



The Approach to Drug Problems in Australia — Paranoia or Policy?

By J. Willis

"... in a certain sense, the present public reaction to the drug 'problem' is a bigger problem than the adverse effects of the drugs themselves."

Apart from some concern, largely of racist origin, with opium smoking around the turn of the century and an outbreak of criminal violence in the 20s and 30s associated with cocaine use, there was little general fear in Australia about drugs until the sixties, when a marked increase in the use of cannabis and somewhat later of opiates, especially heroin, generated fierce and sometimes hysterical responses from the community. The reasons for the marked increase in the use of certain drugs are by no means clear. The development of communications provided Australians with greater information about the popularity of marijuana among certain groups in the U.S.A., and the arrival of drug-using American soldiers on R and R from Vietnam seems to have further encouraged its use. The cult of popular music groups and the massive media coverage given to their exploits, including drug taking, no doubt made a further contribution to the growing use of marijuana. Marijuana, moreover, could be grown easily in most of Australia and was considered comparatively harmless by most users. For young people, it served a number of useful purposes—it gave a certain mild pleasure, heightened by its illegality, and provided a comparatively harmless symbol of individuality and rebellion against the established values of the older generation.

The major focus of community concern about drugs was on young people, whose numbers as a proportion of the total population had increased markedly in this period. These were the youth of the post World War II 'baby boom', who were living in a time of increasing affluence and whose potential as consumers had been realised by commercial interests. Media advertising placed youth before the general public to a far greater degree than ever before and highlighted (or created) its different life-styles and attitudes. Many of the older public, affronted and worried by the aggressive 'accent on youth', with its different clothes, hairstyles, and attitudes, found in drug-taking a symbol of their concern and anxiety.¹ The situation was aggravated by the Vietnam war and the conscription issue, which aroused deep emotions in the Australian community,

with many seeing draft resisters as unpatriotic, if not positively subversive, and as typifying the malaise of Australian youth. It was easy to link drug-taking and draft-resistance, and hence to see drug-taking as almost a national menace.

The increased illicit use of heroin seems to have started in the late sixties and early seventies. The causes of this increase in use are by no means clear, but it would seem that drug-using American soldiers on leave in Australia from Vietnam in the late sixties in addition to encouraging the use of marijuana helped spread the heroin habit.² There is also evidence that organized criminal elements in Australia turned to the distribution of heroin in the seventies, and that south-east Asian heroin syndicates turned to Australia as a market for heroin when the Vietnam war ceased and they were comparatively unsuccessful in gaining substantial access to mainland U.S.A. The harmful effects of opiate addiction further added to the growing community concern about illicit drug use in Australia, and led to strong calls for government action.

THE SINGLE CONVENTION ON NARCOTIC DRUGS 1961

The Single Convention on Narcotic Drugs 1961, an international treaty, was ratified and came into force in 1964. Australia as a signatory to the Convention, was required to take appropriate legislative and administrative measures to implement its provisions.³ The drugs subject to the Convention are listed in four Schedules. Schedule 1 drugs include opiates such as heroin, morphine, opium and pethidine as well as cannabis, cannabis resin and cocaine. Parties to the Convention were required to ensure that cultivation, production, possession of and trading in these drugs contrary to the provisions of the Convention were made criminal offences.⁴ Schedule IV drugs were to be subject to all the control measures applicable to drugs in Schedule 1 and in addition to any special measures of control which were necessary having regard to their "particularly dangerous properties".⁵ There are five drugs listed in Schedule IV and these include cannabis, cannabis resin and heroin, but not opium, morphine or cocaine. The Single Convention on Narcotic Drugs 1961 thus classifies cannabis as more dangerous than opium, morphine and cocaine.⁶

The Senate Select Committee on Drug Trafficking and Drug Abuse considered that the classification of heroin and cannabis in the same Schedule had given a widespread impression that the Convention classified these two drugs as being of equal danger to users.⁷ The Senate Select Committee, noting that cannabis was not a narcotic drug, recommended that the Australian Government should take steps to have cannabis transferred from the Single Convention of Narcotic Drugs to an appropriate schedule in the Convention on Psychotropic Sub-

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stances.⁴ The Senate Standing Committee in its Report in 1977 noted that no action had been taken to transfer cannabis and recommended "as a matter of urgency" that such action be taken.⁵

LEGISLATIVE RESPONSE

The basic approach of Australian legislatures, both Commonwealth and State, to the problem of drug use has been to use the criminal law.

