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MARIHUANA TAX ACT OF 1937: ITS CAUSES AND EFFECTS

BY

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TABLE OF CONTENTS

INTRODUCTORY NOTE i

CHAPTER I. THE ROOTS OF THE LAW 1

Definition of marihuana; humanitarian values; narcotic suppression; impact of nineteenth century literature; marihuana use in the twentieth century; state laws.

CHAPTER II. THE ENACTMENT 19

Bureau of Narcotics; uniform narcotics act; education campaigns; Congressional hearings; marihuana tax act; Narcotic Bureau regulations.

CHAPTER III. IMPACT OF THE TAX ACT 44

Marihuana eradication and decline of medical use; education campaign; La Guardia Commission; reaction to commission's report; increase of illegal marihuana use; Congressional hearings; new marihuana legislation; comment.

NOTES 58

BIBLIOGRAPHY 69

Recent reports indicate that marihuana smoking has become the greatest problem affecting American fighting forces in Vietnam. Newspapers report the increased use of the drug by college, high school and even elementary-aged youths. Everything seems to point to an ever-increasing use of marihuana in the United States; nonetheless, countless assaults are being made on the legitimacy of legislation prohibiting the use of this dangerous drug. It is the purpose of this paper to trace the forces which led to the enactment of the first Federal law suppressing marihuana use and the first reactions to this law.

I. ROOTS OF THE LAW

Individuals use marihuana because of its conscious-expanding effects. According to the Federal Bureau of Narcotics the following definition suffices to accurately describe the drug:

> "Cannabis" [marihuana] includes all parts of the plant Cannabis sativa L. [Indian hemp] whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, oil or cake made from the seeds of such plant, any compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), oil, or cake, or the sterilized seed of such plant which is incapable of germination.[1]

Planted in May, very little cultivation is needed until the hemp crop is harvested in August or September. Since the size of the plant varies with the condition of the soil, Cannabis sativa can grow anywhere from three to twenty feet. The stock varies in diameter from one-half to four inches. The potency of its conscience-expanding drug, tetrahydrocannabinol, also varies. Marihuana thrives, too, in other parts of the world. Moreover, the hemp plant grown in Europe and Asia is more powerful than the North American Strain.[2]

Although individuals usually smoke the marihuana in

the United States, the drug can be either imbibed in liquid mixtures of different strengths, or sniffed. Four names, three of which originate in India, are used to identify the different hemp preparations. Ganja, prepared from the resinous tops of a specially cultivated and harvested grade of the female hemp plant, is used in making smoking mixtures, beverages and sweetmeats. The pure resin from the finest female plants, charas, is the source of the drug known as Cannabis indica. The uses of charas or hashish are similar to those of Ganja. The mildest preparation derived from Indian hemp is called bhang. It is the cheapest of the preparations and usually is used in smoking mixtures.[3]

Marihuana is the Mexican-Spanish name for bhang. The preparations of the plant for consumption is very interesting to examine. First, it must go through a curing process. The leaves and tops are dried and then sold by the pound to peddlers who "manicure" them by crushing and then removing any twigs or other residual matter. The drug is then ready for sale. The physical appearance of the finished product differs from that of regular tobacco only because it is green rather than brown and has a peculiar odor similar to that of dry alfalfa. Another slight difference results from the fact that marihuana glows very brightly while burning.[4]

Scientists are still in dispute over the ultimate

effects of marihuana. They do agree, however, that hemp, unlike opium, is an excitant drug, its effects progressing in three stages. First, the smoker has fits of coughing; then a sense of exhilaration occurs. The user becomes more relaxed but his perception of time and space is affected. Secondly, auditory insensibility results; musical sound becomes distorted. Some people experience disassociation of ideas and find that their emotions are exaggerated. In the third stage, the smoker falls into a deep sleep, but there are usually no aftereffects. Of course, the effects of the drug differ with each individual. Some smokers are unable to feel any sensations until they are actually told about what should occur; others may overreact. But marihuana's real danger lies in this very unpredictability.[5]

Prohibition of intoxicants and narcotics has had a long history in the United States. Values providing for the legitimacy of suppression can be traced to the early American Protestant tradition and to the evangelical movement of the nineteenth century. Both factors helped the establishment of the American custom of using the law to enforce public morals. The evangelical revivals brought about a general religious awakening producing a new piety and a new austerity in private morality which found expression in abstention from worldly pleasures as intoxicants. Since personal conversion was a central part of

the religious experiences of the evangelicals, anything which interfered with conversion of an individual was opposed. For these reasons, evangelicalism in its social reform movements reflected the peculiar influence of moralism and meant the redemption of the individual who had fallen in the clutches of evil. Reform did not mean the restructuring of American society.[6]

Three values were used to justify prohibition by law. The first, a component of the Protestant Ethic, holds that the individual should exercise complete responsibility for his actions. Under the influence of intoxicants or narcotics, a person loses self-control. He can no longer control his actions and, for this reason, cannot be held responsible for them. The second value disapproves of action taken solely to achieve states of ecstasy. It too can be traced back to the Protestant Ethic. A person may indeed enjoy alcohol or tobacco, but he should not indulge in them to an excessive degree. It is interesting to note that ecstasy as a by-product or reward of so-called "proper" actions is not, however, condemned. The last value used to justify the suppression of intoxicants and depressants is found in the spirit of humanitarianism. Reformers believed that people "addicted" to the use of alcohol or narcotics will benefit from laws making it impossible for them to give in to their weaknesses. If the individual will not help himself, then it is the duty of society to impose aid

upon him.[7] These legitimizing rationalizations for prohibition legislation helped to justify the adoption of the eighteenth Amendment as well as the Marihuana Tax Act of 1937.

Today many Americans are crusading against marihuana tax laws. They argue that a mistake was made and is continuing to be made by prohibiting the use of a drug that over a tenth of the population now enjoys.[8] Contending that marihuana smoking has become a permanent part of the American culture, they argue that the laws prohibiting the drugs will continue to be flaunted by a large number of the population and a situation similar to that of the "roaring Twenties" will arise.[9]

Federal measures hindering the possession and sale of narcotics and dangerous drugs began in the mid-nineteenth century. A tariff act of 1842 imposed an ad valorem tax of fifteen cents per pound on opium. The tax was raised to twenty cents per pound in 1846. By 1861, the tax was found to be insufficient because shippers merely falsified their invoices. The tax was consequently changed to a dollar per pound. In the same act, for the first time, distinction was made between crude opium, smoking opium, morphine and its salts.[10]

It should be noted that up until 1864 the only purpose of the different taxes was to raise revenue. There was no question, however, that the use of tariff restrict-

ions could hinder the import of dangerous drugs. By 1864, the social dangers of opium smoking were recognized, and a hundred percent ad valorem duty was imposed in an effort to keep the narcotic out of the United States. The attempt failed, however, because smuggling arose on a great scale. Chinese and other "undesirable" citizens kept up the demand for opium. Finally, to stop the smuggling which had arisen because of the hundred percent duty, the custom collectors asked that the duty be held to no more than six dollars per pound. This objective was carried out by the tariff of 1870.[11]

In 1883, the tariff was again changed. The rate was increased to ten dollars per pound. When it became apparent that the opium habit was spreading from the minority of Chinese citizens to a large portion of non-Chinese Americans, demands for the exclusion of smoking opium from the tariff schedules arose. Congress, responding to public pressure, increased the tariff rate to twelve dollars per pound. After the increase, there almost immediately occurred a decrease in the number of legal imports of opium. Smuggling again became popular and much of the medicinal drug was used for smoking purposes. Because of these conditions, Congress lowered the tax in 1897 to six dollars per pound. This rate remained in effect until 1909, when the Opium Exclusion Act became law and legal importation of non-medicinal opium ceased.[12]

More prohibitive drug control was finally established in 1914 when Congress imposed a prohibitory tax of three hundred dollars on domestically manufactured smoking opium. Another act forbade the importation of smoking opium for re-export. A final measure, called the Harrison Act, adopted in December of 1914, incorporated the provisions of all past drug and narcotic legislation.[13]

The Harrison Act was drawn as a revenue and control measure, and on its face was not designed to penalize the narcotic user. Medical personnel were permitted to continue administering morphine and other opium drugs to certain needy patients. However, all persons who handled opium derivatives and cocaine were required to register with the government and to keep records. Those persons who imported, manufactured, produced, compounded, sold, dealt in, dispensed or gave away any derivative of opium, or of cocaine, were to register with the collector of internal revenue; to pay special taxes; and to keep records of their transactions.[14]

Interpretations of the act by Treasury Department officials forbade free access to naroctics for the drug addict. The law made it unlawful for any person to purchase, sell, dispense or distribute any of the named drugs except in the original stamped packages. This provision did not apply to registered physicians, dentists, veterinarians, surgeons or other practitioners dispensing drugs

in the normal course of their professions. Enforcement officials and doctors argued over federal interpretation of the act. Doctors argued that prescribing drugs for an addict fell within the provisions of the act. The Treasury Department ended the argument, nevertheless, by rendering even a doctor's prescription for an addict unlawful. Exceptions could be made in the case of the aged and infirmed addicts for whom withdrawal of the drug might result in death.[15]

Treaty provisions provided another source of drug control in the United States. An 1833 treaty with Siam forbade Americans to engage in opium traffic. Another treaty adopted in 1851 allowed Americans to import opium into Siam provided that the drug was sold either to the government-licensed monopolist or to his agents. An agreement with China, resulting in the Treaty of Wanghia of 1846, stipulated that citizens of the United States engaged in the opium trade would receive no protection from the American government if they were to violate the drug laws of China. Another treaty in 1858 permitted Americans to trade in opium in and around China. But the United States, in 1880, acting upon a Chinese request, forbade the importation of opium into the United States by Chinese subjects and forbade Americans to import opium into any of the open ports of China. The last in the series of United States-China agreements concerning opium or its derivatives came in 1903.

