

HEMP VS. MARIJUANA: THE FEDERAL BATTLE TO CONTROL THE MEANING
OF CANNABIS

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Introduction

The American “War on Drugs” is the most expensive federal effort to assert control over the personal behavior of American citizens. In 2009 alone President Barack Obama requested a budget of \$15.1 billion for federal drug enforcement efforts for the fiscal year of 2010.¹ This international and domestic campaign to criminalize and propagandize against “drugs” was ground-breaking. Although dubbed the “War on Drugs” by President Richard Nixon in 1971, this federal drug war existed for more than half a century prior to Nixon’s declaration.² Waging a war over a social issue was a dramatic move for the United States. This innovative legal and social campaign changed the face of the nation, creating a new class of criminals, and adding to an ever increasing national debt. The roots of this “war” are found in the Harrison Narcotics Act of 1914, Prohibition, and the Volstead Act of 1919, among other laws. Despite its roots or perhaps because of them, the motives and methods of the federal government significantly changed over the course of the twentieth century. When and why did the U.S. federal government initially embark on this “War on Drugs?” When and why did it focus on cannabis? Who were the key actors in the war’s creation and perpetuation? What specific methods did the federal government use to fight this war? The U.S. “War on Drugs,” specifically the anti-marijuana campaign, was at its core a struggle by the federal government to define the meaning of *Cannabis sativa Linne*, trying to establish both the legal and cultural definition of the cannabis plant. I will discuss the evolution of the federal drug war against cannabis as well as provide a chronology of key events and laws

¹ The White House Office of Drug Control Policy, “National Drug Control Strategy: FY 2010 Budget Summary,” May 2009. accessed November 23, 2011
<http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/fy10budget.pdf>

² Martin Alan Greenberg, *Prohibition Enforcement: Charting a New Mission* (Springfield, IL: Charles C. Thomas Publisher Ltd., 1999), 196.

from the 1920s to the 1980s. My primary foci are the evolution of this “War on Drugs” between 1937 and the 1980s and the cultural metamorphosis of the American cannabis plant from hemp to marijuana. I will focus specifically on the federal government’s means and motives in this war.

Hundreds of scholars have written about the American War on Drugs, yet an analysis of evolution of the cannabis plant’s relationship with the federal government with specific focus on the government’s tactics used to change the cultural and legal definition of that plant would be a significant contribution to the current scholarly discussion. Much of the scholarship regarding the U.S. War on Drugs focuses on international drug policy; drug trafficking and foreign policy rather than U.S. domestic drug policy, which is more relevant to my lines of inquiry. Academic scholarship often couches the War on Drugs almost exclusively in terms of drug policy, interdiction, and enforcement. Therefore, the academic picture of the American drug war is filled with addicts, criminals, drug traffickers, drug schedules, and law enforcement. These fields of inquiry are not to be discounted, but drug policy is not solely represented by the criminal justice system. The anti-drug media campaign is also an instrument of policy, a weapon used to assert the legal and cultural dominance of the federal government over individuals and “pro-marijuana” state laws.

Throughout recorded history cannabis “has been extolled as one of man’s greatest benefactors--and cursed as one of his greatest scourges.”³ From mandatory hemp farming in the Jamestown colony to modern medicinal use of marijuana, the cannabis plant shares a varied and complex relationship with Americans.⁴ This simple plant with five-fingered

³ Ernest L. Abel, *Marihuana: The First Twelve Thousand Years* (New York: Plenum Press, 1980), ix.

⁴*Ibid.*, 77.

leaves symbolizes evil for some, pleasure for others, and medical help for many. Recent historical research regarding *Cannabis sativa* includes a variety of themes, including the history of marijuana, marijuana prohibition, and marijuana and media. The historiography of cannabis has its roots in medical history, domestic and international drug control policy, cultural history, anthropology, and sociology. Contemporary historians of cannabis have sought to illuminate the history of man's very complex relationship with this plant. This enterprise is complicated by the polemic nature of the topic. A fair and balanced assessment of the subject matter is integral. The goal of my study is to understand the history of cannabis in various contexts of change, to illuminate the very complexity that defines man's relationship with this plant and its duality.

One cannot discuss marijuana prohibition, however, without first examining drug prohibition in America in general, particularly in the twentieth century. The War on Drugs, after all, does not solely concern itself with cannabis. The histories of the prohibition of other substances such as alcohol, opium, heroin, and cocaine can only serve to inform and strengthen my arguments. The historiography of drug prohibition in the United States is as complex as the individual histories of the aforementioned drugs. Considering a sample of the historiography of drug prohibition in the United States will thus enable me to better understand the history of drug prohibition itself.

Prohibition of alcohol is a widely discussed subject in the historiography of drug prohibition. There are a variety of arguments that dominate the debate regarding Prohibition. One point that is almost universally agreed upon was the inevitability of the Eighteenth Amendment. Among these scholars who agree with this assertion are Peter Odegard, Paul A. Carter, Thomas R. Pegram, and Martin Alan Greenberg.

Most scholars of Prohibition also believe in the inevitability of its downfall. David Kyvig, a historian at the University of Akron, challenged this belief in his book *Repealing National Prohibition*, asserting political and social forces worked in tandem towards the repeal of the Eighteenth Amendment and that the outcome was in no way inevitable.⁵ Kyvig drew upon documents from the groups such as the Association Against the Prohibition Amendment and Women's Organization for National Prohibition Reform, exploring the influence a group of elites had on the repeal of alcohol prohibition.

Many Prohibition scholars debate over the impetus behind the Eighteenth Amendment. Most scholars agree that the temperance movement was at its heart a grassroots movement and it was this movement that spurred local, state, and finally national efforts towards banning alcohol. In *Pressure Politics: The Story of the Anti-Saloon League* Peter H. Odegard closely examined the archives of the Anti-Saloon League and one of its chief opponents, the United States Brewers' Association.⁶ Odegard was able to illustrate the various pressures that these and other similar lobbying/activist groups exerted on state and national governments regarding temperance and outright alcohol prohibition. According to Odegard, this type of pressure politics was the very reason behind Prohibition. This sociopolitical history is unique in its attempt to study the temperance movement from both sides. Typically scholarship on the movement deals primarily with the "wet" organizations or the "dry" organizations and does not attempt to analyze their connections.

According to some scholars, individual groups' interests led them to join the temperance bandwagon in hopes of furthering their individual cause in the process.

⁵ David E. Kyvig, *Repealing National Prohibition*, 2nd ed. (Kent, Ohio: Kent State University Press, 2000).

⁶ Peter H. Odegard, *Pressure Politics: The Story of the Anti-Saloon League* (New York: Octagon Books, 1966).

Among these scholars is Thomas R. Pegram. In *Battling Demon Rum* Pegram, a historian at Loyola College at Baltimore, attempted to place temperance activism in the framework of America's changing political parties and the nation's political culture.⁷ Pegram showed that temperance activists pushed for Prohibition, in part, to support their own individual issues. For instance, female reformers used the temperance movement to promote women's involvement in political life. He concluded that their rhetoric had little to no connection to the quantity of alcohol consumed.

Other scholars placed race and ethnicity firmly in the forefront of the academic discussion regarding the impetus behind Prohibition. Among these scholars is Martin Alan Greenberg. In *Prohibition Enforcement: Charting a New Mission* Greenberg placed race firmly in the center of the temperance movement, claiming that it was not so much about controlling the flow of alcohol, but controlling immigrants. His argument is a well trod argument in regards to drug prohibition in the United States as well.⁸

Many of the aforementioned arguments regarding Prohibition were themes that reappear in scholarship pertaining to narcotics and marijuana. According to many scholars in regards to narcotics, race played a key role in the legal changes regarding heroin, cocaine, and opium. Among those scholars is Diana L. Ahmad. In *The Opium Debate and Chinese Exclusion Laws in the Nineteenth-Century American West* Ahmad argued that anti-Chinese sentiment fueled the push for the ban of opium in the United States.⁹ She felt that anti-Chinese attitudes were pervasive throughout the American West in both cities and small towns. Ahmad argued that opium was an easy target for those

⁷ Thomas R. Pegram, *Battling Demon Rum: The Struggle for a Dry America, 1800-1933* (Chicago: Ivan R. Dee, 1998).

⁸ Greenberg, *Prohibition Enforcement*.

⁹ Diana L. Ahmad, *The Opium Debate and Chinese Exclusion Laws in the Nineteenth-Century American West* (Reno: University of Nevada Press, 2007).

who wanted rid of Chinese immigrants as it was perceived by the majority of Americans in the nineteenth and early twentieth century as a Chinese habit. She concluded that forces conspired to control the opium trade within U.S. borders by restricting Chinese immigration.

In *Unequal Under Law: Race in the War on Drugs* Doris Marie Provine argued that racism in American society had a significant role in “the development of punitive attitudes toward drug use and in maintaining support for harsh criminal controls.”¹⁰ She argued that “moral entrepreneurs inside and outside government have played up the dangers of drugs for at least a century tapping American racism to amplify their message.”¹¹ Provine agreed with Ahmad regarding anti-Chinese sentiment as a key element in the banning of opium in the U.S. She also asserted that cocaine was linked to racist sentiments towards blacks and marijuana was linked to racist sentiments towards Mexican immigrants. I agree with both Ahmad and Provine and will discuss the link between racism and marijuana in further chapters.

In *Forces of Habit: Drugs and the Making of the Modern World* David T. Courtwright acknowledged the role race played in stigmatizing or making substances illegal, but that was not the focus of his argument. He questioned how drugs such as tobacco, caffeine, alcohol, opium, cannabis, and cocaine were able to become part of global commerce.¹² He argued that in order to achieve this status drugs had to attract the attention of Europeans for use as a trade commodity, a medicine, or a recreational drug. These six substances were the most successful in achieving this status in the global

¹⁰ Doris Marie Provine, *Unequal Under Law: Race in the War on Drugs* (IL:University of Chicago Press, 2007), 164.

¹¹ Ibid.

¹² David T. Courtwright, *Forces of Habit: Drugs and the Making of the Modern World* (Cambridge:Harvard University Press, 2001).

marketplace. Courtwright classified opium, cocaine, and cannabis as the “little three” drugs in the global black-market and argued that these three substances are what the majority of individuals conceptualize when thinking of “drugs.”¹³ Courtwright ultimately argued that these “little three” should remain illegal. Among scholars of the War on Drugs, most seem to argue for legalization especially among scholars writing about cannabis, but Courtwright differs in this regard.

A very hotly debated topic in the historiography of drug prohibition in the United States is the prohibition of marijuana. Scholars of cannabis prohibition debate a variety of issues especially surrounding the impetus behind anti-marijuana legislation including: the involvement of race, the involvement of Harry J. Anslinger and the Federal Bureau of Narcotics, and the involvement of media. In “The Federal Prohibition of Marihuana” historian Michael Schaller looked at the legal treatment of *Cannabis sativa* through the lens of federal legislation as moral reform. He believed it, like Prohibition, was an example of moral reform. He also alleged in this political history that it “show[ed] the great power self-appointed government ‘experts,’” specifically the Federal Bureau of Narcotics, “. . . wield[ed] in shaping social legislation without regard to objective criteria.”¹⁴

In “The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition” law professors Richard J. Bonnie and Charles H. Whitebread II, detailed the various roots of the war against cannabis.¹⁵ This massive article was a sociopolitical history, which not only discussed the legal steps

¹³ Ibid., 31.

¹⁴ Michael Schaller, “The Federal Prohibition of Marihuana,” *Journal of Social History* 4, no.1 (1970):61.

¹⁵ Richard J. Bonnie and Charles H. Whitebread II, “The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition,” *Virginia Law Review* 56, no. 6 (October 1970): 971-1203.

towards marijuana prohibition, but also illuminated the connection race played in marijuana prohibition. The inclusion of race is quite notable as many scholars openly dismiss the role bigotry towards Mexicans and blacks played in making marijuana illegal.

“The History of the Marijuana Tax Act of 1937,” written by David F. Musto in 1972 is a pretty standard political history, viewing the creation of the Marihuana Tax Act from a top-down perspective, focusing on the law and the elites who created and enforced it. It provided a history of what led to the famous Tax Act. He attempted to illustrate that the Federal Bureau of Narcotics and its commissioner Harry J. Anslinger, were not solely responsible for the creation of the *Marihuana Tax Act*.¹⁶ This belief was not widely shared by other scholars of marijuana prohibition in the United States.

The Marihuana Conviction: A History of Marihuana Prohibition in the United States (1974) by Richard J. Bonnie and Charles H. Whitebread II studied “the American public policy response to marihuana.”¹⁷ This groundbreaking work detailed the creation of narcotics control in America and the demonization of marijuana. This book was the first complete history of marijuana use and its prohibition. According to Bonnie and Whitebread the passage of the 1937 *Marihuana Tax Act* condemned marijuana without a trial. The authors were careful not to make Harry J. Anslinger, the head of the Federal Bureau of Narcotics, the sole actor in the formation of the *Tax Act* and its implementation. This careful attitude makes the work noteworthy and, in part, echoes the work of David Musto in his article “History of the Marijuana Tax Act.”

¹⁶ David F. Musto. “History of the Marihuana Tax Act of 1937.” Reprinted from the *Archives of General Psychiatry* 26, no. 2 (1972): 419. May 11, 2010. http://www.mikuriya.com/s6_1.pdf

¹⁷ Richard J. Bonnie and Charles H. Whitebread II, *The Marihuana Conviction: A History of Marihuana Prohibition in the United States* (Charlottesville: University Press of Virginia, 1974), 1.

In *The Strength of the Wolf: The Secret History of America's War on Drugs*

Douglas Valentine details the history of the Federal Bureau of Narcotics. In regards to cannabis Valentine argued that Anslinger's "Reefer Madness" campaign was a necessity to save the agency and his job during the Depression. He contended that Anslinger borrowed from the advertising world of Madison Avenue and created "a need that could never be fulfilled" by launching the crusade against marijuana.¹⁸ According to Valentine, Anslinger relied on press contacts, the pharmaceutical industry, and the Christian evangelical movement to help him vilify a "rogue's gallery of undesirable minorities that appealed to traditional race and class prejudices" as marijuana users.¹⁹ The Federal Bureau of Narcotics was integral in the push for anti-marijuana legislation especially the Marihuana Tax Act.

Another work that dealt with the influence and activities of the Federal Bureau of Narcotics was "The Marihuana Tax Act" by Howard S. Becker. Agreeing with Valentine's assertions, he also argued that the FBN played a prominent role in the passage of the Tax Act. Becker asserted the FBN used a two-pronged attack by advocating state laws outlawing marijuana as well as instituting an educational campaign about marijuana's supposed evils.²⁰

Marijuana Use and Criminal Sanctions, published by Richard J. Bonnie in 1980, traced the evolution of marijuana prohibition. He divided marijuana prohibition into five phases: regional and local prohibition (1915-1931), nationalization (1932-1937), dormancy after prohibition was achieved (1938-1951), escalation when marijuana was

¹⁸ Douglas Valentine, *The Strength of the Wolf: The Secret History of America's War on Drugs* (NY:Verso, 2004), 21.

¹⁹ Ibid.

²⁰ Howard S. Becker, "The Marihuana Tax Act," Paul E. Rock, ed. *Drugs and Politics* (New Brunswick, NJ: Transaction Books, 1977), 55-66.

viewed as a stepping stone to harder drugs (1951-1965), and penalty reduction (1965-1972). This same division of marijuana prohibition can be found in Bonnie and Whitebread's previous work *The Marihuana Conviction: A History of Marihuana Prohibition in the United States*.²¹

Rhetoric in the War on Drugs: Triumphs and Tragedies of Public Relations by William N. Elwood analyzed the anti-drug rhetoric of President Ronald Reagan and President George H.W. Bush.²² He focused on presidential declarations of a War on Drugs as well as other anti-drug speeches. This book is very relevant to my thesis, but there are aspects that separate our studies. I will focus on public service announcements from the Advertising Council; whereas Elwood studied public service announcement from the Partnership for a Drug-Free America. The Advertising Council's ads were federally funded, while the Partnership for a Drug-Free America's ads were privately funded.

A final issue debated in the historiography of marijuana prohibition is whether marijuana is truly a gateway drug and where this perception came from. In *The American Disease: Origins of Narcotic Control* David F. Musto, a Yale University historian, illuminated cannabis's historical relationship with cocaine and heroin. As Musto pointed out anti-marijuana propaganda often falsely linked marijuana users with cocaine and heroin use, leading to the belief that marijuana is a gateway drug.²³ Valentine also asserted that anti-marijuana propaganda created the image of marijuana as a stepping

²¹ Richard J. Bonnie, *Marijuana Use and Criminal Sanctions: Essays on the Theory and Practice of Decriminalization* (Charlottesville, VA: The Michie Company, 1980).

²² William N. Elwood, *Rhetoric in the War on Drugs: The Triumphs and Tragedies of Public Relations* (Westport, CT: Praeger, 1994).

²³ David F. Musto, *The American Disease: Origins of Narcotic Control*, 3rd ed. (London: Oxford University Press, 1999).

stone to harder drugs such as heroin. Valentine pointed the finger directly at Harry J. Anslinger for the creation and purposeful propagation of this belief.²⁴

Most academic analyses of the American War on Drugs discuss the failings of domestic drug policy. My analysis will not judge the success or failure of drug policy, but rather explain why an anti-marijuana campaign was important to the federal government and delve into the government's motivations and methodology. In order to understand the battle over the meaning of cannabis, one must discuss the evolution of its relationship with mankind, and the "weapons of combat." The American drug war evolved significantly from 1937 to the 1980s as did the "weapons" the government used. Laws are its most visible expression, but censorship, fear-mongering, and propaganda play major roles, as well. The push-pull between agents of the federal government and portions of the American populace over the right to define cannabis played a significant role in the drug war. This battle was fought through various forms of popular culture, an analysis of which would be a highly valuable contribution to drug war scholarship. Unlike existing scholarship, which rarely mentions cultural expressions of the War on Drugs, my research will delve into the anti-drug media campaign and drug war culture more fully. When did the federally-funded anti-drug media campaign emerge? Why? Why did much of the campaign focus on marijuana instead of a generalized anti-drug media campaign? I want to reveal why and how cannabis went from being viewed as the hemp plant to marijuana and why the federal government wants to keep it that way.

In the following chapters I will examine various aspects of marijuana's relationship with the federal government. Chapter One is a chronological history of cannabis in the United States from colonial era to 1937, illustrating that the cultural

²⁴ Valentine, *The Strength of the Wolf*, 21.

definition of cannabis was hemp prior to 1937. A discussion of the beginning of the War on Drugs with the Harrison Narcotics Tax Act of 1914 will significantly add to the reader's understanding of roots of the war and its eventual focus on cannabis. Of particular note will be a discussion of the passage of the Marihuana Tax Act of 1937.

In Chapter Two I will focus on marijuana in the late 1930s through the 1950s. In an attempt to illuminate the complex and sometimes contradictory relationship the federal government had with marijuana, I will discuss *Reefer Madness*, *Hemp for Victory*, and anti-drug pulp fiction. In continuing to provide the reader with a chronology of marijuana's history in the United States, I will discuss the LaGuardia Report of 1944 and the Boggs Act of 1951, both key events in the War on Drugs.

In Chapter Three I will focus on marijuana in the 1960s through the 1970s. I will discuss the continued government campaign against marijuana, paying particular attention to presidential participation in the War on Drugs. Of particular note will be a discussion of *Leary v. United States* and the Comprehensive Drug Abuse Prevention and Control Act of 1970, both key events, which dramatically affected the legal status of marijuana.

In Chapter Four I will focus particularly on marijuana in the late 1970s and 1980s. I will examine the multi-state decriminalization of marijuana as well as Jimmy Carter's push for federal decriminalization. In the 1980s I will analyze the founding of a federally-funded anti-drug media campaign, Just Say No, and the Reagan era's impact on the status of cannabis in American society. I will include a discussion of the government's successes regarding its definition of cannabis.

Chapter One: From Hemp to Marijuana

“Of all the plants men have ever grown, none has been praised and denounced as often as” *Cannabis sativa*. This hardy plant is “an adaptive and highly successful annual found growing throughout the temperate and tropical zones of the world,” which can be cultivated for hemp, seed, or marijuana.²⁵ Hemp comes from the fibrous stalk of the plant and can be made into rope, twine, carpet thread, yarn, sail cloth, oakum, oil, canvas, linen, and paper.²⁶ Cannabis seeds can yield a valuable, quick drying oil and can be used as sustenance for birds.²⁷ Marijuana is an intoxicant, which comes from the cultivation of the resinous buds or flowers of the cannabis plant. The dual nature of this plant led to its complex relationship with mankind and with Americans specifically.

To a contemporary American this fact may seem extraordinary, but the hemp crop was an established part of the American agrarian landscape well before the birth of this nation.²⁸ In fact, George Washington was a hemp farmer. While *Cannabis sativa* has deep roots in American history, the plant has undergone a dramatic ideological transformation since Washington first sowed hemp seeds in 1766 in his fertile Virginian fields.²⁹ *Cannabis sativa* was once a common and desirable crop in the North America. In 1781 Thomas Jefferson referred to hemp as a “staple commodity,”³⁰ yet less than two hundred years later it was officially a “forbidden” plant.³¹

²⁵ Martin Booth, *Cannabis: A History* (New York: St. Martin's Press, 2003), 1.

²⁶ John H. Garland, “Hemp: A Minor American Fiber Crop,” *Economic Geography* 22, no. 2 (April 1946): 126.

²⁷ Bonnie and Whitebread, *The Marihuana Conviction*, 1.

²⁸ Michael Pollan, *The Botany of Desire: A Plant's Eye View of the World* (New York: Random House Trade Paperbacks, 2002), 131.

²⁹ George Washington, “Sowing and Harvesting,” *The Diaries of George Washington*. vol. 2, ed. Donald Jackson (Charlottesville: University Press of Virginia, 1976), 1.

³⁰ Thomas Jefferson, *Notes on the State of Virginia* (Boston, MA: Lilly and Wait, 1832), 39.

³¹ *Marihuana Tax Act*, Public Law 238, 75th Congress, Session 1 (August 2, 1937).

What caused this transformation? At the heart of it was a struggle between members of the American public and agents of the federal government to define *Cannabis sativa* in their own terms. In the case of cannabis, a significant portion of the American public held deeply rooted beliefs about the uses and value of that plant, which will be illustrated throughout this chapter. In the early twentieth century the federal government challenged those longstanding views with the Marihuana Tax Act of 1937, which legally reclassified cannabis as an “illegal” drug and failed to make any true distinction between cultivating hemp and growing marijuana.³² Did this legal transformation alter traditional American views of the plant? What means did the government use to reinforce its definition of cannabis and why? Before one can explore the answers to these questions one must understand the genesis of the traditional definition of cannabis as well as the origin of the “new” definition. To understand what a radical departure it was one must first illuminate the “new” definition against the greater historical backdrop of humanity’s relationship with *Cannabis sativa* Linne.

A Brief Global History

The emergence of hemp farming in the United States was not spontaneous; rather it was a result of man’s longstanding relationship with *Cannabis sativa* Linne. Humanity’s complex co-evolutionary relationship with cannabis began over 10,000 years ago, making it one of the first domesticated plants.³³ The first recorded human contact with cannabis occurred in ancient China on the island of Taiwan.³⁴ Man subsequently spread cannabis across the planet from Asia to Africa, then to South America, Europe (by

³² Ibid.

³³ Pollan, *The Botany of Desire*, 157.

³⁴ Michael Pollan. “Cannabis Forgetting and the Botany of Desire,” February 7, 2008
<http://www.youtube.com/watch?v=QeCra-sn0dI>

500 A.D.), and North America.³⁵ For centuries preceding the colonization of the Western hemisphere, *Cannabis sativa* was a common crop in Europe and Africa.

Throughout the history of mankind's relationship with cannabis, people cultivated this plant for a wide variety of reasons including: as paper, cloth, rope, as an intoxicant (Indian hashish), and as medicine. In China, Africa, and the Middle East many of the earliest documents appeared on hemp paper. In fact "up until the last century, hemp was one of humankind's only sources of paper and cloth."³⁶ The stalk of the hemp plant was also renowned for its fibers, which could be woven into some of the strongest rope man ever used.³⁷ In 1533 due to the British navy's need for cordage and canvas, King Henry VIII demanded that "for every sixty acres of arable land a farmer owned; a quarter acre was to be sown with hemp."³⁸ For centuries, cultures in Asia associated cannabis with intoxication, but this "forbidden" knowledge was uncommon in the Western world, especially in North America prior to the twentieth century. Before the sixteenth century, people in the Western world commonly used cannabis based folk remedies.³⁹ Midwives, healers, and witches used cannabis to treat a wide variety of ailments including:

alcohol withdrawal, anthrax, asthma, blood poisoning, bronchitis, burns, [the pain of] childbirth, convulsions, coughs, cystitis, delirium, depression, diarrhea, dysentery, dysmenorrhea, epilepsy, fever, gout, inflammation, insomnia, jaundice, lockjaw, malaria, mania, menorrhagia, migraine, morphine withdrawal, neuralgia, palsy, rheumatism, scalds, snakebites, swellings, tetany, toothache, uteral prolapse, and whooping cough.⁴⁰

³⁵ "Marijuana," *Encyclopaedia Britannica*, 2010. Encyclopaedia Britannica Online, April 25, 2010. <http://search.edb.com/ebc/article-9371320>

³⁶ Pollan, *The Botany of Desire*, 157.

³⁷ Ibid., 128-131.

³⁸ Abel, *Marihuana*, 73.

³⁹ Pollan, *The Botany of Desire*, 174.

⁴⁰ James A. Duke. *Handbook of Energy Crops*, May 11, 2010.

[http://www.hort.purdue.edu/newcrop/duke_energy/Cannabis_sativa.html#Folk Medicine](http://www.hort.purdue.edu/newcrop/duke_energy/Cannabis_sativa.html#Folk%20Medicine)

As the study of medicine as a science emerged in the Western world, cannabis moved from folk remedy to scientifically embraced medicine. A “Swiss alchemist and physician named Paracelsus,” also known as the “father of medicine,” introduced plants like cannabis into the science of medicine.⁴¹ During the seventeenth, eighteenth, and nineteenth centuries cannabis was openly accepted by the European and American medical communities as a plant with many medicinal benefits. Well before the colonization of the Americas, cannabis had a lengthy and relatively positive relationship with mankind.

In the 1600s British colonists brought domesticated *Cannabis sativa* seeds to North America as the New World provided fertile land on which to grow hemp. However, the colonists were not the first to use cannabis in these “new” lands. In the seventeenth century colonists encountered many Native American tribes who utilized wild hemp for fiber and medicine, among them the Tuscarora Indians.⁴² In fact “their name derives from an Iroquoian term for ‘hemp gatherers.’”⁴³ Historically, “in the subsistence agriculture of much of early America” Euro-Americans cultivated *Cannabis sativa* for agricultural purposes, specifically for its fiber and seed.⁴⁴ Although primarily grown for cordage from the 1630s to the 1800s, hemp was accepted as legal tender even for taxation.⁴⁵ On August 16, 1619, the first colonial legislative assembly in Jamestown, Virginia, enacted legal measures to guarantee the agricultural success of the colony. The colonists’ discourse regarding hemp and flax led the assembly to proclaim that “we do

⁴¹ Pollan, *The Botany of Desire*, 174.

⁴² “Tuscarora,” *Encyclopaedia Britannica*, 2006. Encyclopaedia Britannica Online, April 25, 2010. <http://search.eb.com/eb/article-9073896>

⁴³ *Ibid.*

⁴⁴ Garland, “Hemp,” 126.

⁴⁵ V.S. Clark, *History of Manufacture in the United States* (New York: McGraw Hill, 1929), 34.

require and enjoine all householders of this Colony [to] make a trial thereof the nexte season,” thus legally mandating the cultivation of cannabis.⁴⁶ To the citizens of Jamestown the cultivation of hemp was not merely an acceptable agricultural endeavor; it was their civic duty.

As colonists fanned out across the North American continent, so too did the practice of cultivating cannabis. “From Virginia and Pennsylvania, the industry had spread from Kentucky by 1775 and from there to Missouri by 1835.”⁴⁷ On a lesser scale, hemp was also farmed in the late nineteenth century in California, Illinois, Indiana, Iowa, and Nebraska. On the other hand, cultivation of the cannabis plant for its seeds, specifically for hemp seed oil, was centered, for the most part, “in the Kentucky and Illinois River valleys.”⁴⁸

In 1777 the American Philosophical Society in Philadelphia extolled the virtues of *Cannabis sativa* as “one of the most profitable productions the earth furnishes in northern climates” and “worthy of the serious attention . . . of the northern colonies, of every trading man, and of every man, who truly loves his country.”⁴⁹ In 1789 the Society, whose membership included such famous American patriots as (founding member) Benjamin Franklin, John Adams, Alexander Hamilton, James Madison, Thomas Jefferson, and George Washington, published a pamphlet regarding the proper techniques to guarantee an abundant hemp crop.⁵⁰ This publication provided valuable information to yeoman farmers and encouraged them to find fiduciary success with hemp cultivation. To

⁴⁶ Susan Myra Kingsley, ed. *Records of the Virginia Company, 1606-1626*, Vol. III (Washington, D.C. Government Printing Office, 1933), 166.

⁴⁷ Bonnie and Whitebread, *The Marihuana Conviction*, 3.

⁴⁸ *Ibid.*

⁴⁹ Edward Antil, “Observation of the Raising and Dressing of Hemp.” *Transactions of the American Philosophical Society*, Vol. 1, 2nd edition, corr. Philadelphia: American Philosophical Society (1789): 267-73.

⁵⁰ American Philosophical Society, April 25, 2010. <http://www.amphilsoc.org/about>

an American farmer prior to the early twentieth century, *Cannabis sativa* was hemp, an agricultural product meant for industrial use.