THE COMMONWEALTH GOVERNMENT

The Commonwealth government responded to its obligations under the Single Convention by introducing the *Narcotic Drugs Act 1967* which imposed controls over the manufacture of narcotic drugs, and by amending the *Customs Act*⁶ to create a series of offences of importing, exporting or being in possession of any of the drugs set out in Schedule 1 of the Single Convention on Narcotic Drugs 1961. The maximum penalty for these offences was imprisonment for ten years and/or a fine of \$4000.

In 1971, an attempt was made to distinguish between personal users and those engaged in commercial dealing. The concept of a "trafficable quantity" was introduced in the *Customs Act*.⁷ For each of the narcotic drugs, there was assigned a certain quantity, called the "trafficable quantity" and, in effect, a presumption was created that a person found guilty of an offence involving more than the "trafficable quantity" of the drug, had committed the offence for commercial or financial reasons. The maximum penalty of imprisonment for ten years and/or a fine of \$4000 was not changed but, if the offence involved less than the "trafficable quantity", the maximum penalty was imprisonment for 2 years and/or a fine of \$2000. Given the drastic difference in these maximum penalties, it was essential that the amounts fixed as trafficable quantities should not be too low and so make personal users liable for the 'trafficking' penalties. In fact, the trafficable quantities prescribed for many of the drugs were very low—25 grams (less and 1 ounce) for cannabis; and 0.5 grams (less than 1/50 ounce) for heroin. Given that the standard amount of cannabis brought for personal use was an ounce, the legislation on its face created a presumption that personal users were traffickers. More fundamentally, the amounts fixed by the legislature as trafficable quantities are inevitably seen by the public and especially by the judges, magistrates and juries who have to administer the law as authoritative evidence of drug usage. To the extent that the trafficable quantities do not accurately reflect the habits of drug users, the legislation is deceiving the community.

In 1977,⁸ the trafficable quantities were increased by a multiple of four, a belated admission that the original quantities had been too low. However, the revised quantities have also been argued that, given individual differences, degrees of addiction, varying strengths of drugs and fluctuations in their availability, it is effectively impossible to set trafficable quantities which will not create the presumption that some offenders who are in fact only personal users are engaged in commercial dealing. At the same time, the legislation make a distinction between cannabis (but not cannabis resin) and the other narcotic drugs. The maximum penalty for offences involving cannabis remained imprisonment for ten years and/or a fine of \$4000, but for the other narcotic drugs, the maximum penalty was raised to imprisonment for 25 years and/or a fine of \$100,000.

In 1979,⁹ the legislation was again amended in an endeavour to deter traffickers—especially large, commercial distributors. The concept of "commercial quantity" was introduced into the *Customs Act* and the maximum penalties further increased. The "commercial quantity" is a very large quantity—for cannabis 100 kilograms, and for heroin 1.5 kilograms. For persons convicted of an offence involving a commercial quantity, and for those convicted of an offence involving a trafficable

quantity, who had previously been convicted of an offence involving a trafficable quantity, the maximum penalty was now life imprisonment. One effect of this legislation, which was perhaps unintended, was to increase the maximum jail sentence for recidivist cannabis offenders from 10 years to life.

The 1979 amendments also created a new procedure whereby the Crown could recover a pecuniary penalty from a person who had engaged in "prescribed narcotics dealing".¹⁰ Prescribed narcotics dealings" include selling, importing and having possession of prohibited narcotic drugs. A pecuniary penalty is, broadly speaking, the profit made by the person from the prescribed narcotics dealings. However, in assessing the profit, the court is *not* to take into account any expenses or outgoings incurred in making the profit. The procedure is treated as a *civil* claim, not a criminal action: there is a six year limitation period and the pecuniary penalty imposed by the court is to be collected as if it were a civil debt. Moreover, the court can order a person to pay a pecuniary penalty even if he has not been convicted of or even charged with any drug offence.