The United States consented to the Chinese government's prohibiting the importation of morphine and instruments for its injection except when their use was designated for medicinal purposes.[16]

Treaties with Japan and Korea limiting the opium trade were also signed. In 1882, a treaty with Korea prohibited American citizens from engaging in opium traffic--either directly or indirectly--in Korean waters or at Korean ports. Agreements with Japan prevented American nationals from carrying opium into that country except for strictly medical functions.[17]

Initial efforts for effecting international drug control can be attributed to the American zeal for the prohibition of dangerous drugs and narcotics. When the United States obtained the Philippines after the Spanish-American War, the opium smoking there was deemed a great problem. A Committee set up to investigate the perplexity reported that opium smoking was not only a grave Philippine problem but also "one of the gravest, if not the gravest, moral problems of the Orient." Congressional reaction was to prohibit in 1905 the import of all non-medical opium into the Philippines effective after 1908.[18] This response aroused international interest in the opium problem. When the committee reported that opium smuggling could only be combatted by international activity, the United States government provided the initiatives for the needed moves.

In an 1906 address to the international congress for the revision of the rules controlling spirits in Africa, President Theodore Roosevelt called for the prevention of opium traffic with all "uncivilized tribes and races." Later in that same year, he endorsed a plan by Bishop Charles H. Brent, the Protestant Episcopalian Bishop of the Philippine Islands, calling for a commission composed of English, French, Dutch, Chinese, Japanese, and Americans to investigate the opium problem. These Presidential initiatives led to the Shanghai Opium Commission of 1909. Though the Commission had no force in international law, it was nevertheless significant. It highlighted the opium problem as international in scope and set the precedent for other international meetings in which narcotics with the prime concern.[19]

The Shanghai Commission provided the foundation for the Hague Convention of 1912, for most of its deliberations and conclusions were adopted by the Hague Convention. The Hague treaty contained provisions on trade, the exchange of laws and statistics, and the limitation and control of opium, morphine and cocaine supplies. (The United States Congress, responding to the provisions of this agreement, enacted the Harrison Act of 1914.[20]) Because of the seeming reluctance of other nations to sign the treaty, additional conferences were held in 1912, 1913, and 1914. When narcotics control came under the guardianship of the League of

Nations, even more conferences were proposed. Although the United States was not a member of the League, it did send delegates to the Geneva conventions of 1925 and 1931, held to discuss methods for prohibiting illicit international traffic in opium, morphine, heroin and cocaine.[21]

Control of opium and its derivatives was the main topic of the original Hague Convention, but the control of Indian hemp was also discussed. An American convention representative, Henry Finger of California, wished to bring the control of international traffic in hemp to the attention of the Conference. He was assisted in his efforts, moreover, by an Italian proposal to open a discussion on cannabis. Finger, alarmed by claims that many Hindus living in California were addicted to cannabis, wanted international control. The Italian government initiated its proposal because it was soon to gain control over Cyreanica in North Africa, where a cannabis problem existed.[22] A resolution finally adopted by the Conference called for a study of the questions.[23]

The problem of international regulation of cannabis was widely discussed at the Geneva Convention of 1925. Indian hemp was placed within the internationally recognized groups of dangerous drugs. Largely because of the insistence of the Egyptian delegation, a system of control over the export of the resin of the hemp plant and ordinary preparations made from it was set up. The delegates prohibited

export to countries that had forbidden cannabis use, and where export was permitted, a special import certificate issued by the importing country had to be obtained. An export authorization for the cannabis was issued only after the special import certificate was presented. Another convention held in 1931 placed international control over the production and marketing of hemp.[24] But even though the Indian plant was recognized as an international problem, the United States did not officially recognize it as a dangerous drug until the mid-thirties.[25] Custom collectors were required, however, under regulations approved in 1906 by the administrators of the Food and Drug Act, to refuse delivery of all consignments of dried flowering tops of the pistillate plants of Cannabis sativa unless the importer presented a penal bond proving that the drug would be sold for medical purposes.[26]

Indian hemp is not indigenous to North America. It is believed to have originated in central Asia. One of the oldest domesticated plants known to man, the ancient Greeks knew of its use and its properties were described in Homer's Odyssey. Hemp was known to be cultivated as a source of rope and cloth fibers, birdseed, certain oils and medicinal products.[27]

Cannabis was introduced into the English colonies of North America in the seventeenth century and its cultivation was encouraged by the Crown. Moreover, there was a con-

certed effort to have the plant replace tobacco in the one-crop economy of Virginia. Hemp was a cash crop for most of the colonial and post-Revolutionary planters. In fact, during the Revolutionary War, hemp was used in many states in lieu of money. Before the Civil War, hemp rope was used on sailing ships and hemp fabric was employed on the pioneer wagons. Before the passage of the Marihuana Tax Act of 1937 and the development of synthetic fibers, cannabis was a major crop in Kentucky, Virginia, Wisconsin, Indiana and other corn-belt states.[28]

The Chinese found cannabis indica valuable as an anesthetic in surgery nearly two thousand years ago. It was not until the tenth century that the people of Africa and Asia began to use hemp, or hashish, for its intoxicating effects.[29] Some of the African and Asian governments, as well as persons interested in medical, religious and sociological problems, began investigation to discover whether hashish had detrimental or beneficial effects. Investigators reached divergent conclusions. Some condemned the use of the drug, charging that it affected the brain, while others praised the benefits of the use of hashish, deemed it essential to life and urged that everyone use it.[30]

It is usually contended that Europeans became aware of the uses of hashish during the First Crusade and were convinced that the use of the drug was a vice common only to the people of Asia and Africa. However, remnants of hemp

dating from prehistoric times were discovered in 1896 in Northern Europe by the German archaeologist, Hermann Bussee. Bussee opened a tomb at Brandenberg in which a funeral urn containing hemp seeds dating back to the fifth century B.C. was found. Although hashish was known to the early European, its use did not arouse great concern until the nineteenth century.[31]

In the nineteenth century, European as well as American interest in the use of hashish was awakened by the writing of some of the Romanticists of the period. Authors such as Theopile Gautier and Charles Baudelaire, urged by the French physician, Moreau, experimented with the drug. They pictured it as having a demoralizing effect upon its users by pointing out that mental deterioration could occur with continual consumption. They charged that hashish could cause psychotic episodes and even death.[32]

Gautier popularized the legend of a shiek called the Old Man of the Mountain who incited his followers by the use of hashish to kill those who were not the "true" followers of Mohammed. The shiek's orders were obeyed without question even when death would surely result. Gautier explained that the Old Man's subjects, having taken hashish, found on awakening from their intoxication real life so sad that they joyfully sacrificed it to re-enter the paradise of their dreams. The followers believed that every man killed while carrying out the shiek's orders ascended into

heaven and that those who escaped were blessed in that they could enjoy the happiness of hashish again. Gautier further explained that the terms hashish and assassin originated with the shiek and his subjects. The Old Man's name was Hasan. If the words hashish and assassin are examined, Hasan can be found in their roots.[33]

The Romanticists were not the only persons to write about the effects of hashish during the nineteenth century. Doctors, students and other interested persons performed experiments and recorded the results. Opinions concerning the potency of the drug ranged from the claim that it was harmless to the assertion that it was a direct cause of lunacy. Most writers did conclude, however, that time and space perceptions were impaired while an individual was under the influence of hashish. Some physicians pointed out that consumption of the drug in moderate doses was not harmful, but that excessive use could cause lunacy.[34]

During the nineteenth century, analysts were also aware of the adaptability of the hemp plant to different climates. They knew that the power of the drug varies according to the part of the world in which it grows; hemp producers in North America were well aware of the "narcotic" quality of their product. One writer argued that the existence of the drug in the northern plant could readily be detected by "the ardor of a hemp field, and the giddiness and headaches which attack persons remaining long in it."[35]

Yet, it was widely contended that the drug in the northern plant was not as powerful as the drug in the plants from the East. And since only the wealthy could afford to import hashish from the Orient, the use of cannabis was limited in Europe and in the United States.[36]

In the second decade of the twentieth century, marihuana smoking became a "serious" problem in the United States. Portuguese sailors introduced hemp smoking into Panama, and American troops stationed there began to cultivate and smoke the plant. Smoking became so wide-spread that the United States Army set up two commissions (one in 1925 and the other in 1931) to study the effects of the use of marihuana. The commissions found that moderate use of the drug was not harmful.[37] It is interesting to note that the findings supported the conclusions of an 1895 British commission established to investigate the use of hemp in India.[38] American troops were also introduced to the use of marihuana during the Mexican controversy of Woodrow Wilson's presidency.[39]

Mexican laborers carried the practice of smoking marihuana with them into the Southwestern states. Mexican hemp, more powerful than that in the United States, had been used for its drug qualities since the time of the Aztecs.[40] Some authorities have even suggested that the word marihuana had its origin in the Mexican words for "Mary" and "Jane."[41]

The use of marihuana was usually confined to the poor, segregated minority groups, especially Mexican-Americans and working-class Negroes. Since the plant grows almost anywhere with practically no cultivation, the lower classes found it cheaper than alcohol.[42] As long as the smoking was confined to minority groups, little national attention was focussed upon its use. In states with high percentages of Mexican laborers, or where hemp cultivation had a long history, however, marihuana use evoked much concern. Hemp was attacked as causing increased crime and producing mental and moral deterioration in its consumers.[43]

Many states enacted considerable restrictive marihuana legislation after 1910. By 1930, the retail sale of cannabis was limited in twenty-two states to those cases where prescriptions were furnished. Four states prohibited cultivation and in one state, Wyoming, the sale of marihuana was forbidden. The penalties and exemptions under the state laws differed greatly. In Texas a preparation containing not more than one gram per ounce was exempt. The penalties for possession of the drug ranged from misdemeanor charges with a month's imprisonment and a slight fine to felony charges carrying a five year sentence and/or a one thousand dollar fine.[44]

Many "wets" (those supporting the sale of liquor) argued that Prohibition was responsible for an increase in drug use. Magazine articles stressed that Prohibition led

to disrespect for the law, lawlessness and graft. Gangs organized for the sale of illegal liquor also sold drugs.[45] But though the use of drugs was obviously on the increase, the use of hemp did not cause great national interest. In magazine articles stressing the evil effects of drugs, marihuana was not even mentioned.[46]

In 1926, moreover, responding to reports about the harmful effects of marihuana, Doctor W.W. Stockberge of the Bureau of Plant Industry suggested that such statements did not "jibe" with the known effects of cannabis. He stated that since marihuana simply causes temporary elation followed by depression and heavy sleep, those persons who were said to have committed crimes under the influence of the drug must have mixed their dosages with cocaine or bad whisky.[47] As late as 1931, the Treasury Department reported that the publicity surrounding the use of hashish tended to magnify the extent of the "evil" in using the drug.[48]