Many notable political figures, among them George Washington and Thomas Jefferson, followed the advice promulgated by the American Philosophical Society and grew hemp. On March 22, 1766 George Washington wrote in his farming diary that he “began to sow Hemp (adjoining the Lane going to Mrs. Wades) at Mill . . . sowed as far as a stick drove into the Ground.”⁵¹ Washington grew fields of hemp on his farm Mount Vernon, while Jefferson grew it on his farm Monticello. Jefferson even invented a modified thresher, which could more efficiently harvest hemp.⁵² To America’s founding fathers, hemp was a normal part of the agrarian landscape.

Benjamin Franklin used rag paper made of flax, hemp, or cotton cloth during his career as a printer.⁵³ The founding fathers used hemp paper to draft the documents that created the United States. Whereas the official signed copies were on parchment paper, made from animal skin, Thomas Jefferson wrote the first four drafts of the Declaration of Independence on hemp paper, while James Madison wrote drafts of the U.S. Constitution on hemp paper as well.⁵⁴ The American Congress itself had a long-lasting relationship with hemp. From the 1780s to the early 1900s, there are over one hundred accounts in the Congressional Record of legislators discussing hemp.⁵⁵ In 1825 an excerpt from the

⁵¹ Washington, “Sowing and Harvesting,” 1.

⁵² “Agricultural Innovations,” May 12, 2010.

<http://www.monticello.org/jefferson/dayinlife/vegetable/dig.html>

⁵³ Clark Evans of the Library of Congress, email message to author, May 1, 2006.

⁵⁴ Dard Hunter. “Chronology of Paper and Papermaking,” U.S. Hemp Museum, May 11, 2010.

<http://www.hempmuseum.org>

⁵⁵ The Library of Congress. American Memory. A Century of Lawmaking for a New Nation U.S. Congressional Documents and Debates, 1774-1875. April 27, 2010.

<http://www.memory.loc.gov/anmem/hlawquery.html>

American Farmer Volume 5 was introduced into the Senate record describing hemp as follows:

Hemp is a very hardy plant, resists drought and severe frost, is easier cultivated, less exhausting, and more profitable, than many other crops, with which this does not interfere in its cultivation, except the tobacco crop; it is sown before, and gathered after, corn, and requires no attention when wheat is sown, harvested, or thrashed. It will grow year after year on the same ground, on which it sufficiently rich, it is the surest crop. It is liable to no diseases and injured by no insects.⁵⁶

Lawmakers were primarily concerned with obtaining domestic and foreign hemp for use as cordage by the United States Navy. The Navy used hemp cordage from its inception and utilizes it to the present day, importing it from the Philippines. From the first Congress, year after year, legislators allotted funds to purchase hemp from American farmers and, in turn, actively encouraged farmers to grow more hemp each season.⁵⁷ For example, in 1811 the House of Representatives advocated that farmers devote more land and effort to hemp, hoping to lessen the country's dependence on foreign hemp and create a surplus so that the United States could become a major exporter.⁵⁸ In 1825 Senator Thomas Hart Benton from Missouri proposed a bill that the Navy use only American grown hemp.⁵⁹ In February of 1843 the Committee of the Whole House discussed a bill to "provide for the purchase of water-rotted hemp for the use of the United States Navy" specifically from Indiana, Illinois, Kentucky, Missouri, Ohio, and

⁵⁶ American State Papers, Senate, 18th Congress, 2nd session, Naval Affairs: Vol. 1, 1041, No. 253.

"Canvass, cables, and cordage, made from American and foreign flax and hemp, contrasted."

⁵⁷ The Library of Congress. American Memory. A Century of Lawmaking for a New Nation U.S.

Congressional Documents and Debates, 1774-1875. April 27, 2010.

<http://www.memory.loc.gov/anmem/hlawquery.html>

⁵⁸ American State Papers, House of Representatives, 12th Congress, 2nd session, Finance: Vol. 2, 510, No. 355. "Encouragement to the culture of hemp."

⁵⁹ Bills and Resolutions, Senate, 18th Congress, 2nd Session, "Agreeably to notice, Mr. Benton asked and obtained leave to bring in the following bill; which was read, and passed to a second reading: A Bill Concerning Hemp and Flax."

Tennessee.⁶⁰ In 1863 the Senate provided twenty thousand dollars “for investigations to test the practicability of cultivating and preparing flax and hemp as a substitute for cotton.”⁶¹ Prior to the twentieth century, Congress actively encouraged a hemp-filled agrarian landscape.

Although cordage was by far the most widespread use for hemp, Americans often used other cannabis products in their homes. Americans, like others in the Western world, used a variety of cannabis-based folk remedies.⁶² In the late nineteenth century, the American medical community openly embraced cannabis. Between 1840 and 1900, over one hundred articles appeared in American medical journals recommending cannabis use.⁶³ In fact the *United States Pharmacopeia* included cannabis as a useful medication from 1850 to 1942.⁶⁴ American doctors and druggists began producing cannabis based medications including tinctures, corn plasters, and medicines used on animals.⁶⁵ The use of *Cannabis sativa* as medicine was a longstanding practice in America. It was in this capacity that the federal government first regulated cannabis under the Pure Food and Drug Act of 1906. This law required all medications that contained cannabis to list it as an ingredient on the bottle’s label.⁶⁶ This law was intended to regulate patent medicines, not to eliminate cannabis-based medications. The view of cannabis as a drug had found acceptance in America, but this was initially a positive association not a negative one.

⁶⁰ Bills and Resolutions, House of Representatives, 27th Congress, 3rd Session, “Read twice, and committed to the Committee of the Whole House on the state of the Union. Mr. J.C. Edwards, from the Select Committee appointed on the subject, reported the following bill: A Bill to provide for the purchase of water-rotted hemp for the use of the United States Navy.”

⁶¹ Senate Journal, Monday, February 2, 1863.

⁶² Pollan, *The Botany of Desire*, 174.

⁶³ Bonnie and Whitebread, *The Marihuana Conviction*, 4.

⁶⁴ Jerome L. Himmelstein, *The Strange Career of Marihuana: Politics and Ideology of Drug Control in America*. (Westport, CT: Greenwood Press, 1983), 22.

⁶⁵ Musto, “History of the Marihuana Tax Act of 1937,” 419.

⁶⁶ *Pure Food and Drug Act*. Public Law 59-384, 59th Congress, Session 1. (June 30, 1906).

Prior to the twentieth century, Americans did not perceive cannabis as a recreational drug. Americans had long heard of hashish and its intoxicating qualities from their exposure to the cultures of India and Afghanistan and through literature such as the *Count of Monte Cristo*, but most failed to connect hashish with *Cannabis sativa*.

Although cannabis was a widely used crop throughout America, it was never a major cash crop. Thousands of farmers grew hemp within the United States, but they produced no more than a fraction of the nation's supply.⁶⁷ By 1890 domestic hemp production was on the decline in America as more of the nation's supply was imported especially from Russia and the Philippines. This was due to the fact that "hemp production was handicapped by its requirement of much highly skilled hand labor."⁶⁸ A skilled worker could separate roughly 250 pounds of fiber a day, but American farms could not compete with "cheap European and Asiatic labor."⁶⁹ Despite its decline hemp did leave a lasting mark on the land. "The hemp plant now grew wild against roadsides and in the fields of almost every state."⁷⁰ By the beginning of the twentieth century, the cannabis plant was "well rooted, and for the time being, largely ignored in America."⁷¹

The dominant American cultural definition of *Cannabis sativa* prior to the twentieth century was that of a plant with practical agricultural uses not a dangerous drug. Hemp farming was considered a patriotic and profitable endeavor, which was supported fully by the federal government. In the twentieth century, however, the federal government began to challenge Americans' long-established relationship with cannabis.

⁶⁷ Garland, "Hemp," 126.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Bonnie and Whitebread, *The Marihuana Conviction*, 3.

⁷¹ Ibid.

Efforts to Redefine Cannabis

Moral reform was a strong force in nineteenth century American life with every social ill attracting its own organized adversaries. As the nineteenth century progressed “and the institutional evils of industrialization and urbanization became apparent, this reform sentiment gradually turned to the government and the law to protect the moral fiber of the nation.”⁷² This reform sentiment promulgated the idea that “the moral strength of the individual was no longer . . . sufficient to counter corporate selfishness, political corruption, and urban degradation.”⁷³ In the early twentieth century, the social reaction to drug use was informed by an “ideology that combined faith in the moral superiority of the dominant social order, confidence in the inevitability of moral (and therefore social) progress, preference for cultural homogeneity, intolerance of institutional ‘evils,’ paternalism toward children and immigrants, and faith in governmental action.”⁷⁴ Federal and state policymaking in the early twentieth century was certainly affected by these pervasive attitudes. American lawmakers took heed of the shift of public opinion against intoxicants in particular. One of the first instances was in 1905 when the New York legislature declared morphine, opium, and cocaine to be “poisons.” They were no longer to be sold without a warning label.⁷⁵ According to historian David Musto, as a result of uncertainty regarding the constitutionality of “legislation enabling federal law to prevail in an area of morals” there was an insignificant amount of effort prior to 1900 to create a federal law in order “to control the

⁷² Ibid.

⁷³ Ibid., 10.

⁷⁴ Ibid., 13.

⁸⁴ Lawrence M. Friedman, *Crime and Punishment in American History* (New York: Basic Books, Harper Collins Publishers, 1993), 355.

sale and prescription of narcotics.”⁷⁶ With the success of the 1906 Pure Food and Drug Act, there came a movement within the pharmaceutical industry, which supported a regulatory anti-narcotic law. The Agricultural Department supported the efforts of the pharmaceutical industry. Both groups advocated using the interstate commerce clause of the Constitution to achieve such a law. In 1912 the U.S. State Department embarked upon its own campaign for an anti-narcotic law, advocating instead using the federal government’s revenue powers.⁷⁷ In 1914 the Harrison Narcotics Tax Act marked the first federal legislation to regulate narcotics, specifically cocaine and opium. While the Harrison Narcotics Tax Act had popular support, it was also met with many legal challenges as cannabis, cocaine, and opium had lengthy relationships with Americans.

Cocaine was a very popular drug in the nineteenth century. It was used throughout the United States to treat, among other things, hay fever and to cure “opium, morphine, and alcohol habits.”⁷⁸ It was frequently an ingredient in patent medicines, sodas, and wines. In the early twentieth century, state laws and local laws began to regulate cocaine use, but these laws were filled with loopholes. These laws were also ineffective since one state might enact an anti-cocaine law, but “bordering states without such laws often provided drugs for users and sellers.”⁷⁹ Unlike cannabis, cocaine, a derivative of the coca plant, was not grown in the United States and therefore was solely imported for medicinal and recreational purposes.

The nineteenth century marked an era of unprecedented increase in the use of opium in America. It was widely prescribed by physicians as a both a sedative and oddly

⁷⁶ Musto, *The American Disease*, 10.

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*, 7.

⁷⁹ *Ibid.*, 9.

enough a stimulant, as well primarily to treat gastrointestinal illnesses.⁸⁰ Its recreational use marked the most disturbing trend to progressive activists though. The trend of smoking opium spread quickly in the United States, beginning with Chinese immigrants in San Francisco and spreading rapidly eastward.⁸¹ Prior to the Harrison Narcotics Tax Act, opium was regulated with heavy importation duties enacted by Congress.⁸² Unlike cannabis, opium was not grown commercially in any significant quantity in the United States, so virtually the entire national supply was imported. In 1909 smoking opium was banned from importation into the United States.⁸³

Some reformers and prohibitionists advocated the inclusion of cannabis, although “not even the reformers claimed, in the pre-World War I hearings and debates . . . that cannabis was a problem of any major significance in the United States.”⁸⁴ One particular proponent was Dr. Hamilton Wright. He worked for the U.S. State Department assisting the anti-narcotic campaign. Dr. Wright felt that cannabis should be outlawed since the prohibition of cocaine and opiates would lead addicts straight to *Cannabis sativa*.⁸⁵ Wright believed “in a hydraulic model of drug appetites,” which meant that without medical treatment addicts would transfer their addiction to another intoxicant such as cannabis if they were legally unable to obtain narcotics.⁸⁶ He felt that the anti-narcotic reformer’s main task “was to prohibit and control as many dangerous and seductive substances as possible at one time.”⁸⁷ Wright’s ideas as well as ideas of other reformers did not succeed in getting *Cannabis sativa* added to the Harrison Narcotics Tax Act, but

⁸⁰ Terry and Pellens, *The Opium Problem*, 53, 59; Musto, *The American Disease*, 1.

⁸¹ Terry and Pellens, *The Opium Problem*, 73.

⁸² *Ibid.*, 74.

⁸³ Musto, *The American Disease*, 2-3.

⁸⁴ Musto, “History of the Marijuana Tax Act of 1937,” 419.

⁸⁵ *Ibid.*, 419-420.

⁸⁶ *Ibid.*, 420.

⁸⁷ *Ibid.*

they did succeed in helping to shape the mindset of future drug warriors such as Harry J. Anslinger, the head of the Federal Bureau of Narcotics from 1930 to 1962.⁸⁸ The Harrison Narcotics Tax Act “also provided a strange model for the administration of narcotics laws which would significantly affect future developments.”⁸⁹ The bill was “drafted as a tax law rather than an outright criminal statute.”⁹⁰ Under this statute to lawfully “produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations” one must register with the Internal Revenue Service and pay for a special tax stamp.⁹¹ The law barred private individuals from purchasing the tax stamps; only members of the medical community were permitted to purchase them. Thus the only legal way for members of the American public to obtain opium or cocaine was with the prescription of a doctor or dentist.⁹² Clearly the Harrison Narcotics Tax Act “embodied a strong ideological and moral antipathy to habitual drug use in general and to the nonmedical or ‘street’ use of the ‘narcotic’ drugs in particular.”⁹³ With this law a consensus emerged: “the nonmedical use of ‘narcotics’ was a cancer which had to be removed entirely from the social organism.”⁹⁴ The Harrison Narcotics Tax Act was not unopposed, though. Its constitutionality was tested several times in the U.S. court system. In 1919 *Webb v. United States* resulted in the Supreme Court ruling that opium and cocaine could not be prescribed merely to maintain an addiction. This ruling condemned the narcotic addict to

⁸⁸ John Williams, “Unsung Partner Against Crime: Harry Anslinger and the Federal Bureau of Narcotics, 1930-1962,” *Pennsylvania Magazine of History and Biography* 113, No. 2 (April 1989): 208.

⁸⁹ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 989.

⁹⁰ *Ibid.*

⁹¹ *Harrison Narcotics Tax Act*. Public Law 233, 63rd Congress (December 17, 1914).

⁹² *Ibid.*

⁹³ Bonnie and Whitebread, *The Marihuana Conviction*, 17.

⁹⁴ *Ibid.*

a life of crime if he were to maintain his addiction.⁹⁵ The methodologies behind the Harrison Narcotics Tax Act would have effects on the formulation of future drug laws, specifically the Marihuana Tax Act of 1937. The Harrison Narcotics Tax Act was the first real volley in the War on Drugs.

In 1922 Representative John F. Miller and Senator Wesley L. Jones, both of Washington, sponsored the Narcotic Drug Import and Export Act. This particular drug law limited the importation of opium and cocaine to only quantities necessary to adequately cover the nation's medical needs. Use of these substances now required a special license. The law was amended two years later to prohibit the importation of opium for the manufacture of heroin. The Narcotic Drug Import and Export Act also established the Federal Narcotics Control Board, the precursor to the Federal Bureau of Narcotics.⁹⁶ This act did not have an immediate impact on cannabis, but years later it would be utilized by drug warriors against the cannabis users.

The political and moral climate in the United States further shifted with the ratification of the Eighteenth Amendment in 1919, which outlawed the sale or production of alcohol⁹⁷ and the subsequent passage of the National Prohibition Act, otherwise known as the Volstead Act, which outlawed the possession of the substance except in instances where it was deemed an "authorized possession."⁹⁸ In the nineteenth century, millions of morally outraged and politically motivated Americans crusaded against alcohol, seeking to free the American family from the evils of alcohol, saloons, and alcoholism. However, this fervor against alcohol consumption was not an anomaly in American history. Public

⁹⁵ Friedman, *Crime and Punishment in American History*, 355.

⁹⁶ *Narcotic Drug Import and Export Act*. Public Law 67th Congress. 42 Stat. 596, (May 26, 1922)

⁹⁷ U.S. Constitution, amend. 18.

⁹⁸ *National Prohibition Act*, Public Law 66th Congress, 1st session, H.R. 6810 (October 28, 1919)

drunkenness was regulated as early as the 1630s in America. For instance, in 1633 in the Massachusetts Bay Colony citizen Robert Cole was required to wear a red “D” around his neck for a year due to his repeated public drunkenness. In 1762 the Society of Friends in Pennsylvania banned the use of “ardent spirits” within their societies.⁹⁹ Around 1766 Methodism appeared in the America colonies. With this religious movement came the commitment “to the provisions of the English discipline which . . . [was] against using, buying, and selling distilled liquors.”¹⁰⁰ Dr. Benjamin Rush, a respected physician and a prominent figure in the creation and signing of the Declaration of Independence, is considered to be “the pioneer in the [first national] movement against the use of distilled liquors” in the United States.¹⁰¹ He was responsible for a document urging soldiers to abstain from distilled liquors while serving their country. This document was approved and circulated by the Continental Congress’ War Board, marking the first time the American government had in an official capacity recognized “an appeal against the use of distilled liquors.”¹⁰² In 1784 the Methodist Church officially declared the prohibition of “drunkenness, buying or selling spirituous liquors or drinking them unless in cases of extreme necessity.”¹⁰³ Beginning in 1789 Congress levied taxes upon distilled and fermented liquors.¹⁰⁴ As one can see there was long history of religious groups in America prohibiting alcohol use amongst themselves as well as a long legal history of the government taxing or regulating distilled liquors which predated the “modern” temperance movement.

⁹⁹ Cherrington, *The Evolution of Prohibition in the United States of America*, 17, 37.

¹⁰⁰ *Ibid.*, 37.

¹⁰¹ *Ibid.*, 40.

¹⁰² *Ibid.*, 40.

¹⁰³ *Ibid.*, 50.

¹⁰⁴ *Ibid.*, 51-53.

The modern temperance movement was at its heart a grassroots movement. It had its roots in these early religious movements and attempts at governmental regulation. The Women's Christian Temperance Union and the Anti-Saloon League were influenced by these religious movements, as well as early temperance societies such as the Total Abstinence Society and the Sober Society.¹⁰⁵ Many of the important leaps forward in the early nineteenth century in the temperance movement were due to the Congregational church specifically through its many state associations and state and local organizations founded by its many ministers especially Dr. Lyman Beecher.¹⁰⁶ According to historian Ernest H. Cherrington, the year 1826 was the beginning of real organization in the temperance movement in the United States. This marked the point where local societies began to merge, state societies were created, and the first national society, the American Temperance Society, was born.¹⁰⁷

“Aggressive campaigns” were “mounted in every state from 1851 to 1869, and again from 1880 to 1890.”¹⁰⁸ After such impressive and successful campaigns, two territories and eleven states adopted a policy of alcohol prohibition. However, mere years later one by one states repealed such legislation.¹⁰⁹ By 1903 only Kansas (1880), Maine (1884), and North Dakota (1889) were considered completely dry states.¹¹⁰ According to scholar Martin Alan Greenberg, leaders of the temperance movement blamed these actions on four factors: a massive influx of immigrants from Germany and Central Europe; a national preoccupation with the abolition movement and the Civil War; a study

¹⁰⁵ Ibid., 61-63.

¹⁰⁶ Ibid., 71-72.

¹⁰⁷ Ibid., 89.

¹⁰⁸ Bonnie and Whitebread, *The Marihuana Conviction*, 23.

¹⁰⁹ Greenberg, *Prohibition Enforcement*, 45-46.

¹¹⁰ Bonnie and Whitebread, *The Marihuana Conviction*, 23.

by the Massachusetts legislature concluding that prohibition was an “an arbitrary infringement of individual rights;” and “the adoption of the first national revenue law that imposed a tax on the distillers and sellers of liquor and beer.”¹¹¹ Temperance was a very popular and enduring movement, on the “cutting edge of social reform and was closely allied with the antislavery and women’s rights movements.”¹¹² Supporters of the temperance movement such as the Women’s Christian Temperance Union and the Anti-Saloon League viewed “alcohol the way people today view heroin: as an inherently addicting substance.”¹¹³ They believed that moderate consumption of alcohol would lead to addiction. Many prohibitionists demonized alcohol by associating it with deviance, criminality, and immigrants.

“Prohibition had met all the tests of proper democratic action: the test of time, the test of full discussion, [and] the test of decisive majority expression.”¹¹⁴ In Congress the Eighteenth Amendment had received the necessary two-thirds majority in order to send it to the states for ratification, forty-six of forty-eight states ratified it, and Congress overrode President Wilson’s veto of the Volstead Act.¹¹⁵ Prohibition marked a radical point in American history where the government challenged the right of Americans to have certain personal liberties such as the right to drink and “by legal action . . . had destroyed millions of dollars-worth of private property in the brewing and distilling industries without compensation.”¹¹⁶

¹¹¹ Greenberg, *Prohibition Enforcement*, 46.

¹¹² Harry G. Levine and Craig Reinerman. “From Prohibition to Regulation: Lessons from Alcohol Policy for Drug Policy.” *The Milbank Quarterly* 69, No. 3 (1991): 462.

¹¹³ Ibid.

¹¹⁴ Paul A. Carter. “Prohibition and Democracy: The Noble Experiment Reassessed,” *The Wisconsin Magazine of History* Vol. 56, No. 3 (Spring 1973): 189.

¹¹⁵ Levine and Reinerman. “From Prohibition to Regulation,” 463.

¹¹⁶ S. J. Mennell, “Prohibition: A Sociological View,” *Journal of American Studies* 3, No. 2 (December 1969): 162.

Despite the monumental efforts of the federal government and temperance activists, Prohibition was an acute failure. A large portion of the American public openly ignored the Eighteenth Amendment, despite legislators drafting this amendment “in response to the full operation of the public opinion process.”¹¹⁷ According to historian David E. Kyvig, a large portion of the adult American population abstained from alcohol during the Prohibition at least according to Gallup polls of the day. However, the legal reclassification was unable to change the views or behaviors of an equally significant portion of the American populace. This segment of the populace publicly flaunted their disobedience and helped to create a thriving black market.¹¹⁸ Speakeasies, moonshining, and “fashionable public drinking by women made a mockery of the law.”¹¹⁹

The temperance movement succeeded in legally reclassifying alcohol, but failed to effectively dictate its meaning to the American public, that of a dangerous drug.

Ultimately, the mere existence of that public policy--even in the form of criminal law--was not sufficient to convert a public antipathy toward the evils of commercial alcohol traffic into opposition to moderate use of alcohol.¹²⁰

Public opinion was a catalyst for the failure of Prohibition, but was not the only factor. Enforcement of the law was a major issue. Local police forces were left for the most part to deal with it on their own. The federal government had anticipated general compliance with Prohibition. The Prohibition Bureau was created within the Treasury Department to assist local and state police forces, but was initially only allotted for \$6,750,000 for the

¹¹⁷ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1026.

¹¹⁸ Kyvig, *Repealing National Prohibition*, 23-26.

¹¹⁹ Dwight B. Heath, “US Drug Control Policy: A Cultural Perspective,” *Daedalus* 121, No. 3 (Summer 1992): 278.

¹²⁰ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1027.

first year and a half of its operation, a modest sum for supposed national enforcement.¹²¹ According to scholar S.J. Mennell “enforcement was effective only in those areas of the South and mid-West where it had the support of public opinion.”¹²² In states such as New York with large immigrant populations, public opinion was against Prohibition and therefore disobedience was high and enforcement poor. Enforcement also suffered because of corruption among local and federal authorities.¹²³ Enforcement failures can also be attributed to agencies such as the Customs Bureau, the Coast Guard, and the Bureau of Prohibition failing to communicate effectively and cooperate with one another in enforcing the Eighteenth Amendment.¹²⁴ Enforcement also suffered because of a lack of funds. In 1932 the budget of the Bureau of Prohibition fell short by five million dollars from their eighteen million dollar request.¹²⁵ This fiduciary shortfall ultimately could have made a significant difference in the effectiveness of the Bureau’s enforcement efforts.¹²⁶

Regardless of what ultimately doomed Prohibition, the tide had turned, the Great Depression hit, and popular opinion wanted the Eighteenth Amendment repealed. In 1933 the Twenty-first Amendment repealed alcohol prohibition, but members of the federal government neglected to heed the failures of Prohibition. For instance, according to scholar Martin Alan Greenberg, federal officials failed to learn from the methods used by rumrunners during Prohibition. Utilizing “transoceanic ship traffic, and transcontinental

¹²¹ Kyvig, *Repealing National Prohibition*, 23.

¹²² Mennell, “Prohibition: A Sociological View,” 171.

¹²³ Greenberg, *Prohibition Enforcement: Charting a New Mission*, 24.

¹²⁴ Albert E. Sawyer. “The Enforcement of National Prohibition.” *Annals of the American Academy of Political and Social Science* 163 (September 1932): 10-29.

¹²⁵ Bureau of Prohibition. *Amounts Appropriated for the Use of the Bureau of Prohibition for Enforcement of the National Prohibition Act for the Fiscal Years 1920-1932*. Washington, DC: Government Printing Office, 1932.

¹²⁶ Sawyer, “The Enforcement of National Prohibition,” 16.

small boat, plane, and automobile traffic” alcohol smugglers’ methods were adopted by drug smugglers.¹²⁷ While the Eighteenth Amendment did not immediately affect the status of cannabis, Prohibition helped to shape the mindset of lawmakers and bureaucrats like the Harrison Narcotics Tax Act before it. It should be noted that Harry J. Anslinger, outspoken anti-marijuana advocate and founding head of the Federal Bureau of Narcotics, was first an outspoken member of the Bureau of Prohibition.¹²⁸ Prohibition also led to the birth of a large federal law enforcement presence the likes of which the American people had not known before.¹²⁹

There was a growing international movement at the Hague conference of 1911 to criminalize cannabis. This movement received support from Americans such as the aforementioned Dr. Hamilton Wright. The conference failed to garner mass support to actually criminalize cannabis, though.¹³⁰ A small, but significant movement to criminalize marijuana continued in the national arena, but failed to achieve a national statute. It did, however, serve as an impetus for several state and local laws. In 1914 El Paso, Texas, passed the first anti-marijuana law in the United States. It outlawed the sale and possession of the drug within city limits.¹³¹ This occurred in El Paso, most likely due to the city’s proximity to Mexico and its high population of Mexican laborers, many of whom used marijuana recreationally. Various states in the West began to follow El Paso’s example. Many outlawed the possession of cannabis without a prescription. The first among these was California (1915). The Golden State was soon followed by Utah (1915), Wyoming (1915), Texas (1919), Iowa (1923), Nevada (1923), Oregon (1923),

¹²⁷ Greenberg, *Prohibition Enforcement*, 25.

¹²⁸ Williams, “Unsung Partner Against Crime,” 215.

¹²⁹ Greenberg, *Prohibition Enforcement*, 24.

¹³⁰ Abel, *Marihuana*, 202.

¹³¹ Himmelstein, *The Strange Career of Marihuana*, 23.

Washington (1923), Arkansas (1923), and Nebraska (1927).¹³² Maine, Vermont, Massachusetts, and New York also had anti-cannabis laws on the books by 1915. However in these states cannabis was not singled out for regulation, but treated as if it were a narcotic.¹³³ These laws were, in many regards, the result of a grassroots movement against drugs in general and in some states against cannabis specifically. Many of those involved in the grassroots movement as with the temperance movement had a racist agenda, which will be discussed later in the chapter. A question remains though. Did members of the public in these states truly know what they had outlawed? The newspaper accounts of these laws “clearly show that the marihuana was relatively unknown, even in states with considerable Mexican populations.”¹³⁴

Until *Cannabis sativa* was included as an optional provision in the Uniform Narcotic Drug Act of 1932 and in the Marihuana Tax Act of 1937, “there was no ‘national’ public policy regarding the drug.”¹³⁵ Lawmakers felt the Uniform Narcotic Drug Act was a necessary measure despite the existence of the Harrison Narcotics Tax Act. The Harrison Narcotics Tax Act was a revenue producing measure, but failed to grant the states “authority to exercise police power in regard to seizure of drugs used in illicit trade, or in regard to punishment of those responsible.”¹³⁶ The Uniform Narcotic Drug Act granted the states these powers. It also made it illegal for anyone to “manufacture, compound, mix, cultivate, grow, or by any other process, produce or prepare narcotic drugs [cocaine, opium, and cannabis] . . . without first having obtained a

¹³² Abel, *Marihuana*, 203.

¹³³ Ibid.

¹³⁴ Abel, *Marihuana*, 203.

¹³⁵ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1010.

¹³⁶ Prefatory Note, *Uniform Narcotic Drug Act of 1932*.

license.”¹³⁷ Licenses under this act could not be given to anyone who had violated “any law of the United States, or of any state, relating to opium, coca leaves or other narcotic drugs, or to any person who is a narcotic drug addict.”¹³⁸ The Act contained no specific punishments for violating the law, but granted the states the ability to determine this for themselves.¹³⁹ Adoption of this law did not go as smoothly as members of the federal government had hoped. In 1934, two years after the creation of the legislation, only six states had enacted the anti-narcotic law. The hopes of federal actors were renewed by the end of 1935 as twenty- nine states had implemented the Act.¹⁴⁰ By 1937 thirty-five states had passed the Uniform Narcotic Drug Act,¹⁴¹ although not all states adopted the optional cannabis provision of the Act.¹⁴² According to legal scholars, Richard J. Bonnie and Charles H. Whitebread II, except for in Missouri there was no public outcry for such legislation and little to no media attention regarding the passage of the Act. The bill was often buried “beneath more controversial bills in a busy legislative session.”¹⁴³ In some states the Uniform Narcotic Drug Act of 1932 was passed late in the legislative session “along with [a] myriad [of] other ‘uncontroversial’ laws.”¹⁴⁴ In considering the bill, no state conducted an independent study to uncover “the medical facts about marijuana— they relied on information supplied by the Federal Bureau of Narcotics or a few lurid newspaper accounts.”¹⁴⁵ Finally the vast majority of the public barely seemed to register the passage of the Act despite a concerted propaganda campaign by the Federal Bureau of

¹³⁷ *Uniform Narcotic Drug Act of 1932.*

¹³⁸ *Ibid.*

¹³⁹ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1047.