This procedure is really a criminal proceeding carried out on civil procedure lines. As such, it amounts to a confession by the government that it cannot control or apprehend large drug dealers and financiers through the conventional criminal law approach. It also constitutes a frightening erosion of the normal protections afforded to individuals in our community.

TREATMENT OF OFFENDERS

Article 38, par. 1 of the Single Convention on Narcotic Drugs 1961 states that:

"The Parties (sc. to the Convention) shall give special attention to the provision of facilities for the medical treatment, care and rehabilitation of drug addicts." A 1972 Protocol to the Convention provided that provision could be made to require 'abusers' of drugs to undergo treatment or rehabilitation as an alternative to conviction or punishment.¹¹

The legislation passed by the Commonwealth to implement its responsibilities under the Single Convention contains no provision for treatment or diversion of offenders who are addicts. This is all the more unfortunate since it would appear that drug treatment programmes available as sentencing alternatives under State legislation are not available to most persons convicted of drug offences under the *Customs Act*.¹²

The criminal law has been the major legislative response of the Commonwealth government to the drug problem. Special drug offences have been tacked on to the *Customs Act*, and the maximum penalties for these offences greatly increased. There has been no attempt to enact a single body of legislation dealing with all aspects of the drug problem, including controls over the prescription and dispensing of legally available, habit-forming drugs, the development of treatment and rehabilitation programmes, and the dissemination of accurate information on drugs and drug use.

STATE LEGISLATION

The legislative response of the various States has largely followed the Commonwealth pattern. The major emphasis has been on the criminal law with the adaptation of existing offences, the creation of new offences and an escalation of maximum penalties. The ad hoc approach has resulted in legislation that is often badly drafted, obscure and at times absurd.

For example, s. 32 of the Victorian *Poisons Act* creates a general offence of, inter alia, manufacturing or preparing a drug of addiction. The maximum penalty in the case of cannabis is 10 years' imprisonment and/or \$4000 fine, and in the case of all other drugs of addiction is 15 years' imprisonment and/or \$100,000 fine. However, s. 30 of the same Act has a specific offence of manufacturing or preparing heroin for which the maximum penalty is 1 year jail and/or a fine of \$500. The clear implication of the legislation is that the manufacture

or preparation of heroin is far less serious than the manufacture or preparation of cannabis or any other drug addiction.

The smoking of a drug of addiction carries a maximum penalty of 1 year jail and/or a fine of \$500³, while the self-administration of a drug of addiction (by means other than smoking) carries a derisory maximum penalty of \$200³. Yet, it is the so-called "soft" drugs (such as cannabis and cannabis resin) which are more often smoked, and the so-called "hard" drugs (such as narcotics) which are normally administered orally or intravenously.

The South Australian drug legislation was trenchantly criticised by the former Chief Justice of South Australia:

"It is an understatement to compare the Narcotic and Psychotropic Drugs Act 1934-1976 to a patchwork quilt. The subject dealt with is of vast importance to the life of the community. I would venture to suggest that the time has come for a completely new and coherent enactment."²⁹

Despite the establishment in 1969 of the National Standing Control Committee on Drugs of Dependence (NSCC), a body consisting of senior officers of the Commonwealth and/or State departments of Customs, Health and Justice, whose function was to co-ordinate federal and State activities in the drug area and promote uniform legislation and penalties, the existing State and Commonwealth drug legislation is only partially uniform: maximum penalties vary, basic offences such as possession, trafficking and supplying are defined in different terms, and the legislation is included in a variety of statutes. The overall impression is of a piecemeal, ad hoc approach largely reliant on the criminal law. As the Senate Standing Committee on Social Welfare stated:

"Australian Governments have never committed themselves to any substantive and comprehensive policy on drugs."³⁰

