

## Le Dain Commission of Inquiry into the Non-Medical Use of Drugs tables fourth and final report

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After four years of study, estimated to have cost the Canadian taxpayers between \$3.5 and \$4 million dollars, chairman Gerald Le Dain and his four fellow-commissioners tabled their final report in Parliament Dec. 14. Because CMAJ believes few practising physicians will be able to find the time to read the 1148 pages of this fourth volume of Le Dain reports, the editors have asked Dr. Bennett to prepare this summary of the major points covered. For the stoics, copies of the report are available at \$7.95 from Information Canada local offices.

LeDain's final report concentrates on alcohol, tobacco, opiate narcotics, amphetamines, barbituates, tranquilizers and hallucinogens. In addition to the many recommendations contained in the body of the report, there are two sections containing the further conclusions and recommendations of two commission members — Marie-Andrée Bertrand and Ian L. Campbell.

The previous three reports — interim, treatment and Cannabis reports — formed the basis for the final report; in some instances the commission changed its views, on the basis of increased knowledge and understanding acquired during the life of the commission.

The commission points out that the 1970 interim report forms an essential part of the final report. Inasmuch as one report was devoted to cannabis,

the commission has not tried to carry the discussion in any significant degree beyond that report. The commission does point out however, that "there is much in the cannabis report pertinent to the discussion of other forms of non-medical drug use, particularly in the areas of law and scientific issues."

### Causes

The commission found it difficult to generalize about motivating factors behind non-medical drug use. But it did find recurring dominant themes among users — lack of self-acceptance, personal inadequacy, the seeking of an escape mechanism, alienation, boredom. Family influences appear to play an important part in drug use. A family that is poor — not in the material sense but in the lack of moral and social values — would seem to be a high risk family. Children are influenced to a considerable degree by the parental attitude to drugs and the children of drug-using parents are at greater risk to drug use than the children of parents whose drug use is limited.

Peer group influence and influence of the media both contribute to drug experimentation and usage. The commission criticizes the media for their advertising of drugs for legal use, but points out that the extent of the legal use has a direct bearing on the extent of illegal use. "It is the general climate that propagates the notion, overtly and subliminally, that such reliance is not only acceptable but the intelligent course of action when one is troubled by physical or mental discomfort of some kind." The good points of the

media have not been overlooked, particularly in the area of bringing to the attention of the public the complexity of the issues and the wide range of opinions and views on drug usage.

### Size of the problem

It is the commission's impression that the overall extent of non-medical drug use is increasing, and that the base for non-medical drug usage is the widespread use of alcohol and tobacco. The comment is made that acceptance and tolerance of these two substances, together with the apparent inability to significantly reduce their usage, "raises profound doubts about our seriousness of purpose with respect to the phenomenon of non-medical drug use as a whole."

Barbiturates, sedative hypnotics and minor tranquilizers, particularly in combination with alcohol, have had an increased non-medical usage, as have the stimulants. The medical use of amphetamines has decreased over the last few years, but it is probable that the non-medical use of such drugs will go on increasing.

There has been a marked increase in the non-medical use of the opiate narcotics, particularly in methadone and heroin. The commission has taken the figure of 15,000 to be a reasonable estimate of the number of daily users of opiate narcotics in Canada, but also agrees that "there are tens of thousands of persons experimenting with the use of opiate narcotics, an unknown proportion of whom are probably at serious risk of becoming dependent."

In summary the dominant pattern in Canada tends toward multiple drug use

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with alcohol and tobacco remaining the major sources of drug-related, public-health problems.

### Use of criminal law

The report says: "Whether we should use the law at all, and if so, to what degree, in attempting to reduce non-medical drug use is first of all a matter of principle, but it is also a pragmatic issue — whether we receive a return or benefit from the use of the law that justifies the cost."

The commission looked at the effectiveness of the criminal law and the costs of criminal law, as well as pointing out that prohibitive actions will frequently create an illicit market.