¹⁴⁰ John C. McWilliams, *The Protectors: Harry J. Anslinger and the Federal Bureau of Narcotics, 1930-1962* (Newark, NJ: University of Delaware Press, 1990), 55.

¹⁴¹ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1034.

¹⁴² *Ibid.*, 1039.

¹⁴³ *Ibid.*, 1042.

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

Narcotics.¹⁴⁶ Harry J. Anslinger, with the help of the Hearst newspaper chain, the General Federation of Women's Clubs, the Women's Christian Temperance Union, the General Foundation of Women's Clubs, and the World Narcotics Defense Association, launched a crusade to mobilize the states against the "killer weed," marijuana.¹⁴⁷ The anti-marijuana "publicity effort, though miniscule in the wider scheme of things, dominated public discussion of marijuana in the mid-1930s."¹⁴⁸ The media and eventually policymakers adopted the Federal Bureau of Narcotics' view of marijuana, utilizing the Bureau's examples of marijuana-related violence and disregarding the information the Bureau chose to ignore. The result of this was an overwhelming consensus among those who conversed about the drug. This consensus defined marijuana as dangerous and as a menace.¹⁴⁹ The myriad of effects it had on a user's consciousness could lead to "a maniacal frenzy in which the user was likely to commit all kinds of unspeakable crimes."¹⁵⁰ Users of marijuana were also defined as Mexicans, blacks, bohemians, criminals, and youths.¹⁵¹ Ultimately, this crusade led to the creation of the first federal law to outlaw marijuana.

The Marihuana Tax Act of 1937 was the pinnacle of the federal government's efforts to change the definition of *Cannabis sativa*. This federal law redefined cannabis as an illicit drug and subsequently failed to make any legal distinction between hemp farming and growing marijuana. It was not the first anti-marijuana bill proposed, though. In 1935 identical bills were introduced by Senator Carl Hatch and Congressman John

¹⁴⁶ Ibid., 1034.

¹⁴⁷ McWilliams, *The Protectors*, 56; Himmelstein, *The Strange Career of Marihuana*, 58.

¹⁴⁸ Himmelstein, *The Strange Career of Marihuana*, 59.

¹⁴⁹ Ibid.

¹⁵⁰ Himmelstein, *The Strange Career of Marihuana*, 59.

¹⁵¹ Ibid., 65.

Dempsey, both of New Mexico. These proposed laws would “prohibit the shipment and transportation of marijuana in interstate and foreign commerce.”¹⁵² Neither bill made it past committee. In late January of 1937 Congressman Thomas C. Hennings of Missouri introduced another anti-marijuana bill. His proposal was to prohibit the “sale, possession, and transportation of cannabis except in compliance with regulations to be made by the commissioner on narcotics.”¹⁵³ This bill also never made it out of committee.

The Marihuana Tax Act succeeded where others had failed. Introduced on the House floor on April 14, 1937, by Congressman and Chairman of the House Ways and Means Committee Robert L. Doughton of North Carolina, H.R. 6385 was described as “an Act to impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording.”¹⁵⁴ Doughton reintroduced the bill late on June 10, 1937, after it had passed through the House Ways and Means Committee. The debate over the bill was delayed when Congressman Bertrand Snell of New York asked the Speaker to put off the little known bill for another time due to the late hour.¹⁵⁵ When the bill was broached again on June 14, it was clear that little was known about it outside the Ways and Means Committee. Congressman Snell again spoke out questioning the content of the bill. He was answered by Congressman Sam Rayburn of Texas and Congressman Fred M. Vinson of Kentucky. Rayburn said that “it has something to do with something

¹⁵² McWilliams, *The Protectors*, 57.

¹⁵³ *Ibid.*, 67.

¹⁵⁴ Representative Robert L. Doughton introducing H.R. 6385 before the House Ways and Means Committee, April 27, 1937. *Hearings before the Committee on Ways and Means House of Representatives, 75th Congress, 1st session* (Washington, D.C. Government Printing Office, 1937): 1.

¹⁵⁵ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1061.

that is called marihuana. I believe it is a narcotic of some kind.”¹⁵⁶ Vinson added that “marihuana is the same as hashish.”¹⁵⁷ Neither of these men connected marihuana with hemp and there was no further mention of it. The House was not presented with a detailed analysis of the bill, rather they heard from a member of the Ways and Means Committee “repeating uncritically lurid criminal acts Anslinger had attributed to marijuana users at the hearings.”¹⁵⁸ A vote was taken after “less than two pages of debate” and “passed without a roll call.”¹⁵⁹ When the bill returned with minor amendments from the Senate, the only question raised was whether the American Medical Association agreed with the Act. Yet again, Congressman Vinson spoke up and misrepresented the testimony from the AMA representative, saying that the AMA supported the bill and even calling the AMA representative Dr. Woodward by the wrong name.¹⁶⁰

Clearly, many of the congressmen had little knowledge of the bill and in fact had probably failed to even skim it. Regardless of whether the congressmen read the bill or not it was now law. What was this law passed with so little fuss? The Marihuana Tax Act stated that:

Every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana shall within fifteen days after the effective date of this Act, or before engaging after the expiration of such fifteen-day period in any of the above mentioned activities, and thereafter, on or before July 1 of each year, pay the following special taxes respectively. . . ¹⁶¹

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid., 1062.

¹⁶¹ *Marihuana Tax Act*. Public Law 238, 75th Congress, Session 1 (August 2, 1937).

Firstly, those individuals or companies, who import, manufacture, or compound marihuana must pay a \$24 yearly tax. Secondly those who produce marihuana must pay a \$1 yearly tax. A producer includes anyone “who plants, cultivates, or in any way facilitates the natural growth of marihuana; or harvests and transfers or makes use of marihuana.”¹⁶² Thirdly, doctors, dentists, and veterinarians must pay a \$1 per year tax as well as register the transfer of marihuana to their patients (breaking doctor-patient confidentiality).¹⁶³ This stipulation was the death knell of legal cannabis medications in the United States as the vast majority of doctors were not willing to break doctor-patient confidentiality.

What really was unusual about the bill was the definition of marihuana as well as the punishments for not complying with the Act. The bill defined marihuana as:

all parts of the plant Cannabis Sativa L., whether growing or not; 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, the fiber produced from such stalks, oil or cake made from the seeds of such plants, and any other compound manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of such plant which is incapable of germination.¹⁶⁴

The definition, at first glance, does not reveal intent to harm hemp production. But more thoughtful reading of the definition spells trouble for farmers. In order to grow hemp, farmers required seed, which under the Act fell into the category of marihuana. The plant when maturing also developed leaves and buds, which also fell under the Act’s definition of marihuana. Therefore hemp farmers could not escape being classified as

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

“producers” of marihuana under the Marihuana Tax Act. The “taboo on the drug plant, [had] needlessly doomed the fiber.”¹⁶⁵

For a supposed revenue act the Marihuana Tax Act had rather stiff penalties for disobeying it. Despite the relatively small amount of revenue this act was designed to generate, a person convicted of violating the law could be fined up to two thousand dollars and sentenced up to five years in prison.¹⁶⁶ This punishment mirrored the punishment for disobeying the Harrison Narcotics Tax Act of 1914, which was an act to regulate narcotics such as cocaine and opium.¹⁶⁷ Surely hemp farmers who disobeyed the Marihuana Tax Act by growing hemp without paying the special tax under the bill did not belong in the same category as individuals who obtained narcotics illegally.

Ultimately hemp farmers were lumped in with narcotic addicts as it became impossible for farmers, or anyone for that matter, to comply with the Marihuana Tax Act, to legally possess or grow cannabis. The Act made it the responsibility of the Commissioner of the Internal Revenue to provide “appropriate stamps to represent payment of transfer tax . . . and appropriate stamps for issuance of special tax payers” registering under the Act.¹⁶⁸ The Treasury Department neglected to produce the necessary stamp, thus making it impossible for an American citizen to pay the dollar tax per ounce or the one hundred dollar transfer tax and, thus to legally cultivate or sell *Cannabis sativa*.

¹⁶⁵ Pollan, *The Botany of Desire*, 157.

¹⁶⁶ *Marihuana Tax Act*. Public Law 238, 75th Congress, Session 1 (August 2, 1937).

¹⁶⁷ *Harrison Narcotics Tax Act*. Public Law 233, 63rd Congress (December 17, 1914).

¹⁶⁸ *Marihuana Tax Act*. Public Law 238, 75th Congress, Session 1 (August 2, 1937).

Despite the gravity of this law and its impact on America's farmers, it passed with no real debate.¹⁶⁹ This result was partially caused by the legislators neglecting to adequately inform American farmers and other interested parties of their intentions prior to the passage of the law as well as "cannabis confusion" on the part of many legislators as they failed to connect hemp and marijuana as originating from the same plant. The majority of the testimony was heard only by the House Ways and Means Committee and the Senate Finance Committee, not the full House or Senate. According to historian David Musto "in the tradition of federal departments, everyone from the Treasury Department who appeared for the Tax Act gave it full support, while those who might have had more moderate views remained in the background."¹⁷⁰ The key individual to testify before both committees was the Federal Bureau of Narcotics Commissioner Harry J. Anslinger. Anslinger described *Cannabis sativa* as a very dangerous drug. During the five brief days of testimony in front of the House Ways and Means Committee, he compared it to Robert Louis Stevenson's Dr. Jekyll and Mr. Hyde, claiming that "this drug is entirely the monster Hyde, the harmful effect of which cannot be measured."¹⁷¹ Anslinger claimed that "its use frequently leads to insanity."¹⁷² He cited numerous accounts of violent crime associated with marijuana users, but most accounts were lacking in specifics. For instance Anslinger cited the story of a young Floridian.

A young boy who had become addicted to marihuana cigarettes, in a fit of frenzy because, as he stated while under the marihuana influence, a number of people were trying to cut off his arms and legs, seized an axe

¹⁶⁹ John F. Galiher and Allyn Walker, "The Puzzle of the Social Origins of the Marihuana Tax Act of 1937," *Social Problems* 24, No. 3 (February 1977): 371.

¹⁷⁰ Musto, "History of the Marijuana Tax Act of 1937," 433.

¹⁷¹ Harry J. Anslinger. *Hearings before the Committee on Ways and Means House of Representatives, 75th Congress, 1st session on H.R. 6385,* (Washington, D.C.: Government Printing Office, 1937), 19.

¹⁷² Ibid.

and killed his father, mother, two brothers and a sister, wiping out the entire family except himself.¹⁷³

The brutal tale though is lacking in detail. Where and when did this occur? What source did Anslinger get this story from? Most of the examples Anslinger included in his testimony are equally vague. Anslinger did read a letter into the record from the City Editor of the *Alamosa Daily Courier*, Floyd K. Baskette. The letter included specifics about an attempted rape, but one has to question the motives and truth of the content of the letter. Baskette clearly associated marijuana negatively with Mexicans.

I wish I could show you what a small marihuana cigarette can do to one of our degenerate Spanish-speaking residents. That's why our problem is so great; the greatest percentage of our population is composed of Spanish-speaking persons, most of who are low mentally, because of social and racial conditions.¹⁷⁴

Despite including materials that were clearly racially biased and sketchy examples of violent crimes, the House Ways and Means Committee seemed to accept Anslinger's testimony at face value.

As anticipated, the Representatives accepted whatever the Treasury Department asserted. The only witness to appear in opposition to the administration's proposal, AMA spokesman William C. Woodward, M.D., was barraged with hostile questions. One member of the committee even questioned whether the veteran of many legislative battles dating back to before the Harrison Act actually represented the AMA.¹⁷⁵

Dr. Woodward, one of the chief drafters of the Uniform Narcotic Drug Act,¹⁷⁶ questioned why despite being a relatively frequent visitor to the Federal Bureau of Narcotics during the two years prior it was not until these hearings that he and the

¹⁷³ Ibid., 34.

¹⁷⁴ Ibid., 32.

¹⁷⁵ Musto, "History of the Marijuana Tax Act of 1937," 436.

¹⁷⁶ Bonnie and Whitebread, "The Forbidden Fruit and the Tree of Knowledge," 1059.

¹⁷⁶ William C. Woodward, M.D. *Hearings before the Committee on Ways and Means House of Representatives, 75th Congress, 1st session on H.R. 6385*, (Washington, D.C.: Government Printing Office, 1937), 87.

American Medical Association became aware of the proposed Marihuana Tax Act. He also questioned why the bill was prepared in conjunction with the Federal Bureau of Narcotics in secret for those two years.¹⁷⁷ When addressing the committee, Dr. Woodward openly objected to the use of the term marihuana as “Cannabis is the correct term for describing the plant and its products [and] the term ‘marihuana’ is a mongrel word that has crept into this country over the Mexican border.”¹⁷⁸ It “has no general meaning, except as it relates to the use of Cannabis preparations for smoking [and] it is not recognized in medicine.”¹⁷⁹ He blamed this faulty terminology on the failure of Indian hempseed dealers to connect this particular bill with their trade until almost too late in the game. Dr. Woodward argued that “medicinal use of Cannabis has nothing to do with Cannabis or marihuana addiction.”¹⁸⁰ He asserted that the House Ways and Means Committee itself had heard no testimony to support the belief in the “excessive use of the drug by any doctor or its excessive distribution by any pharmacist.”¹⁸¹ He felt the burden of the legislation was placed too heavily upon physicians and pharmacists. He asserted that medicinal use of cannabis had declined in America, however, he argued that the use of the drug being “prevented by a prohibitive tax, loses sight of the fact that future investigation may show that there are substantial medical uses for Cannabis.”¹⁸² By no means did Dr. Woodward favor recreational marijuana use though. He felt like many members of the House Ways and Means Committee and others who testified that “there is a certain amount of narcotic addiction of an objectionable nature.”¹⁸³ He also suggested

¹⁷⁷ Ibid., 88.

¹⁷⁸ Ibid., 90.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid., 91.

¹⁸³ Ibid., 92.

that “the newspapers have called attention to it so prominently that there must be some grounds for their statements.”¹⁸⁴

Despite this sentiment, he did not support the Marihuana Tax Act and neither did the American Medical Association. Dr. Woodward expressed his concern about both the absence of credible primary evidence being presented to the committee members and their obvious reliance on lurid newspaper accounts. He inquired as to why the Public Health Service and the Children’s Bureau had not sent experts to address the committee, especially if it was true that marihuana had extremely negative psychological effects and was a public menace particularly among America’s youth.¹⁸⁵ He was also concerned that the Bureau of Prisons and the Treasury Department’s Division of Mental Hygiene had not been consulted. Further, Dr. Woodward expressed concern about whether this entire matter should even be under the purview of the federal government and not individual state governments. He pointed out that this proposed law would attempt to “bring within its scope everyone who produces, wittingly or unwittingly, a particle of Cannabis.”¹⁸⁶ Under the definition of producer in the bill “every potential owner of land in the United States is a potential and maybe an unwitting producer of marihuana” as “marihuana grows wild along railroad tracks, along highways, on land belonging to the Federal Government, on land belonging to the States, on immense farms and ranches, forest land and place of that sort.”¹⁸⁷ He asserted that “the Federal Government could never determine where this plant was growing,” “could never undertake to prosecute, and if it did prosecute it would meet with the same difficulty that it met in prosecuting under the

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid., 94.

¹⁸⁷ Ibid., 95.

National Prohibition Act: the inadequacy of courts and the inadequacy of prosecuting attorneys, and . . . the inadequacy of jails.”¹⁸⁸

Dr. Woodward argued that the one recourse the federal government had was to educate America’s youth about the potential dangers of narcotics including cannabis. He asserted that the federal government had that power under an “old statute that requires the teaching of the effects of narcotic drugs in all common public schools, in the District of Columbia and all territories and places under the control of the Federal Government.”¹⁸⁹ He also suggested the inclusion of *Cannabis sativa* in an amendment to the Harrison Narcotics Tax Act:

I beg, therefore, that if you decide that it is better to enact Federal legislation of this kind than to provide the Secretary of the Treasury with adequate means for procuring State cooperation in the enforcement of their own laws, and in enacting proper laws, ---I beg that you insist simply that so far as the medical profession is concerned these provisions be incorporated in the Harrison Narcotic Act.¹⁹⁰

All of Dr. Woodward’s arguments were summarily ignored by the House Ways and Means Committee.

Besides testifying before the House Ways and Means Committee, Dr. Woodward sent a letter in July of 1937 to Senator Pat Harrison of Mississippi the Chairman of the Senate Committee on Finance. The letter was placed into record of the Committee on Finance debate on the Marihuana Tax Act by Senator Prentiss M. Brown of Michigan. In the letter Dr. Woodward urged the Senators to not let the Marihuana Tax Act pass out of committee. As with his testimony before the House Ways and Means Committee, he asserted that the position of the American Medical Association would be to include

¹⁸⁸ Ibid.

¹⁸⁹ Ibid., 96.

¹⁹⁰ Ibid., 97.

cannabis in an amendment to the Harrison Narcotic Tax Act if it was deemed necessary to have federal legislation on the matter. If not he asserted that the matter should be left up to the states.¹⁹¹

The Senate Committee on Finance heard witness testimony similar to that of the House Ways and Means Committee, but it was clear these senators believed that the proposed bill would not harm the American hemp industry. The Treasury Department representatives, including Clinton M. Hester, the Assistant General Counsel of the Treasury Department, and Federal Bureau of Narcotics Commissioner Harry J. Anslinger, assured the Committee that the hemp industry in the United States would remain relatively unchanged. Hester stated that “the production and sale of hemp and its products for industrial purposes will not be adversely affected by this bill.”¹⁹² Under the bill’s “definition of ‘marihuana’ the hemp producer will pay a small occupational tax but his fiber products will be entirely exempt from the provisions of the bill, including the order form and transfer tax provisions.”¹⁹³ According to Hester an American hemp farmer would only have to pay \$5 a year to the Treasury Department regardless of the extent of his acreage. Hester asserted that the bill was not created to produce a prohibition on cannabis.

The primary purpose of this legislation must be to raise revenue, because we are resorting to the taxing clause of the Constitution and the rule is that if on the face of the bill it appears to be a revenue bill, the courts will not inquire into any other motives that Congress may have had in enacting this legislation.¹⁹⁴

¹⁹¹ Letter from the American Medical Association William C. Woodward to the Senate Committee on Finance. July 1937. *Hearing Before a Subcommittee of the Committee on Finance United States Senate, 75th Congress, 1st session, on H.R. 6906*, (Washington D.C.: Government Printing Office, 1937), 33.

¹⁹² Clinton M. Hester, *Hearing Before a Subcommittee of the Committee on Finance United States Senate, 75th Congress, 1st session*, (Washington, D.C.: Government Printing Office, 1937) 7.

¹⁹³ *Ibid.*

¹⁹⁴ *Ibid.*, 8.

When asked by Senator Brown from Michigan about the possibility of a prohibition, Hester replied in a manner foreshadowing the actual execution of the Marihuana Tax Act. In order to create a prohibition of marijuana “you would have to prohibit it entirely, and of course you would put all of these legitimate industries out of business.”¹⁹⁵

Harry J. Anslinger, commissioner of the Federal Bureau of Narcotics, also testified to the safety of the American hemp industry. Farmers “are not only amply protected under this act, but they can go ahead and raise hemp just as they have always done.”¹⁹⁶ When questioned by Senator Brown, Anslinger discussed the administration and collection of the tax. According to Anslinger a farmer “would go down to the collector of the internal revenue and put down his \$5 and get a registration, a stamp tax,” permitting “him to grow under the act.”¹⁹⁷ Like Hester one has to wonder if Anslinger had any foreknowledge of the true manner in which the Marihuana Tax Act was going to be executed. One cannot be absolutely sure, but a memo from 1936 points to Anslinger’s desire to eliminate the cultivation of cannabis in America and pacify legitimate industry by importing hemp or hemp seed.

The State Department has tentatively agreed to this proposition, but before legal action is taken we shall have to dispose of certain phases of legitimate traffic; for instance, the drug trade still has a small medical need for marihuana, but has agreed to eliminate it entirely. The only place it is used extensively is by the Veterinarian, and we can satisfy them by importing their medical needs.

We must also satisfy the canary bird seed trade, and the Sherwin-Williams Paint Company which uses hemp seed oil for drying purposes. We are now working with the Department of Commerce in finding substitutes for

¹⁹⁵ Ibid., 9.

¹⁹⁶ Harry J. Anslinger, *Hearing Before a Subcommittee of the Committee on Finance United States Senate, 75th Congress, 1st session*, (Washington, D.C.: Government Printing Office, 1937), 17.

¹⁹⁷ Ibid.

the legitimate trade, and after that is accomplished, the path will be cleared for the treaties and for a Federal law.¹⁹⁸

Unlike the Eighteenth Amendment, the Marihuana Tax Act was not the result of overwhelming public outcry. According to historians Richard J. Bonnie and Charles H. Whitebread II, “the public opinion process did not operate, and decision-makers remained uninformed about the drug.”¹⁹⁹ The Marihuana Tax Act was the result of a concerted effort by the federal officials including the Federal Bureau of Narcotics to demonize the cannabis plant. There was no singular reason for this action. Greed, prejudice, paternalism, and racism contributed to the successful passage of this bill. Many forces conspired to determine the fate of the American cannabis plant. Prohibitionists and anti-narcotic advocates favored the illegality of *Cannabis sativa*. What is ironic is that during the early years of the Federal Bureau of Narcotics, as seen in its annual reports, the agency felt the “marihuana problem” was minimal and should be handled by the states.²⁰⁰ The agency felt that much of the problem was magnified by “yellow journalism.” According the Federal Bureau of Narcotics,

a great deal of public interest has been aroused by newspaper articles appearing from time to time on the evils of the abuse of marihuana, or Indian hemp, and more attention has been focused upon specific cases reported of the abuse of the drug than would otherwise have been the case. This publicity tends to magnify the extent of the evil and lends color to an inference that there is an alarming spread of the improper use of the drug, whereas the actual increase in such use may not have been inordinately large.²⁰¹

¹⁹⁸ “Memorandum for Assistant Secretary Gibbons,” February 5, 1936, AP, box 3, file “Correspondence 1936”

¹⁹⁹ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1028.

²⁰⁰ Musto, “History of the Marijuana Tax Act of 1937,” 428.

²⁰¹ U.S. Federal Bureau of Narcotics, *Traffic in Opium and Other Dangerous Drugs*, (Washington, D.C.: U.S. Government Printing Office, 1931), 51.

Regardless of what other forces combined to make cannabis illegal, it is evident that it was ultimately the Marihuana Tax Act of 1937, which caused downfall of the American hemp industry. This is especially true because of the elimination of cannabis from the U.S. Pharmacopeia in 1941. Now medicinal use, which was allowed under the Marihuana Tax Act, was no longer even an option.

The American public was not quick to eliminate hemp from the agrarian landscape. In order for the law to gain public acceptance from both citizens and lawmakers a campaign of negative associations was launched. Cannabis was first linked by Harry J. Anslinger and the Federal Bureau of Narcotics to immigrants and criminality.²⁰² The 1910 Mexican Revolution caused tens of thousands of Mexicans to cross over into the United States for a new life and better opportunities. These immigrants found relative acceptance and work on large ranches or with the railroads.²⁰³ During the 1920s and early 1930s Mexican immigration increased dramatically as migrant workers flocked to the southwestern United States in search of agricultural employment. Many brought with them the practice of smoking “marihuana,” *Cannabis sativa*. For many years Mexican migrants found employment in the orange groves and vineyards of California, working through harvest and with many returning to Mexico each winter. The Crash of 1929 and the ensuing economic collapse contributed to negative changes regarding the employment and acceptance of migrant laborers. The Dustbowl and Great Depression displaced thousands of tenant farmers from the Great Plains, flooding the American West with too many agricultural workers desperately seeking employment. Suddenly, Mexicans were outnumbered and unwanted. “Native

²⁰² Musto, “History of the Marijuana Tax Act of 1937,” 428.

²⁰³ Abel, *Marihuana*, 203-204.

born” workers pushed for the repatriation of Mexicans and attempted to demonize them, especially “patriotic societies” such as the Key Men of America and the American Coalition. A portion of the American public succumbed to xenophobia, associating Mexicans with deviant, depraved, and criminal behavior.²⁰⁴ For instance, C.M. Goethe of the American Coalition in Sacramento, California, stated that: ‘marihuana, perhaps now the most insidious of our narcotics, is a direct by-product of unrestricted Mexican immigration.’²⁰⁵ To many Americans including Harry J. Anslinger, then the Assistant Commissioner of the Prohibition Bureau, the source of the Mexicans’ deviance and criminality was the “marihuana” many of them enjoyed after a long day in the fields. Connecting racist beliefs with criminality and marihuana, many Americans began to see *Cannabis sativa* as the “Mexican demon weed,” marihuana.

Cannabis Confusion

Since many Mexicans brought dried cannabis with them from Mexico, for the most part, Americans did not actively connect “marihuana” as part of the same plant which produced hemp. In fact, most Americans had never heard of “marihuana,” seen the dried buds, or knew a single individual who used it recreationally. Marijuana was virtually unrecognizable to the average American in the 1930s. Richard Bonnie and Charles Whitebread II contend that:

Despite the increasing public interest in the narcotics problem during this period [1920-1937], we can find no evidence of public concern for, or understanding of, marijuana, even in those states that banned it along with opiates and cocaine. Observers in the middle and late 1930’s agreed that marijuana was at that time a very new phenomenon on the national scene.²⁰⁶

²⁰⁴ Ibid., 203-213.

²⁰⁵ Musto, “History of the Marijuana Tax Act of 1937,” 426.

²⁰⁶ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1011.

What little the average American knew about marijuana came from sporadic sensationalistic stories in newspapers, which did not connect hemp and marijuana.²⁰⁷

These few, but lurid newspaper accounts helped contribute to the belief among middle class Americans that marijuana was a drug associated with Mexicans, “crime and the deviant life style in the Black ghettos.”²⁰⁸ Americans were so uneducated about marijuana that in New York the Federal Bureau of Narcotics felt it necessary to educate members of the New York City police department as to what marijuana looked like, so that they would be able to identify it on the streets.²⁰⁹

“Cannabis confusion” was at the heart of the successful passage of the Marihuana Tax Act of 1937 as well as the lack of immediate outrage on the part of the American public.²¹⁰ Most legislators failed to connect hemp and marijuana, dooming the fiber crop and forever changing the dominant cultural definition of cannabis in America from hemp to marijuana. The Treasury Department played upon this confusion and the minor hysteria it engendered in its failure to produce a tax stamp. How the Federal Bureau of Narcotics specifically used manipulative media to further their goals and foster “cannabis confusion” will be discussed in the next chapter.

When key legislators and federal officials more closely associated *Cannabis sativa* with marijuana, the rationales of drug reformers were able to find success in the federal government. Many federal officials such as Harry J. Anslinger assumed that

²⁰⁷ Ibid., 1036.

²⁰⁸ Ibid., 1037.

²⁰⁹ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1036.

²¹⁰ “Cannabis confusion” is a phrase, which besides being the title of a Black Sabbath song, denotes the confusion over cannabis that lawmakers and other individuals faced when trying to determine the legal status of marijuana. Many individuals had no idea that cannabis produced both hemp and marijuana. The Federal Bureau of Narcotics and other proponents of the Marihuana Tax Act played on this confusion, enabling the swift passage of the law and the ultimately dooming the American hemp industry.

cannabis caused insanity, and criminal behaviors as well as acting as a stepping stone to other drugs such as heroin. They also assumed that public opinion had crystallized regarding the cannabis question and that it favored the “suppression of a drug with such evil effects.”²¹¹ The federal government succeeded in changing the legal and cultural definition of *Cannabis sativa* to that of marijuana not hemp. However, they did not fully succeed in altering the cultural definition from that of a plant with positive uses to that of a dangerous drug.

²¹¹ Ibid., 1026.

Chapter Two: Marijuana and Early Mass Media

With the Marihuana Tax Act, the federal government launched the first successful volley in an aggressive campaign against *Cannabis sativa*. This campaign was supposed to change not only the legal definition of the plant, but the cultural one as well. As illustrated in Chapter One, the definition of cannabis in American society did change from hemp to marijuana as a result of the Marihuana Tax Act among other things; however, American society did not necessarily view marijuana as a dangerous drug. The true measure of this can be found in media representations of cannabis from the 1920s to the 1980s. The relationship between media and the cultural definition of *Cannabis sativa* has yet to be adequately explored. From the 1920s to the modern day cannabis has been the focus of much media attention. Books, magazines, songs, comics, movies, poetry, radio broadcasts, television programs, and public service announcements have either extolled the virtues of marijuana or demonized it. This push-pull between marijuana as a dangerous drug and marijuana as a positive plant highlights the fact that the American public has neither fully accepted the federal government's definition of cannabis, nor its authority to control the definition of that plant. This chapter will focus on American media representations of cannabis from 1920s through the 1950s as well as including a discussion of the 1944 LaGuardia Report and the 1951 Boggs Act. The latter two were landmarks in the history of marijuana in the United States. The 1944 LaGuardia Report was a local government's attempt to question the assumptions, conclusions, and policies of the federal government towards marijuana. The 1951 Boggs Act was a federal response to the perceived increase in marijuana use among Americans.

Marijuana: the Assassin of Youth?