EFFECT OF THE CRIMINAL LAW APPROACH

The criminal law approach with its focus on certain drugs, not only helped define the drug problem narrowly in terms of the prohibited drugs, but also tended to stifle discussion as to the most appropriate means of social control of those drugs, since a policy of criminal prohibition amounted to a statement that the prohibited drugs were dangerous and that prohibition was the appropriate method of control. The exclusion from the debate on "the drug problem" of the far more widely abused drugs such as alcohol, tobacco and the analgesics severely restricted the awareness in the community of the problems associated with these drugs and hence the development of the constructive approaches to deal with these problems. It also enabled the community to label the users and providers of the prohibited drugs as deviants, outside the mainstream of Australian culture. This approach was doubly counter-productive: it further alienated the users of the prohibited drugs (esp. cannabis) who regarded their condemnation by a community hooked on 'beer, fags and Bex' as both ignorant and hypocritical; and the criminal stigma attached to the users of the prohibited drugs made the stated aim of reforming or converting them all the more difficult. As Wilkins has stated:

"A society can control effectively only those who perceive themselves to be members of it."³¹

The use of the criminal law and the magnitude of the maximum penalties for drug offences tended to confirm the community's belief in the dangerousness of these drugs, and hence contributed to the general anxiety and fear about the drug problem—an anxiety and fear that rendered even more difficult free discussion about the dangerousness of the drugs, and led politicians to further increase the penalties.

The judiciary has responded to community concern, and generally speaking interpreted drug legislation so as to facilitate the Crown's task of securing convictions.

The two offences under the Commonwealth *Customs Act*

most commonly used to charge drug offenders are s. 233B(1) (c) and (ca): s. 233B(1) Any person who

(c) without reasonable excuse (proof whereof shall lie upon him) has in his possession . . . any prohibited imports (sc. narcotic drugs) . . . which have been imported into Australia in contravention of this Act; or

(ca) without reasonable excuse (proof whereof shall lie upon him) has in his possession . . . any prohibited imports (sc. narcotic drugs) . . . which are reasonably suspected of having been imported into Australia in contravention of this Act . . . shall be guilty of an offence.

These offences are so defined that once the Crown has established that the defendant is in possession of narcotic drugs, the defendant has the onus of proving that he had a reasonable excuse for being in possession. Although it is uncommon in serious criminal offences for the defendant to have the onus of proof, the courts have interpreted these offences so as to decrease the burden of proof on the Crown, and increase the burden imposed on the defendant. The Court of Criminal Appeal of New South Wales has held that a person is in "possession" of drugs if he is intentionally exercising control over goods, which are in fact drugs, or over any container or place where drugs are in fact located, even if he does not know the nature of these goods or even of their existence. In other words, to prove "possession", the Crown does not have to establish that the defendant knew or even suspected that there were drugs in a case he had or in a parcel that he picked up from the Post Office; it is up to the defendant to prove on the balance of probabilities that he did not know. And if the jury is in doubt as to whether he knew, it should convict. Similarly, the courts have interpreted the word "excuse" very broadly to include such standard criminal defences as duress and lack of criminal intent.³² They have thus imposed on the defendant the onus of proving these defences, although in most criminal offences, it is the Crown that has the onus of disproving these defences beyond reasonable doubt.

In a number of other cases³³, where the legislation has been unclear or confusing, the courts have effectively given the Crown the benefit of the doubt. In these cases, the courts have not only been seen as unfair and biased, but they have failed to take the opportunity to compel the legislatures to amend and clarify the legislation.

In *Peel's* case, the defendant, who had been convicted of importing 15.4 pounds of cannabis resin into Australia, was given a three-year good behaviour bond and fined \$400 with six months to pay. The Crown appealed against the lightness of the sentence. The trial judge, who was very experienced, in a full report to the Court of Criminal Appeal setting out his reasons for sentence, stated:

"The public at large views with understandable alarm the drug problem generally. People know that importing marijuana attracts the same potential maximum penalty as importing heroin. They read lurid, though mythical, reports of the supposed consequences of resorting to marijuana, and so are prone to think that a judge who imposes a comparatively light sentence for dealing in this drug is dangerously ignorant of the existence of one of the gravest problems of our time. Judges and magistrates, like myself, who for years have heard convincing evidence leading to the opinion that this drug is relatively innocuous, are blameworthy in having failed to quote the sources from which that opinion derives; but the rod we have made is for our backs. It would be a double injustice on our part to deal heavily with a prisoner to assuage a widespread public misconception which we have not troubled to try to rectify."³⁴ (NSW)