### Control of availability

The report discusses international control policy and in particular the Single Convention on Narcotic Drugs 1961 and the Convention on Psychotropic Substances 1971. In its conclusions and recommendations, the report points out that Canadian law with respect to trafficking in narcotics compares with American law in severity, but is more severe than that of Great Britain, Australia, New Zealand and some parts of western Europe. The commission majority recommendations are:—

i) CANADIAN LEGISLATION WITH RESPECT TO TRAFFICKING IN OPIATE NARCOTICS WOULD APPEAR TO BE SUFFICIENTLY SEVERE TO GIVE THE LAW ENFORCEMENT AGENCIES ALL THE LEGISLATIVE BASIS THEY REQUIRE FOR EFFECTIVE ACTION.

ii) WHEN POSSESSION HAS BEEN PROVED IT SHOULD BE SUFFICIENT FOR THE ACCUSED TO RAISE A REASONABLE DOUBT AS TO INTENTION TO TRAFFIC AND NOT TO PRODUCE PROOF WHICH CARRIES ON A PREPONDERANCE OF EVIDENCE OR A BALANCE OF PROBABILITIES.

iii) NO CHANGE IN MAXIMUM PENALTIES FOR TRAFFICKING AND POSSESSION FOR PURPOSE OF TRAFFICKING IN THE CONTROLLED AND THE RESTRICTED DRUGS.

In dissenting, Marie-Andrée Bertrand recommended:—

(a) SIMPLE POSSESSION OF OPIATE NARCOTICS AND STRONG HALLUCINOGENS SHOULD CEASE TO BE CLASSED AS A CRIMINAL OFFENCE UNDER CANADIAN CRIMINAL LAW STATUTES.

(b) THERE SHOULD BE NO OFFENCE SUBJECT TO CRIMINAL LAW SANCTIONS FOR POSSESSION OR USE OF ANY OF THE DRUGS.

(c) OPIATE NARCOTICS SHOULD BE LE-

In an initial response to the Le Dain commission report, the Canadian Medical Association has written to National Health and Welfare Minister Marc Lalonde to commend the commission's emphasis on alcohol and tobacco. "We are pleased to see so many of the major issues raised... by the CMA incorporated in the report," declared the letter, signed by President Peter Banks M.D.

The letter expresses concern with the involvement of physicians in suggested compulsory treatment of addicts. Use by police of information gained through drug addiction treatment facilities could affect the trust patients have for their physicians, the letter read.

The CMA advised Mr. Lalonde it soon hopes to announce new, voluntary standards for drug advertising, now under discussion with the Pharmaceutical Manufacturers Association of Canada.

The association promised the minister a full, official response to the report after the CMA board meeting Feb. 15-16.

GALLY CLASSIFIED WITH THE CONTROLLED DRUGS.

(d) OPIATE NARCOTICS AND STRONG HALLUCINOGENS FOUND DURING POLICE INVESTIGATION OF A SUSPECTED CRIME OR MISDEMEANOUR SHOULD BE SUBJECT TO CONFISCATION, FAILING PRODUCTION OF A MEDICAL PRESCRIPTION OR OTHER JUSTIFICATION OF POSSESSION.

Ian Campbell recommended that: THE LAW BE AMENDED TO MAKE THE UNAUTHORIZED USE AS WELL AS THE UNAUTHORIZED POSSESSION OF OPIATE NARCOTICS AN OFFENCE.

The commission warns against diversion of drugs from legitimate sources of supply to illicit sources. These illicit sources rely on a large amount of theft for their supply and it is recommended that:

iv) THE BUREAU OF DANGEROUS DRUGS BE RIGOROUS IN ITS APPLICATION AND ENFORCEMENT OF THE SECURITY REQUIREMENTS.

v) BECAUSE OF THE GROWING NON-MEDICAL USE OF SEDATIVE DRUGS IT WOULD BE PRUDENT TO CAREFULLY MONITOR LEGITIMATE SUPPLIES AND SALES OF SEDATIVE-HYPNOTICS AND MINOR TRANQUILLIZERS.