Prior to the passage of the Marihuana Tax Act of 1937, the national consciousness was not full of images of marijuana as a dangerous drug. In this era there was national media coverage of the “growing menace,” but these articles were few and far between. According to the *Reader’s Guide to Periodical Literature* from 1920 to August of 1937 (when the Tax Act was passed) there were only seven articles relating to hashish or marijuana in nationally circulating magazines including: “From Opium to Hash Eesh” in the *Scientific American* (1921), “Our Home Hasheesh Crop” in *The Literary Digest* (1926), “Menace of Marihuana” in *The American Mercury* (1935), “Marihuana Menaces Youth” in the *Scientific American* (1936), “Facts and Fancies about Marihuana” in *The Literary Digest* (1936), “Uncle Sam Fights a New Drug Menace” in *Popular Science* (1936), and “Marihuana: Assassin of Youth” in *The American Magazine* (1937).²¹²

“From Opium to Hash Eesh” by Simon Carlton was featured in the *Scientific American*. This 1921 article dealt with narcotics addiction purported to be sweeping the nation. It primarily focused on the effects of the opium trade, but also noted that hashish (the resin of the cannabis plant) was gaining popularity in the United States. Carlton pointed out that throughout the nation the only law on the books which outlawed the drug was a 1914 New York City Sanitary Code law. Although he seemed to believe that opium was a greater problem in the United States, Carlton appeared to advocate for a federal law to control this new drug menace.²¹³

“Our Home Hasheesh Crop” featured in the “Science and Invention” section of *The Literary Digest* was anything but a dire warning against the cannabis plant. It

²¹² *Reader’s Guide to Periodical Literature*. (Minneapolis, MN: H.W. Wilson Co., 1920-1937).

²¹³ Simon Carlton. “From Opium to Hash Eesh: Startling Facts Regarding the Narcotics Evil and Its Many Ramifications Throughout the World,” *Scientific American*, November 1921, 14-15.

correctly made the connection between the hemp plant and hashish as well as pointing out that the plant was one of the most common weeds in the nation. The article cited the fact that “there is little danger that it [hashish use] will seriously promote the drug habit.”²¹⁴ This was not just the opinion of the article’s author, but also the opinion of the government botanist who provided data to *The Literary Digest*.

‘There is no reason to get excited about a sporadic outbreak of hashish addiction,’ Dr. D. W. Stockberger of the Bureau of Plant Industry stated to the Science Service. ‘Hemp has been cultivated as a fiber plant in Kentucky and other states for many years, and wild hemp is found in rich bottomlands all the way from the Atlantic Coast to the Western Plains. While these hemp plants are not rich in the resins from which hasheesh is made, they do produce at times at least a little of them, which the drug firms buy up to make into veterinary medicine. Yet tho [sic] they have ample opportunity, workers in the hemp fields have never become addicts.’

According to *The Literary Digest*, government plant scientists felt similarly about marijuana.

‘Recent reports of the smuggling and use of the Mexican hemp derivative ‘marijuana’ or ‘marihuana’ were news to us’ Dr. Stockberger stated. ‘We have had correspondence with El Paso and other border cities in Texas for a good many years about this situation. The reported effects of the drug on Mexicans, making them want to ‘clean up the town,’ do not jibe very well with the effects of cannabis, which so far as we have reports, simply causes temporary elation, followed by depression and heavy sleep. I suspect that the Mexican bravo doesn’t take his marijuana straight, but mixes it with something else, possibly cocaine, or a couple of shots of mescal or bad whisky. That combination could easily bring on fighting madness.’²¹⁵

A decade later, marijuana, not hashish was the topic of discussion in the national media and the tone of articles began to change regarding the seriousness of marijuana use. “The Menace of Marihuana” featured in *The American Mercury* noted that marijuana use was rapidly increasing in the United States and connected that increase with both

²¹⁴ “Our Home Hasheesh Crop,” *The Literary Digest*, April 23, 1926, 64.

²¹⁵ *Ibid.*, 64-65.

Mexican immigrants and black jazz musicians. It argued that the low price of marijuana in comparison with the higher cost of other drugs such as cocaine, opium, and heroin was the major reason for such a rapid increase in the use of the drug by Americans. The article concluded by urging Congress to pass a law to prohibit the growth and sale of marijuana to stop the further spread of this growing public menace.²¹⁶

“Marihuana Menaces Youth” in the March 1936 issue of the *Scientific American* warned of the rapid increase in usage among Americans, claiming “that as many as one out of every four persons in some southern states are users.”²¹⁷ The article detailed the supposed effects of marijuana use “including hilarity, swooning, and sexual excitement,” claiming that when it is “combined with intoxicants it often makes the smoker vicious, with a desire to fight and kill.”²¹⁸ The article also seemed to advocate for the federal government to intercede to stamp out this particular drug menace.

“Fact and Fancies about Marihuana” featured in *The Literary Digest* in October of 1936 recalled the increase in marijuana use across the nation. The article also noted among Americans the aura of confusion surrounding the drug.

From files of magazines, police records and books on drugs, lurid stories tell of the horror that is marihuana; others point out that it is not enslaving, as are other drugs; that in India it is considered a gift from the gods and has been used in religious ceremonies for centuries. The high degree of misinformation regarding marihuana has left the general public in ignorance; even among officials, there is confusion.²¹⁹

The article cited three facts, which it felt stood out in medical and social reports specifically that “marihuana is not a habit-forming drug, as is heroin or opium,” “it

²¹⁶ Albert Parry, “The Menace of Marihuana,” *The American Mercury* (December 1935), 487.

²¹⁷ “Marihuana Menaces Youth,” *Scientific American* (March 1936), 150.

²¹⁸ Ibid.

²¹⁹ “Facts and Fancies about Marihuana: It’s Non-Habit-Forming and Gives Users Delusions of Grandeur,” *The Literary Digest* (October 24, 1936): 7.

prolongs sensations; it is in high favor as an aphrodisiac,” and “it is the most inexpensive of drugs; marihuana cigarettes usually selling at from three to twenty-five cents each.” It noted that the primary consumers of the drug are “Negroes, Mexicans, Puerto Ricans, Spaniards, West Indians, [and] East Indians.” Unlike other contemporary articles, this particular piece did not blame marijuana for violent crimes. It claimed that there was none “of the yelling, dashing about, playing of crude jokes or physical violence that often accompany alcoholic parties; under the effects of marihuana, one has a dread of all these things.”²²⁰ There was no apparent outcry in this article for federal intercession to fix the problem of marijuana use in American society.

“Uncle Sam Fights a New Drug Menace . . . Marihuana” appeared in *Popular Science* in May of 1936. It detailed the history of *Cannabis sativa* in America, noting that its use as marijuana was a recent development. The author, William Wolf, claimed that marijuana use had spread from the Mexican border across the United States. He asserted that after “another ten years of its phenomenal spread . . . the suppression of opium, heroin, cocaine, and similar drugs will seem like child’s play in comparison.”²²¹ Wolf cited the infamous “Assassin myth,” which claimed an ancient band of Persian assassins murdered their victims while high on hashish. This is the supposed origin of the English word assassin.²²² Wolf noted that authorities both local and federal were forced to utilize the only method of stopping the scourge that they had at their disposal--destroying “any

²²⁰ Ibid., 7-8.

²²¹ William Wolf, “Uncle Sam Fights a New Drug Menace. . . Marihuana,” *Popular Science*, (May 1936): 14.

²²² Bonnie and Whitebread, *The Marihuana Conviction*,128.

plants suspected as being used for narcotic purposes.”²²³ Wolf seemed to advocate for an educational campaign to combat public antipathy and ignorance of the new drug menace.

Most of the aforementioned articles on marijuana contributed to “cannabis confusion” on the part of the American public, specifically confusion regarding the connection between hemp and marijuana and the perpetuation of misinformation about the plant. The notable exception was “Facts and Fancies about Marihuana,” in *The Literary Digest*, which actually mentioned the phenomenon of cannabis confusion. The other articles failed to make a connection between the hemp plant and marijuana. The connection may seem obvious, but to those who had never seen the plant or come across the drug the connection was anything but obvious. The articles associated this drug solely with minorities such as Mexicans and African-Americans. Most also connected the drug with the commission of violent crimes. This pseudo-scientific information regarding marijuana helped lead to the passage of the Marihuana Tax Act of 1937 and most definitely to the ignorance and lack of outrage on the part of the American public. Admittedly this was also partially due to the fact that few white Americans were using marijuana at the time, however, it was ultimately the failure of Americans to recognize that hemp was being condemned that allowed the Marijuana Tax Act to pass with little fuss and outcry.

According to Richard J. Bonnie and Charles Whitebread II, much of this so-called publicity regarding marijuana could be directly attributed to the Federal Bureau of Narcotics Commissioner Harry J. Anslinger and his agency. Clearly the articles from the 1920s cannot be attributed to the agency, but the Federal Bureau of Narcotics actively conducted a national educational campaign for federal legislation regarding marijuana

²²³ Wolf, “Uncle Sam Fights a New Drug Menace . . . Marihuana,” 120.

beginning in the 1930s. They sent stories to the press on the dangers of marijuana and even travelled around the nation distributing anti-marijuana propaganda.²²⁴ This is evidenced by the fact that Anslinger himself authored many anti-marijuana articles including among others: “Marihuana Research” featured in the *Convention Book of Association of Medical Students* (also appeared in the *FBI Bulletin*), “Regions of Sorrow” featured in *Elks Magazine*, “Relation of Narcotics to Crime” in the *Indiana Police Chief*, “Marihuana” featured in *National Parent Teacher*, and his infamous article entitled “Marihuana: Assassin of Youth” published in *The American Magazine* in July 1937 (a condensed version also appeared in the *Reader’s Digest* in 1938).

“Marihuana: Assassin of Youth” was the only one of Anslinger’s articles to appear in a nationally circulated magazine. It portrayed marijuana as a killer of youths, which caused countless “murders, suicides, robberies, and [other] maniacal deeds . . . each year.”²²⁵ Anslinger urged individuals to become aware of its potential effects as they varied from user to user. He warned that “no one knows, when he smokes it, whether he will become a philosopher, a joyous reveler, a mad insensate, or a murderer.”²²⁶ He then revealed many “real accounts” of individuals causing havoc on the drug, committing crimes such as murder, going insane, or becoming sexually depraved. These accounts like those in his testimony before the House Ways and Means Committee and the Senate Finance Committee regarding the Marihuana Tax Act of 1937, were very vague. For instance, Anslinger cited the crimes of seven addicts from Ohio, never mentioning names or a more specific location. He also recounted a history of marijuana use in the Western world. Anslinger cited use among ancient Greeks and Persians specifically among a

²²⁴ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1052.

²²⁵ Harry J. Anslinger, “Marihuana: Assassin of Youth,” *American Magazine* 124, (July 1937): 18.

²²⁶ *Ibid.*

military and religious order known as the Assassins. He attributed the introduction of marijuana to the United States to Mexican immigrants with its use spreading North due to black jazz musicians. Anslinger worried about the influence of these two groups. He advocated for compulsory educational campaigns within every school nationwide and a federal law against the drug.

The majority of the aforementioned articles from the 1930s sound starkly similar. This too lends credence to the assertion that the information contained in each article came from the same source, namely Harry J. Anslinger and the Federal Bureau of Narcotics. Anslinger himself confirmed much of this assertion in his 1961 book *The Murderers: The Story of the Narcotic Gangs*. In the chapter entitled “Hemp Around Their Necks” Anslinger provided details regarding the FBN’s national anti-marijuana campaign.

On radio and at major forums, such as that presented annually by the New York *Herald Tribune*, I told the story of this evil weed of the fields and river beds and roadsides. I wrote articles for magazines; our agents gave hundreds of lectures to parents, educators, social and civic leaders. In network broadcasts I reported on the growing list of crimes, including murder and rape. I described the nature of marijuana and its close kinship with hashish. I continued to hammer the facts.²²⁷

On October 23, 1937, Commissioner Anslinger addressed the nation on the Columbia Broadcasting Network, hammering the “facts” about marijuana. He asserted that the “Marihuana vice is being carried as a new habit to circles which heretofore have not been contaminated with drug addiction--the youth of our nation.” He portrayed marijuana as being linked to criminal activity, violence, and insanity. He regaled his readers with the story of the Assassins of Persia once again. Anslinger cited several

²²⁷ Harry J. Anslinger and Will Oursler, *The Murderers: The Story of the Narcotic Gangs* (New York: Farrar, Straus and Cudahy, 1961), 38.

supposed marijuana crimes. Once again, he was extremely vague in his description of the crimes and cases of insanity, including no names, specific dates, or specific locations. For instance, he cited the story of “a fifteen-year old boy in another State” who “was found mentally deranged from smoking Marihuana cigarettes.”²²⁸ Despite his public assertions against scare tactics, he definitely indulged in them in his speeches. For instance,

If hemp is consumed at very frequent intervals, the subject lives in a state of permanent stupor, interrupted by frequent periods of exaltation and well-being. These alternate with crises of melancholia accompanied by terrifying hallucinations which provide confirmation of his more or less delirious convictions. At this stage addicts become dangerous; they are intensely susceptible to suggestion; the simplest affirmation or the slightest obstacle arouses transports of fury, joy or jealousy, or menacing attitude. Eventually they have to be placed under restraint, as the result of some crime or any rate of acts of violence.

Further, he asserted that “the fear of Marihuana must be hammered deeply into the hearts of our people, and the country must be galvanized into action to prevent the further spread of this new form of mental slavery—MARIHUANA SMOKING.”²²⁹ This nationally broadcast radio address contributed overtly to cannabis confusion as it never once mentioned the connection between hemp and marijuana, which is only made worse by the fact that speech came from a publicly viewed authority on drugs.

The Federal Bureau of Narcotics and Harry J. Anslinger certainly contributed to the emergence of anti-marijuana media representations. However, the Federal Bureau of Narcotics was not the only source of media from the 1920s through the 1950s regarding

²²⁸ Harry J. Anslinger, Address on the Columbia Broadcasting Network, 2:30pm October 23, 1937. Box 1 Folder 9, “Speeches by Harry J. Anslinger (ca. 1930-1970).” Harry J. Anslinger Papers. Penn State University Special Collections Library.

²²⁹ Ibid.

marijuana. Many instances of marijuana related media from the same era can be found from both Mexicans and African-Americans.

Marijuana in a Different Light

As mentioned in the previous chapter, marijuana was a drug used by many Mexican immigrants. Historians such as Bonnie, Whitebread, and Musto among others agree that Mexican immigrants were responsible for bringing the practice of smoking the buds of the cannabis plant (marijuana) to the United States. These immigrants also brought references to the drug in the cultural expressions that came with them. It was even mentioned in popular Mexican folk songs like “La Cucaracha (1800s).”

Spanish	English
La cucaracha, la cucaracha, Ya no puede caminar Porque no tiene, porque le falta Marihuana pa' fumar.	The cockroach, the cockroach, can't walk anymore because it doesn't have, because it's lacking marijuana to smoke.
...	
Un panadero fue a misa, no encontrando qué rezar, le pidió a la Virgen pura marihuana pa' fumar. ²³⁰	A baker went to Mass Not finding to pray He asked the Virgin pure, Marijuana to smoke.

In the early decades of the twentieth century the Mexican immigrant communities were not the only place marijuana use could be found. Its use began to spread indirectly to predominantly black communities. It quickly spread into African-American culture, most notably via the emerging art form of jazz. In the early 1930s “reefer songs” were very fashionable within the jazz community. These songs included among others Louis Armstrong’s “Muggles” (1928), Cab Calloway’s “That Funny Reefer Man” (1933), Fats

²³⁰ “La Cucaracha (Canción Tradicional - Mexico).” Lyrics Playground.
<http://lyricsplayground.com/alpha/songs/l/lacucaracha.shtml>. April 30, 2011

Waller's "Viper's Drag" (1934), Willie Bryant's "Viper's Moan" (1935); and Benny Goodman's songs "Texas Tea Party" (1935), "Smokin' Reefers" (1935), "Mary Jane" (1935), "Mary Jane Polka" (1935), and "Sweet Marijuana Brown" (1935).²³¹ Although Benny Goodman was a Caucasian musician, these songs were performed mostly by black musicians and written primarily for black audiences. Many of the songs were instrumental, having no lyrics at all, and thus never mentioned marijuana by name.

In the 1933 W. C. Fields' film *International House* starring Fields, George Burns, Gracie Allen, and Bela Lugosi, among others, jazz singer Cab Calloway performed the song "That Funny Reefer Man." The lyrics are as follows:

Man what's the matter with that cat there?
Must be full of reefer
Full of reefer?
Yea man
You mean that cats high?
Sailing
Sailing
Sailing lightly
Get away from here
Man is that the reefer man?
That's the reefer man
I believe he's losing his mind
I think he's lost his mind!
Oh have you ever met that funny reefer man? (Reefer man)
Have you ever met that funny reefer man? (Reefer man)
If he said he swam to China, and he sell you South Carolina
then you know you're talkin' to that reefer man

Have you ever met funny reefer man? (Reefer man)
Have you ever met funny reefer man? (Reefer man)
If he said he walks the ocean, any time he takes the notion
then you know you're talkin' to reefer man.

Have you ever met this funny reefer man?(Reefer man)
oh baby, baby, baby, reefer man(Reefer man)
If he trades you dimes for nickels

²³¹ Abel, *Marihuana*, 220.

and calls watermelons pickles
then you know you're talkin' to that reefer man

Have you ever met funny reefer man? (Reefer man)
Have you ever met funny reefer man? (Reefer man)
If he takes a sudden mania
he'll want to give you Pennsylvania
oh you know you're talkin' to the reefer man

Have you ever met funny reefer man? (Reefer man)
Have you ever met funny reefer man? (Reefer man)
If he said one sweet is funny
because he won't sell me Atlantic
then you know you're talkin' to that reefer man²³²

This popular and risqué movie and its show stopping performance of “That Funny Reefer Man” clearly took the genre of “reefer songs” outside the jazz community and into the realm of general American popular culture. But did white audiences really connect reefer with *Cannabis sativa*? Did they understand that hemp and reefer came from the same plant? Whereas, this song pokes fun at the antics of a man who smokes reefers, it never once mentions marijuana, cannabis, or hemp. During this era marijuana was increasingly familiar to jazz singers and performers, but whether an average American understood that marijuana or reefer was from the same plant as hemp was questionable. “That Funny Reefer Man” was quoted in “The Menace of Marihuana” by Albert Parry featured in *The American Mercury*, “Facts and Fancies about Marihuana” in *The Literary Digest*, and in Federal Bureau of Narcotics Commissioner Harry J. Anslinger’s “Marihuana: Assassin of Youth” featured in both the *American Magazine* and *Reader’s Digest*. The potential influence of this song and “reefer songs” in general was very much a concern of the federal government and in particular Harry J. Anslinger.

²³² “That Funny Reefer Man.” <http://www.metrolyrics.com/reefer-man-lyrics-cab-calloway.html>. April 30, 2011.

In August 1938 *Down Beat*, a national musical periodical focusing primarily on jazz, issued a warning to its readership regarding the prominence of marijuana use by musicians and marijuana themed music.

One of these days, say those close to the situation, the Federal Bureau of Investigation will investigate the claim that the marijuana weed is promiscuously used and smoked by players of swing music.

The idea that weed which is supposed to have first been taken hold of the low-down musicians playing in Harlem dives is now spreading to the bigger bands where instrumentalists now use it to emit the wild abandoned rhythms which comprise swing music is said to be arousing interest at J. Edgar Hoover's headquarters.

Whether it is true or not, the FBI is convinced that there is a good deal to the rumors which they have heard and they are planning an investigation, allegedly, which may one day treat the U.S. to an expose which will rock the music world.²³³

Down Beat's portentous warning hit very close to the mark. Harry J. Anslinger, commissioner of the Federal Bureau of Narcotics, had an intense dislike for jazz music and, in turn, jazz musicians. The Federal Bureau of Narcotics as well as the Federal Bureau of Investigation kept close tabs on musicians who were reported to use marijuana. The FBN had a special file entitled "Marijuana and Musicians," which included dossiers on, among others, Louis Armstrong, Cab Calloway, Count Basie, Les Brown, Jimmy Dorsey, Duke Ellington, Gene Krupa, and many band mates of the aforementioned men.²³⁴ Anslinger planned a nationwide roundup of these jazz musicians, but the idea was shot down by Anslinger's superior, Under Secretary of the Treasury Foley.²³⁵ Separately, however, both Louis Armstrong and Gene Krupa were arrested on marijuana charges by local law enforcement. In November 1930 Louis Armstrong was arrested for marijuana possession after a show in California while he was sharing a joint with Vic

²³³ "G-Men to Expose Weed Hounds in Bands," *Down Beat* (August 1938): 2.

²³⁴ Eric Schlosser, *Reefer Madness: Sex, Drugs, and Cheap Labor in the American Black Market* (New York: Houghton Mifflin, 2003), 21.

²³⁵ Bonnie and Whitebread, *The Marijuana Conviction*, 184-185.

Berton, a white drummer. After spending the night in jail, they were fined one thousand dollars each and sentenced to six months. The conviction did not stick though, as Armstrong's manager sent a shady character named Johnny Collins to "fix the case."²³⁶ Afterward, Armstrong publicly declared that he would never smoke marijuana again, but this was considered to be extremely hilarious among jazz musicians. Armstrong was known as "a lifelong connoisseur of marijuana."²³⁷ He even wrote President Eisenhower to ask for the drug to be legalized. He was also famously quoted as saying:

It really puzzles me to see marijuana connected with narcotics dope and all of that stuff. It is a thousand times better than whiskey. It is an assistant and a friend.²³⁸

Gene Krupa, a famous percussionist, was arrested on January 19, 1943, for giving marijuana to a minor and was thus charged with contributing to the delinquency of a minor.²³⁹ He ended up being convicted of a misdemeanor and serving 90 days jail. He was also tried on a felony charge and convicted, but ultimately was released. Both of these cases ended in a better manner than they ultimately could have. They did serve as a warning to many that the law was watching the jazz community closely. However, this did not curb drug usage among musicians in the United States.

Marijuana use was not limited to jazz musicians. Many in Hollywood openly indulged in "reefers." These actors, including Jackie Gleason and Robert Mitchum among many others, were targets of the Federal Bureau of Narcotics. Hollywood was not really a target though until the 1940s. Even those associated with certain radio programs

²³⁶ Gary Giddins, *Satchmo: The Genius of Louis Armstrong* (New York: Da Capo Press, 2001), 95.

²³⁷ *Ibid.*, 96.

²³⁸ Louis Armstrong, *Louis Armstrong in His Own Words: Selected Writings*. ed. Thomas Brothers (London: Oxford University Press, 2001), 112.

²³⁹ T. Dennis Brown, "Busted: The Story of Gene Krupa's Arrest, January 19, 1943," *Annual Review of Jazz Studies* 10 (1999): 252.

were subject to suspicion and investigation by the FBN. Among those were the Coca-Cola program, the Milton Berle program, and the Kate Smith program.²⁴⁰ Whereas, the Federal Bureau of Narcotics was unable to secure cooperation of any in the jazz world or any major arrest, the agency did succeed in grabbing a noteworthy celebrity in Hollywood. Actor Robert Mitchum was arrested by the FBN in 1949 for marijuana possession and subsequently served a brief stint in jail.²⁴¹

Reefer Madness

Not all popular media openly embraced marijuana. A noteworthy example of this is the 1936 film *Reefer Madness*. Formerly known as *Tell Your Children*, this film is a cautionary tale about the dangers of marijuana. The opening foreword claimed that the stories contained in the movie “are based upon actual research into the results of Marihuana addiction.”²⁴² The movie opened on a Parents’ Association meeting at Truman High School presided over by fictional principal, Dr. Alfred Carroll. Sounding very much like Harry J. Anslinger, he urged the parents in attendance to join him in his effort to launch an educational campaign in order to stamp out the scourge of marijuana in their community. He further urged the need for a compulsory national educational campaign in schools about the dangers of marijuana as the only way to successfully rid the nation of this drug menace. Carroll then mentioned receiving a letter directly from the Department of Narcotics. Sending letters to parents’ associations resembles the tactics of the real Federal Bureau of Narcotics in the 1930s. This letter provided some basic information about the plant and its potential for abuse including some outright misinformation. The letter described the “dried leaves and berries” as being the parts of the plant which

²⁴⁰ Bonnie and Whitebread, *The Marihuana Conviction*, 184.

²⁴¹ Schlosser, *Reefer Madness*, 21.

²⁴² Lawrence Meade and Arthur Hoerl, *Reefer Madness*, directed by Louis Gasnier, (1936; Burbank, CA: Motion Picture Ventures, 2002), DVD.

contained the drug material. *Cannabis sativa* has no berries. This basic error makes one question if those who wrote the script for the film really did much if any research into marijuana. After reading the Department of Narcotics' letter Dr. Carroll then recounted the story of teens who once attended Truman High School who were seduced by the evil drug, marijuana.

This tale began with dope peddlers Mae and Jack targeting teens with their wild marijuana and jazz fueled parties. Innocent teens Mary, Jimmy, and Bill were introduced one by one to the drug scene by their mutual acquaintance Ralph, an older boy, who was already into reefer. First he took Jimmy to Mae's apartment. Very quickly Jimmy was introduced to marijuana cigarettes. Everyone at this party behaved in an exaggerated manner. The party was filled with frantic jazz music played by one high teen with insane laughter plaguing many other teens. As the film progressed, another day dawned and yet another smoking party occurred with chaos quickly ensuing. Jimmy left the party to drive Jack to the older man's dope supplier, smoking reefer while in the car. On the way back to the party, he drove like a maniac striking and killing a man, and fleeing the scene. Meanwhile, Bill left alone at the party tried reefer for the first time causing him to become a marijuana addict. His behavior drastically changed.

In a cinematic aside, Dr. Carroll met with an agent at the local FBI office. The agent explained to him that there was very little the federal government can do as there were no laws on the books giving them power over the problem. The agent explained that federal government cannot use the Commerce clause of the Constitution because marijuana grows in almost every state, and thus there was almost no interstate commerce

in the plant. The agent asserted that a national educational campaign was the best option to rid the nation of this drug menace.

The film then switched back to the smoking teens. At another party Bill ended up cheating on his girlfriend with a fellow partygoer Blanche. Meanwhile, Mary, the final innocent teen, found her way to Mae's apartment, the den of iniquity. There she encountered Ralph who introduced her to reefer. While on the drug, Ralph attempted to sexually assault Mary. Bill, in a stupor, entered the room and attacked Ralph. Jack entered and his gun went off while attempting to break up the fight. Mary was shot and Bill was knocked unconscious. Jack placed the gun in Bill's hand. When Bill woke and saw the gun and then Mary, he incorrectly assumed that her death was his fault. Bill went on trial and was found guilty. He was sentenced to hang. Driven mad by guilt and reefer, Ralph beat the older dealer to death. Mae was subsequently caught and the big drug boss was brought down by the feds. Blanche came forward and told the truth, however, the guilt overwhelmed her and she committed suicide by jumping out of the courthouse window. Bill's conviction was overturned, but because the judge condemned his marijuana use he was forced to watch Ralph's sentencing. The other young man was led into the courtroom in restraints with a demented look on his face. His trial was waived by the state. Deemed to be criminally insane because of his marijuana use, he was committed for the remainder of his life to an asylum. The overwhelming message of this film was that marijuana was a dangerous drug, which could cause you to become a sex-crazed, murderous, and insane addict.

This morality play extolled a message that Harry J. Anslinger wanted the public to embrace: that marijuana was indeed a "killer weed." In fact his famous article,

“Marihuana: Assassin of Youth,” may have taken inspiration from the film. In the article he speaks of a girl who attended an evening smoking party with some friends where they experimented with marijuana.

The results were weird. Some of the party went into paroxysms of laughter; others of mediocre musical ability became almost expert; the piano dinned constantly. Still others found themselves discussing weighty problems with remarkable clarity. The girl danced without fatigue throughout a night of inexplicable exhilaration.²⁴³

This sounds remarkably like the smoking parties in *Reefer Madness*. Besides finding inspiration for his article in the film Anslinger might have found inspiration for his Congressional testimony before the House Ways and Means Committee regarding the Marihuana Tax Act of 1937 in *Reefer Madness*. As mentioned in Chapter One, Anslinger cited the story of a young boy who killed his entire family with an axe while high on marijuana during his congressional testimony. This same story appears in the scene in *Reefer Madness* between Dr. Carroll and the government agent. The images in the film and its message had a lasting impact on both the mindset of the American public who embraced the government’s views of marijuana and the counterculture who embraced marijuana. The film was rediscovered by the counterculture in the late 1960s and early 1970s and was used as a symbol of the absurdity of the federal policy regarding marijuana.

Hemp for Victory

Hemp for Victory, produced in 1942 by the United States Department of Agriculture, is an enigma. This film is a piece of government produced and federally funded propaganda promoting the “virtues” of hemp and the longstanding history *Cannabis sativa* has had with Americans. Its theme is diametrically opposed to the

²⁴³ Anslinger, “Marihuana: Assassin of Youth,” 18.

messages extolled in the film *Reefer Madness*. One might question why the federal government, after taking such a hard stance on the cannabis plant, seemed to temporarily reverse its position. Simply put, war forced the American government's hand. After banning the plant a mere five years earlier, the federal government found itself in a dilemma. Whereas, the government had made domestic production of hemp impossible by not producing the tax stamp required under the Marihuana Tax Act of 1937, the U.S. Navy had continued to utilize foreign hemp for cordage. In fact every battleship required roughly 34,000 feet of hemp rope. During World War II the Japanese invaded the Philippines and blocked Americans from trading with their Eastern allies, thus cutting off the United States' major hemp supplies.²⁴⁴ The Department of Agriculture and the Navy pushed the Treasury Department to produce a tax stamp enabling American farmers to grow hemp for the war effort. At the end of September 1942 the Treasury Department finally complied. The War Production Board was able to approve the plans for American farmers to grow 300,000 acres of hemp, primarily in Illinois, Indiana, Iowa, Kentucky, Minnesota, and Wisconsin. It also made plans for building seventy-one processing plants in those areas.²⁴⁵ Once again, it was the patriotic duty of American farmers to grow hemp. In 1943 U.S. farmers were able to grow 36,000 acres of seed hemp.²⁴⁶

The fourteen minute film *Hemp for Victory* was designed to encourage farmers to grow more hemp and to convince farmers who had not yet participated in this agricultural war effort to do their patriotic duty. The film began by regaling the use of hemp in ancient Greece and China. Then it connected hemp to the United States with images of

²⁴⁴ *Hemp for Victory*, directed by Raymond Evans, (1942; Washington, DC: United States Department of Agriculture), DVD.

