. When that act was replaced in 1961 by the current Narcotic Control Act, cannabis was kept on the schedule of narcotic drugs and remained subject to all of the provisions of the new act.

A case coming before the courts in January in Manitoba may be the one that will change the books.

14 people arrested on charges of marijuana possession in Thompson, Manitoba will be using the Charter to fight their charges. Their lawyer is from NORML.

Rapoch says they are going for the "arbitrary" clause under the charter, that says that everybody has the right not to be arbitrarily arrested. There are two issues involved.

One is that marijuana is arbitrarily called a narcotic in law. There is no scientific basis for the classification. The second is

that the law, by the police's own admission, is selectively enforced. All the arrests constitute less than one per cent of

Double cheese and 'shrooms - hold the crust

VICTORIA (CUP) -- The kind of mushrooms you don't put on your steak are the centre of a kerfuffle at the University of Victoria following a Mountie, long-haired hippies, abusive language and the freedom to fry your brains on any stone as long as it's natural.

The affair began October 23 when senior don Dale Brasnet was informed that four U Vic students had psychedelic mushrooms in their room in residence. "Magic mushrooms", which produce a mild euphoric high, grow wild around Victoria. They are considered "natural hallucinogens" and are therefore legal.

That's what the courts say, but that's not what the local Saanich police told the dons at U Vic. Dons are students elected by residence council to enforce rules in residence. Brasnet and several other dons, under the impression that magic mushrooms are illegal, had two of the students, Gerald Fahey and Lee Anholt, removed from a dance floor for questioning.

Unfortunately, as Anholt admitted, the two had been doing a lot of drinking, dope-smoking and mushroom-eating, and they did not react well to the questions. In fact, they got abusive.

"The dons got us when we were a little loaded," admitted Anholt. "They all but told us we were kicked out of residence for something we thought was legal. Of course we (verbally) abused them."

Both students were placed on probation for verbally abusing a don, and Fahey was also fined for consuming alcohol in public.

Brasnet then went up to the students' rooms with another don, Al Black. He asked roommate Kiffa Roberts to turn over the mushrooms.

Roberts claims Brasnet told him he "would be thrown out of the room if I destroyed the mushrooms or wouldn't let the dons see them."

Brasnet claims he told Roberts he could destroy or hide the mushrooms if he wished, but if so Brasnet would not give him a letter of recommendation when he took the affair to the standards committee.

In both versions, Roberts then turned over the 'shrooms.

Later that morning, an RCMP friend of Brasnet's told him magic mushrooms are indeed legal, but advised him not to return them to Roberts.

The Mountie then complied with Brasnet's request to destroy the mushrooms, a request that Brasnet had no explanation for.

An October 25 kiss and make up meeting between the students and the don was not a rousing success.

Brasnet refused to apologize for taking the mushrooms because he said he acted properly given the police information. The other dons involved did apologize, as did Anholt and Fahey for their abusive language.

But the meeting soon struck a sour note. "I think all dons are assholes," said one student.

Retorted Brasnet: "I think you're a long-haired hippy, and I don't want you or your dope-smoking friends around us."

the offences, so the arrests are arbitrary.

Charter experts think another matter that will certainly invite consideration of the charter is the extraordinary search powers in drug cases. Right now, a police officer has far broader powers of search and seizure in even a minor drug case than he or she has in murder, rape or other serious criminal cases. Any officer is authorized to enter and search any place other than a home in which he reasonably believes there is a drug, and, also, to search any occupant. This search may be conducted in the complete absence of evidence or suspicion of wrongdoing.

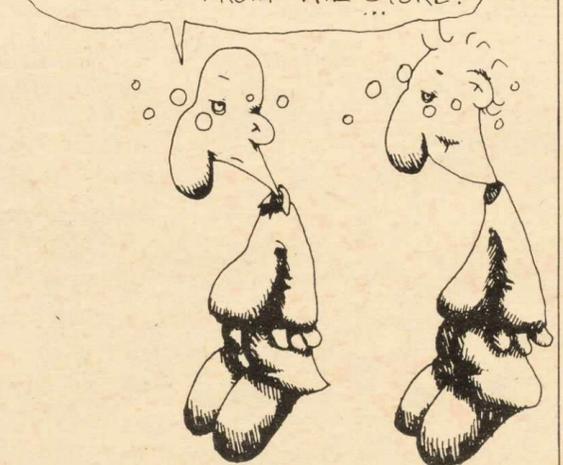
Also certain to be brought before the courts are the writs of assistance. Certain police officers are issued the writs which empower them to enter and search any home, day or night, in which they reasonably believe there is a narcotic and to search all the occupants. The writ is not limited to time or place, and is valid for the officer's entire career. Any officer armed with a writ can "break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing."