II. THE ENACTMENT

Indian hemp did not begin to elicit federal concern until the 1930's. Most of the federal interest can be traced to the Treasury Department's Bureau of Narcotics under the direction of Harry J. Anslinger. The Bureau, created in 1930 at the insistence of the State Department, was to concern itself with narcotics law enforcement on both the national and international levels. Narcotics enforcement had been under the Prohibition Bureau before the creation of the Narcotics Bureau. Under the Department of Prohibition, a federal narcotics board composed of the Secretary of Commerce, Secretary of State and the Secretary of the Treasury acted upon problems concerning illicit traffic in narcotics. Most of the board members did not have the time to do their jobs properly and therefore delegated their responsibilities to subordinates. Moreover, since the board members had to divide their time between narcotics duties and the other duties of their departments, quick narcotic decisions necessary to establish regulations to control illicit drug traffic were lacking. Many foreign countries began discrediting the sluggish United States narcotics policies.[1]

Although the Bureau of Narcotics dealt with many problems in which both the State and Treasury Departments had concern, it was placed under the sole control of the Treasury Department. Decision-makers believed that this department could afford the scientific background needed to handle narcotics problems. Since the Bureau of Public Health was under the Department of the Treasury, many administrators believed that it could provide the testing needed to set up a sound narcotics policy. The chief of the Bureau had the power to render rapid decisions needed to solve problems of illicit drug traffic. Stipulations were made, however, that the State Department should be consulted when dealing with problems which could have international repercussions.[2]

The creation of the Bureau of Narcotics was heralded as an attempt to promote more efficient government; nevertheless, some groups charged that a narcotics dictatorship had been established. They charged that the chief of the Bureau had too much power. The American Medical Association also contended that placing the same overzealous narcotics agents who had been under the direction of the Department of Prohibition was very impractical. The Medical Association also supported the charge that the head of the Bureau could wield dictatorial power.[3] This charge was answered by the argument that the Secretary of the Treasury would check the power of the head of the Bureau since he handled appeals of narcotics decisions. Treaty provisions would also limit the

power of the chief.[4]

The man chosen as the chief of the Bureau, Harry J. Anslinger, had been connected with illegal narcotics control for a long time. Born in Altoona, Pennsylvania in 1892, he had become aware of the "evils" of drug addiction as a youth. At that time, most Americans could get drugs at their neighborhood bars; addiction to morphine was very common. Anslinger once related that the memory of his having seen one of his neighbors acutely suffering from the effects of morphine withdrawal had remained with him throughout his life.[5]

Although aware of the effects of drugs, Anslinger did not begin his administrative career by fighting the illicit narcotics trade. In 1911, he became a member of the efficiency board of the Ordinance Division of the War Department. Later, he became a member of the American legation at the Hague. In 1921, his diplomatic service took him to Hamburg, Germany as a vice consul. He also served as consul in LaGuarera, Venezuela from 1923 to 1924. In 1926, he became chief of the Division of Foreign Control with the Treasury Department.[6]

With his entry into the Treasury Department, Anslinger began his long crusade against organized crime in narcotics dispensement. He was appointed in 1926 the United States delegate to the Conference of the Suppression of Smuggling in London. In 1927, he attended the International Congress

against Alcoholism in Antwerp, Belgium and in Ottawa, Canada. The following year, he was appointed assistant commissioner of Prohibition in charge of the narcotics division. Finally, in 1930, because of his experience with drug control, Anslinger became the first United States Commissioner of Narcotics of the newly-formed Bureau of Narcotics. While serving in this capacity, he represented the United States at the League of Nations conferences on narcotics. Moreover, in 1946, he was appointed the United States representative on the Narcotic Drug Commerce Committee of the United Nations Economic and Social Council.[7]

Discovering what he believed to be an increase in the use of marihuana in the United States, Anslinger at first agitated for a uniform narcotics act to be adopted by the states. He and his aides argued that the traffic in marihuana was an intrastate problem and therefore not subject to Federal control. They also pointed out that the Bureau's field force was too small to operate effectively in all of the states.[8]

The Narcotics Bureau charged that state officials previously acting under the erroneous assumption that the prevention of narcotics abuse was exclusively a federal concern, had in many states refused to enforce the drug laws already on the statute books. Federal courts were flooded with minor cases and their dockets were too full to be processed adequately. Most cases were continued from

term to term and were finally dismissed because of the unavailability of witnesses and defendants. When cases were brought under state laws, juries usually refused to reach harsh decisions. If a defendant pleaded guilty in federal courts, punishment usually consisted of a small fine or short sentence.[9]

State and municipal officials offered many reasons for their reluctance to prosecute narcotic cases. They argued that because of inadequate or non-existent state laws prosecutions in federal courts were more effective than those in state courts. They further contended that the difficulty in finding a jury in small communities which would convict was almost insurmountable because the menace of narcotics was not understood. State narcotic enforcement was also hampered when a defendant happened to be a woman addict. There were no institutions in which she could receive care. If any defendant voluntarily applied for treatment for his addiction, juries usually objected to incarceration in a state prison.[10]

The advantages of uniform state narcotics acts were reputedly many. If adopted, the proposals for such laws--set forth by the National Conference of the Commission on Uniform State Laws and ardently supported by the American Bar Association, the American Medical Association and other medical and druggists associations--would clearly inhibit the peddling and the improper possession of narcotics.[11]

These proposals distinguished the various dangerous, or potentially dangerous, habit-forming drugs and placed synthetic drug substitutes under state control. More important, they made provision for the simple attachment of amendments to cover any dangerous drugs discovered in the future. The proposals also widened the duties and responsibilities of the dispensing professions in respect to the sale and administration of narcotics. Any facilities through which drug addicts could possibly obtain narcotics would be required to keep accurate records.[12] The illegal storing and sale of narcotics would be declared common nuisances subject to state nuisance laws. False or fraudulent obtaining of narcotics prescriptions would be a criminal offense. That provision of the provision of the proposals which set up enforcement agencies within the states received the praise of all persons--those in both private and public positions--interested in better narcotics law enforcement. Anslinger praised the fact that cannabis was included under the dangerous drugs to be suppressed. He pointed out that the Bureau intended to concentrate its efforts on detecting and estimating the wholesale sources of the marihuana supply within the states.[13]

Anslinger began an educational program through which to inform the public and their state legislators about the dangers of marihuana. Women's clubs and educational groups were enlisted into the Bureau's enterprise. Articles

stressing the criminal acts committed under the influence of hashish were written. The increased "addiction" to the drug by the nation's youth was a major concern. These articles charged that a loss of morals and an increase in sexual promiscuity resulted from smoking marihuana cigarettes, or "reefers." Perhaps the most damaging indictment against marihuana was the charge that it led to insanity and even possibly to death. Moreover, in one article, Anslinger charged that the drug produced effects worse than those produced by opium or cocaine.[14] It is significant to note Anslinger's justification for his claim. He emphasized that opiates could be a blessing when properly used for medical purposes, while marihuana had no therapeutic value and was always used for abuse and vice.[15] This claim was not substantiated by existing medical use of drugs. In some foreign nations such as India, cannabis indica served in many medical purposes--mental depression, hysteria, migraines, uterine dysfunction and childbirth.[16]

Narcotics officials delivered over one hundred educational addresses to organizations in whose membership was found almost every sector of the American population. Addresses were presented to professional groups such as the American Medical Association and the Pharmaceutical Association. School groups were also the recipients of the lectures. Officials delivered talks to various colleges and schools and to parent-teacher associations. Business clubs were also subjected to the Bureau's educational project.

Lectures were delivered to state and local government officials. Enforcement officers were taught methods by which to detect marihuana. The Bureau employed two special agents to inform state legislators about the need for uniform narcotics codes.[17]

Anslinger was not alone in his efforts to point out the harmful effects of marihuana. The opium Advisory Association, the International Education Agency, the Federation of Women's Clubs and various newspapers were among those agencies that stressed the dangers of the drug. The World Narcotic Defense Association bought radio and press advertisements in order to inform the public. Religious, fraternal and educational institutions were urged to impress upon their members the possible consequences of using the drug. Each of these groups recognized the need for further governmental action. Even foreign countries pointed out that the United States did not have effective legislation prohibiting the exportation of marihuana.[18]

Individuals devoted most of their time to urging the adoption of workable marihuana legislation. One reformer, Earle Albert Rowell, delivered more than four thousand lectures in forty states. He dramatized his concern by personally pulling up and destroying hemp plants. In 1939, Rowell claimed that he had spent fourteen years campaigning against the use of marihuana. His experience had convinced him that the consumption of alcohol and tobacco was a forerunner to the use of marihuana. He further claimed that--either in

self defense or as a means of revenue--hemp smokers induced others into the habit, thus perpetuating an intolerable situation.[19]

Deluged by this massive material on the evil effects of marihuana, citizens began to demand more suppressive legislation. Although all of the forty-eight states by 1936 had adopted laws controlling either the production, possession or sale of marihuana, citizens demanded federal legislation. Letters to the Bureau of Narcotics pointed out the belief that existing state laws were ineffective. Evidence supplied by the Bureau seemed to support this conclusion.[20]

When the Treasury Department began listing marihuana in its annual publication on opium and dangerous drug traffic in 1929, cannabis use was listed as a minor drug problem which states, mostly in the South and Southwest, could control. The 1931 report still listed marihuana as a relatively mild drug problem; however, California was added to the list of states with a marihuana problem. Nevertheless, narcotic agents still insisted that the states could control hemp traffic. They did suggest, however, that all states adopt laws controlling the use of marihuana. Readily admitting that state laws might cause the rise of hashish smuggling, Bureau officials stated that a federal law would then be needed.[21]

In 1933, the Bureau of Narcotics suddenly announced that Indian hemp was growing wild in every state of the union and that many young people were smoking the drug.

The Bureau also recognized the operation of an interstate hemp traffic in the Rocky Mountain region and illicit marihuana traffic from Mexico. Proudly announcing that four states had adopted the uniform narcotics act, narcotics officials insisted that uniform state narcotics laws could effectively control the marihuana problem.[22]

Bureau of Narcotics publications of 1934 through 1936 are important for the understanding of the Bureau's shift of its position that marihuana was a state problem to the new stand that Federal laws were needed. Since marihuana grew in every state very little attention was paid to the drug by the organized criminal elements. The Narcotics Bureau reported that cannabis traffic was not controlled by any organized gang. It did recognize, however, that hemp traffic had become an interstate problem, but it still insisted that marihuana could be controlled under uniform state narcotics laws. Yet by 1936, only twenty-nine states had adopted the uniform code. Although all forty-eight states had marihuana laws, the Bureau expressed its disappointment that the laws were not uniform. The Treasury Department in 1931 indicated that increased hemp smuggling would necessitate the adoption of Federal legislation. In 1935 the feared increase was recognized. Official recognition of criminal acts committed by marihuana users came in 1936.[23] Faced with these developments, the Bureau confessed that it had shifted its total emphasis away from

insisting on uniform state narcotics laws; instead, it asked Congress to enact a tax law on the use, sale and growth of marihuana.