The Court of Criminal Appeal was not impressed by these arguments. It noted that, since neither the Single Convention on Narcotic Drugs nor the *Customs Act* made any distinction between cannabis and the narcotic drugs, it was inappropriate

that the courts should make such a distinction. It also noted that the Australian community had become "very alarmed at the growing and dangerous use of narcotic drugs particularly by young people".³⁷ The Court of Criminal Appeal, in the light of these considerations, allowed the appeal and imposed a jail sentence of three years with a non-parole period of 9 months.

There are clearly considerable difficulties in fixing a sentence that will deal fairly with the individual offender and at the same time prove acceptable to the general community, especially when the legislature has, in setting the maximum penalties, been strongly moved by community attitudes. However, a huge discretion and responsibility has been left to sentencing tribunals, and in cases, such as *Peel's* a simple reliance on the broad provisions of the Single Convention on Narcotic Drugs and the *Customs Act* combined with an equally simple reliance on the perceived belief of "responsible members of the community" (whether they are accurate or not) is not an adequate response to the discretion and responsibility imposed on the courts. The statement of Judge Torrington that "in any community confidence in the law is lost if the courts do not impose the sentence the people want to see imposed"³⁸ is a dangerous over-simplification. The courts, as the trial judge in *Peel* stated, must attempt to educate the public and rectify misconceptions: a simple capitulation to community attitudes merely confirms community prejudices and misconceptions, generates further anxiety and makes the task of formulating appropriate policies in the area of drugs all the more difficult.

SECONDARY CRIME AND ITS CONSEQUENCES

Criminalisation of drug use under pain of severe penalties inevitably produces a scarcity of the drugs, but does not of itself remove demand. Scarcity of goods in high demand immediately raises the price, and in the case of scarcity induced by criminalisation removes from the market those who are unwilling to break the law and thus secures a monopoly for lawbreakers. The increase in the price of drugs has not stopped people from wanting to buy them, but has forced them to criminal activity to gain either the drugs themselves or the money needed to pay the market price. There has been in Australia over the last fifteen years a great increase in drug-related crime³⁹ which has produced not only considerable economic loss but also an increased fear within the community for its personal safety. At the same time, criminalisation has provided an enormous source of profit and hence power to organised elements in the community. In addition, drug-related crime and the evidence or allegations of organised crime associated with drug trafficking are often seen as proof of the evil of drugs, rather than as an effect of a policy of criminalisation.

The media too have played a large and unfortunate part in fomenting public anxiety. In our community, particularly in the large capital cities, where various groups are to a large extent socially insulated from other groups, the bulk of the community has no personal contact with illicit drug-taking groups, and is thus largely reliant on the media for what information and attitudes it has about those who take or supply drugs. The kind of information provided by the media is that which is newsworthy. Jock Young has described the media's approach to news with considerable insight:

"It (sc. the mass media) selects events which are *atypical*, presents them in a *stereotypical* fashion, and contrasts them against a backdrop of normality which is *overtypical*. The atypical is selected because the everyday or humdrum is not interesting to read or watch, it has little news value . . . But the statistically unusual is not sufficient to make news. The mass circulation newspapers in particular have discovered that people avidly read news which titillates their sensibilities and confirms their prejudices . . . The stereotypical distorted image of the deviant is then contrasted against the overtypical, hypo-

thetical 'man in the street', . . . Out of this, simple moral directives are produced demanding that something must be done about it: the solitary deviant faces the wrath of all society, epitomised by its moral conscience, the popular newspaper."