"The federal judge who issues a writ has absolutely no control over when, why, how often or in what circumstances it is involved, regardless of any abuse that may arise."

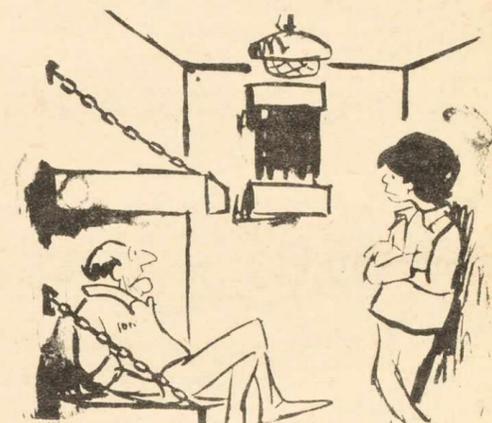
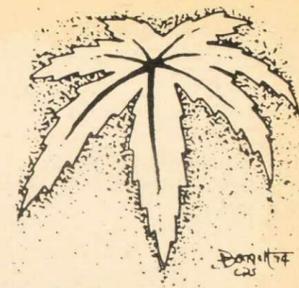
"These powers are surely extraordinary and they will inevitably be challenged as unreasonable infringements under the charter's search and seizure guarantee," writes Robert Solomon, a professor of law at the University of Western Ontario.

Solomon writes in ARF's Journal, "There is probably no aspect of Canada's drug laws that offends defense counsel as much as the minimum penalty of seven years imprisonment upon conviction of the offence of importing a narcotic."

WHY DO I GET THE FEELING THAT THE MUSHROOMS ON THAT STEAK WEREN'T BOUGHT FROM THE STORE?



Graphic/Artists



The law does not distinguish between amounts or types of narcotics. A person convicted of bringing a single joint of marijuana into Canada is necessarily liable to at least seven years of incarceration. Over the years, judges have spoken to the record in such cases, saying that if they had a choice, they would not be sentencing so strongly for the charge of importation.

Rapoch is also concerned about section one of the Charter. It says that the rights and freedoms guaranteed by the Charter are subject only to such reasonable limits described by law as can be demonstrably justified in a free and democratic society.

"This loophole could be used by the crown attorneys at the Supreme Court level. They can say 'regardless of what you think, the law is demonstrably justified in a free and democratic society,'" says Rapoch.

Also, section 33 says that the provinces can pass laws notwithstanding the charter. "We can end up with the check-board Canada that Trudeau was trying to avoid," argues Rapoch.

"Only unjust laws need unjust enforcement," says Rapoch. "If you can't have a law that can be fairly enforced, then you have to say 'are you doing the right thing to begin with? Is the prohibition against the individual use of marijuana just?' If it is not, it should be overturned." He says there is no clear reason to believe that is going to happen for quite some time. "We can only hope and fight, and that's what we intend to do."

NORML has five chapters in Ontario. In Windsor, St. Catharines, Kitchener, Timmins, and Schreiber. In Manitoba, chapters are located in Winnipeg and Thompson. There are none in Saskatchewan.

"Saskatchewan is like the black hole, nobody cares there," says Rapoch. There is a fledgling group in Calgary and an affiliate group in Edmonton and Vancouver. There are none east of Ottawa.

"Quebec has the lowest arrest rate in Canada, less than half the national average," says Rapoch. "P.E.I. is hard-line all the way."

Rapoch and the members of his group believe that adults should have the right to choose what form of intoxication they wish to enjoy. They are not fighting for legalization, but decriminalization. They want to abolish the simple possession offence, and the cultivation offence.

Says Rapoch, "I want to stop individuals from having to be worried about being busted for a little bit of pot."