²⁴⁵ "Home-made imports," *Newsweek*, October 5, 1942, 58.

²⁴⁶ *Hemp for Victory*.

“Old Ironsides,” the U.S.S. Constitution, as well as settlers in Conestoga wagons crossing the prairies. The film detailed how to properly grow and harvest hemp. It also acknowledged hemp’s usefulness as “twine of various kinds for tying and upholsters work; rope for marine rigging and towing; for hayforks, derricks, and heavy duty tackle; light duty fire hose; thread for shoes for millions of American soldiers; and parachute webbing for our paratroopers.”²⁴⁷ It emphasized the need to register and receive a tax stamp to legally grow the plant, but never once mentioned its connection with the Marihuana Tax Act of 1937. This piece of government propaganda openly contradicted the former enforcement policies behind the Marihuana Tax Act of 1937. If the Philippines had not been overtaken by the Japanese then perhaps the government would never have openly acknowledged to Americans and specifically American farmers that hemp was still a vital crop in the United States. The tax stamps for growing hemp were only issued for a limited time by the Treasury Department.

An article featured in *Popular Science* in 1943 estimated that 75,000 tons of hemp had been grown that year.²⁴⁸ That massive yield was an indirect result of *Hemp for Victory* and direct result of the Department of Agriculture’s campaign to get farmers to grow for the war effort. The film *Hemp for Victory* never connected marijuana with the hemp plant, but that does not mean that the Department of Agriculture was unaware of the potential use for this plant. The Department of Agriculture attempted to solve the problem of marijuana by breeding a “drugless” strain of the hemp plant. One might question why this was needed since “ditch weed” grew throughout the nation, but this strain of *Cannabis sativa*, which was basically wild hemp, did have nominal amounts of

²⁴⁷ *Hemp for Victory*.

²⁴⁸ “Can We Grow Hemp Without Dope? Plant Wizards Fight Wartime Drug Peril,” *Popular Science*, (Sept.1943): 62.

THC. Dr. H.E. Warmke of the Carnegie Institute was enlisted by the federal agency to conduct experiments on hemp. He tested the strains on fish to determine the drug content of each plant.²⁴⁹ One can assume that they experiments never yielded a plant with absolutely no drug content as the growing of cannabis in the United States was once again banned in 1955.

In the late 1940s and 1950s, “for the first time in our national history, there was public interest in narcotic drugs.” Bonnie and Whitebread attributed this to an increase in drug abuse in the late 1940s. Thus, the public was receptive to anti-marijuana propaganda promulgated by the Federal Bureau of Narcotics.²⁵⁰ During this era, anti-marijuana pulp fiction leapt off the shelves. With titles such as *It Ain't Hay* (1946), *I'll Get Mine* (1951), and *Hooked (Narcotics: America's Peril)* (1953), these lurid books embraced the ideologies espoused by the Federal Bureau of Narcotics. *It Ain't Hay* was a mystery by David Dodge. It involved a marijuana smuggler as the antagonist. Whereas the protagonist in a plot of revenge descends into his own personal hell committing adultery and experimenting with the same drug he was attempting to stop his arch nemesis from smuggling into the nation.²⁵¹ *I'll Get Mine* was a novel by Thurston Scott about a woman and her descent into marijuana addiction.²⁵² *Hooked (Narcotics: America's Peril)* by Will Oursler and Laurence Dwight Smith was a novel in which girls prostituted themselves for a marijuana, decent men became criminals to support their pot “addiction,” and drug dealers thrived.²⁵³

²⁴⁹ Ibid.

²⁵⁰ Bonnie and Whitebread, “The Forbidden Fruit,” 1063.

²⁵¹ David Dodge, *It Ain't Hay* (New York: Simon and Schuster, 1946).

²⁵² Thurston Scott, *I'll Get Mine* (New York: Popular Library, 1951).

²⁵³ Will Oursler and Laurence Dwight Smith. *Hooked (Narcotics: America's Peril)* (New York: Popular Library, 1953).

National magazines, in turn, were filled with anti-marijuana headlines. In 1945 a *Science Digest* headline shouted “Menace of Marijuana.” In 1946 *Business Week* declared a “Hemp Menace.” On December 31, 1951, *Newsweek* featured an article entitled “Marines and Marijuana.” Films during this era espoused the Federal Bureau of Narcotics’ anti-marijuana messages specifically *Devil’s Harvest* (1942), *Assassin of Youth* (1937), and *Marihuana* (1936). Comic books of the era detailed the evils of marijuana. This included comics such as *Adventure Comics* (June 1939), *Kerry Drake* (1946), and *The Ghost Rider*. Even dictionaries and encyclopedias espoused the Federal Bureau of Narcotics’ anti-marijuana messages. *Webster’s Encyclopedic Dictionary of the English Language* from 1957 defined the drug as:

marijuana or marihuana (ma re hwa na) n. A weed or herb, growing in many parts of North America; the dried leaves of the plant, which have narcotic qualities when smoked in cigarettes; sometimes called the assassin of youth.

Marijuana, or Hashish, a subtle, crazing drug which is being surreptitiously sold in U.S. in the form of cigarettes. Narcotic officials named it "The Assassin of Youth," and state that it is as dangerous as a coiled rattlesnake. Its effects when smoked vary with different individuals. It may make of its victim a philosopher, a joyous reveler, a mad insensate, or a fiendish murderer. Its purveyors whisper into the ears of Am. youth the wonders of a new cigarette with a real thrill, and without harmful effects. Students are lured to its use by promises of resultant keenness of mind, the easy solving of problems, an aid in exams. An addict was hanged in Baltimore in 1937 for a criminal assault on a ten-year-old girl. In Fla. a crazed youth killed his father, mother, two brothers, and a sister. In more than 30 cases of murder or degenerate sex crimes in 1937, marijuana proved to be a contributing cause. See Hashish.²⁵⁴

This excerpt directly quotes Harry J. Anslinger’s article “Assassin of Youth” as

well as references his congressional testimony before the House Ways and Means Committee regarding the Marihuana Tax Act of 1937. This illustrates the impact Anslinger and the Federal Bureau of Narcotics’ national anti-marijuana educational

²⁵⁴ *Webster’s Encyclopedic Dictionary of the English Language*, “Marijuana,” (Westport, CT: H.S. Stuttman Co.,1957), 2681.

campaign had on cultural expressions regarding marijuana from the 1930s through the 1950s. It is also noteworthy to mention that Will Oursler, co-author of the pulp fiction novel *Hooked (Narcotics: America's Peril)*, co-authored *The Murders: The Shocking Story of the Narcotics Gangs* with Anslinger. Besides influencing pulp fiction, Anslinger obviously appreciated it and those who created it.

All of the various anti-marijuana media expressions discussed in this chapter depict marijuana as an alien intrusion capable of destroying innocent lives and transforming normal individuals into sex-crazed, violent, or insane people. All of the media expressions, in turn, contributed to cannabis confusion among the American public. This confusion significantly contributed to the legal change in the status of the cannabis plant and helped solidify the definition of cannabis as marijuana and not hemp. However, cultural expressions like “reefer songs” illustrate that the nation as a whole did not accept the idea of marijuana as a dangerous drug. But the overwhelming evidence that the nation as a whole did not accept the definition of marijuana as a dangerous drug is the mere existence of an anti-drug media campaign designed to impart that definition to the masses.

The LaGuardia Report

In September of 1938, the New York Academy of Medicine was contacted by the mayor of New York City, Fiorello LaGuardia, about the marijuana problem. He wanted an impartial group to “make a survey of existing knowledge on the subject and carry out any observations required to determine the pertinent facts regarding this form of drug

addiction and the necessity of its control.”²⁵⁵ The New York Academy of Medicine referred the mayor’s request to the Committee on Public Health. A special subcommittee was appointed, which after reviewing the existing literature on marijuana determined that they “could come to no conclusion regarding the effect of marihuana upon the psychological and physiological functions of the human being.”²⁵⁶ The Subcommittee recommended that “it was time that a study of its effects be made based upon well-established evidence, and prepared an outline of methods of procedure for the study of the problem.”²⁵⁷ They further recommended a sociological study as well as a clinical study of the drug. In January 1939 Mayor LaGuardia commissioned the Committee on Marihuana to conduct both studies. This committee was composed of the subcommittee of Public Health as well as five additional medical doctors. The doctors on the Committee on Marihuana studied the outline of the proposed plans for roughly a year before commencing either of the actual studies. In 1944 the results of the LaGuardia Report were released.

In part, both the sociological study and the clinical study of marijuana contained in the LaGuardia Report attempted to test the validity of claims made about marijuana in both pro- and anti-marijuana media representations. In researching the history of the plant, the committee read the accounts that the Romantics of the nineteenth century wrote about their experiences with hashish, as well as their fictional accounts of hashish use. The conclusions of the Romantic authors “were that hashish could cause psychotic episodes and even death and that prolonged use would result in physical and mental

²⁵⁵ George Barclay Wallace, *The Marihuana Problem in the City of New York: Sociological, Medical, Psychological, and Pharmacological Studies* (Lancaster, PA: The Jaques Cattell Press, 1944), ix.

²⁵⁶ Ibid.

²⁵⁷ Ibid.

deterioration.”²⁵⁸ The Romantics were held in such high esteem that their conclusions were accepted almost as if they had written scientific monographs on the subject.

According to the report these conclusions have been upheld by modern individuals of note and the government itself. Federal, state, and local agencies along with prominent individuals have asserted publicly that marijuana use is deleterious. Many of these groups claim that:

marihuana smoking is widespread among school children; that the dispensers of the drug are organized to such an extent that they encourage the use of marihuana in order to create an ever-increasing market; that juvenile delinquency is directly related to the effects of the drug; that it is a causative factor in a large percentage of our major crimes and sexual offenses; and that physical and mental deterioration are the direct result of the prolonged habit of smoking marihuana.²⁵⁹

Both studies attempted to address these views of marijuana.

The sociological study was limited to the Borough of Manhattan. The following questions were posed by the researchers:

1. To what extent is marihuana used?
2. What is the method of retail distribution?
3. What is the general attitude of the marihuana smoker toward society and toward the use of the drug?
4. What is the relationship between marihuana and eroticism?
5. What is the relationship between marihuana and crime?
6. What is the relationship between marihuana and juvenile delinquency?²⁶⁰

In attempting to discover the answers to these questions the researchers made wide-ranging use of subjective data from non-smokers, marijuana smokers, and those who had direct knowledge of its effects but were not smokers. The researchers surveyed thirty-nine different schools including grammar, middle, and high schools. They also placed many of these schools under surveillance. They interviewed principals and teachers

²⁵⁸ Ibid., 2.

²⁵⁹ Ibid., 3.

²⁶⁰ Ibid., 7.

regarding marijuana use in their schools. The researchers also gathered information from various city and private agencies regarding the purported problem.

The LaGuardia sociological study came to the following conclusions. Firstly, marijuana use was extensive throughout the Boroughs of Manhattan; however, the marijuana “problem” was not as severe as it was acknowledged to be in other parts of the United States. The introduction of the drug into Manhattan was recent in comparison with other areas. The low cost of the drug enabled it to be within the economic reach of most individuals.²⁶¹ Harlem appeared to be the center of use and distribution. The majority of users were African-Americans or Latin-Americans. There existed a consensus among marijuana smokers that it “creates a definite feeling of adequacy.”²⁶² A particularly controversial conclusion the study came to was that “the practice of smoking marijuana does not lead to addiction in the medical sense of the word.”²⁶³ Despite popular belief, the sale and distribution of the drug was not controlled by a singular organized group of drug pushers.

The last five conclusions were the most controversial in the eyes of Harry J. Anslinger and the Federal Bureau of Narcotics as they directly contradicted the beliefs espoused by the commissioner and his anti-marijuana agency. The sociological study concluded that marijuana was not a gateway drug to morphine, heroin, or cocaine. Marijuana was not the “determining factor in the commission of major crimes.”²⁶⁴ The use of marijuana, was not as popular belief held, widespread among schoolchildren nor was it a cause of juvenile delinquency. Finally the study concluded that the publicity

²⁶¹ Ibid., 24-25.

²⁶² Ibid., 25.

²⁶³ Ibid.

²⁶⁴ Ibid.

surrounding the “catastrophic effects of marihuana smoking in New York City” was unfounded.²⁶⁵

The study also noted a surprisingly large number of schoolchildren were found to smoke regular tobacco cigarettes. The researchers found that many of these cigarettes were being obtained individually from men on the street or in candy stores. They suggested that this trade in cigarettes could be mistaken for trade in “reefers.”²⁶⁶ These conclusions directly contradict the anti-marijuana media representations of the era as well as the anti-marijuana messages espoused by the Federal Bureau of Narcotics.

The LaGuardia clinical study dealt with the purported pleasurable effects of marijuana as well as the effects, which supposedly led to crime and anti-social acts. The researchers first selected five volunteers who had never smoked marijuana before. The main group for the study though was seventy-two inmates from Riker’s Island, Hart’s Island, and the House of Detention for Women. This group consisted of seven females and sixty-five males. After conducting months of clinical experiments the LaGuardia clinical study came to the following conclusions.

The effects of marijuana were tested on the psychomotor functions of the subjects. The clinical study concluded reactions depended on the complexity of the function tested and the size of the dose. Simpler tasks such as tapping and simple reaction time were affected only minutely by larger doses (defined as 5 cc.) and almost negligibly by small doses (defined as 2 cc.). On the other hand, more complex tasks such as “static equilibrium, hand steadiness, and complex reaction time” were affected “adversely to a

²⁶⁵ Ibid.

²⁶⁶ Ibid., 18.

considerable degree by the administration of both large and small doses of marihuana.²⁶⁷ The bodily functions that were most affected by marijuana use appeared to be steadiness of the body and hand. The effects of smoking marijuana were similar to those of ingesting the drug, but they occur “sooner and taper off more quickly.”²⁶⁸ The effects seem to be for the most part the same for men as well as women. “Auditory acuity is not affected by” marijuana and neither is musical ability. Perception of space and time also did not appear to be affected by the use of marijuana.²⁶⁹ A person’s basic personality did not change when on marijuana. The use of marijuana produced “increased feelings of relaxation, disinhibition, and self-confidence.” The increased feeling of confidence among users most often expressed itself through oral expressions instead of physical activity. The lack of inhibition from the use of marijuana “releases what is latent in the individual’s thoughts and emotions but does not evoke responses which would be totally alien to him in his undrugged state.” Marijuana can create not only pleasant feelings in those who smoke or ingest it, but also feelings of anxiety. Individuals who are socially awkward are more likely to use to marijuana than those who are more outgoing.²⁷⁰

In response to the overall report and its results Mayor LaGuardia expressed that:

The report of the present investigations covers every phase of the problem and is of practical value not only to our own city but to communities throughout the country. It is a basic contribution to medicine and pharmacology.

I am glad that the sociological, psychological, and medical ills commonly attributed to marihuana have been found to be exaggerated insofar as the City of New York is concerned. I hasten to point out, however, that the findings are to be interpreted only as a reassuring report of progress and not as encouragement to indulgence, for I shall continue to enforce the laws, prohibiting the use of marihuana until and if complete findings may

²⁶⁷ Ibid., 80.

²⁶⁸ Ibid., 81.

²⁶⁹ Ibid.

²⁷⁰ Ibid., 132.

justify an amendment to existing laws. The scientific part of the research will be continued in the hope that the drug may prove to possess therapeutic value for the control of drug addiction.²⁷¹

Whereas the results of the LaGuardia Report seemed to please many including Mayor LaGuardia, it also infuriated many individuals, especially Commissioner of the Federal Bureau of Narcotics Harry J. Anslinger. He asserted that the report declared the individuals and agencies who had been denouncing marijuana as a killer weed were not only mistaken, but were encouraging baseless fears about the drug. Anslinger felt that “the report was a government printed invitation to youth and adults--above all to teen agers--to go ahead and smoke all the reefers they felt like.”²⁷² He referred to the report as “giddy sociology and medical mumbo jumbo.” Anslinger felt the report damaged his efforts at ridding the nation of this drug menace. He claimed that “syndicate lawyers and spokesmen . . . cited it in court cases, tried to spread the idea that the report had brought marijuana back into the folds of good society with a full pardon and a slap on the back from the medical profession.”²⁷³ From there Anslinger felt more lies about marijuana spread cropping up in panel discussions and public speeches by “informed” individuals. He believed that all of this served “to bewilder the public and make it unsure of its own judgments.”²⁷⁴ One might say that his own agency’s efforts towards cannabis confusion also served to bewilder the nation and make people doubt their own judgments.

The Boggs Act

In 1951 Representative Hale Boggs of Louisiana sponsored a bill that dictated mandatory minimum penalties for violating the Narcotic Import and Export Act of 1922 and the Marihuana Tax Act of 1937. This was a dramatic move for the federal

²⁷¹ Ibid., v.

²⁷² Anslinger and Oursler. *The Murderers*, 40.

²⁷³ Ibid., 41.

²⁷⁴ Anslinger and Oursler, *The Murderers*, 42.

government. This sweeping legislation lumped all narcotics and marijuana together concerning sentencing for the first time. According to medical historian David Musto, this law was particularly powerful because “although some states had even more severe sentences for some offenses, no state law had the breadth of jurisdiction or the unified enforcement service of the Federal Bureau of Narcotics.”²⁷⁵ The first offense under this act would garner an individual a two year to five year sentence. A second offense would garner an individual five to ten years. A third offense and any subsequent offense dictated a ten year to twenty year sentence. Regardless of the number of offenses, each crime committed under this act also led to a two thousand dollar fine.²⁷⁶

Why was there a need for this law, one might wonder, when non-medical narcotic use and marijuana use in general were already outlawed? Representative Boggs cited the dramatic increase in narcotic drug use as the main reason for the new law. He mentioned a 77 percent increase in drug arrests between 1948 and 1950.²⁷⁷ Historians Bonnie and Whitebread felt that “this indiscriminate treatment of marijuana as just another narcotic drug flew in the face of contemporary testimony challenging the assumption that the hemp drugs were addictive, crime-producing, and likely to lead to insanity and death.”²⁷⁸

The Daniel-Boggs Narcotic Control Act of 1956 went a step further than the Boggs Act of 1951 by increasing mandatory minimums dramatically. The sale, transfer, or smuggling of narcotics for a first time offender now yielded a sentence of five to twenty years. Second and subsequent offenses would elicit a ten to twenty year prison term. Under this law no parole, probation, or sentence suspension was allowed. The fine

²⁷⁵ Musto, *The American Disease*, 231.

²⁷⁶ *Boggs Act*. Public Law 255, 82nd Congress, Session 1, (November 2, 1951).

²⁷⁷ Bonnie and Whitebread, “The Forbidden Fruit,” 1064.

²⁷⁸ *Ibid.*, 1063.

for all offenses was increased to twenty thousand dollars.²⁷⁹ These new sentencing practices put another nail in cannabis's coffin.

From the 1930s through the 1950s the federal government proselytized about the evils of marijuana. Legally marijuana was classified as a dangerous drug and there seemed to be a consensus especially in the 1950s among the American populace, which embraced this view of marijuana; however, this consensus was not as strong as it seemed.

²⁷⁹ *Narcotic Control Act*, ch. 629, 70 Stat. 567, 84th Congress, (July 18, 1956).

Chapter Three: Kennedy, Nixon and Leary

From the 1930s through the 1950s the federal government, specifically the Federal Bureau of Narcotics, fine tuned its war against marijuana. It hammered away at the notion that marijuana was a dangerous drug. Since the passage of the Marihuana Tax Act of 1937, according to scholar Lawrence Friedman, “the federal government, and most state governments have never looked back, never wavered, always stuck like glue to a single policy of prohibition, prohibition and more prohibition: interdiction at the source, the arrest of users and pushers, draconian punishments, and, on the official level no understanding, no mercy, no letup in the war.”²⁸⁰ The federal government also utilized the national media and every other avenue of publicity it could garner to spread the message that this plant was a “killer weed.” Even when confronted with contradictory findings from legitimate studies like the 1944 LaGuardia Report, Harry J. Anslinger and his agency, the Federal Bureau of Narcotics, did not back down from their mission of ridding the nation of this supposed drug menace. The 1940s and 1950s may have been a time during which anti-marijuana propaganda was openly embraced by a majority of the American public, but the unquestioning stance of the populace could not be maintained indefinitely.

In the 1960s a large portion of the youth of America began to openly question these supposed truths regarding marijuana. The harsh penalties under the Boggs Act of 1951 and the Narcotic Control Act of 1956 when looked at with questioning eyes seemed even harsher when the supposed evils of marijuana were under fire. Soon the counterculture of America embraced marijuana wholeheartedly. This chapter will discuss the continued government campaign against marijuana in the 1960s and 1970s. It will

²⁸⁰ Friedman, *Crime and Punishment in American History*, 356.

also reveal the emergence of marijuana in the counterculture as a portion of the American populace struggled to renegotiate the legal and cultural definition of marijuana. Of particular note will be a discussion of *Leary v. United States of America* and the Comprehensive Drug Abuse Prevention and Control Act of 1970, as together they transformed American drug law.

President Kennedy and Drug Abuse

President John F. Kennedy aimed to deal with drugs in a fair and informed manner during his presidency. He wanted to analyze the current drug laws and government policies to see if they were truly beneficial to our nation. On September 27th and 28th, 1962 President Kennedy held a White House Conference on Narcotic and Drug Abuse in Washington, D.C. The participants included individuals from the Presidential Interdepartmental Committee on Narcotics, which was comprised of members from the following federal departments: Defense, Justice, State, Treasury, Health, Education, and Welfare.²⁸¹ The aims of the conference were as follows. First, to reexamine the entire problem of narcotics use in the America and evaluate it in the larger context of the abuse of drugs. Second, to emphasize the paucity of concrete data in the arena of drug abuse, “and to encourage the various segments of society involved in this problem to cooperate to develop a clear picture of what we face.”²⁸² Third, to separate out the current controversies, differentiating from those aspects of the problem for which there exists clear data “but where those data are not widely known; i.e., the availability, cost, and differential advantages of the various types of tests to determine whether an individual is

²⁸¹ “Fact Sheet for the White Conference on Narcotic and Drug Abuse, September 27th and 28th, 1962,” Harry J. Anslinger Papers, Box 8 Folder 5, Penn State University Special Collections Library.

²⁸² “Aims of Conference on Narcotics and Drug Abuse for the White Conference on Narcotic and Drug Abuse, September 27th and 28th, 1962,” Harry J. Anslinger Papers, Box 8 Folder 5, Penn State University Special Collections Library.

using narcotic drugs” and those aspects for which no data has been collected. Further the committee was to delineate the role which each involved aspect of society--the judiciary, medical community, law enforcement, legislators, etc.--played in solving the problems. Finally the committee was “to get all responsible parties to address themselves to the dual problem we face that of dealing with treatment and rehabilitation of drug users, as well as, legislatively and financially supporting research.”²⁸³

President Kennedy and Attorney General Robert F. Kennedy both spoke to the conference goers. President Kennedy began his address by stating that:

For more than half a century this Nation has faced persistent and difficult problems arising out of the abuse of narcotics and nonnarcotic drugs. It is especially tragic and upsetting that this great loss to our society in the form of human suffering and misery and lost productivity flows directly from agents which possess the capacity to relieve pain and suffering. Properly and expertly used, they contribute significantly to the improvement and betterment of our lives.

This national problem merits national concern. I’m confident that the White House conference, the first ever held in this field, will help focus attention on the various aspects of the problem and, most importantly, will permit a pooling of our information and experiences to the end that an orderly, vigorous, and direct attack can be undertaken at all levels, local, State, Federal, and international.²⁸⁴

It is clear that President Kennedy took this conference and the opinions of the attendees seriously. He asserted that:

I don’t think there is any area on which a conference could be held where the members of the conference could play a more significant role. This conference and its members, I know, do not consider themselves as ornamental fixtures to give sort of a public look at a problem; instead, we want direct guidance from you, and this mixture of talents and experiences which are brought together here at this White House conference, the first

²⁸³ Ibid.

²⁸⁴ “Statement of President John F. Kennedy for the White House Conference on Narcotic and Drug Abuse,” 27 September 1962. Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

one ever held in this field, can serve as a very positive base for much more comprehensive action by us all.

What you do here we will attempt, and what you suggest we will attempt to implement, and I think after a year has gone by we can make a real judgment on the success of this conference.²⁸⁵

During the White House conference President Kennedy also presented a special citation to Commissioner Harry J. Anslinger for his service to the nation, praising Anslinger for his efforts combating drug abuse and trafficking. Anslinger, representing the Federal Bureau of Narcotics at the White House conference, spoke briefly to the attendees. In regards to marijuana he admitted that the nation had a significant problem since the “traffic in and abuse of cannabis” was increasing with little or no progress being “made in control of this drug.”²⁸⁶ A preassembled panel selected by President Kennedy and made up of experts in drug abuse and control was asked for initial findings to present to the conference. This Ad Hoc Panel declared that “it is the opinion of the Panel that the hazards of marihuana use have been exaggerated and that long criminal sentences imposed on an occasional user or possessor of the drug are in poor social perspective.”²⁸⁷ This was contradictory to everything Anslinger had been saying and fighting for during his career at the Federal Bureau of Narcotics. However, this declaration did not really impact the status of marijuana. President Kennedy wanted further study to be conducted to answer the aforementioned concerns so the White House conference established the Presidential Commission on Narcotic and Drug Abuse to examine these and other questions raised by the conference.

²⁸⁵ Ibid.

²⁸⁶ “Statement of Harry J. Anslinger for the White Conference on Narcotic and Drug Abuse, September 27th and 28th, 1962,” Harry J. Anslinger Papers, Box 8 Folder 5, Penn State University Special Collections Library.

²⁸⁷ “Results of Ad Hoc Panel for the White House Conference on Narcotic and Drug Abuse, September 27th and 28th, 1962,” Harry J. Anslinger Papers, Box 8 Folder 5, Penn State University Special Collections Library.

The Presidential Commission on Narcotic and Drug Abuse issued its findings in 1963. In direct contradiction to the Boggs Act of 1951 and the Narcotic Control Act of 1956, the commission recommended the relaxation of mandatory minimum sentences. It also recommended an increase in funding for research into narcotics and drug abuse. The commission felt the Federal Bureau of Narcotics should be dismantled and its various functions allocated to other governmental departments, including Justice, and Health, Education, and Welfare. The commission continued the federal policy of lumping marijuana in with narcotics, but according to medical historian David Musto, “suggested a policy that would shift the criteria for regulatory decisions regarding addicts and other drug users away from enforcement agencies and to the health professions.”²⁸⁸ The recommendations of the committee did not come to immediate fruition. Despite the seriousness President Kennedy had attached to that commission’s findings following his assassination, his successor President Johnson did not change the status quo regarding American drug laws.

Besides being the year of President Kennedy’s White House Conference on Narcotic and Drug Abuse, 1962 was significant because it marked the forced retirement of Harry J. Anslinger. He had reached mandatory retirement age for federal employees. Anslinger served as head of the Federal Bureau of Narcotics for thirty-two years, worked under five presidents, and had greatly shaped the American War on Drugs. His reign was over as the top drug official in America, but other drug warriors carried on his cause.

President Lyndon B. Johnson and Drug Abuse

President Lyndon B. Johnson took over the American war on drugs after President Kennedy was assassinated. He was not as enthusiastic about reviewing the

²⁸⁸ Musto, *The American Disease*, 239.

American drug laws as President Kennedy had been. Johnson did focus on a social issue when he declared a war on poverty.²⁸⁹ He was, however, responsible for the creation of the Bureau of Narcotics and Dangerous Drugs. This agency was created 1968 and combined the Treasury Department's Federal Bureau of Narcotics with the Health, Education and Welfare Department's Bureau of Drug Abuse Control. The FBN's was responsible for marijuana, heroin and other narcotics while the BDAC only had jurisdiction over stimulants, depressants, and hallucinogens. This new agency now had the jurisdiction over all illegal drugs. It was under the aegis of the Justice Department and was the precursor to today's DEA.²⁹⁰ Other than the creation of the Bureau of Narcotics and Dangerous Drugs, President Johnson did little during his presidency to affect the status of cannabis in America.

Alternative Views of Marijuana

Before the 1960s a large segment of the population of white, middle-class America feared the incursion of demons such as marijuana into the lives of their children and neighbors. This is evident by the acceptance and push for laws such as the Boggs Act of 1951 and the Narcotic Control Act of 1956, which meted out harsh mandatory minimums for drug offenses. For the most part, in the United States prior to 1960, use of marijuana was primarily restricted to minorities such as African Americans or Hispanic immigrants. However, during the 1960s white, middle-class Americans, especially college age individuals, began to discover marijuana with increasing frequency. By 1970, it was estimated that over eight million Americans had smoked marijuana at some

²⁸⁹ Elwood, *Rhetoric in the War on Drugs*, 23.