In the area of drugs, this process is very evident. Drug-related crimes, especially alleged murders of people involved in drug trafficking, have received massive publicity. The typical drug trafficker is often presented as a callous, professional criminal who will stop at nothing; and the drug user as an addict, who is a physical and moral wreck. In fact, the most typical heroin dealer is the addict, who sells part of his supply of drugs to finance his drug habit.⁴⁰ And a significant number of addicts in fact have regular jobs, while it would appear that many, if not the majority, of heroin users are not addicts.⁴²

For the general community, however, whose attitudes on drug issues must be largely derived from the media, it is the drug stereotypes which have become the accepted truth, and these stereotypes have both justified and magnified the community's anxieties and fears.

Politicians, perhaps not surprisingly, have been very ready to sloganise in emotive terms. Phrases such as "this vile trade in human lives" are common in Hansard debates on drug issues. Judges likewise, have regularly resorted to the broad, emotive brush—"the notorious evils which flow from the drug trade" has almost become a cliché for the judge sentencing a drug offender. More serious literature on drug use has too often been biased and inaccurate. The Senate Standing Committee on Social Welfare stated:

"In supporting calls for particular actions, some contributors to the debate have been quite ready to distort or misrepresent facts. Even research has not displayed desirable objectivity or aimed at an impartial search for knowledge."⁴³

The Senate Standing Committee specifically criticised as presenting an unbalanced view a leaflet produced by the Australian Festival of Light entitled "Marijuana: deadly assassin", and further stated that:

"Even the United Nations *Bulletin on Narcotics* had published articles which could at best be described as misinformation."

SUMMARY

The easy response to the drug problem—resort to the criminal law—has generated a vicious circle. Criminalisation has confirmed people's fears and provided the media with highly newsworthy copy which has further alarmed the community. People, having accepted that the government policy of criminalisation was correct in principle, have called for harsher laws and stiffer penalties, which have not succeeded in controlling the problem and so have further alarmed the community.

There is now established in the community a conditioned reflex to a "drug problem". Any new pattern of behaviour which can be roughly classified as drug-taking—e.g. glue-sniffing, petrol-sniffing, immediately arouses alarm, condemnation and a demand for the imposition of criminal sanctions. This attitude is exemplified in the recent Report of the Inter-departmental Working Party on the Drug Problem in Victoria. Reports of a considerable increase in the abuse of "restricted substances" (i.e. drugs legally available only on prescription) have led the Working Party to recommend the creation of statutory offences of unlawful possession of and trafficking in or supplying restricted substances, the maximum jail terms for these offences to be two years for possession and ten years for trafficking or supplying. Given that the list of "restricted substances" runs for over seven pages in the *Poisons Act*, the enforcement task for the police would be impossible. Moreover, many of these drugs—e.g. Valium—are abused by the older, respectable sections of the community. The potential ramifications of the Working Party's proposal are fascinating.

MULTIPLE DRUG USE

Multiple drug use (i.e. the use of a number of drugs at the same time or interchangeably) is becoming far more common. The Australian Royal Commission of Inquiry into Drugs received considerable evidence of this development.⁴ Thus, Mr W.D.Crews, Director of the Wayside Chapel Crisis Centre, Kings Cross, Sydney, speaking of his experiences with heavy drug-users, stated:

"Most of the people we see are the heavy abusers and abuse all sorts of drugs. They will smoke 60 cigarettes a day and drink more alcohol than the average person drinks. They will take far more analgesics than the average person, too. As well as that they are taking heroin and other things. You find a person is abusing whatever he can get that is abusable. That is a bit of a change to a few years ago when the heroin scene only existed. You had acid or other drugs. The alcohol scene also existed and the drugs were not mixed too much. Nowadays they are becoming the one thing and people are abusing whatever they can get."

This development has significant implications for social control policies; and, in particular, it further emphasises the limitations of reliance on the criminal law. Even if the criminal law could substantially remove one form of drug-abuse, it seems likely that the problem, hydra-headed, would not be eliminated, but merely manifested in another guise.

THE FUTURE

The criminal law has not succeeded in removing or even, it would appear, limiting to any extent illicit drug use. That having been said, it is difficult to suggest with any confidence alternative approaches. There are, however, certain criteria which must form the basis of any coherent and workable policy.

