LETTERS

Dear Editor,
In 1974 when the *Legal Service Bulletin* first appeared in roneoed format, there was within the community a pervasive sense of discovery and reform. This mood infected, too, the arcane legal world and in part was reflected in the origins and growth of the *Legal Service Bulletin*.

In subsequent years the *Legal Service Bulletin* continued to explore issues that were not the subject of other journals; to provide an outlet for views about the law and its impact on society that were not just the views of lawyers and which were not just the views of the prevailing culture; and to discuss the law in a language that was intelligible to non-lawyers. In other words, the *Legal Service Bulletin* provided an alternative.

It is therefore exciting to see the *Legal Service Bulletin* transmute. A freshness of mind and desire to change is evidence that the spirit of 1974 survives. It bodes well for the continuing future of the new *Alternative Law Journal* in providing a truly alternative contribution to a pluralistic society. I wish it well.

Julian Gardner
Melbourne

Dear Editor,
As a longstanding subscriber in my own right, I congratulate the Bulletin on a long history of interesting and valuable material, and wish the new Journal well.

Alan Cameron
Commonwealth Ombudsman
Canberra

Dear Editor,
I refer to Ian Dearden *et al.'s* article ((1991) 16(2) *LSB* 60). They mentioned that the cannabis expiation reform experiment is occurring in both South Australia and Victoria. As you would appreciate, there are no such laws in place in Victoria, nor are there any proposals.

Rick Sarre
Adelaide

The authors respond:
As there is no reference in our article to a 'cannabis expiation reform experiment', we understand Rick Sarre to be referring to our statement (p.61) that 'In the last decade in Australia, forms of cannabis decriminalisation have been introduced in Victoria and South Australia'. As a reading of the article shows, our objective in making this observation was to suggest examples of decriminalisation legislation that the Queensland Government might follow if it were to implement State ALP policy.

Clearly our statement does not equate the relevant legislation in the two States. We acknowledge there are major differences. However, in our article we defined *decriminalisation* as '. . . having no penalties (or only civil penalties) for the cultivation, production, use and possession of [cannabis] provided it is for personal use and/or non-profit distribution only'.

Our authority is Carney.[1] We are not aware of any major changes to cannabis legislation since then. The Victorian *Drug Poisons and Controlled Substances Act* 1981 falls into our definition of decriminalisation for two main reasons. First, there is no option of imprisonment for possession of small quantities of cannabis. Under s.73 possession of less than 50 grams of cannabis attracts a penalty of not more than a $500 fine.[2] Second, for first offenders, s.76 provides that in cannabis offences where small quantities are involved, or where it is for personal use alone, offenders are presumptively to be dealt with by way of adjournment on good behaviour, without a conviction being recorded (provided the case is heard summarily).[3]

It is probably well enough known that in 1978 the South Australian Royal Commission into the Non-Medical Use of Drugs[4] recommended decriminalisation of certain cannabis offences. However, these recommendations were not enacted in legislation until the *Controlled Substances Act* 1984 (SA), and then only by way of providing a pre-trial diversion scheme, essentially into compulsory treatment programs.[5] (In its broad approach the 1984 South Australian legislation was apparently modelled on the 1981 Victorian legislation.[6] Later amendments in 1986 made possession, private consumption and non-commercial cultivation of small quantities of cannabis civil offences, subject to a form of on-the-spot fine (s.45).[7] These amendments are probably the South Australian cannabis reform experiment that Rick Sarre has in mind.

The contested statement in our article was the result of these considerations. While we acknowledge and welcome the fact that South Australia has proceeded a good distance down the decriminalisation road, Victoria has also travelled that road, which is more than can be said for any other State (New South Wales to a degree excepted). It seems that the wide publicity associated with the 1986 South Australian amendments overshadowed the earlier and quite substantial Victorian reforms. Victoria was the first Australian State to remove the option of imprisonment for possession of small quantities of cannabis, and the first (and only) State to presumptively treat first offenders by way of adjournment and bond. We stick by our argument that these reforms amount to a 'form of decriminalisation'.

Ian Dearden
Narell Sutherland
John Ransley
Brisbane, January 1992

References

1. Carney, T., Drug Users and the Law in Australia, Law Book Company Ltd, 1987.
2. ibid., pp.130 and 146.
3. ibid., p.130.
4. South Australia, Royal Commission on the Non-Medical Use of Drugs, The Social Control of Drug Use, 1978, Final Report 1979, SA Government Printer, Adelaide.
5. Carney, op. cit., pp.221-225.
6. Carney, op. cit., p.135.
7. Carney, op. cit., p.136.