One political scientist has pointed out another explanation for the shift in the Bureau of Narcotic's stand.[24] He maintained that the Bureau was trying to appear more necessary by increasing its scope of operations. The number of narcotic violations and seizures under existing dangerous drug legislation was declining. Beginning in 1933, moreover, the Bureau faced a decline in appropriations.* The 1933 budget was cut 100,000 dollars below the general Treasury Department reduction for all Bureaus. Although the decline in appropriations reflected, to some extent, the

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*APPROPRIATIONS FOR THE NARCOTICS BUREAU
(1915-1944)

Year	Total Appropriation	Year	Total Appropriation
1915	$ 292,000	1930	$1,411,260
1916	300,000	1931	1,611,260
1917	325,000	1932	1,708,528
1918	750,000	1933	1,525,000
1919	750,000	1934	1,400,000
1920	750,000	1935	1,422,899
1921	750,000	1936	1,249,470
1922	750,000	1937	1,275,000
1923	750,000	1938	1,267,000
1924	1,250,000	1939	1,267,000
1925	1,329,400	1940	1,306,700
1926	1,329,400	1941	1,303,280
1927	1,329,400	1942	1,283,975
1928	1,329,400	1943	1,289,060
1929	1,350,400	1944	1,150,000

*Source: Table cited by Donald T. Dickson, "Bureaucracy and Morality: An Organizational Perspective on a Moral Crusade," Social Problems (Fall, 1968), p. 154.

general economic conditions of the depression, Anslinger warned that the deep cuts in his operating funds were curtailing his enforcement activities. Appropriations in 1936 remained near a low point that had not been seen in over a decade. Moreover, as a result of the government's anti-depression program by which varying sums were deducted from the appropriations and held in a general trust fund, the Bureau's actual operating funds remained at about one million dollars from fiscal 1934 to fiscal 1936.[25]

Faced with a steadily decreasing budget and a decline in narcotic violations, the Bureau responded as any organization might react and tried to appear more necessary. As a result of this response, Anslinger pushed for the adoption of the Marihuana Tax act. Although financially this stand was not too successful (see table), the number of violations and seizures under the Marihuana Tax Act contributed substanstially to the Bureau's totals. In 1938, the first full year under the Marihuana Tax Act, one out of every four federal drug and narcotic convictions was for a marihuana violation.[26]

The first federal legislation concerning hemp products was enacted with the aid of the Internal Revenue Service along with the Bureau of Narcotics. Fearing that the increasing importation of hemp seed and oil during the thirties aided in bringing a dangerous drug into the country, Congress in 1936 enacted a law which imposed an import tax of two cents per pound on hemp oil.[27]

On April 27, 1937, the Assistant General Counsel of the Treasury Department introduced a bill to Congressmen in the following manner: "The leading newspapers of the United States have recognized the seriousness of the problem (illicit marihuana traffic) and many of them have advocated federal legislation to control the traffic in marihuana."[28] He did not point out, however, that one of the agencies in his department was responsible for a great deal of the publicity.

The proposed act was aimed at protecting American citizens. The representative of the Treasury Department, Clinton Hester, opened his testimony with the alarming news that extensive use of marihuana was occurring among the nation's youth. He stressed that American children must be protected. His appeal was to the humanitarian values of the Congressmen. He urged that a federal law be enacted to control the use of the drug. Marihuana was held to be the direct cause for an increase in crimes; men under its influence could not control their actions.[29] This, in effect, was a direct appeal to the American value which insists that the individual should exercise complete responsibility for actions.

Hester contended that the Harrison Act could not be amended to include marihuana under its provisions, for it controlled only plants imported into the United States and the medicinal use of opium. Marihuana, besides being grown within the United States, had both industrial and medical

uses and therefore could not be included under the Harrison Act. The General Counsel also argued that an amendment to this measure might result in the whole act's being declared unconstitutional. Since, he contended, the act of 1914 had been upheld by the courts, it seemed senseless to subject it to additional judicial scrutiny.[30]

When the Commissioner of Narcotics appeared before the subcommittee of the House Ways and Means Committee, he was questioned about why the legislation had not been proposed at an earlier time. Anslinger explained that marihuana had become a national menace only in the last few years. He reported, giving many examples, that numerous crimes were committed under the "influence" of marihuana. He suggested that since the drug was very inexpensive, it was doubly dangerous; it was available to anyone who had a spare dime. The Commissioner seemed to imply, as had many newspaper men, that since the poor minority groups--"those of low mentality"--found marihuana readily available, the danger was not in the crimes already committed, but in those crimes which hashish users were capable of accomplishing.[31] Marihuana use did not cause crime, but many who sought escape from inhibitions found that marihuana allowed them to escape from reality. A mentally unbalanced person who believed himself abused by society could find, with the aid of cannabis, the courage to strike out against the "oppressive" world.

It is very interesting to note that Anslinger at this time testified that marihuana smokers were not in any way

connected with heroin addicts. He stated that hemp users were in a different age category than opiate addicts. He further denied that marihuana smokers as a matter of course graduated into the use of heroin and cocaine.[32] Anslinger at a later time was to reverse this appraisal and insist that marihuana should be suppressed since it led to opiate addiction.[33]

The Panama Canal Zone was not included in the areas affected by the act. Army officials requested that the provisions of the proposed act not be made applicable to the Canal Zones. Committees set up in 1925 and 1931 had found that marihuana smoking among soldiers in the Canal Zone was not harmful. The Army could see no reason why its men should be deprived of hemp smoking after it was known that moderate smoking did not hinder the effectiveness of the troops. The Army did not alter this stand until 1942.[34] Although the position of the Army is understandable, it is surprising that the Army's request was not presented to members of the appropriate committees of Congress to be examined. The lack of any group to point out the Army's stand shows that there was little organized opposition to the act.

Major objections to the bill came from two sources--manufacturers of hempseed oil and birdseed and Dr. William C. Woodward of the American Medical Association. The manufacturers of hempseed oil objected to the language of

the bill, which was quickly changed to meet their specifications. Representatives of the birdseed industry voiced a more serious objection. The bill called for the prohibition of hempseed because it contained a small amount of the active principle of the drug and could possibly be used for smoking. Birdseed manufacturers contended that the measure would damage their businesses. Government proponents of the bill consequently modified their insistence upon the seed provision, noting that sterilization might render the seeds harmless.[35]

Dr. William C. Woodward, who had helped in the drafting of the Harrison Act and the Uniform Narcotics Act, voiced great concern over the bill. Although he stressed that he was not technically representing the AMA since the Bureau of Narcotics had proposed the bill too quickly for the society's house of delegates to meet, he pointed out that the executive committee of the board of trustees of the AMA requested him to appear and oppose the bill. Woodward suggested that the measure was being enacted too hastily, that the menace was exaggerated, that more study was needed and that data from government agencies should be collected and analyzed. He charged that "scare" tactics had been employed to insure the prohibition of marihuana. He strengthened his argument by quoting from an article in the April 10, 1937 edition of the Washington Herald. The article charged that an editorial in the Journal of the

American Medical Association [JAMA] claimed that marihuana was the greatest menace to the United States. He pointed out that the JAMA editorial had referred to all drug addiction including opium and heroin. The doctor insisted that medical use of the drug, cannabis indica, had no relation to cannabis addiction and that the bill should differentiate between marihuana preparations and the drug. He urged that since the effects of the drug were very uncertain, more research was necessary before the medical profession was forced to abandon the use of cannabis indica.[36]

Woodward proposed the enactment of a plan which would coordinate the work of the Bureau of Narcotics and that of state officials. Referring to the United States Code, 1935 edition, title 21, section 198, the doctor indicated that it was an expressed duty of the Secretary of the Treasury to cooperate with the states in the suppression of the abuse of narcotic drugs in "their respective jurisdiction" and to cooperate in the drafting of needed legislation. He charged that the Bureau had not carried out this function in relation to the suppression of marihuana. Although the Bureau had urged states to adopt the Uniform Narcotics Act, hemp could be included or excluded as a dangerous drug at the discretion of the state. Cannabis had only been classified as a narcotic in seventeen states.[37] A federal law was not needed. The proposed bill would be an invasion on the part of the federal government on the rights of the states.[38]

Indicating that the Federal government could not carry

out all the functions under the bill, Woodward charged that the measure was too inclusive. The Narcotics Bureau could never determine everywhere hemp was growing, and if the government attempted to prosecute all the violations of the law, the same difficulties which arose under Prohibition would occur--an inadequacy of courts, jails and Federal officers.[39] It should be noted that this was the same argument used by the Bureau of Narcotics when urging the adoption of the Uniform Narcotics Act.