²⁹⁰ Lyndon B. Johnson, "President's Special Message to the Congress Transmitting Reorganization Plan 1 of 1968 Relating to Narcotics and Drug Abuse Control," 7 February 1968 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

time.²⁹¹ Those individuals involved in the hippie movement tended to be involved with drugs of some nature, primarily hallucinogens. Marijuana, though, was very popular because it could be used more frequently and casually than major hallucinogens.²⁹² According to religious historian, Robert Fuller, in the 1960s and 1970s, smoking marijuana was a rite of passage and of initiation into the counterculture.²⁹³ Historian David Musto went further asserting that:

Marihuana's increasing popularity in the U.S. created a gap between those who used it without becoming maniacs and the society that believed it had vicious effects. Youth, especially, grew doubtful that drug warnings had any creditability, since marihuana was being exposed after a quarter of a century as less than 'the most dangerous habit-forming drug of them all.' Perhaps as a result, more accurate information on other drugs, such as amphetamines, was ignored. Long sentences for marihuana possession became examples to youth of an ignorant establishment's show of force. Confidence in the courts and fear as a deterrent to drug use declined. Sentiment began to favor a general reevaluation of drug laws to reflect both current medical and sociological information and beliefs.²⁹⁴

In 1966 the head of the Food and Drug Administration, Dr. James Goddard, told an audience of 2,000 students at Cornell University "that the penalties for using marijuana [were] 'too severe.'"²⁹⁵ The student attendees of the Cornell sponsored symposium were vocal in their agreement. The experts who spoke were not advocating legalization of marijuana though, but like much of the youth of America questioned the strictness and severity of America's drug laws particularly those regarding marijuana.

Headlines in the national press in the late 1960s and early 1970s began to reflect the growing acceptance of marijuana among the counterculture and particularly the youth

²⁹¹ William Novak, *High Culture: Marijuana in the Lives of Americans* (New York: Alfred A. Knopf, 1980), xiv.

²⁹² Robert C. Fuller, "Drugs and the Baby Boomers' Quest for Metaphysical Illumination," *Nova Religio: The Journal of Alternative and Emergent Religions* 3 no. 2 (October 1999): 109.

²⁹³ *Ibid.*, 112.

²⁹⁴ Musto, *The American Disease*, 236.

²⁹⁵ Patricia McBroom, "'Pot' Penalties Too Severe," *Science News* 90 no. 15 (October 8, 1966): 270.

of America. In June of 1972 *Science Digest* questioned if “Pot smoking: less harm than feared?”²⁹⁶ On July 3, 1972, *Newsweek* announced the “AMA: switch on pot.”²⁹⁷ In January of 1973 *The New York Times Magazine* discussed the “Pot lobby,” highlighting the formation and activities of the National Organization for the Reform of Marijuana Law.²⁹⁸ These articles were countered with dozens of articles against marijuana. Both positive and negative articles were significant because they highlighted the battle over the meaning of marijuana.

There were many pro-marijuana cultural expressions in the 1960s and 1970s including books, songs, and artwork, but as far as enduring expressions there is one book that comes to mind, *The Marihuana Papers. The Marihuana Papers*, edited by David Solomon, was a significant example of popular dissent in print regarding marijuana. The decidedly pro-marijuana text quickly went through three printings from 1966 to 1968 and is still in print today. It is continually cited by other researchers in the drug field including among others, David Musto, Richard Bonnie, and Charles Whitebread II. The book attempted to illuminate “the facts behind the myths” surrounding marijuana in American culture.²⁹⁹ According to Solomon, the text was assembled, therefore, “with the express purpose of supplying the accurate and authoritative information needed to perform the belated rites for the marihuana myths.”³⁰⁰ Further, the book should serve both to assist in changing people’s minds as well as assisting those who campaign for marijuana’s legality. Solomon asserted in his foreword that marijuana should be

²⁹⁶ A. J. Snider, “Pot smoking: less harm than feared?” *Science Digest* 71 (June 1972): 53.

²⁹⁷ “AMA: switch on pot,” *Newsweek* 80 (July 3, 1972): 50.

²⁹⁸ P. Anderson, “Pot lobby [National organization for the reform of marijuana law],” *The New York Times Magazine* (January 21, 1973): 8-9.

²⁹⁹ David Solomon, ed., *The Marihuana Papers* (New York: New American Library, Inc., 1966), front cover.

³⁰⁰ *Ibid.*, xxii.

legalized. He argued that “since it is in no demonstrable way poisonous and harmful, as are nicotine and alcohol, marihuana should be granted at least the same public availability and legal status as tobacco and liquor.”³⁰¹ The book featured an introduction by noted Indiana University sociologist and pro-marijuana advocate Alfred Lindesmith. Notably, it also included a passionate defense of marijuana by famous counterculture activist and poet Allen Ginsberg as well as an article by psychologist turned drug guru Timothy Leary. The text contained the 1944 LaGuardia Report as well as a variety of articles by doctors, historians, scientists, and writers. *The Marihuana Papers* represented a unique opportunity, a coming together of all major marijuana proponents of the era in one text. This gave a unique and powerful voice to the popular dissent regarding the status of marijuana in America.

The popular acceptance of marijuana by a significant portion of America’s youth increased throughout the 1960s and 1970s. This popular movement was, in many regards, influenced by individuals such as Allen Ginsberg, Richard Alpert (former Harvard psychologist), and Timothy Leary. It was the latter’s efforts that resulted in major legal changes in America’s drug laws and specifically marijuana laws.

Leary v. United States of America

On December 22, 1965, Dr. Timothy Leary, an American psychologist, was arrested for marijuana possession in Laredo, Texas. This arrest may not have shocked the nation as Timothy Leary, formerly of Harvard, was well known for his drug use and his proselytizing for the use of hallucinogens, but the outcome would significantly impact the drug laws of our nation.

³⁰¹ Ibid.

The psychologist turned drug guru was known for the popular slogan and hippie anthem “turn on, tune in, and drop out.” Leary considered psilocybin, mescaline, and LSD to be the major hallucinogens of the hippie movement, viewing marijuana and alcohol as the more minor hallucinogens used by this counterculture group.³⁰² However, it was his possession of marijuana that caused him the most legal trouble. That fateful day in December of 1965 Leary and some companions, including his daughter, were travelling by car to Mexico. They were denied entry to Mexico after crossing the International Bridge at Laredo, Texas. After turning around, Leary’s car was subsequently inspected by United States Custom officials who discovered a small amount of marijuana, less than half an ounce. Leary was charged with “transporting and concealing marihuana illegally brought into the United States; and transporting and concealing marihuana without paying the transfer tax imposed by the Marihuana Tax Act.”³⁰³ The smuggling charge was subsequently dropped, but Leary was tried and ultimately found guilty of the last two counts of violating provisions of the Marihuana Tax Act of 1937. He was sentenced to thirty years in prison and fined thirty thousand dollars. Leary fought his conviction all the way to the U.S. Supreme Court on the basis that the Marihuana Tax Act of 1937 under which he was convicted violated the Fifth Amendment protection against self-incrimination. Leary also argued that he was denied due process due to a statutory presumption in the Narcotic Import and Export Act “that possession of marihuana is sufficient evidence both of its illegal importation and of the defendant’s knowledge of its illegal importation.”³⁰⁴ In 1969 the Supreme Court found in

³⁰² Fuller, “Drugs and the Baby Boomers,” 105.

³⁰³ “Due Process, Self-Incrimination, and Statutory Presumptions in the Wake of ‘Leary’ and ‘Turner,’” *The Journal of Criminal Law, Criminology, and Police Science* 61 no. 3 (September 1970): 367.

³⁰⁴ *Ibid.*, 368.

favor of Leary and ruled that the Marihuana Tax Act of 1937 and the Narcotic Import and Export Act of 1922 were both unconstitutional. The Court ruled:

that by requiring the petitioner to obtain an order form from the government for the transfer of marihuana; the Marihuana Tax Act compelled him to identify himself not only as a transferee but also as a nonregistered transferee within the meaning of the act. The Act directed that the information required by the registration provisions be conveyed by the Internal Revenue Service to state and local law enforcement agencies on request. Since the petitioner [Leary] was not a person, who, under state law, might be able to legally possess marihuana, the Court found that he was therefore one of a class constituting 'a select group inherently suspect of criminal activities.' Thus, petitioner had ample reasons to fear that transmittal to state officials that he was an unregistered transferee of marihuana 'would surely prove a significant link in a chain of evidence tending to establish his guilt' under the state marihuana laws then in effect.³⁰⁵

Leary v. United States was a major if temporary win for pro-marijuana activists.

Besides the legal structure of American drug law collapsing, the drug enforcement arena was also shaken up around the same time. In 1968 the Federal Bureau of Narcotics was transferred from the Treasury Department to the Justice Department and significantly revamped. It was merged with the enforcement agency in the Department of Health, Education, and Welfare to become the Bureau of Narcotics and Dangerous Drugs.³⁰⁶

Comprehensive Drug Abuse Prevention and Control Act of 1970

Since the ruling in *Leary v. United States* deemed that both the Narcotic Drug Import and Export Act of 1922 and the Marihuana Tax Act of 1937 were unconstitutional, that left a legal gap in federal drug law. As the Boggs Act of 1951 and the Narcotic Control Act of 1956 meted out harsh mandatory minimums for violating provisions of the Marihuana Tax Act of 1937 and the Narcotic Import and Export Act of 1922, both of these laws were null and void too. The Comprehensive Drug Abuse

³⁰⁵ Ibid.

³⁰⁶ Musto, *The American Disease*, 248.

Prevention and Control Act quickly filled that gap. The law was in part “a response to a perceived drug crisis.”³⁰⁷ According to legal scholar, Ruth D. Peterson, “during the late 1960s and early 1970s, public and political concern about drugs reached near crisis proportions” because of “new patterns of drug use, abuse, and trafficking . . . among middle and upper class white youth.”³⁰⁸ President Nixon urged Congress to pass new drug legislation, declaring:

Within the last decade, the abuse of drugs has grown from essentially a local police problem into a serious national threat to the personal health and safety of millions of Americans. A national awareness of the gravity of the situation is needed; a new urgency and concerted national policy are needed at the Federal level to begin to cope with this growing menace to the general welfare of the United States.³⁰⁹

Congress responded swiftly and made drastic changes in the structure of our nation’s drug control. The Comprehensive Drug Abuse Prevention and Control Act “consolidated nearly all existing federal drug legislation, and changed the basis of federal drug control from Congress’ powers to tax and to control imports to the power of Congress to regulate interstate commerce.”³¹⁰ The law established five schedules into which various drugs were classified. These schedules were separated by the degree substances were deemed to have the potential for abuse and/or dependency, and whether or not they were viewed to have any potential medical use. Schedule One is considered to contain the most dangerous drugs, which have a high likelihood of abuse and dependency as well as having no discernible medical use.³¹¹ Despite the increasing use of marijuana

³⁰⁷ Ruth D. Peterson, “Discriminatory Decision Making at the Legislative Level: An Analysis of the Comprehensive Drug Abuse Prevention and Control Act of 1970,” *Law and Human Behavior* 9 no. 3 (September 1985): 250.

³⁰⁸ Ibid.

³⁰⁹ Richard Nixon to Congress of the United States, 14 July 1969. Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsba.edu/>

³¹⁰ Peterson, “Discriminatory Decision Making at the Legislative Level,” 251.

³¹¹ *Comprehensive Drug Abuse Prevention and Control Act*, Public Law 91-513 1970

among the American public and the ever more vocal demands for lenient laws or legalization of the drug, Congress sought to include marijuana in Schedule One alongside heroin and LSD. Cocaine was even included in Schedule Two. Despite this seemingly harsh treatment of marijuana, the law established no mandatory minimum sentences. The penalty provisions of the law were actually much less severe than those proposed by Nixon and his administration.³¹² Nixon signed the bill into law on October 27, 1970 concluding by making the following remark.

I hope that at the time the Federal Government is moving, as we are moving very strongly in this field, that the whole Nation will join with us in a program to stop the rise in the use of drugs and thereby help to stop the rise in crime; and also save the lives of hundreds of thousands of our young people who otherwise would become hooked on drugs and be physically, mentally, and morally destroyed.³¹³

President Nixon Declares a “War on Drugs”

On September 16, 1968, Richard Nixon, then a presidential candidate, vowed to a California audience that he would attack the source of drugs and “accelerate the development of tools and weapons to detect narcotics in transit.”³¹⁴ President Nixon faced a tough challenge as drug use and trafficking was rampant in the United States. His own head of the Bureau of Narcotics and Dangerous Drugs had declared that the nation had “failed miserably” in the control of drug abuse.³¹⁵ President Nixon had a choice. He could abandon the battle Anslinger and others had fought or launch a full blown drug war. He chose the latter.

³¹² Peterson, “Discriminatory Decision Making at the Legislative Level,” 251.

³¹³ Richard Nixon to Congress of the United States, 17 July 1970. Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

³¹⁴ Richard B. Craig, “Operation Intercept: The International Politics of Pressure,” *The Review of Politics* 42 no. 4 (October 1980):556.

³¹⁵ *Ibid.*

Since President Franklin Delano Roosevelt American presidents have used broadcast media to address the American people, but President Nixon “introduced the televised primetime address, between 8:00 and 10:00pm, to reach as many citizens as possible.”³¹⁶ He chose that medium to announce his stance on drugs. In a June 17, 1971 televised speech he announced a “war on drugs.”³¹⁷ He declared “America’s public enemy number one” to be “drug abuse”³¹⁸ and asked Congress for \$155 million in funds, which would bring the total drug abuse budget to roughly \$350 million. This dramatic increase in the budget would be utilized for drug abuse treatment as well as enforcement.³¹⁹

President Nixon did perhaps more than any previous president in an attempt to combat drug use in the United States. Besides urging Congress to pass the Comprehensive Drug Abuse Prevention and Control Act, he instituted “Operation Intercept,” launched a three year media campaign in conjunction with the Advertising Council, Inc., mandated Drug Abuse Prevention weeks four years in a row (1970-1973), established the Commission on Marihuana and Drug Abuse, and attempted to assist the Mexican government in eradicating Mexican marijuana crops.

“Operation Intercept” was an effort by the federal government to stop the flow of marijuana into the United States from Mexico. Roughly 80 percent of the national black market marijuana supply came from Mexico each year. Nixon planned to have American

³¹⁶ Elwood, *Rhetoric in the War on Drugs*, 26.

³¹⁷ Greenberg, *Prohibition Enforcement*, 196.

³¹⁸ Richard Nixon, “Remarks about an Intensified Program for Drug Abuse Preventions and Control,” 17 June 1971. Public Papers of the Presidents, *American Presidency Project*, accessed May 17, 2011, <http://www.presidency.ucsb.edu/>

³¹⁹ Ibid.

border agents stop and search every car coming across the Mexican border.³²⁰ The United States government attempted to work in conjunction with the Mexican government with very little cooperation or success. The operation was supposed to be kept confidential until it officially started, but following a news leak from within the Justice Department “the nation’s largest peacetime search and seizure operation by civil authorities’ became front-page news.”³²¹ Despite the leak, the government went ahead with several test runs in Brownsville and El Paso, Texas on September 13, 1969. “Operation Intercept” officially began on September 21, 1969.³²² Along the border over 4.5 million people and their possessions were searched throughout the course of the operation. The government operation also took place via air and sea. The Coast Guard searched small boats along the coast of Southern California and Texas. Small military planes looked for suspicious aircraft as did military radar technicians. Along the border twenty-three radar installations were utilized. They were often ineffective though as the communications equipment was out-dated.³²³ Ultimately “Operation Intercept” was scrapped after three weeks in action.

In many regards, “Operation Intercept” was successful. It did impede the flow of marijuana over the Mexican border by vehicle. The grand total of seizures was “60 pounds of peyote, 20 cc of morphine, a quarter of an ounce of cocaine, 1603 grams of heroin, 58 cc of Demerol, 83 codeine pills, 100 Percodan tablets, 78 pounds of hashish, 3202 pounds of marijuana, and one morphine tablet.”³²⁴ Although some success was made, the entire operation was not very efficient or cost effective. It involved over two

³²⁰ “Huntley Brinkley Show Script” Advertising Council Archives, 13/2/219 Box 8 Folder 5, University of Illinois at Urbana-Champaign University Archives

³²¹ Craig, “Operation Intercept,” 564.

³²² Ibid., 556.

³²³ Ibid., 565.

³²⁴ Ibid., 566.

thousand employees and over \$30 million of taxpayer money. It also caused other issues.

As Harry Levine and Craig Renairman noted:

Even when interdiction does affect the supply of a criminalized substance, the effects are often ironic. The partial success of the Nixon administration's 'Operation Intercept,' for example, gave rise to what is now a huge domestic marijuana industry, which produces far more potent strains of marijuana and has become more decentralized and democratic as armed helicopter raids have increased.³²⁵

Additionally, as many interviewees on the Huntley Brinkley Show complained, the border inspections caused massive traffic jams, which led some individuals to remain stuck in traffic for upwards of six hours.³²⁶ According to historian Richard B. Craig, "Operation Intercept" was not what it seemed. He felt that "it was not designed to interdict narcotics but to publicize the new administration's war on crime and force Mexican compliance with Washington's anti-drug campaign."³²⁷ Whether or not that was the intention, it certainly sparked controversy, gained attention for the "war on drugs," and fostered Mexican hostility for American anti-drug policy.

On March 11, 1970, President Nixon made a statement to the public regarding an expansion of the federal program to combat drug abuse. He announced the following:

- a \$3.5 million program operated by the Office of Education to train school personnel, particularly teachers, in the fundamentals of drug abuse education;
- creation of a National Clearinghouse for Drug Abuse Information and Education, giving the public one central office to contact;
- publication of a book in which, for the first time, all of the concerned Federal departments and agencies have pooled their knowledge of the national drug problem;

³²⁵ Levine and Reinerman, "From Prohibition to Regulation," 473.

³²⁶ "Hunt Brinkley Show Script" Advertising Council Archives 13/2/219 Box 8 Folder 5, University of Illinois at Urbana-Champaign University Archives.

³²⁷ Craig, "Operation Intercept," 556.

-modification of a program of the Law Enforcement Assistance Administration to allow large cities to apply for funds to be used for drug education, as well as for law enforcement;

-development by the Advertising Council of an expanded public service campaign on drug abuse in cooperation with the media and the Federal Government;

-close cooperation of the administration with concerned citizens' organizations³²⁸

This was a major expansion of the federal government's programs regarding drugs. A key part of that expansion was the Drug Abuse Information Campaign.

On March 13, 1970, the Drug Abuse Information Campaign was presented to President Nixon at the White House by members of the Advertising Council, Inc., a non-profit group of advertisers who created public service campaigns. He gave it his hearty endorsement. Days later on March 25, the president of the Advertising Council, Richard P. Keim, testified before the U.S. Senate Special Sub-Committee on Alcoholism and Narcotics. He presented the campaign in its entirety and was subsequently commended by the committee.³²⁹ The campaign was officially presented by the Compton Ad Agency on behalf of the Advertising Council to the national media at a press conference on July 8, 1970 in New York City. It was announced that the President desired "an advertising campaign be created to 'un-sell' drugs to all Americans--particularly young Americans."³³⁰ Besides revealing the campaign, the Compton Ad Agency detailed the methods behind the campaign to the gathered media outlets. Those behind the media

³²⁸ Richard Nixon, "Statement Announcing an Expanded Federal Program to Combat Drug Abuse 11 March 1970, Public Papers of the Presidents, *The American Presidency Project*, <http://www.presidency.ucsb.edu/>

³²⁹ "Chronology of Drug Abuse Information Campaign" The Advertising Council Archives. 13/2/219 Box 8 Folder 5, University of Illinois at Urbana-Champaign University Archives.

³³⁰ "The Advertising Council Presents The Anti-Drug Abuse Advertising Campaign" 8 July 1970, Advertising Council Archives, 13/2/219 Box 8 Folder 5, University of Illinois at Urbana-Champaign University Archives.

campaign first attended a three day conference on communication and drug abuse at Rutgers University. Then they began to gather and review current anti-drug films, booklets, and books and try to learn from them. They met frequently with their government clients including members of the administration and agents from the Bureau of Narcotics and Dangerous Drugs and conducted research among the target audiences, particularly teens.³³¹ Then they took their designs in storyboard form to the streets, church groups, and schoolyards, gathering information about what the public responded well to and what they did not like. The main objective of the campaign was “to counter peer pressure by arming youngsters with a way to reject the offer of drugs without losing face” as well as “to educate them to the dangers of narcotics, with meaningful reasons why they should stay away from their use.”³³² After the initial press conference the media campaign was gradually highlighted to local media outlets at events such as conventions of radio broadcasters and at the luncheon of the Outdoor Advertising Association. By the end of 1970 a variety of radio spots, television spots, direct mailings, billboards, and print ads appeared nationally.³³³ Many celebrities participated in the campaign including Art Linkletter, Steve Allen, Pat Boone, and Carroll O’Connor. President Richard Nixon even invited Elvis Presley to assist in the anti-drug campaign.³³⁴ Besides the advertisements, Nixon’s administration and the Advertising Council had elicited the support of twenty television programs. These programs vowed to include anti-drug messages in their shows

³³¹ Ibid.

³³² Ibid.

³³³ “Chronology of Drug Abuse Information Campaign” The Advertising Council Archives, 13/2/219 Box 8 Folder 5, University of Illinois at Urbana-Champaign University Archives.

³³⁴ Greenberg, *Prohibition Enforcement*, 196.

in the fall season of 1970. The executives and writers agreed to make the anti-drug messages flow naturally as part of the story and not be a “straight-out sermon.”³³⁵

Many of the public service announcements and print advertisements were extremely generic in their anti-drug message, but a large percentage directly espoused an anti-marijuana message. These commercials approached marijuana from a variety of avenues. All of these anti-marijuana advertisements were aired frequently throughout the nation. For instance “Nobody Home” targeted pre-teens and teenagers, and made fun of pot smokers. It involved three pre-teen boys leaving the schoolyard after playing basketball. It is a peer group approach as it utilized members of the same peer group as the target audience to illustrate to them how to cope with drugs in their own peer group.

Kid 1: Man, I got some grass.

Kid 2: Yeah?

Kid 1: And no one’s home at my house. Wanna come over and smoke?

Kid 2: Nah.

Kid 3: Its great stuff, we’ll really get high.

Kid 2: Nah, I just don’t want to.

Kid 1: I said no one’s home.

Kid 2: Why so sneaky?

Kid 1: Because it’s against the law, stupid.

Kid 2: I’m stupid? Why do you think they call it dope?³³⁶

This advertisement featured the phrase “why do you think they call it dope,” which would become the most memorable and utilized tagline of the whole Drug Abuse Information campaign.

“Kid Sister” was a very brief radio spot targeted at teenagers, attempting to get them to reevaluate their own actions.

³³⁵ Richard Nixon, “Remarks at the White House Conference on Drug Abuse,” 14, October 1970, Public Papers of the Presidents, *American Presidency Project*, <http://www.presidency.ucsb.edu/>

³³⁶ “Nobody Home” Advertising Council Archives, 13/2/219 Box 8 Folder 3, University of Illinois at Urbana Champaign University Archives.

Kid: . . . Smoke a few joints now and then, get high and you groove.

Announcer: What if your kid sister smoked pot?

Kid: I'd break her head!³³⁷

“Walk Out” featured an argument between parents and child. The parents lacked the proper information for a calm discussion and thus the son is antagonistic.

SFX: DOOR SLAMS.

KID: Hey Dad. What's happening?

DAD: I'll show you what's happening. Get in that room. Now your mother found that in your room, will you please explain it?

KID: It's nothing.

MOM: What's it called, John?

KID: Dope, grass, whatever you want to call it.

MOM: Then you must be known as a junkie?

KID: No. Dad, I'm sorry, but it's just what I like to do.

MOM: You say it's not hurting you. What about me? What am I supposed to tell the neighbors?

KID: Look, you drink. I see you ambling through the kitchen.

MOM: My name is just going to be mud.

DAD: We built up respect in this town. Why are you tearing us down?

KID: I'm not tearing you down; I'm the only one that I'll hurt.

DAD: What's the next step?

KID: You people are fools. You don't know what you're talking about.

ANNOUNCER: Before you talk with your child, you ought to read this free booklet about drug abuse. It's written by people who know what they're talking about.

. . . Do it before it's too late.

DOOR SLAMS AS BOY RUNS OUT.³³⁸

Another ad which attempted to overcome parental ignorance was “Hash.”

VOICE: If you're a parent and you think hash is corned beef and potatoes fried in a skillet—you're in trouble.

³³⁷ “Kid Sister” Advertising Council Archives, 13/2/219 Box 8 Folder 3, University of Illinois at Urbana Champaign University Archives.

³³⁸ “Walk Out” Advertising Council Archives, 13/2/219 Box 8 Folder 3, University of Illinois at Urbana Champaign University Archives.

ANNOUNCER: Questions about hashish and other abusable drugs are answered in the Federal source book: “Answers to the most frequently asked questions about drug abuse.”

For your free copy send to:

Drug Abuse Information

Box 1080

Washington, D.C. 20013

Send for the booklet, then talk with your kids—it’s important.³³⁹

“Stoned Buddy” targeted soldiers during the Vietnam War. It featured a soldier leaning against a tree smoking marijuana. He visualized the potential effects his actions could have in a variety of crucial situations. This was a peer group approach advertisement and also involved some mild shock tactics. This was clearly in response to rampant drug use among soldiers in Vietnam.

VO: How would you like the guy laying down cover fire for you, stoned?!

SFX: GUN FIRE, THEN STOPS.

VO: How would you like the medic who’s patching you up a hole in you, stoned?!

SFX: MEDIC PEERING AT WOUNDED SOLDIER WHILE HELICOPTOR HOVERS

VO: How would you like the clerk who’s typing your orders for home, stoned?!

SFX: POOR TYPING (COULD CARE LESS)

VO: How would your buddy like you stoned . . . when he really needs you.

No matter where you’re stationed or what kind of uniform you’re wearing, it’s dumb to get stoned . . . but then why do you think they call it dope?³⁴⁰

Finally, “Acapulco Gold” showed a marijuana joint being rolled.

Announcer: Some people say that in a matter of months, Acapulco Gold will be available over the counter, menthol, and king size, which is an indication about how little people know about marijuana. Today research scientists are studying its effects on the brain, the nervous system, chromosomes, various organs of the body. Maybe it will turn out there’s

³³⁹ “Hash” Advertising Council Archives, 13/2/219 Box 8 Folder 3, University of Illinois at Urbana Champaign University Archives.

³⁴⁰ “Stoned Buddy” Advertising Council Archives, 13/2/219 Box 8 Folder 3, University of Illinois at Urbana Champaign University Archives.

no reason for it to be illegal. But nobody can be sure until all the facts are in, and until they are, it's a pretty bum risk.³⁴¹

As part of many of these public service announcements Americans were asked to write away for a booklet on drug abuse. This booklet contained answers to frequently asked questions about drugs. Its questions and answers tell much about the federal government's continued fight against marijuana. The booklet featured twenty-seven specific questions regarding marijuana and eleven generic drug questions. No other specific drug was given any particular attention. The government did admit in this brochure that marijuana is not physically addictive, acknowledging recent medical findings; however it maintained its position that it should remain illegal.³⁴²

On November 19th and 20th, 1972, a conference entitled "Communication as a Factor in the Control of Drug Abuse" was held. The participants were members of "top levels of communication leadership, the behavioral sciences, and government."³⁴³ The purpose of the conference was "to explore the general area of effect of communications in generating positive attitudes to abuse of drugs and, as a corollary, the potential of communications in reducing such attitudes."³⁴⁴ They also aimed to discuss target populations for anti-drug media and to suggest potential "criteria for the evaluation of media stimuli." In preparation for the conference a series of anti-drug commercials were shown to four target audience test groups including: middle class mothers of teens, middle class teenagers, "ghetto" teenagers, and a group of ex-addicts (five members of

³⁴¹ "Acapulco Gold," Advertising Council Archives, 13/2/219 Box 8 Folder 3, University of Illinois at Urbana Champaign University Archives.

³⁴² "Answers to the Most Frequently Asked Questions about Drug Abuse," March 1971, Advertising Council Archives, 13/2/219 Box 8 Folder 5, University of Illinois at Urbana-Champaign University Archives.

³⁴³ "Background and Purpose" Advertising Council Archives, 13/2/219 Box 10 Folder 1, University of Illinois at Urbana-Champaign University Archives.

³⁴⁴ "Background and Purpose" Advertising Council Archives, 13/2/219 Box 10 Folder 1, University of Illinois at Urbana-Champaign University Archives.

the “Ghetto Brothers”). Their reactions to these advertisements were filmed for conference participants to view and discuss. “Acapulco Gold,” “Walk Out,” and “Nobody Home” were shown to the test groups as well as to conference attendees. Many of the test group participants thought that “Acapulco Gold” was confusing and initially thought that it was selling marijuana. The majority of the test group participants including mothers and teenagers also expressed a good deal of skepticism as whether or not marijuana was truly harmful or not. The group of mothers was primarily concerned with marijuana’s potential to lead to other harder drugs. They were also concerned about the illegality of the substance affecting their teenagers. The teenagers in the test groups found the anti-marijuana commercials lacking in credibility.³⁴⁵ Regarding “Walk Out,” the group of mothers easily projected themselves into the situation, identifying with the parents in the commercial. The teenagers on the other hand were outraged at the parents’ insensitivity in the advertisement and did not seem to care what neighbors thought of their actions. “No One Home” was unilaterally appreciated by the mothers. They especially liked that the boy who said no to marijuana was made a hero. On the other hand, the teenagers found the commercial stupid.³⁴⁶ In general, the teenagers in the test groups felt that merely saying drugs are bad for you will not dissuade anyone from taking them. They also seemed to believe there was no danger in smoking marijuana.

Nixon’s Drug Abuse Information campaign was revolutionary. It targeted a variety of groups including different generations and ethnicities. It also managed to inform a national audience about the dangers of drugs without utilizing too many scare tactics. It was the first federally funded campaign of its kind. Anslinger’s previous

³⁴⁵ Ibid.