1. A policy aimed at limiting as far as possible the harmful consequences of drug use must be directed at all drugs which have significant potential for abuse. Australia, like other western communities, is a drug-taking society: in McCoy's phrase, pill-popping has reached the proportions of an Australian cultural reflex.⁵ The two major drugs of abuse are alcohol and tobacco, but, as the Senate Standing Committee on Social Welfare has stated, "not enough emphasis is placed on alcohol and tobacco because of dominant—but incorrect—community attitudes that they are not drugs."⁶ Regrettably, this misconception has been further promoted by the terms of reference established by governments for various Royal Commissions and Working Parties into drug problems. Alcohol and nicotine were expressly excluded from the ambit of inquiry of the South Australian Royal Commission into the Non-Medical Use of Drugs and the Interdepartmental Working Party on the Drug Problem in Victoria. The Royal Commission of Inquiry into Drugs which was established by the Commonwealth government and the governments of Victoria, Queensland, Western Australia and Tasmania, was limited to an examination of narcotic and psychotropic drugs. Policies that exclude from their ambit major areas of drug abuse such as alcohol and

tobacco, are not only biased and alienating, but positively hinder efforts to control the abuse of those drugs. In the words of the Senate Standing Committee on Social Welfare, "any drug program *must* cover all aspects or be damned 'by its own design'".⁵

A policy which stressed the pervasiveness of drug use and abuse throughout the community could gradually lead to an awareness that the heroin user was a deviant in the sense that his preferred drug was not alcohol, tobacco or analgesics; but that in another sense, he was a not atypical product of a "drug intoxicated" society. Increased self-awareness in the community of its dependence on drugs could lessen the fear and antagonism currently expressed towards illicit drug users and gradually enable the development of more progressive, liberal policies.

2. As far as possible, policies must seek to avoid exacerbating the ill-effects consequent on drug abuse. Policies based on the criminal law by isolating, stigmatising and degrading the drug taker all too often "contribute significantly to the criminality, psychosis and physical injury associated with drug use." At present, it would seem that most of the medical illnesses and pathologies associated with heroin addiction are the result, not of the drug itself, but of the use of unsterile needles and the presence of adulterants in the heroin—factors which are largely the result of prohibition.⁵

3. Given that the typical Australian is and is likely to remain a consumer of drugs, the analogy of consumer protection offers valuable insights. Consumer protection policies have sought to ensure that products are safe, that the consumer gets what he is paying for and that the consumer is provided with sufficient information to make an informed choice. The relevance of these policies to drug use is obvious. Prohibition has generated dangerous and adulterated drug merchandise. There is a great dearth of accurate, freely available information about various drugs. The provision of safe products and the dissemination of reliable information are urgently required, and must be central to any policy.

CONCLUSION

The prognosis is not good. The lack of any policy and the general low standard of debate about the issues have entrenched in the community strongly held attitudes based on fear and intolerance. It will require considerable patience and perseverance to modify these attitudes. The first priority must be the dissipation of unnecessary fear and anxiety and the provision of accurate, authoritative information. Some optimism may be derived from the more recent history of tobacco use. As the medical profession has demonstrated the dangers of excessive smoking and publicised these dangers, the community has imposed controls over the advertising of cigarettes, the manufacturers have lowered the tar content, voluntary programmes have been developed to help heavy smokers, and many persons have given up smoking. A general reduction in the community of dependence on legally available drugs would be a significant step towards control over all drugs.

THE AUSTRALIAN CRIME PREVENTION COUNCIL FORUM

This is the first of a special double edition of the ACPC FORUM entitled, DRUGS AND THE LAW: A NATIONAL PERSPECTIVE FOR AUSTRALIA, edited by Dr. John Walsh of Brannagh. The complete index and list of footnotes and references will appear in the second issue. Articles yet to be published are as follows: *Organizational Crime and the Difficulties of Law Enforcement*, by Judge Woodward. *Sentencing for Major Marijuana Offences*, by Fiori Rinaldi. *The Relation to Drug Offences*, by Robert Richter. *Drugs and Drug Abuse, New Approaches to the Punishment of Federal Offenders* by Judge Kirby.

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