Woodward suggested that the AMA would not object to the drug, cannabis indica being included under the Harrison Act. Noting the Treasury Department's claim that the inclusion of cannabis under the Harrison Act would subject the act, which had been declared constitutional by a six to three decision of the Supreme Court, to further judicial scrutiny, Woodward argued that if the proposed bill was constitutional, there could be no reason why its provisions should not be incorporated in the Harrison Narcotics Act.[40]

The doctor rightly pointed out that the "facts" upon which the allegations of the ill effects of marihuana were based had not been presented to the committee. He charged that the subcommittee had been referred to newspaper publications proclaiming the prevalence of marihuana "addiction" and crime committed under the influence of marihuana and had not been given any documented medical proof. Both Anslinger and Hester had referred the committee to newspaper articles to support their claims that marihuana should be suppressed.[41]

Woodward stated that no federal agency had substantiated the attacks. He informed the committee that the Bureau of Prisons had no information about the number of prisoners addicted to cannabis. The Children's Bureau, when questioned about hashish addiction among the youth, reported that it had no evidence and had had no occasion to investigate the problem. The Public Health Service Division of Mental Hygiene reported no record of any cannabis addicts having been committed to Federal rehabilitation farms. Woodward pleaded that Congress not pass a bill on the hearsay evidence that had been presented.[42] But the committee members ignored his testimony, suggesting that the AMA always objected to medical regulation, and quickly reported the bill out of committee.[43]

Woodward's charge that the bill was an invasion of the states rights to protect the welfare of their citizens was refuted by Robert Doughton, Chairman of the House Ways and Means Committee. Doughton reported from the floor of the Seventy-fifth Congress that the government had many legal precedents upon which the proposed law would be upheld. He cited that in the Doremus case of 1919, the Nigro case of 1928 and the Sanzinsky case of 1937 the use of the taxing power for the regulation of drug use had been upheld by the Supreme Court.[44] He pointed out that in the use of prohibitory legislation, the prohibitive character of the excise is not sufficient to authorize a court to go behind the face of the legislation in an attempt to discern motives other than that of raising revenue. He cited three cases to

support his contention. In the case of Veazie Bank v Fenno, the SupremeCourt in 1869 upheld a prohibitive tax of ten percent upon the circulation of state bank notes imposed by Congress with the purpose of driving the notes out of existence.[45] In the second case, Li Mow Lin v the United States, the courts upheld the constitutionality of a law which taxed colored oleo at the rate of ten cents per pound but only levied a tax of one-quarter cent per pound upon uncolored oleo margarine.[47]

Doughton contended that varying rates like those set up under the Marihuana Tax Bill need only be based upon some reasonable differences in the subjects taxed. The McCray case demonstrated this point. The Courts recognized the slight difference between colored and uncolored margarine in justifying different tax rates. The Congressman also argued that the bill could be justified by the right of Congress to regulate commerce. Finally, he suggested that congressional regulation of marihuana traffic in the District of Columbia and other government possessions was unquestionable.[48]

Congress, responding to what it deemed a relatively new drug menace, acted quickly on the proposed act. Perhaps, the Congressional attitude can best be illustrated by the following statement by Congressman Dingell of Michigan: "We know that it [marihuana smoking] is a habit that is spreading particularly among the young. We learned that from the pages of newspapers."[49] Congressmen too had been influenced

by anti-marihuana propaganda. The bill was adopted with no opposition and became law on August 2, 1937.[50]

The Tax Act defined marihuana in the following manner:

> ..."marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.[51]

It should be noted that the wording of the act exempts industrial uses of hemp from its provisions except in those cases in which a producer engaged in growing hemp. Although Bureau regulation plugged the loophole, a grower could technically be exempt from the transfer tax if he destroyed, presumably under government control, all parts of the plant except the stalk. The law levied an occupational tax on all buyers, sellers, importers, growers, physicians, veterinarians and any other persons who dealt in marihuana commercially or prescribed it professionally. Importers, manufacturers and compounders were required to pay a tax of twenty-four dollars per year; while producers, physicians, dentists, veterinarians and researchers were to pay a yearly tax of one dollar. People who paid the tax were required to register with the Internal Revenue collector in their districts. When transferring cannabis a tax of one dollar per ounce was required of those who registered; while those

ineligible to register paid a one hundred dollar an ounce tax. A stamp was provided by the Federal government to those who paid the taxes. Any marihuana imported, manufactured, compounded, transferred or produced in violation of the provisions of the act was subject to seizure and forfeiture. All people who registered were required to render to the collector statements verified by affidavits on the quantity of marihuana handled during a specified period. Any person convicted of a violation of any provision of the act could be fined not more than two thousand dollars or face imprisonment for not more than five years--or both--in the discretion of the court. If the defendant claimed exemption, the burden of proof was placed upon him.[52]

Section 14 of the law provided that the Secretary of the Treasury Department was authorized "to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions of this act and to confer or impose any of the rights, privileges, powers, and duties upon such officers or employees of the Treasury Department as he shall designate or appoint." The section gave absolute administrative, regulatory and police power in the enforcement of the law to the Treasury Department.[53]

The regulations subsequently set up called for a maze of affadavits, depositions, sworn statements and constant inspection in every instance that marihuana was bought, sold, used, raised, distributed and given away. Those persons who wished to register had to enroll with the collector

of internal revenue in order to obtain an application form. If the application was falsely obtained, a prison term of from one to five years plus forfeiture of the hemp could result. All dealers were required to keep inventory in duplicate on special governmental forms.[54]

If registry was approved, the special tax was collected. Late payment was subject to a penalty charge of five percent for the first thirty days and five percent for each additional thirty day period. The fine, however, could not exceed twenty-five percent of the original tax. If a return was rendered false or fraudulent, the dealer was liable for a fine of fifty percent of his tax payment. There was even a penalty if one failed to report the movement of one's place of business. The tax had to be repaid and a penalty for failure to make proper returns and for carrying on business without a tax was assessed.[55]

A transfer tax was required each time that an order was secured unless specially exempted by law. A written order form containing the name, address, registry number of the dealer, plus the name and address of the transferer was necessary for each transfer. A detailed description of the desired article and its subsequent use appeared on the form, which, produced in triplicate, was accompanied by a certified check signed by a registered person.[56] Only registered persons could obtain an order form. This provision made it impossible for any unregistered person to transfer

marihuana. The Supreme Court has ruled that this requirement went beyond the meaning of the tax law which did not forbid an unregistered person to transfer marihuana but only imposed a tax of one hundred dollars per ounce on each hemp transfer.[57]

The Treasury Department [Bureau of Narcotics and Internal Revenue Service] set up stiff requirements for the display of stamps issued upon payment of the occupational tax. It insisted that all such stamps be posted in conspicuous places; otherwise, a penalty equal to--and in addition to--the occupational tax would be imposed. The penalty was doubled if any stamp was willfully hidden.[58]

There were strict rules for doctors, veterinarians and pharmacists. These individuals could give a patient only the amount of the drug listed on the prescription. Records with the practitioners' signatures were to indicate the daily use of marihuana; pharmacists could not refill a marihuana prescription; and drug records had to be kept for at least two years. The drugs were to be labeled, showing the name and registry number of the dealer, the serial number of the prescription, the name and address of the patient, and the name and address and registry number of the doctor writing the prescription.[59] Those dealers other than medical men were to file quarterly returns, while doctors were to file monthly returns accounting for all marihuana purchases, all sales and all products on hand.[60] The Bureau of Narcotics believed that these regulations would prove unnecessary

since the transport tax of one dollar per ounce would effectively halt marihuana production for medical purposes.[61]

Bureau regulations, to a certain extent, discouraged research. Even if marihuana was needed for experimental purposes, records of the amount of drugs on hand were nevertheless required. Regulations demanded detailed descriptions showing the date, quantity, kind of marihuana used, the particular purpose or object of use, a description of the resulting product and the date when the cannabis had been obtained. They also required records of the manner of disposition of the marihuana or any resultant product. Files were to be retained for two years and special reports furnished upon request.[62]

Cannabis export to countries regulating hemp was also subject to Bureau regulations. In addition to being registered as manufacturer, producer or dealer or being qualified as an official of the Federal or a state government, the exporter had to obtain a permit from the Commissioner of Narcotics. The application for export authorization had to be accompanied by an import permit issued by the recipient country. Export to countries which did not regulate Indian hemp use was subject to the transfer tax of one dollar per ounce and, for this reason, was expected to be negligible.[63]

All of these regulations and requirements, to a significant degree, were to decrease marihuana consumption. Only those people who felt the law unjust or who wished to ignore it completely risked using cannabis.

III. IMPACT OF THE TAX ACT

Immediately following the passage of the Marihuana Tax Act, the Federal government, working through the state governments, began eradicating all wild hemp plants as noxious weeds. In 1937, 44,453 kilograms [forty-nine tons] of marihuana were destroyed; while in 1938, 50,092 metric tons were eradicated. In the first five year period, approximately sixty tons of marihuana were destroyed.[1]

Although the law took effect in the latter half of the year, federal officers detected two hundred and fifty violations of the act. There were three hundred and sixty-nine seizures of marihuana and two hundred and twenty-three arrests. The number of seizures by both Federal and state officers amounted to 1,611. There were only eight hundred and sixty-six cases tried in courts in which only twenty-eight acquittals were obtained.[2]

The number of persons registering to pay the occupational tax was not reported until 1938. In that year, some 3,665 people registered of whom 1,179 were dealers, 2,097 medical men, five researchers, 371 producers and thirteen manufacturers and importers. In 1939, the total dropped to 2,030. The medical category fell to 1,350, dealers to

to 452, and producers to 174; while the research category rose to 26 and importers and manufacturers rose to twenty. During the next four years the number of persons registered under the medical and dealer categories continued a sharp decline. Investigating all categories for the year 1943, every one, except producers and researchers, declined from the 1938 highs. The producer category increased enormously to 14,913 because the war cut off the usual hemp supplies from the Phillipines. Registration in the medical category ceased altogether in 1944. The law had effectively halted the medicinal use of cannabis.[3]

The Bureau of Narcotics continued its education programs. In the 1938 publication of the pamphlet, Traffic in Opium and Other Dangerous Drugs, Bureau officials wrote that continued widespread dissemination of education material "forcibly" brought to public notice the "pernicious" effects of marihuana and the necessity for its eradication.[4] In that same pamphlet, moreover, excerpts from narcotics reports submitted to the Interstate Commission on Crimes were published. These passages stressed that the nation-wide education campaign should be directed only to adults and that the publicity on marihuana should be "tempered to conform to the factual problem" since the drug "is not used by young people as widely as indicated in various parts of the country." The commission also pointed out that the defense of many criminals, alleging to be under the influence

of marihuana, was without foundation and was used with the idea of obtaining lenient treatment by the courts.[5]

The Bureau adopted the stand of the crime commission and called for the end of sensational news reporting. Such news, it contended, only invited experimentation from young people.[6] Nevertheless, Angslinger still could write an article for the Scientific American entitled "Marihuana More Dangerous than Heroin or Cocaine" in which he described the degenerating effects of hemp--lack of moral restraint, lunacy and the commission of crime--giving many examples.[7] Narcotics officers delivered over one hundred and fifty addresses to adult groups which had requested information about marihuana. No addresses were given to young people.[8]

The Bureau commended Judge Foster Symes for making the following remarks when imposing maximum sentences on two marihuana peddlers in Denver, Colorado: "I consider marihuana the worst of all narcotics--far worse than the use of morphine or cocaine. Under its influence, men become beasts, just as was the case with Baca [one of the defendants who had beaten his wife], Marihuana destroys life itself...."[9] It seems that the Bureau had done its job very well.