vi) BECAUSE OF THE SIGNIFICANT PO-

TENTIAL FOR NON-MEDICAL USE OF CERTAIN OF THE DRUGS IN SCHEDULE F, THAT THEY BE BROUGHT (AS A CLASS OF DESIGNATED DRUGS) UNDER ADMINISTRATIVE CONTROLS ON AVAILABILITY SIMILAR TO THOSE WHICH GOVERN THE CONTROLLED DRUGS.

vii) THAT SERIOUS CONSIDERATION BE GIVEN TO ESTIMATING THE REASONABLE NEEDS FOR MEDICAL PURPOSES OF DRUGS WITH A POTENTIAL FOR NON-MEDICAL USE AND TO ATTEMPTING TO LIMIT MANUFACTURE AND IMPORT TO THESE AMOUNTS.

THIS RECOMMENDATION IS QUALIFIED BY SUGGESTING A GOVERNMENT- SPONSORED MECHANISM OF CONSULTATION, INVOLVING REPRESENTATIVES OF THE PHARMACEUTICAL INDUSTRY AND THE MEDICAL PROFESSION, TO ESTIMATE THE NEEDS.

The commission goes on to point out that "reliance on the good judgement and self-restraint of physicians, accompanied by more intensive efforts to educate the profession in the responsible use of drugs, is also the only answer in the long run to the problem of control of prescribing practices." Techniques for detecting misprescribing, overprescribing and prescription shopping should be improved, possibly by the creation of a fully automated central control system which would give the government the basis for monitoring overall consumption of prescription drugs, as well as individual prescribing and consumption patterns. The commission recommends:

viii) A REGULATION THAT WOULD LIMIT TELEPHONE PRESCRIPTIONS OF DESIGNATED DRUGS WITH A POTENTIAL FOR NON-MEDICAL USE TO A QUANTITY THAT IS SUFFICIENT FOR NOT MORE THAN 48 HOURS OR THAT WOULD OBLIGE THE PHYSICIAN TO FURNISH THE PHARMACIST WITH A WRITTEN PRESCRIPTION WITHIN 48 HOURS OF THE TELEPHONE TRANSMISSION.

Ms. Bertrand recommended: THAT A PERMANENT COMMISSION FOR THE SUPERVISION OF THE MEDICAL USE OF DRUGS BE ESTABLISHED AT THE EARLIEST POSSIBLE MOMENT, UNDER THE AUTHORITY OF THE GOVERNOR-GENERAL-IN-COUNCIL, TO EXAMINE THE PRESCRIBING PRACTICES CURRENT IN THE MEDICAL PROFESSION AND RECTIFY THEM. IT IS ALSO URGENT THAT IT INQUIRE INTO THE USE OF MEDICAL DRUGS IN PRISONS, PENITENTIARIES, MENTAL HOSPITALS AND INSTITUTIONS FOR THE AGED AND FOR DISTURBED AND HYPERKINETIC CHILDREN. THIRDLY, THIS COMMISSION SHOULD EXERCISE CLOSE AND CONTINUED SURVEILLANCE OVER ALL ASPECTS OF THE IMPORTATION AND MANUFACTURE OF DRUGS FOR

MEDICAL PURPOSES, ESPECIALLY AMPHETAMINES, BARBITURATES AND TRANQUILIZERS.

The report goes on to discuss the problems of OTC drugs but does not have any specific recommendations to make on this point.

On looking further into the control of availability, the commission suggests that the current administrative control procedures should be enlarged to cover all drugs required for medical use but which are liable to be used for non-medical purposes and have a dependence-producing potential or carry some risk of serious harm. In making this suggestion, the commission recognizes the need for a reorganization and reclassification of drug schedules.

The commission recommends:

ix) THAT CANADA BECOME A PARTY TO THE CONVENTION ON PSYCHOTROPIC SUBSTANCES, WITH SUCH RESERVATIONS (OR AMENDMENTS) ON PARTICULAR MATTERS AS ARE CONSIDERED TO BE NECESSARY.