³⁴⁶ Ibid.

educational campaign was nothing compared to the scope and reach of this more modern anti-drug campaign. However, like Nixon's presidency, the Drug Abuse Information Campaign did not last that long. The media campaign was terminated June 30, 1973, as Congress did not allot further funding.³⁴⁷

On January 28, 1972, President Nixon reflected on the successes of his anti-drug efforts. According to him:

Tens of thousands of teachers, students, and community leaders have been trained under our National Drug Education Training Program. A new National Clearinghouse for Drug Abuse Information has been established. Some 25 million pieces of drug education information have been distributed by the Federal Government. We have established a Federal Drug Abuse Prevention Coordinating Committee at the interagency level and a number of White House conferences on drug abuse have been conducted.

In addition, the Federal Government is carrying out a number of major research programs to help us better identify and analyze drugs and more fully understand how they are moved about the country and around the world.³⁴⁸

Drug Abuse Prevention Week was a tactic used by the federal government to draw attention to the nation's drug problem. During President Nixon's presidency these weeks were observed from 1970 through 1973. Activities were planned in the capital and states were encouraged to participate. On September 17, 1971, Nixon issued a proclamation for that year's Drug Abuse Prevention Week. He called the nation to heed the dangers of drugs.

What can a nation profit from its abundant good life, if the same technology and material wealth which have yielded that abundance permits millions of its people, particularly its youth, to drift into the

³⁴⁷ Memorandum from William O. Lampe to D. Hart et al. 17 July 1973, Advertising Council Archives, 13/2/219 Box 8 Folder 7, University of Illinois at Urbana Champaign University Archives.

³⁴⁸ Richard Nixon "Statement on Establishing the Office for Drug Abuse Law Enforcement," 28 January 1972, Public Papers of the Presidents, *The American Presidency Project*, <http://www.presidency.ucsb.edu/>

chemical modification of mind and mood at grave risk to their health—to their very lives? What can a nation profit from its unparalleled individual freedom, if that liberty becomes license and that license leads to drug dependence which controls the bodies and warps the minds of men, women, children, and even the unborn?

Not so long ago it was easy enough to regard the tragedy of drug abuse as ‘someone else’s problem.’ But recent years have brought that tragedy home--often very literally—to all Americans . . . Drug abuse is nothing less than a life and death matter for countless Americans, and for the moral fiber of this Nation. The drive to meet this threat must command from us our bet—our attention, our energies, our resources and our prayers.³⁴⁹

From October 7 through the 13, 1973, the Federal Government held its final Drug Abuse Prevention Week under President Nixon. Unlike previous weeks this week was organized by the Advertising Council, Inc. This group of advertisers dedicated their time and efforts to public service campaigns. Their first involvement on an anti-drug campaign began under the aegis of President Nixon. This involvement in anti-drug public service campaigns remains today and will be further discussed in the next chapter. The previous Drug Abuse Prevention Weeks were not as successful or organized as the White House wanted so they called in the Advertising Council. The theme of that particular week was “the role of family in preventing drug abuse.”³⁵⁰ The Council wanted the activities of the week to include state, local, and private agencies in their design and implementation. The Council emphasized the need for getting away from the idea that the drug problem will disappear with one week’s efforts. They also aimed to utilize eight journalism students to tour the nation in order to conduct research about Drug Abuse Prevention Week. A

³⁴⁹ Richard Nixon “Proclamation 4080 Drug Abuse Prevention Week,” 1971, Public Papers of the Presidents, *The American Presidency Project*, <http://www.presidency.ucsb.edu/>

³⁵⁰ “Drug Abuse Prevention Week Fact Sheet,” Advertising Council Archives, 13/2/219 Box 8 Folder 3, University of Illinois at Urbana-Champaign University Archives.

notable inclusion in the plans for the week was the desire to include any Top 40 singles, which were consistent with the family oriented anti-drug theme.³⁵¹

In 1972 President Nixon established the Commission on Marihuana and Drug Abuse. This group was comprised of thirteen individuals who were selected by Nixon himself as well as the Speaker of the House and the president pro tem of the Senate. The commission was given a year to report back on marijuana and in two years on general drug abuse in America. As the commission was rather traditional and right-wing, Nixon had no reason to believe that the commission would come back with findings that disagreed with his belief that marijuana was a dangerous drug that deserved its Schedule One status. The commission, however, came back with findings which contradicted the president and the federal government's official stance on the drug. They recommended that small amounts of the drug should be decriminalized and thus subject to fines similar to parking tickets instead of jail time. They still maintained that dealing in large quantities for profit would be a felony. The commission concluded by issuing the following statement.

On the basis of our findings . . . we have concluded that society should seek to discourage use, while concentrating its attention on the prevention and treatment of heavy and very heavy use. The Commission feels that the criminalization of possession of marihuana for personal use is socially self-defeating as a means of achieving this objective . . . We have carefully analyzed the interrelationship between marihuana the drug, marihuana use as a behavior, and marihuana as a social problem. Recognizing the extensive degree of misinformation about marihuana as a drug, we have tried to demythologize it. Viewing the use of marihuana in its wider social context, we have tried to desymbolize it.

Considering the range of social concerns in contemporary America, marihuana does not, in our considered judgment, rank very high. We would deemphasize marihuana as a problem.

The existing social and legal policy is out of proportion to the individual and social harm engendered by the use of the drug. To replace it, we have

³⁵¹ Ibid.

attempted to design a suitable social policy, which we believe is fair, cautious and attuned to the social realities of our time.³⁵²

President Nixon adamantly disagreed with the findings of the commission and refused to publicly receive the document containing the commission's report.

In 1973 the federal government began to provide funding to the Mexican government to be used to eradicate marijuana crops in that nation. The Mexican government was given upwards of \$40 million to purchase helicopters, planes, and the pesticide paraquat.³⁵³ This was a very controversial thing for Nixon to do as paraquat is “a highly toxic herbicide that affects the lungs, liver, kidneys and cornea.”³⁵⁴ However, presidents after him carried on the program, despite public outcry against its environmental impact and toxicity to humans. It did temporarily cut importation of marijuana into the United States, as well as curb some individuals' usage of the drug for fear of ingesting paraquat.³⁵⁵ However, there were unintended consequences, both environmental and those affecting domestic production of the plant. Environmental costs included the killing of animals, plants, people, and the contamination of water supplies.³⁵⁶ These environmental factors led paraquat to be banned in the United States in the early 1980s. The Mexican eradication program not only affected the environment, but also dramatically changed U.S. production of the plant. Domestic production of marijuana increased because of the fear of paraquat and the lower amount of the drug being

³⁵² The Report of the National Commission on Marihuana and Drug Abuse March 1973

³⁵³ R. Jeffrey Smith. “Spraying of Herbicides on Mexican Marijuana Backfires on U.S.” *Science*, New Series, 199, No. 4331 (Feb. 24, 1978): 861-864

³⁵⁴ Stephanie Joyce. “Environmental Casualties of the War on Drugs.” *Environmental Health Perspectives*, 107, No.2 (Feb., 1999), A76.

³⁵⁵ Peter Reuter and David Ronfeldt. “Quest for Integrity: The Mexican-US Drug Issue in the 1980s.” *Journal of Interamerican Studies and World Affairs*, 34, No. 3, Special Issue: Drug Trafficking Research Update (Autumn, 1992), 94.

³⁵⁶ Joyce, “Environmental Casualties of the War on Drugs,” A76.

imported. To deal with demand for marijuana in the United States, drug entrepreneurs saw opportunity because of the Mexican eradication program. According to scholar Michael Pollan, U.S. growers faced challenges initially besides the obvious legal challenges. The strains of cannabis that they were attempting to grow primarily came from seeds suited to growing in regions like Colombia or Mexico. Plants from these seeds had trouble flowering above the thirtieth parallel and were not resistant to frost. A solution was found by intrepid growers who imported strains of the plant from Afghanistan. Cannabis indica as it was referred to, is a shorter, stockier strain of marijuana, which was resistant to frost.³⁵⁷ Access to new genetics enabled American growers to compete with their Mexican counterparts. They were able to combine North America strains with cannabis from across the globe creating, in many regards, more plant variety among marijuana plants and greater potency. For the most part, domestic production occurred outside, but many brought the plant production inside. The type of production and the technology employed in growing indoors also contributed to changing the biology of the plant and also helped to increase the potency of the America pot supply.³⁵⁸

Just as the 1940s and 1950s were a period of relative consensus about the evils of marijuana, the 1960s and 1970s were a period of contention over whether or not marijuana was a dangerous drug to begin with. *The Reader's Guide to Periodical Literature* lists 105 articles on marijuana from 1960 through the first half of 1970. This certainly reflects a heightened interest in marijuana during this era both on the positive and negative spectrum. To compare with the previous decade *The Reader's Guide to*

³⁵⁷ Pollan, *The Botany of Desire*, 130-131.

³⁵⁸ *Ibid.*, 130-131.

Periodical Literature lists five articles on marijuana from 1950 to the first half of 1960. It is clear that a portion of the American populace was increasingly questioning the government's position on marijuana during the 1960s and 1970s. The government was, in turn, being given the push to decriminalize or legalize from the counterculture as well as from internal sources such as Kennedy's Presidential Commission on Narcotic and Drug Abuse and Nixon's Commission on Marihuana and Drug Abuse. However, despite this the federal government maintained its war on marijuana. Not only did the government maintain its war it changed its tactics and allotted more and more money to address the supposed problem. The 1970s marked the first time the federal government had utilized an all out media war. The next chapter will delve more fully into the post-Nixon era, discussing the multi-state decriminalization of marijuana in the 1970s, the push for federal decriminalization under President Jimmy Carter as well as the ramping up of the "War on Drugs" under President Ronald Reagan.

Chapter Four: Decriminalization versus Just Say No

The late 1970s and 1980s marked two disparate eras in the American War on Drugs: a period of relative acceptance of marijuana and a period of backlash against the drug. Marijuana was a hotly contested subject in American culture during these particular time periods. The post-Nixon era saw a push from a significant portion of the American public against the federal classification under the Comprehensive Drug Abuse and Control Act of 1970 of marijuana as a Schedule One “dangerous drug.” As a result of this pushback the 1970s saw the multi-state decriminalization of marijuana as well as President Jimmy Carter’s famous push for federal decriminalization of the drug. Whereas, the 1980s saw President Reagan’s declaration of a war against drugs, the Just Say No anti-drug youth organization and the second federally funded anti-drug media campaign. These two eras’ impact on the status of marijuana in American society will be discussed in detail.

President Gerald Ford and Drug Abuse

After President Nixon resigned in August 1974 amid the aftermath of the Watergate scandal, then Vice President Gerald Ford took over as president and as the Commander in Chief in the War on Drugs. Yet President Ford was not nearly the enthusiastic drug warrior that President Nixon had been. President Ford, rather than declaring his own War on Drugs declared a War on Inflation instead.³⁵⁹ Despite President Nixon’s multi-front War on Drugs and its purported successes, President Ford publicly acknowledged that the drug abuse problem in the United States was getting worse.³⁶⁰ In comparison to his predecessor, however he seemed to do very little to combat the

³⁵⁹ Elwood, *Rhetoric in the War on Drugs*, 23.

³⁶⁰ Gerald R. Ford. “Remarks upon Signing the Drug Abuse Message,” 27 April 1976 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

increasing drug problem. That is not to say that President Ford did nothing to combat drug abuse in the United States, he simply had a different agenda and different priorities for his presidency.

President Ford still held Drug Abuse Prevention Weeks during his presidency like President Nixon before him; however, he did not employ the Advertising Council to aid in the media representation of the anti-drug week. A presidential proclamation issued at the beginning of each Drug Abuse Prevention Week represented President Ford's major contribution to the week. President Ford's first such proclamation was perhaps more liberal than past proclamations from President Nixon despite remaining a staunch Republican. He called on Americans to reach out and accept former drug users back into the fold.

For without a way back into society, the former addict still is prey to the pressures and pointlessness that contributed to his abuse in the first place. Let us begin, this week, to search out techniques and resources we will need to help former drug abusers find their place in productive society-- techniques and resources that will complement the work presently being carried out at the 1,240 Federally funded treatment centers . . . in more than 350 communities across the Nation.³⁶¹

President Ford's rhetoric was more forgiving towards former drug users as he seemingly wanted to help them rather than merely demonize them as President Nixon had.

As President Ford had a different agenda than President Nixon had, he did not continue the federal anti-drug media campaign under the aegis of the Advertising Council. The absence of anti-drug public service announcements did not mean that the media was silent about marijuana though. Headlines from Ford's presidency regarding marijuana included primarily anti-marijuana messages. For instance in 1974, *Reader's*

³⁶¹ Gerald R. Ford. "Proclamation 4328-Drug Abuse Prevention Week, 1974," 18 October 1974 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

Digest proclaimed “Marijuana: More Dangerous than You Know.”³⁶² In that same year *Time* heralded the “Perils of Pot.”³⁶³ In 1975 *Good Housekeeping*’s cover shouted “Special: The Alarming New Evidence about Marijuana’s Effects.”³⁶⁴ Despite the presence of these anti-marijuana messages in the media, there were no federally funded media messages as there were during the Advertising Council’s anti-drug campaign under President Nixon.

Like President Kennedy in the early 1960s, President Ford sought to reassess aspects of the federal treatment of illegal drugs and their users. In 1975 President Ford enlisted a presidentially appointed committee, the Domestic Council on Drug Abuse Task Force, “to undertake a thorough review and assessment of the adequacy of the Federal drug program.”³⁶⁵ The group was comprised of representatives from the Central Intelligence Agency, the Department of Agriculture, the Department of Defense, the Department of Health, Education and Welfare, the Department of Justice, the Drug Enforcement Agency, the Department of Labor, the Department of State, the Department of Treasury, the Veterans’ Administration, and the National Security Council.³⁶⁶ The group reported back to President Ford in September of 1975 and published the *White Paper on Drug Abuse*. The Domestic Council’s recommendations dealt with a variety of drugs, including heroin, barbiturates, amphetamines, cocaine, and marijuana. The *White Paper on Drug Abuse* documented the key findings of the Domestic Council, assessed the

³⁶² D.H. Powelson, “Marijuana: More Dangerous than You Know,” *Reader’s Digest* 105 (December 1974): 95-99.

³⁶³ “Perils of Pot,” *Time*, 104 (December 2, 1974): 94.

³⁶⁴ “Special: The Alarming New Evidence about Marijuana’s Effects,” *Good Housekeeping*, 180 (February 1975): 161-162.

³⁶⁵ Gerald R. Ford. “Special Message to the Congress on Drug Abuse,” 27 April 1976 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

³⁶⁶ The Domestic Council Drug Abuse Task Force, *White Paper on Drug Abuse*, (Washington, D.C.: U.S. Government Printing Office., 1975), v-vi.

extent of drug abuse in the United States, and presented recommendations for “improving the Federal government’s overall program to reduce drug abuse.”³⁶⁷ The Domestic

Council on Drug Abuse Task Force emphasized that:

the optimism about ‘winning the war on drugs’ expressed so eloquently and confidently only a few years ago was premature. It urgently recommends that the federal government reaffirm its commitment to combating drug abuse and that public officials and citizens alike accept the fact that a national commitment to this effort will be required if we are to ultimately succeed.³⁶⁸

The Domestic Council on Drug Abuse Task Force endorsed a federal demand reduction program, which was “intended to: dissuade the nonuser from experimenting with drugs; deter the occasional user or experimenter from progressing to the abuse of drugs; make treatment available for abusers of drugs who seek it; and help the former abuser regain his place as a productive member of society.”³⁶⁹ In regards to marijuana, the Domestic Council on Drug Abuse Task Force found that marijuana was the most commonly used illegal drug, finding “an estimated 20 percent of Americans above the age of 11” having used the drug at least once.³⁷⁰ The Domestic Council, echoing the findings of President Kennedy’s White House Conference on Narcotic and Drug Abuse, also found that marijuana use had moved away from being primarily restricted to the African American and the Latino communities. The Domestic Council reported that marijuana use was “greater among those with higher levels of education and income.”³⁷¹ The group warned President Ford that there was an increasing availability of very potent strains of marijuana with much higher levels of THC than of those strains being illegally imported from Mexico, saying that “unlike common forms of marijuana, these potent strains are

³⁶⁷ Ibid., iv.

³⁶⁸ Ibid.

³⁶⁹ Ibid., 1.

³⁷⁰ Ibid., 25.

³⁷¹ Ibid.

known to have serious physical and social effects on the user.”³⁷² According to scholar Michael Pollan, this was due to a combination of domestic production and better technology utilized by growers, which were both unintended consequences of the U.S. foreign drug policy.³⁷³ However, the Domestic Council did not see marijuana as a high priority for drug treatment since most marijuana users in treatment were referred there by the criminal justice system and reported using the drug “less than once a week.”³⁷⁴ Overall, the Domestic Council on Drug Abuse Task Force recommended that “public policy should be most concerned with those drugs which have the highest costs to both society and the user, and with those individuals who have chronic, highly intensive patterns of drug use.”³⁷⁵ Marijuana was not one of the drugs the Domestic Council on Drug Abuse Task Force felt deserved much public policy focus. President Ford took the Domestic Council’s suggestions into serious consideration, attempting to implement some of the policy suggestions. When he received the report, he certainly seemed ready to take action. He stated that:

In order to assure prompt implementation of this report, I am directing each Federal agency with direct program responsibility to analyze and respond to the white paper within the next 60 days. I am also directing that the report be released to help refocus the current public dialog on drug abuse.

This Administration is firmly committed to improving the quality of life for all Americans. Clearly, drug abuse has no place in our society. I believe the white paper outlines in realistic terms the drug abuse problem this Nation faces and presents for my consideration comprehensive recommendations for ways in which the Federal Government, working

³⁷² Ibid.

³⁷³ Pollan, *The Botany of Desire*, 130-131.

³⁷⁴ The Domestic Council Drug Abuse Task Force, *White Paper on Drug Abuse*, 27.

³⁷⁵ Ibid., 29.

with State and local governments and the private sector, can control drug abuse.³⁷⁶

Despite this declaration, President Ford did not make any public policy changes regarding marijuana.

One achievement of President Ford's administration was to try to help consolidate the anti-drug bureaucracy with the rescission of funding for the Office of Drug Abuse Policy.³⁷⁷ Although the rescission of funding for Office of Drug Abuse Policy was later undone by President Jimmy Carter, it still marked an effort by President Ford to control the unnecessary spread of bureaucracy within the federal government at a time of economic recession when budget cuts were necessary. President Ford also continued President Nixon's policy of foreign marijuana crop eradication, particularly Mexican crops, despite public outcry against paraquat, the herbicide used for such eradication programs. Other than eradication programs, his policies did little to change the status quo regarding marijuana even though President Ford's personal stance on marijuana laws was not as harsh as President Nixon's. In the *Columbus Evening Dispatch*, he was quoted as saying "more people are hurt by criminal laws against marihuana use than are hurt by the drug itself."³⁷⁸ It was this particular idea that would be openly embraced by the next presidential administration.

³⁷⁶ Gerald R. Ford: "Statement on Receiving the Report of the Domestic Council Drug Abuse Task Force.," October 14, 1975. *The American Presidency Project*. accessed July 15, 2011 <http://www.presidency.ucsb.edu/ws/?pid=5325>.

³⁷⁷ Gerald R. Ford, "Special Message to the Congress on a Proposed Appropriations Rescission for the Office of Drug Abuse Policy," 1 July 1976 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

³⁷⁸ "Pot Statement Expected," *Columbus Evening Dispatch* (November 15, 1974): B9

President Jimmy Carter and Decriminalization

The War on Drugs took a significant turn during the presidency of Jimmy Carter regarding marijuana specifically. During Carter's presidency four states decriminalized marijuana. Eleven states in total had decriminalized marijuana by 1978 including: Alaska (1975), California (1975), Colorado (1975), Maine (1975), Minnesota (1976), Mississippi (1977), Nebraska (1978), New York (1977), North Carolina (1977), Ohio (1975), and Oregon (1973).³⁷⁹ During that same time period at least one branch of the federal government, the Executive branch, was interested in reconsidering the federal stance on marijuana. President Carter believed that:

marijuana continues to be an emotional and controversial issue. After four decades, efforts to discourage its use with stringent laws have still not been successful. More than 45 million Americans have tried marijuana and an estimated 11 million are regular users.³⁸⁰

President Carter asserted further that:

penalties against the possession of a drug should not be more damaging to an individual than the use of the drug itself; and where they are, they should be changed. Nowhere is this more clear than in the laws against possession of marijuana in private for personal use. We can, and should, continue to discourage the use of marijuana, but this can be done without defining the smoker as a criminal. States which have already removed criminal penalties for marijuana use, like Oregon and California, have not noted any significant increase in marijuana smoking. The National Commission on Marijuana and Drug Abuse concluded five years ago that marijuana use should be decriminalized, and I believe it is time to implement those basic recommendations.³⁸¹

Make no mistake; President Carter was not lobbying Congress to legalize marijuana. He supported legislation to amend federal drug law, eliminating the penalties "for the

³⁷⁹ Chiara and Galliher, "Dissonance and Contradictions in the Origins of Marijuana Decriminalization," 42.

³⁸⁰ Jimmy Carter. "Drug Abuse Message to the Congress," 2 August 1977 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

³⁸¹ Ibid.

possession of up to one ounce of marijuana.”³⁸² This would mean that fines would be issued for possession of marijuana, not criminal penalties such as prison sentences. The states would also be free to enact their own laws regarding marijuana. This was something that President Nixon’s National Commission on Marijuana and Drug Abuse suggested years before and President Carter was simply trying to follow through on those well-researched recommendations. President Carter made it clear, though, that the international drug traffic in marijuana would still be punished with significant jail time. Thus, importing marijuana would still be illegal.

President Carter claimed not to have made these recommendations to Congress because he supported marijuana use. He, in fact, asserted quite the opposite.

I am especially concerned about the increasing levels of marijuana use, which may be particularly destructive to our youth. While there is certain evidence to date showing that the medical damage from marijuana use may be limited, we should be concerned that chronic intoxication with marijuana or any other drug may deplete productivity, causing people to lose interest in their social environment, their future, and other more constructive ways of filling their free time.³⁸³

Many members of Congress sincerely considered President Carter’s request for marijuana to be decriminalized on a federal level. According to scholars Albert DiChiara and John F. Galliher, “both U.S. senators and representatives argued that middle- and upper-class college students, on the road to professional careers, should not be incarcerated for marihuana possession because such users would lose respect for a law their experience tells them is incommensurate with the danger of the drug.”³⁸⁴ This marks a significant shift in not only who was viewed as a marijuana user, but also how they were viewed by those in power.

³⁸² Ibid.

³⁸³ Ibid.

³⁸⁴ DiChiara and Galliher, “Dissonance and Contradictions,” 47.

Federal decriminalization of marijuana never came to fruition. Ultimately President Carter was forced to abandon his campaign for decriminalization. This abandonment of such an important issue for him was most likely due in part to leaked reports in the press of marijuana use and other drug use among senior White House staff. An official Justice Department investigation into these claims was suggested by the Republican Senate minority leader.³⁸⁵ These claims made President Carter appear soft on drugs to the public and helped to erode any Republican support he had. In order to decriminalize marijuana on a federal level, Carter needed wholehearted support of the majority of Republicans as well as his own party, but this scandal made that all but impossible.³⁸⁶ He was criticized for not fulfilling this campaign promise and abruptly changing his stance on the matter. In this instance and others, he was criticized for his waffling. President Ford had even called him out on this tendency to flip flop on issues in the 1976 presidential campaign.³⁸⁷ This tendency and the fact that he did not achieve many of his goals as president might have cost him the election and marijuana the chance at relative public acceptance and decriminalization. However, regardless of whether or not federal decriminalization of marijuana was achieved or not, the fact that it was seriously considered by some of the most powerful individuals in the United States shows a significant shift in attitude from the days of the post-Marihuana Tax Act consensus regarding the evils of marijuana.

³⁸⁵ Ibid., 66.

³⁸⁶ Ibid.

³⁸⁷ Michael G. Krukones, "The Campaign Promises of Jimmy Carter: Accomplishments and Failures," *Presidential Studies Quarterly*, 15, No. 1 (Winter 1985): 137.

President Ronald Reagan and “Just Say No”

After 1978 no additional states decriminalized marijuana. That is not to say that there was no push for decriminalization by other states, but votes in other states such as Iowa and North Carolina were met with defeat. Perhaps those states such as California, which had decriminalized the drug, had found the special formula for acceptability among voters and other states simply could not find a successful formula for their own voters’ approval. Regardless, the open policy window for marijuana decriminalization closed on a state and national level.

After the marijuana decriminalization experiment of the late 1970s failed, there was a very significant pushback from the federal government and conservative members of American society. This backlash was apparent when looking at the headlines of the nation’s periodicals. In 1980 *Ladies’ Home Journal* featured “Battle against Pot: How Parents are Fighting to Keep Children Off.”³⁸⁸ The same year *The Saturday Evening Post* showcased two anti-marijuana articles “Putting a Match to the Marijuana Myth” and “Marijuana: the Myth of Harmlessness Goes Up in Smoke.”³⁸⁹ And *The New York Times Magazine* heralded the “New Parental Push against Marijuana.”³⁹⁰ These titles may seem on the surface similar to those during Gerald Ford’s presidency in a period of growing acceptance of marijuana but there were two key differences--the sheer volume increased (according to the *Reader’s Guide to Periodical Literature*) as did the focus on parental action against the drug. The new administration embraced the backlash against marijuana and those voters who supported it. The Reagan administration was the polar opposite of

³⁸⁸ P. Mann, “Battle against Pot: How Parents are Fighting to Keep Children Off.” *Ladies’ Home Journal* 97 (October 1980): 80.

³⁸⁹ P. Mann, “Putting a Match to the Marijuana Myth.” *The Saturday Evening Post* 252 (September 1980): 12.; P. Mann, “Marijuana: the Myth of Harmlessness Goes Up in Smoke.” *The Saturday Evening Post* 252 (July/August 1980): 32-34.

³⁹⁰ E.C. Brynner, “New Parental Push against Marijuana.” *The New York Times Magazine* (February 10, 1980): 36-38.

the Carter administration on marijuana use and drug use in general. President Ronald Reagan made it his mission during his presidency to create a drug-free America. There would be no drug decriminalization on his watch. His administration particularly struck out against marijuana and cocaine use.

President Reagan was only the second president to officially declare a War on Drugs. According to scholar William N. Elwood, the televised speech in which President Reagan officially declared his War on Drugs was a narrative melding of metaphors about war and illness. This speech was not a State of the Union Address, but rather a sit-down with the president and his wife Nancy in their living quarters in the White House, a feat unheard of before. In order to make his message more palatable to the American public, Reagan talked to his audience as if he was personally familiar with them, talked with an aura of optimism, used anecdotes and “folksy terminology.”³⁹¹ In his declaration of war, President Reagan asked all Americans young and old to be intolerant of drugs and their users. However, by utilizing an illness metaphor the speech offered a different perspective, one that absolved people of blame for their addictions and instead concentrated on the drugs and drug criminals as enemies in the War on Drugs.³⁹²

This speech and others like it were powerful rhetorical tools utilized by President Reagan, also known as the Great Communicator, in order to disseminate his anti-drug messages to the masses. President Reagan understood the power of discourse especially televised rhetoric in shaping public perceptions, perhaps more so than other past or present U.S. presidents. According to Elwood, Ronald Reagan’s anti-drug rhetoric allowed him to appear as a strong leader who was tough on crime as well as concerned

³⁹¹ Elwood, *Rhetoric in the War on Drugs*, 26.

³⁹² *Ibid.*, 27.

with domestic issues.³⁹³ Elwood, in turn, described modern presidents like Reagan as the “ultimate PR men.”³⁹⁴ In many regards this was quite true.

Because the person who defines an issue is also the president of the United States, the office he holds simultaneously legitimizes the perspective his definition provides. In other words, a presidential definition limits the realm of discourse about an issue and the range of possible policy resolutions about it.³⁹⁵

The messages inherent in President Reagan’s anti-drug rhetoric were bold, yet simple. President Reagan most often used images and metaphors regarding war and illness when describing the drug abuse problem in America.³⁹⁶ Historian William N. Elwood contended that President Reagan’s illness metaphors in the context of a declaration of a War on Drugs enabled him “to define a domestic policy initiative that subjugates a portion of citizens as enemies in the War on Drugs.”³⁹⁷ President Reagan often spoke of zero tolerance towards illegal drugs.³⁹⁸ This was a radical departure from the Kennedy, Ford, and Carter administrations, which attempted to review whether or not drug laws during their administrations were too harsh. Reagan asserted that “zero tolerance” was not just mere words to his administration. It was a strong policy, which the administration will follow with determination. He warned that those who sell and buy

³⁹³ Ibid., 3.

³⁹⁴ Ibid., 19.

³⁹⁵ Ibid., 21.

³⁹⁶ Ibid., 22.

³⁹⁷ Ibid., 25.

³⁹⁸ Ronald Reagan. “Statement on House of Representatives Approval of Antidrug Legislation,” 23 September 1988 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>; Ronald Reagan “Radio Address to the Nation on Economic Growth and the War on Drugs,” 8 October 1988 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

drugs will not be tolerated any longer and they will be stamped out like the parasites to society that they are.³⁹⁹

President Reagan wanted to separate his War on Drugs and his rhetoric from the pack of past presidents. In November 1983 he spoke about the changing tide in perception about drugs in America.

No longer do we think of drugs as a harmless phase of adolescence. No longer do we think of so-called hard drugs as bad and so-called soft drugs as being acceptable. Research tells us there are no such categories, that the phrase 'responsible use' does not apply to drug experimentation by America's youth. And as far as recreational drugs is concerned, I've never in my life heard a more self-serving euphemism by those who support drug use. There is nothing recreational about those children who have been lost, whose minds have been ruined. If that's somebody's idea of recreation, it's pretty sick. Too often we've fallen into the trap of using nice, easy, pleasant, liberal language about drugs. Well, language will not sugar-coat overdoses, suicides, and ruined lives.⁴⁰⁰

President Reagan was very much an advocate of public involvement and, in turn, public responsibility for fighting the War on Drugs. He was very vocal about this.