Various groups such as the National Women's Christian Temperance Union and numerous parent-teacher organizations continued efforts to inform the public about illicit use of marihuana. The General Federation of Women's Clubs pushed for the adoption of the uniform narcotics code. It suggested that special state enforcement agencies be set up to

aid in the enforcement of narcotics laws. States were urged to make marihuana education part of their high school curriculums.[10]

The circulation of rumors, claiming widespread marihuana smoking among large segments, including the young people, of the New York City population in 1938, led Mayor Fiorello H. La Guardia to seek the advice of the New York Academy of Medicine on the effects and the general use of marihuana. La Guardia disclosed that he believed marihuana to be relatively harmless. On the academy's recommendation, the mayor appointed a special committee to make a thorough sociological and scientific investigation of marihuana use in the city of New York. The committee did not finish its report until 1944.[11]

The findings of the commission both validated and disputed many of the effects which had been attributed to the use of marihuana. They destroyed, however, the most damaging claims used to suppress the drug. The commission reported that marihuana was not the determining factor in the increase of major crime rates. It further concluded that reefer smoking was not widespread among school children and that juvenile delinquency was not associated with the practice of wmoking marihuana. These findings, although limited to the state of New York, indicated that much of the publicity concerning the catastrophic effects of the drug was unfounded.[12] Commission findings, on the other hand, validated some of the claims used in the campaigns against cannabis. They

revealed that the distribution and use of marihuana was centered in Harlem, mainly among its Negro and Latin-American citizens. They supported Anslinger's claims that the use of the drug did not lead to morphine, heroin or cocaine addiction and that no conscious efforts were made to create a market for these narcotics by stimulating the practice of marihuana smoking.[13] All of these findings suggested that marihuana use was not the menace that the Bureau of Narcotics held it to be.

Other conclusions of the commission dealt with the reasons for and the distribution of smoking hemp. The members found that the sale and distribution of marihuana was not under the control of any single organized gang. They also concluded that most individuals used the drug merely because of its conscience-expanding effects; it rendered them definite feelings of adequacy.[14] In light of this assertion, one could infer that marihuana consumption was a "crutch" allowing certain individuals to temporarily escape from the pressures of real society.

Although the commission found that the practice of smoking marihuana did not lead to addiction in the medical sense of the word and that its moderate use was not harmful, it did point out that excessive use of the drug could be dangerous.[15] Many proponentss of marihuana consumption unfailingly alluded to the commission's assertion that moderate use of the drug was not harmful; but these same people failed to emphasize that excessive marihuana use could lead

to mental and physical deterioration.[16]

The La Guardia report was immediately attacked by the Bureau of Narcotics and the editors of the Journal of the American Medical Association. The Bureau criticized the La Guardia committee for using only seventy-seven patients in its experiments. It also pointed out that the use of prison inmates under ideal clinical conditions did not accurately portray the actual conditions under which marihuana was smoked.[17] Refuting the commission's claim that cannabis use was not harmful, Anslinger cited statements of two thousand marihuana users that confirmed that hemp caused moral and mental deterioration.[18]

Anslinger's reliance upon the statements of professed marihuana users to support his stand was questionable. It was well known that many criminals used as a defense the insistence that use of the drug had rendered them not responsible for their actions.[19] Thus, it was most expedient for a prisoner to agree that marihuana had led him to a life of crime.

The American Medical Association, which did not endorse the popular use of marihuana and had only opposed the federal marihuana tax because it usurped a state regulating power and stifled cannabis research, reacted negatively to the La Guardia report. The editors of JAMA charged that the La Guardia committee had submitted analysis based on an "unscientific foundation" and had drawn "sweeping" and "inadequate" conclusions to minimize the harmfulness of the drug. They

charged that the report was detrimental to society; one youth, for example, had begun to smoke marihuana after reading it. A criminal lawyer for marihuana drug peddlers had used the report as a basis from which to argue that the defendants should be set free. Concluding that the report had inflicted much damage upon law enforcement, the editors urged public officials to continue to regard marihuana as a menace to society.[20]

The impact of the La Guardia report was also offset by findings in foreign countries, which the Bureau of Narcotics actively made available. In July of 1939, an Indian medical researcher, Menaires, concluded that the smoking of hemp drugs brought about states of intense intoxication as the result of action on the higher centers of the brain. If the abuse was continued for a considerable period of time, Menaires pointed out, mental derangement could result. Dr. Jules Bougquet, of the hospital in Sadiki Tunis, Tunisia, wrote a response to the conclusions drawn by the La Guardia Commission. He argued that the members could not have reached these conclusions if they had examined the people habituated to hashish in India.[21]

The Bureau also published the findings of hemp experiments conducted in India by R.N. Chopra, the recognized expert on narcotics. It emphasized that Chopra's deductions refuted the findings of the La Guardia Committee. Chopra, like Menaires, had concluded that the smoking of hemp drugs brought about a state of intense intoxication by

affecting the higher centers of the brain and that continued abuse would result in mental deterioration. But the Bureau failed to point out one of the main themes of Chopra's article--that if the drug was taken in moderation, there were no physical effects. It is interesting to note that the doctor contended that excessive consumption was more harmful to the individual than to the society as a whole. He, moreover, held that alcohol was more dangerous than hemp preparations.[22]

Another article cited by the Bureau of Narcotics held marihuana to be an addictive narcotic. In the December, 1941 edition of the magazine, War Medicine, results of an army study of thirty-five heavy hemp users were published. Stressing that marihuana "addicts" displayed self-destructive tendencies after withdrawal of the drug, the article pointed out that the "addicts" were not able to endure without the drug. It was also reported that the marihuana users had criminal tendencies.[23] Although it had attacked the La Guardia study since only 77 patients were examined, the Bureau praised this report when only thirty-five subjects had been tested. It appears that the Bureau was willing to use double standards in its efforts to justify its position.

In 1938, the Bureau of Narcotics reported that its strict enforcement of the Marihuana Tax Act and its education program had "unquestionably" discouraged any attempt to organize illicit cannabis traffic on a large scale and

that marihuana was not generally handled by well-organized distributing syndicates.[24] The La Guardia report confirmed this report for, at least, the New York City area. However, in 1944, the Bureau recognized that four gangs were supplying the marihuana users in New York.[25] Gangs, although not the only suppliers, had gained control over a large part of the marihuana traffic. The Bureau admitted that marihuana traffic was becoming an increasingly serious problem. Cannabis was being smuggled in great quantities from Mexico and through the Atlantic ports.[26] Hashish was being smuggled in from the East. The Tax Act had not fulfilled its purpose; it had not suppressed marihuana use. In fact, organized syndicates had found another lucrative source for illegal activities.

A special Senate committee set up in 1951 to investigate organized crime in interstate commerce was informed of an increase of marihuana use by blacks. It was also told of a connection between heroin dealers and sellers of marihuana.[27] The latter contention was repeated at Senate hearings on the federal criminal code in 1955. At this hearing, Narcotics Commissioner Anslinger, responding to questions about reports that marihuana was not as dangerous as the Bureau contended, declared that the real danger of marihuana is that its use led to the use of harsher drugs. Although disclaiming that all marihuana smokers went on to harsher drugs, Anslinger asserted that a great deal of heroin users had begun with marihuana.[28]

The 1955 Senate Committee was urged to pass legislation which came to grips with the sources of dissatisfaction which led to marihuana use. The Deputy Mayor of New York very ably underlined this contention by declaring, "Where cynicism and demoralization are rife, it should come as no surprise that some who are weak, who have an inner need to be followers turn to drugs."[29] He urged the committee to deal with the problems of overcrowded housing and the deplorable conditions which existed in black and Latin-American communities.[30]

Bureau of Narcotics officials, noting that the penalties under the Marihuana Tax Law of 1937 had not decreased the illegal use of the drug, argued that harsher laws were needed. Many law enforcement officers suggested that a distinction should be made between sellers of drugs (pushers) and drug users. The pusher was the real criminal and should be punished accordingly.[31]

Congress responded to the pleas for better narcotics legislation by enacting the Narcotics Control Act of 1956. Under this law, marihuana was placed in the same category as opium and cocaine. Penalties for the possession of marihuana increased for each offense. For the first arrest, the defendant could be imprisoned not less than two or more than ten years and, in addition, could be fined not more than 20,000 dollars. For the second offense, the sentence could not be less than five or more than 20 years and if a fine was imposed, it could be no more than 20,000 dollars.

For the third and subsequent offenses, the sentence was not to be less than ten or more than 40 years. If marihuana was given to a person under eighteen, the penalty could be not less than ten or more than 40 years in prison. The judge could also impose a fine up to 20,000 dollars at his discretion.[32] It should be noted that no distinction was made between the drug pusher and the drug user under this act.

Arguments both for and against the use of marihuana continue. Individuals constantly articulate charges that the marihuana tax laws infringe upon individual liberty and freedom of choice. But the government's use of its taxing powers to suppress narcotics traffic has been upheld by the courts;[33] yet, the question still remains as to whether personal habits and morals can be legislated. The answers to questions concerning how policy-makers will respond to present-day demands for revision of the marihuana laws and to the prevalence of much marihuana consumption are in the process of formulation. The wheels of policy-making continue to turn. The Supreme Court has invalidated the clause of the 1937 act which held that the mere possession of marihuana without a stamp suffices as proof of possessing cannabis illegally brought into the country.[34] Many government officials now urge that penalties for hemp possession be reduced and that a distinction be made between the pusher and user of the drug.[35] It remains to be seen if this trend will persist.

A study of the forces behind the enactment of the Marihuana Tax Act of 1937 points out that the law was enacted with little knowledge of the true effects of marihuana. One can, perhaps, condemn the methods used by the Bureau of Narcotics to bring this drug under governmental control. Nevertheless, one must remember that the use of marihuana was increasing and that it was the duty of the Bureau to work for legislation to bring new drug menaces under control. Proponents of legalizing marihuana point with great disdain at the propaganda campaign launched by the Bureau to arouse public indignation toward cannabis use. However, close examination shows that publicity concerning the "evil" effects of marihuana existed long before the Bureau began its education program.