#### Control of the user

In discussing "simple possession" the commission finds difficulty in relating the punitive effect to the levels of possession and points out that the adverse effect, or cost, of enforcement of the offence of simple possession far outweighs the benefits yielded by it, particularly when enforcement is haphazard in nature, thus creating "inequalities in justice".

x) IT IS STRONGLY RECOMMENDED THAT THERE BE NO FURTHER EXTENSION OF THE OFFENCE OF SIMPLE POSSESSION AND THAT THERE SHOULD BE A GRADUAL WITHDRAWAL FROM THE USE OF CRIMINAL LAW AGAINST THE NON-MEDICAL USER OF DRUGS.

This recommendation is qualified by the following points:—

- The commission recognizes that it may be necessary to take a somewhat different view of a proposed elimination of this offence in particular cases;

- The offence of simple possession should not be removed at this time with respect to the strong hallucinogens classified as "restricted drugs" in Schedule H of the Food and Drug Act;

- As opined in the interim report there should not be liability to imprisonment for the simple possession of the restricted drugs;

- In the case of drugs other than cannabis currently governed by the Narcotic Control Act, the offence of simple possession be retained as well

as the retention of liability to imprisonment;

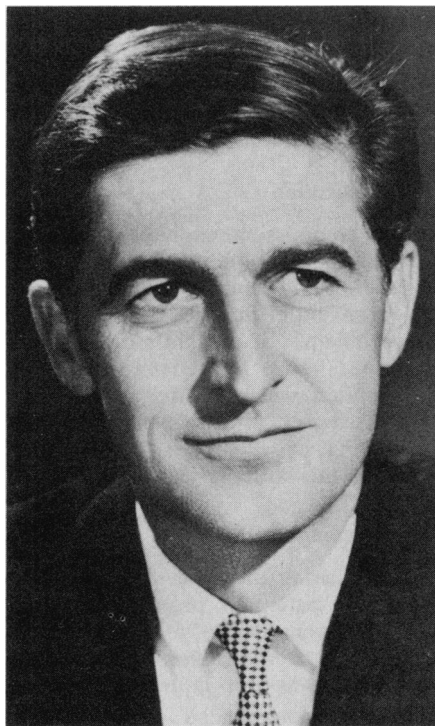
- Avoidance by the courts of the use of imprisonment as much as possible for opiate dependents, but that it should remain as a sanction for refusal to comply with the conditions of supervised release into the community;

- Maximum sentence of imprisonment for the simple possession of the opiate narcotics and cocaine be two years.

In dealing specifically with the management of opiate dependence, the commission makes lengthy recommendations. In summary, these recommendations stress compulsory treatment programs as the alternative to long periods of civil commitment, with the goal of having the initial compulsion replaced as soon as possible by voluntary acceptance of and response to treatment.

The commission recommends:—

xi) THAT PROVINCIAL LEGISLATION CONFER POWER ON POLICE OFFICERS TO BRING ANY PERSON WHOM THEY HAVE REASONABLE AND PROBABLE GROUNDS FOR BELIEVING TO BE DEPENDENT ON OPIATE NARCOTICS BEFORE A MAGISTRATE, IN ORDER THAT IT MAY BE DETERMINED, UPON PRIMA FACIE EVIDENCE, WHETHER THE PERSON SHOULD BE COMMITTED TO CUSTODY FOR MEDICAL EXAMINATION FOR A PERIOD UP TO 72 HOURS. IF THE PERSON IS FOUND TO BE DRUG DEPENDENT, THE EXAMINING PHYSICIAN AND ANOTHER PHYSICIAN WHO CONFIRMS THE DIAGNOSIS



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SHOULD HAVE POWER TO COMMIT THE PERSON TO A RESIDENTIAL TREATMENT FACILITY FOR A PERIOD OF NOT LESS THAN ONE MONTH AND NOT MORE THAN THREE MONTHS. THE PURPOSE OF SUCH CONFINEMENT WOULD BE TO PERMIT FURTHER EXAMINATION AND OBSERVATION, TO PERMIT THE PERSON TO CONFRONT HIS SITUATION, TO CONSIDER THE OPTIONS AND TO BE AFFORDED AN OPPORTUNITY TO COMMENCE TREATMENT.

