

## HISTORY

To mark the 40th anniversary of the founding of ISDD, (one of the original charities which formed DrugScope) we publish two historical articles whose themes remain live in 2008 – cannabis law and GP's care of drug users.



# Half-way house

Reformers claim UK cannabis laws, 80 years old this year, are among the toughest in Europe. Government critics say we've gone 'soft on dope'. But, as **Steve Abrams** explains, the legal response to cannabis use in the UK has always been proportionate.

The idea of tolerating the use of cannabis dates back hundreds of years to British rule in India. Cannabis use was regulated and taxed, yielding substantial sums to the excise. After cannabis was caught up in the politics of the temperance movement, the *East Indian Hemp Drugs Report* of 1893-97 concluded that moderate long-term use of cannabis had no harmful effect.

In 1907 Britain headed off an attempt by the Italians and Americans to bring cannabis under international control. But after the First World War, claims by the Egyptians and South Africans that users were driven mad by smoking the drug put it back on the international agenda. Without a cannabis problem in the UK, but nevertheless feeling its moral obligations as a world leader – and prodded by some hysterical press coverage – the British government controlled cannabis as a dangerous drug in 1928.

The penalties under the Dangerous Drugs Act did not distinguish between use and supply. The maximum terms of imprisonment were ten years on indictment and one year on summary conviction in a Magistrates Court. However, the law

was only lightly enforced. There were no convictions during the Second World War and only four in 1945.

After the War convictions gradually increased, reflecting immigration from the Caribbean and the new popularity of cannabis in the underground scenes of jazz music and bohemia. Convictions reached 127 in 1951 but by the end of the decade this figure had only risen to 185. However seizures by customs had increased to 237 kilos. Cannabis was becoming fashionable. It figured in the Profumo Affair in 1963, prompting a lead article in the *Lancet* which raised the possibility and advantages of legalising the drug.

In January, 1967 an informal survey estimated that five per cent of Oxford undergraduates smoked pot from time to time. This converted into a figure of 500 people and was debated in the broadsheets. At the instigation of the Oxford Committee on Student Health, the Vice Chancellor wrote to the Home Secretary, Roy Jenkins in February, calling for a national inquiry into cannabis and LSD. This led to the appointment in April of the Hallucinogens Sub-Committee (the so-called 'Wootton Committee') of the Home Office Advisory Committee

on Drug Dependence.

In the summer events conspired to raise the temperature of the debate. The Beatles album, *Sgt. Pepper*, contained references to cannabis and LSD and Brian Jones (pictured opposite) appeared at West London Court charged with cannabis possession. On July 24, a full page advertisement appeared in the *Times* from my organisation SOMA, named after the drug in Aldous Huxley's novel *Brave New World*, declaring that "the law against marijuana is immoral in principle and unworkable in practice". It stopped short of calling for legalisation, but stated that possession of cannabis should not be punished by imprisonment.

The ad was signed by 65 people including Francis Crick, Graham Greene, 15 medical doctors, MPs, one member of the Wootton Committee and the Beatles. This put the topic of cannabis law reform on the political agenda. The advertisement was the subject of an adjournment debate in Parliament, when it was referred to the Wootton Committee. The Wootton Report, published in January 1969, stated that the advertisement gave the inquiry "new and unexpected significance." This led the Committee to give greater attention to the legal aspects of the problem and persuaded them to report on cannabis alone, rather than in conjunction with LSD.



## The idea of sending tens or hundreds of thousands of people to prison for what Judge Pickles later described as a "victimless crime" was quite unthinkable in a civilised society

The report reiterated the conclusions of the *Indian Hemp Drugs Report* and the *La Guardia Report* in America (1944) that "the long term use of cannabis in moderate doses has no harmful effect". But it also said that cannabis remained a dangerous drug and there was no alternative, for the time being, to prohibiting its use under the criminal law.