The enactment of the law points to a failure of our legislative system. Congress through its committee system is supposed to closely examine all aspects of a problem before enacting restrictive legislation. It failed to do this. No expert advice other than that given by the officials of the Bureau of Narcotics was sought. Congress conducted no search to find the causes why the use of marihuana was on the increase. Perhaps, the 81st Congress can be excused for its failure because it could not be expected to find evidence when no one or no interested group came forward to produce arguments contradicting the claims of the Bureau. Although Dr. Woodward, the AMA representative, opposed national regulation of the use of marihuana, he

never denied that its non-medical use was very harmful. No organized opposition stressing the beneficial and non-narcotic effects of marihuana appeared to testify at the congressional hearings. Given the evidence presented at the committee hearings, Congressmen had to believe that marihuana use was harmful to both man and to society as a whole; and, for this reason the drug's use should be suppressed.

Recent critics have suggested that in 1937 members of Congress should have remembered the disaster of liquor suppression which had been ended only three years and should have been very wary before enacting restricting legislation curtailing the personal use of marihuana.[36] It should be noted, however, that Congressmen did not equate marihuana suppression with the prohibition of liquor because the use of marihuana was on a much smaller scale than the use of alcohol. Alcohol consumption was a part of the national culture and was used by a large segment of the population; while marihuana use was relatively new and was enjoyed only by a small segment of the population.

The actions of the 84th Congress cannot be so easily excused. More evidence than "yellow press" reports and the testimony by officials of the Bureau of Narcotics was presented. This Congress was fully aware of the conflicting claims made about marihuana. It was aware of the social conditions which led to the use of the drug. It was aware of the argument that a difference should be made between the pusher and the user of the drug. More important, it was

aware that the intent to use the law to suppress marihuana had failed. In fact, eradication of the hemp plant in the United States had brought about a situation in which stronger strains of hemp were being smuggled in from Mexico and some countries of the Near-East. The harsh penalties had not detered users as had been expected. Furthermore, the number of users increased significantly. Yet, Congress refused to acknowledge failure of the Act. Instead it sought by enacting harsher penalties to carry out its original intent to suppress marihuana use. It refused to reassess the original views surrounding the use of the drug. It refused to acknowledge the vital difference between the seller and the user of the drug. The following statement of Senator Price Daniels of Texas clearly points out the mood of Congress: "In other words, there is absolutely no legal use for the smoking part of marihuana, no legal use known to man."[37] Congress was willing to consider only the legality of the use of the drug as established under the 1937 Marihuana Tax Act. It refused to acknowledge all other factors.

If marihuana is dangerous, research should be carried out to prove this contention. Yet, the excessive regulations set up by the Bureau of Narcotics greatly hinder experimentation. Because of the confusing claims about the effects of the drug, many Americans refuse to believe that any harm can arise from the use of cannabis. If marihuana use is to be suppressed, people must be convinced that it can do harm.

CHAPTER NOTES

Chapter I

[1]Bureau of Narcotics, Treasury Department, Traffic in Opium and Other Dangerous Drugs for the Year ending December 31, 1937 (Washington: Government Printing Office, 1938), p.1.

[2]In the United States the accepted difference between marihuana and opium and its derivatives--heroin, cocaine and morphine--is that while opium is habit-forming and withdrawal results in severe physical reaction, marihuana discontinuous has no physical effect. See Narcotics and Hallucinogenics, John B. Williams ed. (Beverly Hills, California: Glencoe Press, 1967), p. 140.

[3]Norman Taylor, "The Pleasant Assassin: The Story of Marihuana," Marihuana Papers. ed. David Solomon (New York: The Bobbs-Merrill Company, Inc., 1966), p. 39.

[4]Williams, Narcotics and Hallucinogenics, pp. 140-41.

[5]Ibid., pp. 141-42.

[6]See Dr. Howard S. Becker, Outsiders, (Beverly Hills, California: Glencoe Free Press, 1963), Chapter 7; Andrew Sinclair, Prohibition: An Era of Excess (New York: Harper and Row Publishers, 1962); and Daniel Bell, "Interpretations of American Politics," The Radical Right, Anchor Books (Garden City, New York: Doubleday & Company, Inc., 1964), pp. 61-64.

[7]Becker, Outsiders, pp. 135-136.

[8]This account given in the Sept. 26, 1969 issue of Time magazine may be too high. Dr. Stanley Yolles of the National Institute of Mental Health has set the figure at 12 million. See Youngstown Vindicator, September 9, 1969, p. 26.

[9]Time, loc, cit.

[10]For a complete discussion of the United States participation in international narcotics control, see Peter D. Lowes, The Genesis of International Narcotics Control (Geveve, Switzerland: Librarie Droz, 1966).

[11]Ibid., p. 94.

[12]Ibid., p. and see James Hurley, "The Narcotic Problem: Federal Control," Cornell Law Quarterly 13 (1927), p. 627.

[13]Harry J. Anslinger, The Protectors (New York: Farrar, Straus and Company, 1964), p. 17. Bureau of Narcotics, The Department of the Treasury, Traffic in Opium and Other Dangerous Drugs for the Year Ending December 31, 1937, p. 275; Bureau of Internal Revenue, The Treasury Department, Compilation of Treasury Decisions (Washington, D.C.: Government Printing Office, 1917); and Howard Becker, "The Marijuana Tax Act," Marihuana Papers, p. 58.

[14]Lowes, The Genesis of International Narcotics Control, p. 107.

[15]Ibid. and see footnote 11 supra.

[16]Lowes, International Narcotics Control, pp. 41-88.

[17]Ibid., p. 88.

[18]Ibid., pp. 102-106.

[19]Ibid., p. 176.

[20]Ibid., p. 101.

[21]Anslinger, The Protectors, loc. cit. and Lowes, International Narcotics Control, p. 187.

[22]Ibid., p. 173.

[23]Ibid.

[24]S.H. Bailey, The Anti-Drug Campaign, (London: P.S. King & Sons, Ltd., 1936), pp. 37-39.

[25]See Marihuana Tax Act of 1937, 50 Statutes 551 (1937).

[26]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year Ending December 31, 1930, p. 24.

[27]Taylor, "The Pleasant Assassin," Marihuana Papers, p. 34, and Williams, Narcotics and Hallucinogenics, p. 140.

[28]David Solomon, "The Marihuana Myths," Marihuana Papers, pp. xii-xiv; Mayor's Committee on Marihuana, The Marihuana Problem in the City of New York; "The Sociological Study," Marihuana Papers, pp. 230-40; and George Melvin

Herndon, "The Story of Hemp in Colonial Virginia" (Microfilm: Ph.D. dissertation, University of Virginia, 1959), pp. 1-3.

[29]There are many varying accounts of the advent of the use of hemp for its intoxicating effects in the East. Some date it as early as three thousand years before Christ while others date it as late as the tenth century. The Mayor's Committee on the Marihuana Problem in New York accepts the latter date.

[30]The use of hemp was incorporated into the religious ceremonies in many Eastern countries. Hemp was used as an important medicine in China. See Dr. Norman Tylor, "The Pleasant Assassin: The Story of Marihuana," Marihuana Papers, pp. 35-36.

[31]W. Reininger, "The Use of Hashish in a Cult," Marihuana Papers, p. 142.

[32]Mayor's Committee, The Marihuana Problem in the City of New York, p. 240; Theophile Gautier, "The Hashish Club," Marihuana Papers, pp. 121-26; and Charles Baudelaire, "An Excerpt from the Seraphic Theater," Marihuana Papers, pp. 136-146.

[33]Gautier, "The Hashish Club," Marihuana Papers, p. 166.

[34]"Hashish: and the Five Narcotic Drugs," Ecletic Magazine 43 (1858) New York, p. 307.

[35]Ibid. See also Bayard-Taylor, "The Vision of Hashish," Putnam's Magazine 111 (1853), pp. 102, 108; "Hashish Eating," Ecletic Magazine 122 (1894), pp. 821-823; Shirley Hibbird, "Experiences of Hashisch," The Intellectual Observer (1863), pp. 346-347; H.H. Kane, "Hashish House in New York," Harpers 67 (1883), pp. 944-947; and E.W. Scripture, "Consciousness under the Influence of Cannabis," Science (October 27, 1893), pp. 233-34.

[36]The articles cited in footnote 28 point this out. See particularly "Hashish: and The Five Narcotic Drugs," loc. cit.

[37]Military Surgeon 17 (1933), p. 273 and Richard H. Blum & Associates, Society & Drugs (San Francisco: Jassey-Bass, Inc., Publishers, 1969), p. 69.

[38]John James Baker, "The Reports on Opium and Hemp," The Spectator 74 (1895), 571.

[39]Blum, Society & Drugs, loc. cit.

[40]"Marihuana Menaces Youth," Scientific American 154 (March, 1936), p. 150; Alfred Henry Lewis, "Marihuana: 'Wolfville,'" Cosmopolitan 55 (1913), p. 645; and Mayor's Committee on Marihuana, The Marihuana Problem in the City of New York, p. 286.

[41]Ibid., p. 241.

[42]"Facts and Fancies about Marihuana," Literary Digest 122 (1936) p. 8 and "Marihuana Menaces Youth," Scientific American loc. cit.

[43]U.S. Congress, House, Committee on Ways and Means, Taxation of Marihuana, Hearings, before a subcommittee of the Committee on Ways and Means, House of Representatives, on H.R. 6385, 75th Cong., 1st session., 1937.

[44]States which had restrictive marihuana legislation are as follows: Arkansas, Colorado, Idaho, Iowa, Kansas, Louisiana, Maine Massachusetts, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, Ohio, Rhode Island, Texas, Utah, Vermont, Washington and Wyoming. See Surgeon General of the United States Public Health Service, State Laws Relating to the Control of Narcotic Drugs (Washington, D.C.: Government Printing Office, 1931), pp. 6-307.

[45]Ed Reid, Mafia (New York: Random House, 1952), p. 60; Anslinger, The Protectors, pp. 16, 20; and Ohio Legislative Service Commission, "Drug Abuse Control," 86 (March, 1967) p. 10.

[46]William MacAddo, "Narcotic Drug Addiction as it Really Is," Saturday Evening Post 95 (March, 1931), p. 108; "Narcotic Scandal," Literary Digest 86 (April 29, 1925), p. 11; and Anslinger, The Protectors, loc. cit.

[47]"Our Hasheesh Crop," Literary Digest, p. 64.

[48]Bureau of Narcotics, U.S. Treasury Department, Traffic in Opium and Other Dangerous Drugs for the Year Ending December 31, 1931 (Washington: Government Printing Office, 1932), p. 51.