#### Opiate maintenance

In looking at methadone maintenance programs, the commission expresses its concern in pointing up four dangers:

- The danger of making patients dependent on methadone when they do not yet have an opiate dependence;

- Diversion of legal supplies of methadone to an illicit market;

- Experimentation with heroin will be encouraged by the erroneous belief that methadone offers a "cure" if heroin dependence results;

- Heavy reliance on methadone maintenance will discourage treatment personnel and patients from pursuing the more difficult targets of abstinence, responsibility, etc.

However, in spite of these dangers and the reservations expressed by the commission, the report recommends:—

xii) THAT METHADONE MAINTENANCE PROGRAMS BE AVAILABLE TO AS MANY OPIATE DEPENDENTS AS POSSIBLE FOR WHOM SUCH TREATMENT IS APPROPRIATE, WITH THE PROVISIO THAT PROGRAMS BE SURROUNDED BY SUITABLE CONTROLS TO REDUCE THE AFOREMENTIONED DANGERS AS MUCH AS POSSIBLE.

The commission points out the need for a research and evaluation component in methadone programs. Also stressed is the necessity for all physicians authorized to use methadone to be affiliated with an organized program having the necessary specialized staff, laboratory equipment and ancillary services.

The commission recommends:—

xiii) THAT THERE BE NECESSARY FEDERAL-PROVINCIAL COOPERATION TO ESTABLISH THE CLINICS OR TREATMENT UNITS REQUIRED TO ASSURE THAT METHADONE MAINTENANCE CAN BE MADE AVAILABLE UNDER PROPERLY CONTROLLED CONDITIONS TO AS MANY HEROIN ADDICTS IN CANADA AS POSSIBLE.

In the monitoring of methadone patients, the commission stresses that "in the light of the incriminating nature of

the personal information collection inherent in the methadone monitoring process, data should not be accessible to law enforcement officials unless some specific infraction of the methadone control regulations is involved, and such data should not be used for identifying, for law enforcement purposes, persons who are or have been users of illegal drugs, such as heroin."

On the question of heroin maintenance, the commission recommends:—  
xiv) THAT HEROIN MAINTENANCE NOT BE MADE AS GENERALLY AVAILABLE AS METHADONE MAINTENANCE, BUT THAT IT BE SOMETHING WHICH APPROVED TREATMENT UNITS SHOULD BE ABLE TO RESORT TO AS A TRANSITIONAL MEASURE TO ATTRACT FROM THE ILLICIT MARKET OPIATE DEPENDENTS WHO WILL NOT RESPOND TO METHADONE.

### Research and information

The report deals at some length with the role of N-MUD Directorate and the need for new research and for the encouragement of researchers, funded by the federal government which should determine and communicate the general and specific areas of research in order of priority. It is stressed that N-MUD should provide grants to scientists in universities and other institutions which are independent of government, and should also initiate a limited program of pre- and post-doctoral fellowships in various scientific disciplines specifically for advanced training in research in the area of the non-medical use of drugs.

The federal and provincial governments should work together to strengthen multidisciplinary research groups or to develop new ones, with the stress on coordinated decentralization as opposed to a single national research institute located in one city.

The commission recommends:

xv) THE FEDERAL GOVERNMENT SHOULD CONTINUE, BUT REFINE, THE PRESENT HPB SPECIAL STUDIES OF POLICE DRUG EXHIBITS.

xvi) THE FEDERAL GOVERNMENT SHOULD CONTINUE TO PROVIDE AUTHORIZATION, STANDARD METHODS, AND STANDARD CHEMICAL SAMPLES FOR ILLICIT DRUG ANALYSIS TO BONA FIDE SCIENTISTS.

xvii) THE FEDERAL GOVERNMENT SHOULD CONTINUE TO PROVIDE FUNDS FOR A FEW KEY "STREET DRUG" ANALYSIS RESEARCH PROJECTS IN THE MAIN URBAN CENTRES ACROSS THE COUNTRY. AS SUGGESTED IN THE INTERIM REPORT, THE FINANCING OF SUCH FACILITIES COULD WELL BE A MATTER OF FEDERAL-PROVINCIAL CO-OPERATION.