The main proposal for law reform in the Wootton Report was that "possession of a small amount of cannabis should not normally be regarded as a serious offence to be punished by imprisonment". The accompanying letter of submission said: "The committee is generally of the view that imprisonment is no longer an appropriate punishment for those who are unlawfully in possession of a small amount."

The Home Secretary, James Callaghan, appeared to reject the report. He told Parliament that the sub-committee had been "over-influenced" by the "lobby" responsible for "that notorious advertisement", adding that "it was wrong for the committee to report on one drug in isolation in the way that it did".

However, a year later Callaghan announced a change of mind and brought forward legislation to implement the proposals in the report. He did this by introducing a distinction not made by Wootton between use and supply. Under what became the Misuse of Drugs Act (1971), he raised the maximum penalty for supply by 40 per cent and reduced the penalties for possession by 50 per cent. This brought the maximum on summary conviction down to six months. Cannabis was also designated as a Class B drug under the ABC drug classification introduced for the first time in UK drug law.

Wootton noted that offences with a maximum of six months or less rarely resulted in imprisonment. Callaghan's legislation perished in the 1970 general election but was reintroduced by the incoming conservative government.

When the law came into effect in 1973, the Lord Chancellor, Lord Hailsham, instructed magistrates to set aside their prejudice and reserve the sentence of imprisonment for suitably flagrant cases of trafficking. Interestingly, six years earlier, when Lord Hailsham was shadow home secretary, he told the Tory party conference: "There can be no half-way house in this matter. Either legalise it, or else you prohibit it absolutely."

An in-depth study of sentencing in the first four years of the new law found that the courts had virtually abandoned imprisonment for minor offenders. At the end of this period there was a further reduction in the maximum penalty on summary conviction to three months imprisonment, one month less than the maximum proposed by Wootton.

The philosophy of control had to reflect the size of the problem. As late as 1967, 28 per cent of offenders were imprisoned, including 17 per cent of first offenders; the majority were imprisoned for minor possession offences. But by 1969 a Home Office study indicated that cannabis had been used by nearly a million people. The idea of sending tens or hundreds of thousands of people to prison for what Judge Pickles later described as a "victimless crime" was quite unthinkable in a civilized society. The use of cannabis had reached a level where it was self-sustaining and could not be moderated by enforcement. Over a 30 year period from 1967 to 1997, the year of peak enforcement, annual seizures of cannabis rose from 300 kilos to 150,000 kilos.

In 1978 the Advisory Council on the Misuse of Drugs (ACMD) reported that cannabis should be reclassified from Class B to Class C and in favour of removing the prison option entirely for those convicted of Class C possession offences. The ACMD followed this up with a review of the effects of cannabis in 1981 and found no reason to change its view about cannabis reclassification. The Thatcher government rejected the idea of reclassification but moved sharply in the direction of 'decriminalisation' by introducing 'cautioning' of offenders, who escaped without a fine or a criminal conviction.

By the beginning of the 1990s the majority of minor offenders were being cautioned. Also, cannabis convictions seem to have lost most of their stigma: the current Director of Public Prosecutions, Kenneth Macdonald, has a minor conviction for supplying cannabis in the early 1970s.

In 2004, the then Home Secretary David Blunkett reclassified cannabis from B to C on advice from the ACMD, to demonstrate that cannabis is less harmful than amphetamine. In 2005, in the run up to the General Election, the government asked the ACMD to revisit the evidence. They reported that their view remained unchanged. Last year under the new Prime Minister Gordon Brown the Labour government referred the classification of cannabis back to the Council for the third time, insisting that the law should reflect so-called public opinion as well as scientific evidence. The report is now due and a further decision on reclassification is imminent...

For more detail on the story of the Wootton Report and cannabis in 60s Britain, see Steve Abrams chapter in the monumental new study of cannabis due to be published by the EMCDDA in June. Go to <http://www.emcdda.europa.eu/>

■ Steve Abrams is an independent cannabis researcher