Chapter II

[1]U.S. Congress. Senate. Committee on Finance. Establishment of a Bureau of Narcotics in the Treasury Department. Report of the Committee on Finance, on Sen. 798, 71st Cong., 2nd sess., 1930, p. 7 and U.S. Congress. House. Committee on Ways and Means, Hearings on the Bureau of Narcotics, on House 10561, 71st Cong., 2nd sess., 1930,

pp. 10-19.

[2]Ibid., pp. 22, 35.

[3]Ibid., pp. 79-81.

[4]Ibid., p. 2.

[5]Harry J. Anslinger and Will Oursler, The Murderers (New York: Farrar, Straus, and Chuday, 1961), p. 8 and "Harry J. Anslinger," Current Biography (1948), p. 20.

[6]Ibid.

[7]Ibid., pp. 20-21.

[8]"Illicit Drug Traffic," Federal Bar Association Journal (November, 1935), pp. 208-209; "Uniform State Narcotic Laws," Federal Bar Association Journal (October, 1932), pp. 55-56; and U.S. Treasury Department, Protection Against Habit Forming Drugs (Washington: Government Printing Office, 1940).

[9]Harry J. Anslinger and William F. Tompkins, Traffic in Narcotics (New York: Funk and Wagnalls Company, 1953) pp. 156-158.

[10]Ibid., p. 57-58.

[11]National Conference of the Commission on Uniform State Laws, Uniform Narcotic Drug Act (Washington: Government Printing Office, 1932), pp. 4-5; and "Uniform State Narcotic Laws," Federal Bar Association Journal, p. 56. The following professional groups supported the Act: American Medical Association, American Pharmaceutical Association, American Mental Association, American Drug Manufacturers Association, American Hospital Association, American Veterinary Association, National Association of Retail Druggists, Federal Wholesale Druggists Association, Manufacturing Chemist Association, and the Proprietary Association. See Traffic in Opium and Other Dangerous Drugs for 1932, p. 13.

[12]National Conference, Uniform Narcotic Drug Act, p. 5.

[13]Uniform State Narcotic Laws, Federal Bar Association Journal, loc. cit. and Traffic in Opium and Other Dangerous Drugs for the Year 1932, p. 43. Louis Ruppel, Deputy Commissioner, minimized in 1934 marihuana use amoung children. He suggested that some men running for office were blowing up the issue as a campaign measure. Louis Ruppel, "On the Narcotics Trail," Christian History 40 (May, 1934), pp. 183-184.

[14]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for 1936, pp. 67-68; H.J. Anslinger, "Marihuana More Dangerous than Heroine or Cocaine," Scientific American 158 (May, 1938), p. 293; see also H.J. Anslinger with Courtney R. Cooper, "Marihuana: Assassin of Youth," American Magazine CXXIV (July, 1937), pp. 18-19.

[15]Anslinger, "Marihuana More Dangerous than Heroin or Cocaine," loc. cit.

[16]Excerpts from Robert Petrie Walton, Marihuana: America's New Drug Problem cited in Marihuana Papers, pp. 448-454.

[17]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year Ending in 1936, p. 68.

[18]U.S. Congress, House, Ways and Means Committee hearing on Taxation of Marihuana, p. 31 and New York Times, Feb. 21, 1937, p. 25.

[19]Information cited in Alfred Ray Lindesmith, The Addict and the Law (Bloomington: Indiana University Press, 1965), pp. 228-233.

[20]U.S. Congress, House, Ways and Means Committee hearing on Taxation of Marihuana, pp. 32-33.

[21]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for 1931, pp. 50-51.

[22]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for 1933, pp. 36-37.

[23]Ibid., p. 35; for 1934, p. 41; for 1935, p. 34; and for 1936, pp. 60, 66-67.

[24]Donald T. Dickson, "Bureaucracy and Morality: An Organizational Perspective on a Moral Crusade," Social Problems (Fall, 1968), pp. 153-156.

[25]Ibid., p. 155.

[26]Ibid. See also Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year Ending in 1938, pp. 80-81.

[27]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year Ending in 1936, pp. 14, 76-77.

[28]U.S. Congress, House, Ways and Means Committee hearing on the Marihuana Tax Act, p. 5. Hester cited the following Washington newspapers: Washington Times, Washington

Post and the Washington Herald.

[29]U.S. Congress, House, Ways and Means Committee on the Taxation of Marihuana, pp. 5-7.

[30]Ibid., pp. 7-13.

[31]Ibid., pp. 18-33. Anslinger presented a formidable array of material most of which was based on newspaper items or surveys. The most impressive document was a report of Dr. Frank Gomila, the New Orleans Commissioner of Public Safety, which surveyed criminal acts occurring under the influence of marihuana. Gomila concluded that 125 out of 450 major crimes in New Orleans in 1935 were committed by marihuana users.

[32]Ibid.

[33]U.S. Congress, Senate, Committee on Judiciary. Hearing of Subcommittee on Improvement in Federal Criminal Code, Illicit Narcotics Traffic. Part 1, 84th Congress, 1st sess., 1955, p. 16.

[34]U.S. Congress. Senate. Committee on Interoceanic Canals. Control of Marihuana. Report of Mr. Clark of Mississippi on Sen. 1663, 77th Cong., 2nd sess., 1942.

[35]U.S. Congress, House, Ways and Means Committee hearing on the Marihuana Tax Act, pp. 85-86.

[36]Ibid., p. 90.

[37]Ibid., p. 38.

[38]Ibid., p. 93.

[39]Ibid., p. 95.

[40]Ibid., pp. 96-97.

[41]See footnotes 25 and 28 supra.

[42]U.S. Congress, House, Ways and Means Committee hearing on the Marihuana Tax Act, p. 92.

[43]Ibid., pp. 103-106.

[44]U.S. Congress, House, Committee on Ways and Means, Report of the Marihuana Taxing Bill. House 792, 75th Congress, 1st sess., 1937, p. 3.

[45]Ibid.

[46]Ibid.

[47]Ibid.

[48]Ibid.

[49]U.S. Congress, House, Committee on Ways and Means, Hearing on the Taxation of Marihuana, p. 117.

[50]House of Representatives, Congressional Record, 193 June 11, 1937, p. 7625.

[51]Marihuana Tax Act of 1937, August 2, 1937, Public no. 238.

[52]Ibid.

[53]Ibid.

[54]Bureau of Narcotics, U.S. Treasury Department, Regulations Relating to the Importation, Manufacture, Production, Compounding, Sale, Dealing in, Dispensing, Prescribing, Administering, and Giving Away of Marihuana under the Act of August 2, 1937. Federal Register, (Oct., 1937), pp. 2054-2065.

[55]Ibid., p. 2058.

[56]Ibid., p. 2059.

[57]Leary v United States 395 U.S., pp. 21-22.

[58]Bureau of Narcotics, Regulations Relating to Marihuana, Federal Register, p. 2058.

[59]Ibid., pp. 2060-2061.

[60]Ibid., p. 2062.

[61]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year Ending 1938, p. 59.

[62]Bureau of Narcotics, Regulations Relating to Marihuana, Federal Register, loc. cit.

[63]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year Ending 1937, p. 65.

Chapter III

[1]Bureau of Narcotics, Treasury Department, Traffic in Opium and Other Dangerous Drugs for the Year Ending December 31, 1937 (Washington: Government Printing Office, 1938), p. 53.

[2]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year Ending December 31, 1938, p. 46; for 1937, p. 53.

[3]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for Year 1943, p. 46; for 1944, p. 38.

[4]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1938, p. 46.

[5]Ibid., p. 47-48.

[6]Ibid., p. 49.

[7]Harry J. Anslinger, "Marihuana More Dangerous than Heroin or Cocaine," Scientific American 158 (May, 1938), p. 293.

[8]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1938, loc. cit.

[9]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1937, p. 57.

[10]General Federation of Women's Clubs, Second Triennial Convention, (Washington, 1938), pp. 275-276. The Attorney General of Kansas, Clarence V. Beck stated over the Mutual Network the dangerous of marihuana use. See "Marihuana Menace," Literary Digest 25 (January, 1938), p. 26.

[11]Mayor's Committee on Marihuana, The Marihuana Problem in the City of New York, Marihuana Papers, David Solomon, ed., (New York: The Bobbs-Merrill Company, Inc., 1966), p. 278.

[12]Ibid., pp. 299, 307.

[13]Ibid., p. 307.

[14]Ibid.

[15]Ibid.

[16]Alfred Lindesmith serves as an excellent example. In The Addict and the Law, he stressed the relative triviality of marihuana use citing the Committee on Marihuana report, pp. 234-237.

[17]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1945, p. 11.

[18]Ibid.

[19]Reacting to advance publications of some of the New York Committee's findings, Anslinger in 1942 advanced this argument. See Bureau of Narcotics, Treasury Department, Traffic in Opium and Other Dangerous Drugs for the Year 1942, p. 33.

[20]Editorial of the Journal of the American Medical Association 127 (April 28, 1945), p. 1129.

[21]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1942, p. 3.

[22]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1943, pp. 7-8 and R.N. Chopra and I.C. Chopra, "The Present Position of Hemp-Drug Addiction in India," Indian Research Memoirs No. 31, p. 26.

[23]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1944, pp. 34-35.

[24]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1938, p. 46.

[25]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1944, p. 34.

[26]Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs for the Year 1945, p. 30.

[27]U.S. Congress. Senate. Special Committee to Investigate Organized Crime in Interstate Commerce. 82nd Congress. 1951. Part 14, pp. 15 and 144.

[28]U.S. Congress. Senate. Hearing. Subcommittee of Improvement in Federal Criminal Code. 84th Congress. 1st sess. 1955, pp. 16-18.

[29]Ibid., p. 642.

[30]Ibid.

[31]Ibid., p. 526.

[32]Amendments to Uniform Narcotics Drug Act, 70 Statutes 568 (1956).

[33]U.S. v Doremus, 249 U.S. 86(1919) and U.S. v Sanchez

340 U.S. 42 (1950). In the Sanchez case the court upheld the marihuana tax law.

[34]Leary v U.S. 395 U.S. 6 (1969).

[35]"New Move for Reform," Time 94 (October 24, 1969), p. 26.

[36]See Alfred R. Lindesmith, "Introduction," The Marihuana Papers, p. xxvii.

[37]U.S. Congress. Senate. Hearing of Subcommittee of Improvement in Federal Criminal Code, p. 17.

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