The Canadian Medical Association has noted that many of its ideas were incorporated into the final report of the Le Dain Commission. Preparing the CMA interim brief, presented in Montreal Nov. 6, 1969, were Drs. J. R. Unwin, Montreal; N. J. Belliveau, Montreal; R. M. Matthews, Peterborough (president of CMA); L. P. Solursh, Toronto (chairman of CMA expert committee); and C. J. Varvis, Edmonton. CMA's final brief was presented to the commission in early 1972.

xviii) THE FEDERAL GOVERNMENT SHOULD ENCOURAGE THE CORRELATION OF CHEMICAL CHARACTERISTICS OF THE SAMPLE WITH THE MEDICAL, SOCIAL AND LEGAL CONDITIONS LEADING TO THE ANALYSIS. IN THIS CONTEXT, THE FEDERAL GOVERNMENT SHOULD EXPLORE THE FEASIBILITY OF COORDINATING DRUG IDENTIFICATION WITH CERTAIN ASPECTS OF THE PRESENT POISON CONTROL PROGRAM OF THE HPB.

xix) THE FEDERAL GOVERNMENT SHOULD ENCOURAGE UNIFORM CENTRAL REPORTING AND DISSEMINATION OF THE RESULTS OF DRUG ANALYSES, AND SHOULD MAKE THE DATA FROM THE HPB POLICE SEIZURE STUDIES RAPIDLY AVAILABLE TO RESEARCHERS FOR ANALYSIS AND PUBLICATION.

### Drug education

The commission expressed reservations about drug education programs as now used, pointing out that there has been little progress with solving the problems of evaluation of such programs. There is seen to be a need for a much wider involvement — by parents as well as by teachers — and the setting of exemplars rather than applying the strategy of fear.

### Mass media

In discussing the advertising of OTC drugs and patent or proprietary medicines, the commission felt that a total prohibition of the advertising of such substances was not desirable.

It was recommended:

xx) THAT THE FEDERAL AUTHORITIES

BE EMPOWERED AND ENCOURAGED TO EXERCISE A CLOSER CONTROL OVER THE GENERAL TONE OF SUCH ADVERTISING AND THAT SUCH ADVERTISING BE CONFINED TO A TRUTHFUL, MATTER-OF-FACT DESCRIPTION OF THE USE OF THESE SUBSTANCES, PURELY TO ADVISE PEOPLE OF THEIR AVAILABILITY AND NOT TO ENCOURAGE THEIR USE AS SUCH.  
xxi) THAT EFFECTIVE CONTROLS BE ESTABLISHED OVER THE NATURE AND QUANTITY OF THE ADVERTISING DIRECTED BY PHARMACEUTICAL MANUFACTURERS AND OTHER DISTRIBUTORS AT THE MEDICAL PROFESSION, INCLUDING THE USE OF SAMPLES. THE FEDERAL GOVERNMENT SHOULD TAKE STEPS, IN CONSULTATION WITH THE PHARMACEUTICAL INDUSTRY, TO ENCOURAGE A GENERAL REDUCTION IN THIS KIND OF PROMOTION.

The commission goes on to criticize the advertising of alcohol and cigarettes, stating that it would be preferable if there were a total prohibition of such advertising. If this is not considered feasible because of the amounts of advertising revenue involved, then advertisers should be required by federal law to point out in their advertisements the health hazards associated with increasing and excessive use. It should also be required that the text of such advertisements be confined to truthful, matter-of-fact description of the contents of the product and its effects on the human body.

Not dealt with in detail in this summary are all the many additional conclusions and recommendations made by Ms. Bertrand and Dean Campbell.