President Reagan felt that to deny public responsibility and "to rely on the government totally is to fall prey to an illusion."⁴⁰¹ He asserted that "the use of illegal drugs and abuse of alcohol can no longer be shrugged off as somebody else's business . . . it's everybody's business—every man, woman, and child who loves his country, community, and family."⁴⁰² He also urged American children to simply say no to drugs, asserting that "each time you say no to drugs, you'll be helping America beat one of the most serious

³⁹⁹ Ibid.

⁴⁰⁰ Ronald Reagan. "Remarks on Signing the National Drug Abuse Education Week Proclamation," 1 November 1983 Public Papers of the Presidents. *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

⁴⁰¹ Ronald Reagan. "Remarks at a White House Briefing for Service Organization Representatives on Drug Abuse," 30 July 1986 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

⁴⁰² Ronald Reagan. "Remarks at the National Conference on Alcohol and Drug Abuse Prevention in Arlington, Virginia," 6 August 1986 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

challenges we've ever faced" and "you'll be a hero in my book." President Reagan even urged civic organizations to use the power of their voices in the War on Drugs. He pushed for them to:

talk with your local and district prosecutors about getting tough on the lowlifes who are selling drugs to our kids. Talk to your local religious leaders about what they can do about drug abuse. This is a moral as well as a health and safety issue. Meet with business and labor leaders in your community. You may find that many are working on getting drugs out of the workplace. You have much in common. And lastly, set up a partnership; get others involved in this fight. Now may be the time for communities across America to launch an offensive against drugs.⁴⁰³

To the Reagan administration the War on Drugs was more than a pet project, it was a moral crusade that the nation had to win. The first step was not necessarily to stop the flow of drugs into the nation despite that being an integral part of the War on Drugs. President Reagan felt that:

The first step, of course is making certain that individual drug users and everyone else understand that in a free society we're all accountable for our actions. If this problem is to be solved, drug users can no longer excuse themselves by blaming society. As individuals, they're responsible. The rest of us must be clear that, while we are sympathetic, we will no longer tolerate the use of illegal drugs by anyone. The time has come for each and every one of us to make a personal and moral commitment to actively oppose the use of illegal drugs, in all forms and in all places. We must remove all traces of illegal drugs from our nation.⁴⁰⁴

President Reagan's rhetoric was a powerful tool in the War on Drugs, making an indelible print on America's psyche. However, it was not the only tool his administration utilized in fighting the War on Drugs.

Like presidents before him, President Ronald Reagan, too, held Drug Abuse Prevention Weeks during his presidency. Each year he issued a proclamation at the

⁴⁰³ Ronald Reagan. "Remarks at a White House Briefing for Service Organization Representatives on Drug Abuse" 30 July 1986 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsba.edu/>

⁴⁰⁴ Ibid.

beginning of the designated week. The weeks were renamed several times during his presidency to reflect the change in strategy in the War on Drugs. They were referred to as “Just Say No” Week in the early years of his presidency and “Drug-Free America” Week in the latter half of his presidency. In his last Drug-Free America Week in October 1988, he issued a thoughtful assessment of progress that had transpired and promise for the fight to continue. He urged Americans to remember that “there is no safe use of illegal drugs” and that drug dealers and users should and would be held accountable for the plague upon society, which were illegal drugs.⁴⁰⁵ A powerful element during these weeks was the participation of civic groups and corporations. In 1982 the Keebler Company and Warner Communications produced an anti-drug comic book together. In 1983 the Chemical People Project produced an anti-drug special to air on PBS.⁴⁰⁶ In October 1988 the National Federation of Parents for a Drug-Free Youth observed that week as National Red Ribbon week. The red ribbon symbolized the commitment to a drug-free life.⁴⁰⁷

Nancy Reagan was in her own right a very powerful voice in the War on Drugs. She was the “co-captain in our crusade for a drug-free America.”⁴⁰⁸ Unlike previous administrations from the era of the American War on Drugs from President Woodrow Wilson to President Jimmy Carter, President Ronald Reagan’s First Lady was very involved in the War on Drugs. First Ladies before her often had a pet project. In her

⁴⁰⁵ Ronald Reagan. “Proclamation 5883-Drug-Free America Week, 1988,” 19 October 1988 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

⁴⁰⁶ Ronald Reagan. “Remarks on Signing the National Drug Abuse Education Week Proclamation,” 1 November 1983 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

⁴⁰⁷ Ronald Reagan. “Proclamation 5883-Drug-Free America Week, 1988,” 19 October 1988 Public Papers of the President, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

⁴⁰⁸ Ronald Reagan. “Remarks on Signing the Anti-Drug Abuse Act of 1988,” 18 November 1988 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

mind, on the other hand, she had a moral crusade and her part was to assist in educating the nation's youth about the dangers of drugs. At an elementary school in Oakland, California in 1982 Nancy Reagan created the tagline for a generation, "Just Say No," when a child asked her what she and her friends should do if ever offered drugs.⁴⁰⁹ She played a major role in the formation of the Just Say No youth anti-drug organization as thousands of schoolchildren took inspiration from her simple answer and within months of her speech clubs started popping up across the country. This organization was based on the simple pledge of saying no to drugs. As of January 1989 there were 12,000 Just Say No clubs nationwide.⁴¹⁰ Nancy Reagan was responsible like her husband, President Reagan, for some memorable anti-drug rhetoric. She was frequently quoted as saying "we must create an atmosphere of intolerance for drug use in this country."⁴¹¹ This intolerance especially applied to marijuana as she came to equate marijuana users with accomplices to murder. She spoke specifically about the "ignorant idea" that casual use of marijuana was a victimless crime.

The notion that the mellow marijuana user doesn't hurt anyone is just as phony. As a result of an intensive effort by the Drug Enforcement Administration in Guadalajara, Mexico, and particularly Special Agent Enrique Camarena, over 10,000 acres of marijuana that were ready for harvest and eventual sale in the United States were destroyed. And this caused a major financial loss for a notorious trafficking group. On February 7, 1985, less than 3 months after the destruction of the 10,000 acre plantation, Special Agent Camarena was kidnapped by the traffickers. He was tortured and beaten to death. And this country's casual marijuana

⁴⁰⁹ Ronald Reagan. "Remarks at the Nancy Reagan Drug Abuse Center Benefit Dinner in Los Angeles, California," 4 January 1989 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

⁴¹⁰ Ibid.

⁴¹¹ Ronald Reagan. "Remarks at a White House Briefing for Service Organization Representatives on Drug Abuse," 30 July 1986 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

users cannot escape responsibility for their fellow American's death, because they, in effect, bought the tools for his torture.⁴¹²

Nancy Reagan's rhetoric may have been extreme in some circumstances, but it was bold and certainly memorable. Without Nancy Reagan by his side, one wonders if President Reagan's War on Drugs would have been as successful or as memorable.

Another major tool in President Reagan's War on Drugs as with President Nixon's was a federally funded anti-drug media campaign. However, President Reagan wanted a new and different spin on the issue of drug abuse as well as to avoid some of the pitfalls that Nixon's campaign had endured. One such pitfall was that a good majority of television stations that carried the anti-drug public service announcements would often air them in the wee hours of the morning or late at night rather than alongside primetime programming. President Reagan personally requested that anti-drug service organizations play their part in righting this wrong by urging their "local television stations to air public service announcements--and I mean at a time when most people are watching TV, not burying them in the middle of the night with reruns of 'Bedtime for Bonzo.'"⁴¹³

President Reagan continually emphasized that the cure for drug abuse "is going to be turning . . . our young people off" to drugs.⁴¹⁴ He also emphasized anti-drug education and not scare tactics as being key to achieving this.⁴¹⁵ The anti-drug media campaign was created to foster this cure. In 1983 the National Institute on Drug Abuse, a federal

⁴¹² Ronald Reagan. "Remarks at the Meeting of the White House Conference for a Drug Free America," 29 February 1988 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

⁴¹³ Ibid.

⁴¹⁴ Ronald Reagan. "Remarks Announcing the Campaign Against Drug Abuse and a Question-and-Answer Session with Reporters," 4 August 1986 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

⁴¹⁵ Ronald Reagan. "Remarks on Signing the National Drug Abuse Education Week Proclamation," 1 November 1983 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

agency, hired the Needham, Harper and Steers Advertising Agency under the aegis of the Advertising Council to create “a comprehensive public service advertising campaign that focuses on drug abuse prevention.”⁴¹⁶ The campaign was created at the behest of the President Reagan and the First Lady. The purpose of the campaign was to “increase and maintain the public’s attention on the health consequences of drug abuse; to increase awareness of the psychological consequences of illicit drug-taking; and to promote changes in societal attitudes towards the problem.”⁴¹⁷ The multi-media advertisements targeted youth as well as parents and teachers who served as the “primary agents of prevention and change.”⁴¹⁸ The federal government, specifically the Reagan administration as well as the National Institute on Drug Abuse, wanted this campaign to use a direct and factual approach unlike previous campaigns, which offered alternative activities to drug abuse as well as too general anti-drug messages. The campaign was basically two-pronged in nature. The first prong was the acceleration of the decrease in marijuana use. The second prong was the extension of this downturn to other drugs. A major goal of the campaign was to delay the first use of drugs, particularly marijuana, among twelve to fourteen year olds.⁴¹⁹ The strategy the Advertising Council proposed to utilize in order to achieve that was “to convince teens that they don’t have to use drugs to be ‘cool.’”⁴²⁰ The ad copy would supply “current information about the negative effects of pot and pills.”⁴²¹ The two basic themes for the campaign were “Just Say No,” geared towards teenagers and “Get Involved in Drugs Before Your Children Do” geared towards

⁴¹⁶ “Proposal for Federal Drug Abuse Prevention Campaign,” Advertising Council Archives, 13/2/225 Box 1 Folder 1, University of Illinois at Urbana-Champaign University Archives.

⁴¹⁷ Ibid.

⁴¹⁸ Ibid.

⁴¹⁹ “Conference Report on Drug Abuse Prevention,” Advertising Council Archives, 13/2/225 Box 1 Folder 1, University of Illinois at Urbana-Champaign University Archives

⁴²⁰ Ibid.

⁴²¹ Ibid.

parents. The anti-drug campaign included anti-drug advertisements in a variety of media formats, including radio, television, print ads, informational booklets, billboards, etc.

Many of these advertisements were focused primarily on marijuana.

For instance the print advertisement “Head of the Class” featured a picture of schoolchildren in a classroom staring at a fellow student asleep at his desk. The text was as follows:

The head of the class. There are two kinds of heads. The ones that wind up excelling in school. And the ones that smoke pot and do drugs. Which head you turn out to be can be as easy as resisting an offer of drugs with a simple no. Just say no. You’d be surprised how well it works.⁴²²

Another print advertisement, “Dynamite Weed,” featured a picture of a marijuana joint.

The text was as follows:

What do you say to someone who offers you some dynamite weed? Say no. Or no thanks. Or bug off. Or get lost. Or take a walk. Say no because drugs can make you seem slow-witted and mindless in a society that rewards alertness and brightness. So say no. Please. It’s a decision that can affect your whole life.⁴²³

An informational booklet simply entitled “Marijuana” was issued by the Ad Council in conjunction with the Department of Health and Human Services. It included thirteen questions and their answers. The questions included basic ones such as “What is Marijuana?” and “What are the dangers for young people?” It also included more complicated questions such as “How long do chemicals from marijuana stay in the body after the drug is smoked?” as well as “What about psychological dependence on marijuana?” The booklet made some interesting assertions some true, some questionable. It claimed that the “strength of today’s marijuana is as much as ten times greater than the

⁴²² “Head of the Class,” Advertising Council Archives, 13/2/207 Box 72, University of Illinois at Urbana Champaign University Archives.

⁴²³ “Dynamite Weed,” Advertising Council Archives, 13/2/207 Box 75, University of Illinois at Urbana Champaign University Archives.

marijuana used in the early 1970s.”⁴²⁴ This exact figure is hard to prove, but according to scholar Michael Pollan better growing technology and different genetics utilized in domestic production did indeed create a stronger drug plant.⁴²⁵ It also made claims of marijuana causing infertility and lung cancer. None of these claims were accompanied by a citation of the study that the information purportedly came from. However, the booklet served its function as anti-marijuana propaganda.

The anti-marijuana messages were just part of the ad campaign. More general “Just Say No” to drugs messages appeared frequently during the campaign. The focus shifted unexpectedly though. After just over two years the Advertising Council was directed in 1985 by the National Institute on Drug Abuse and President Reagan to switch the focus of the Drug Abuse campaign from “Just Say No” to a more specific focus on cocaine abuse.⁴²⁶ This change of focus did not mean that marijuana was now acceptable or that President Reagan felt that the campaign had indoctrinated enough young minds against the evils of marijuana. The campaign shifted most likely in response to the public outcry against the crack cocaine epidemic in American cities.

On August 4, 1986, President Reagan at a question and answer session with reporters contemplated the successes of the War on Drugs as well as a new strategy for winning the War. He noted that:

we’ve waged a good fight. The military forces have dramatically reduced drug use by 67 percent. We’ve been on the offensive attacking the peddlers, the transporters, the smugglers, the growers—everyone who’s a part of the international network that channels drugs into America’s

⁴²⁴ “Marijuana,” Advertising Council Archives, 13/2/207 Box 73, University of Illinois at Urbana Champaign University Archives.

⁴²⁵ Pollan, *The Botany of Desire*, 130-131.

⁴²⁶ “Campaigns Review Committee Ad Hoc Meeting” 9 September 1985, Advertising Council Archives, 13/2/225 Box 1 Folder 1, University of Illinois at Urbana-Champaign University Archives

neighborhoods and communities. Arrests are up, confiscations are up, cooperation with other nations has increased.⁴²⁷

In many regards, President Reagan was extremely optimistic and sought to achieve the impossible as he called for the nation to unite “as one people, together united in purpose and committed to victory . . . a drug-free generation.”⁴²⁸ He truly believed that he could stop the War on Drugs and negatively impact demand for illegal drugs by teaching the drug user to simply say no to drugs. It was with that optimistic spirit that President Reagan announced six goals, which if achieved would end the War on Drugs. The first step was to create a “drug-free workplace for all Americans.”⁴²⁹ Drug testing for Federal employees was to get the ball rolling on this initiative. The second step was a drug-free educational system from grade school through college. President Reagan’s third step was to get drug users into drug treatment programs. The fourth goal was to increase international cooperation, especially in regards to drug trafficking. The fifth goal was to strengthen law enforcement efforts especially at our Southern border. The final goal was primary, prevention and awareness.

We must expand public awareness and prevention. Now, we’ve come a long way on this front. Attitudes are changing; so, now is the time to enlist those who have yet to join the fight. We can do this by reaching out to all Americans and asking them to join Nancy’s drug abuse awareness and prevention campaign; taking a stand in every city, town, and village in this country and making certain drug users fully understand their fellow citizens will no longer tolerate drug use; disseminating credible and accurate information about the danger posed by drugs. Users should know we are concerned and there is legitimate reason to be concerned.⁴³⁰

⁴²⁷ Ronald Reagan. “Remarks Announcing the Campaign Against Drug Abuse and a Question-and-Answer Session with Reporters,” 4 August 1986 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

⁴²⁸ Ibid.

⁴²⁹ Ibid.

⁴³⁰ Ibid.

A month later, President Reagan and his wife Nancy addressed the nation from their living quarters in the West Wing of the White House, an event unheard of before. This was the aforementioned speech in which Reagan officially declared a War on Drugs. He had used war metaphors before in other speeches, but unlike those previous declarations this was to the nation and not to members of Congress or other small groups of Americans. Reagan noted that shortages of marijuana had been reported and use of the drug was down among high school students. However, the war was not won yet. Mrs. Reagan appealed to the American family to take up “arms” in the War on Drugs.

Drugs take away the dream from every child’s heart and replace it with a nightmare, and it’s time we in America stand up and replace those dreams. Each of us has to put our principles and consciences on the line, whether in a social setting or in the workplace, to set forth solid standards and to stick to them. There’s no moral middle ground. Indifference is not an option. We want you to help us create an outspoken intolerance for drug use. For the sake of our children, I implore each of you to be unyielding and inflexible in your opposition to drugs.⁴³¹

Together the Reagans were a seemingly unstoppable team when it came to the War on Drugs. However, despite their best efforts and unflinching optimism the War still rages on and the American people still try to assert their free will in regards to marijuana use and drug use in general.

As seen in this chapter the status of marijuana changed dramatically in some circumstances in the 1970s, but returned to the status quo in the 1980s. However, marijuana in American society underwent a period of transformation after the Reagan era. President George H.W. Bush declared War on Drugs and continued the anti-drug media campaign. President Clinton carried on the War despite his sketchy past with

⁴³¹ Ronald Reagan. “Address to the Nation on the Campaign Against Drug Abuse,” 14 September 1986 Public Papers of the Presidents, *American Presidency Project*. accessed May 15, 2011, <http://www.presidency.ucsb.edu/>

marijuana. President Clinton experienced some pushback from the states regarding marijuana. As in the mid 1990s states began again to question federal laws regarding marijuana, especially the Comprehensive Drug Abuse Prevention and Control Act of 1970 and its classification of marijuana as a Schedule One drug. States beginning with California made a move not towards decriminalization, but towards legalizing medical marijuana. For some cannabis had come full circle from beneficial plant to dangerous plant and finally back to a plant with medicinal benefits.

Conclusion

“Just Say No!” and “Just Do It!” are two slogans that historian William N. Elwood began his book *Rhetoric in the War on Drugs: The Triumphs and Tragedies of Public Relations* by analyzing.

The first slogan tells citizens to rely on their inherent moral fortitude and eschew temptation; in contrast, the second slogan provides citizens permission to engage in pleasurable activities, to pursue their happiness.⁴³²

These two slogans represent contradictory values in American society, which together serve to complicate the War on Drugs. These inherently conflicting slogans, therefore, represent the key reasons why this war will never be truly won. These conflicting sentiments are precisely the reason the United States will never truly stamp out marijuana use within its borders.

As evidenced by the previous chapters, *Cannabis sativa Linne* clearly shares a complex relationship with mankind, especially with Americans.

Armies and navies have used it to make war, men and women to make love. Hunters and fisherman have snared the most ferocious creatures, from the tiger to the shark, in its herculean weave. Fashion designers have dressed the most elegant women in the supple knit. Hangmen have snapped the necks of thieves and murderers with its fiber. Obstetricians have eased the pain of childbirth with its leaves. Farmers have crushed its seeds and used the oil within to light their lamps. Mourners have thrown its seeds into blazing fires and have had their sorrow transformed into blissful ecstasy by the fumes that filled the air.⁴³³

This simple plant with five-fingered leaves has been transformed in American culture from a plant with many helpful and socially accepted uses to a plant demonized for its ability to produce a euphoric high. In order to discover why this occurred, I attempted to answer the following questions. When and why did the federal government initially

⁴³² Elwood, *Rhetoric in the War on Drugs*, 1.

⁴³³ Abel, *Marihuana*, ix.

embark on a War on Drugs? When and why did it focus on cannabis? Who were the key actors in the war's creation and perpetuation? What specific methods did the federal government use to fight this war? Together the answers to these questions combine to illuminate a picture of the American War on Drugs that is marked by the government and citizen in constant struggle to control the meaning and use of drugs including marijuana. Ultimately the War on Drugs is a paternalistic campaign to assert control over American citizens' personal behavior.

I contend that the War on Drugs began in 1914 with the passage of the Harrison Narcotics Tax Act. Many scholars would concur with this assertion, including historians Richard J. Bonnie, Charles Whitebread II, and David Musto. In addition, Arthur Benavie argues that there were drug war rumblings in many states including California, but these state laws and local ordinances were merely the precursor to the war. The Harrison Narcotics Tax Act was the first shot fired in the War on Drugs. He went further by stating that the Supreme Court's 1919 interpretation of the Harrison Narcotics Tax Act in *Webb v. United States*, which denied addict maintenance, really gave birth to the American War on Drugs.⁴³⁴

On the other hand, many scholars argue that the War on Drugs began at alternate points in American history. For instance, Martin Alan Greenberg argues that president Richard Nixon's 1971 televised declaration of a "war on drugs" marked the real beginning of the war.⁴³⁵ Whereas, this moment in American history was significant for its use of the medium of television and it being the first declaration of war on drugs by a U.S. President, it was not the beginning of the American War on Drugs. War did not need

⁴³⁴ Benavie, *Drugs*, 24-27.

⁴³⁵ Greenberg, *Prohibition Enforcement*, 196.

to be declared literally by the Commander-in-Chief for a war to have begun. The Harrison Narcotics Tax Act was the first federal legislation to regulate narcotics, then defined as opium and cocaine. This law served a model for future legislation and encouraged anti-drug reformers to push for more legislation such as the Eighteenth Amendment. With this law a consensus emerged: “the nonmedical use of ‘narcotics’ was a cancer which had to be removed entirely from the social organism.”⁴³⁶ This accord against drug addiction and the drug experience had been building since the 1870s.⁴³⁷ It was finally expressed in the Harrison Narcotics Tax Act. It was this consensus that lay at the heart of the genesis and the perpetuation of the American War on Drugs.

The Marihuana Tax Act was a significant turning point in the War on Drugs. It turned the focus of the American War on Drugs onto cannabis for the first time. Specifically it marked a point in American history when cannabis was no longer solely viewed as the plant that produced hemp. The Marihuana Tax Act on the surface was not supposed to negatively impact the production of hemp. However, ultimately hemp farmers were lumped in with narcotic addicts as it became impossible for farmers or anyone for that matter to comply with the *Marihuana Tax Act*, to legally possess or grow cannabis. The Treasury Department failed to follow through on its duty to make a tax stamp, thus making it impossible for anyone to register as an authorized manufacturer and pay the necessary tax. Hemp production was now illegal and to this day the source of legal hemp in the United States is other nations such as the Philippines.

Hemp being left by the wayside, cannabis was now viewed on a national level as marijuana, a drug. Why this occurred is complex. Drug warriors such as Dr. Hamilton

⁴³⁶ Bonnie and Whitebread, *The Marihuana Conviction*, 17.

⁴³⁷ H. Wayne Morgan, *Drugs in America: A Social History, 1800-1980* (Syracuse, NY: Syracuse University Press, 1981), 107.

Wright, Harry J. Anslinger, and other Progressive activists felt that cannabis should be included in anti-narcotic legislation. They were influenced by the sentiment that narcotics were an evil that must be eliminated from the lives of American citizens. The average American knew relatively little about marijuana and what they did know came from sporadic sensationalistic stories in newspapers, which did not connect hemp and marijuana together.⁴³⁸ These few, but lurid newspaper accounts helped contribute to the belief among middle class Americans that marijuana was a drug associated with Mexicans, “crime and the deviant life style in the Black ghettos.” Americans were so uneducated about marijuana that in New York the Federal Bureau of Narcotics felt it necessary to educate members of the New York City police department as to what marijuana looked like, so that they would be able to identify it on the streets.⁴³⁹ It was this “cannabis confusion” that led not only to a national consensus in the 1950s among the American population regarding the supposed evils of marijuana, but the passage of the Marihuana Tax Act.

Harry J. Anslinger and the Federal Bureau of Narcotics were key players in the War on Drugs and particularly in its focus on cannabis. The agency itself was created as a result of the war. Commissioner Anslinger was the head of the Federal Bureau of Narcotics for thirty-two years. During that time, he exerted a great deal of influence on the legal status of drugs in our nation as well as the perception of drugs among Americans. He was a very shrewd bureaucrat who was good at keeping his bureaucracy relevant and funded. Anslinger skillfully “cultivated the media and effectively used

⁴³⁸ Bonnie and Whitebread, “The Forbidden Fruit and the Tree of Knowledge,” 1036.

⁴³⁹ Ibid., 1037, 1036.

citizen groups that opposed narcotics.”⁴⁴⁰ He was very careful to maintain strong ties between himself, the Federal Bureau of Narcotics, and Congress. He also fostered ties between the FBN and local law enforcement agencies. His dramatic and compelling testimony was integral in getting the Marihuana Tax Act through the House Ways and Means Committee. From the 1930s through the 1950s, the Federal Bureau of Narcotics and Commissioner Anslinger proselytized about the evils of marijuana. They attempted to link cannabis with immigrants and criminality.⁴⁴¹ Their efforts contributed to a relative consensus in the 1950s regarding the evils of marijuana. However, this consensus was not as strong as it seemed and would collapse in the 1960s and 1970s.

Besides the Harry J. Anslinger and the Federal Bureau of Narcotics, other notables in Washington, D.C. have played integral roles in the creation and perpetuation of the American Drug War. From Woodrow Wilson to Barack Obama, American presidents have played a key role in the perpetuation of the War on Drugs. I would argue, though, that Richard Nixon and Ronald Reagan were the most enthusiastic drug warriors to occupy the Oval Office.

In June 1971 in a televised speech President Nixon announced a “war on drugs.”⁴⁴² He was the first president to do so. President Nixon did perhaps more than any previous president in an attempt to combat drug use in the United States. Besides urging Congress to pass the Comprehensive Drug Abuse Prevention and Control Act, he launched “Operation Intercept,” began a three year media campaign in conjunction with the Advertising Council, Inc., mandated Drug Abuse Prevention weeks four years in a row (1970-1973), and established the Commission on Marihuana and Drug Abuse.

⁴⁴⁰ Morgan, *Drugs in America*, 121.

⁴⁴¹ Musto, “History of the Marijuana Tax Act of 1937,” 428.

⁴⁴² Greenberg, *Prohibition Enforcement*, 196.

Nixon's anti-drug media campaign was revolutionary and memorable, with the often utilized tagline "why do you think they call it dope." It was the first federally funded anti-drug media campaign, targeting different generations and ethnicities. The campaign had a scope and reach that was dwarfed Anslinger's anti-drug educational campaign. Whether or not the campaign was effective is questionable, as drug use was on the rise in the 1970s and marijuana was decriminalized in multiple states after Nixon's presidency.

In the 1980s President Ronald Reagan significantly ramped up the War on Drugs. He made it his mission during his presidency to create a drug-free America, striking out particularly against marijuana and cocaine use. President Reagan was only the second president to officially declare a War on Drugs. To the Reagan administration the War on Drugs was more than a pet project--it was a moral crusade that the nation had to win. President Reagan was a master at anti-drug rhetoric. Together he and his wife Nancy Reagan made an indelible mark on the War on Drugs. Their rhetoric further complicated the status of marijuana in the nation by helping to polarize the public. Nancy Reagan even called casual marijuana users accomplices to murder.⁴⁴³ President Reagan emphasized anti-drug education and not scare tactics as being key to achieving a drug-free nation.⁴⁴⁴ As with President Nixon before him, President Reagan utilized the Advertising Council to create an anti-drug media campaign. This campaign's slogan was borrowed from Nancy Reagan's catchphrase "Just Say No." It was a powerful and memorable campaign. Whether or not it actually prevented drug use is questionable, but

⁴⁴³ Ronald Reagan. "Remarks at the Meeting of the White House Conference for a Drug Free America," 29 February 1988 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

⁴⁴⁴ Ronald Reagan. "Remarks on Signing the National Drug Abuse Education Week Proclamation," 1 November 1983 Public Papers of the Presidents, *American Presidency Project*. accessed May15, 2011, <http://www.presidency.ucsb.edu/>

it did spark interest in the anti-drug movement, and helped lead to the creation of over 12,000 Just Say No clubs nationwide.

As evidenced by the previous chapters, laws were the main tool utilized by the federal government to fight the War on Drugs. From the 1914 Harrison Narcotics Tax Act to the Comprehensive Drug Abuse Prevention and Control Act of 1970, the American government utilized anti-drug laws to attempt to control the personal behavior of its citizens. Laws were effective weapons in the War on Drugs, but were not infallible. Other weapons needed to be utilized for drug warriors to combat drug use in America.

Another tool utilized by federal drug warriors was media, including newspapers, print advertisements, radio addresses, televised speeches, and public service announcements. In regards to marijuana specifically, media was used to proselytize about the evils of marijuana. Prior to the Marihuana Tax Act of 1937 and the efforts of Commissioner Harry J. Anslinger and the Federal Bureau of Narcotics, the national consciousness was not filled with images of marijuana, let alone images of marijuana as a hard drug. After the passage of the law, the media and the Federal Bureau of Narcotics significantly contributed to the feeling that there was a growing national drug menace. Anslinger and his agency actively conducted a national educational campaign for federal legislation regarding marijuana. They sent stories to the press on the dangers of marijuana and even travelled around the nation distributing anti-marijuana propaganda.⁴⁴⁵ This is evidenced by the fact that Anslinger himself authored many anti-marijuana articles. Nixon's anti-drug media campaign as well as Reagan's Just Say No campaign both demonized marijuana. All of the various anti-marijuana media expressions discussed

⁴⁴⁵ Bonnie and Whitebread, "The Forbidden Fruit and the Tree of Knowledge," 1052.

depict marijuana as an alien intrusion capable of destroying innocent lives and transforming normal individuals into sex-crazed, violent, or insane people.

Presidential anti-drug rhetoric was another weapon in the War on Drugs. American presidents like Nixon and Reagan made specific rhetorical choices in regards to drugs which often had the added effect of making them appear tough on crime. Presidential rhetoric often helped to shape public policy and public perception regarding drugs.

Regardless of the successes and failures of the War on Drugs or perhaps because of the successes and failures, the national view of cannabis did indeed change from hemp to marijuana. The government succeeded in changing the legal status of the cannabis plant. Cultivation of cannabis became a crime dooming not only marijuana, but the fiber crop hemp. For the most part, hemp fell by the wayside and cannabis became marijuana in the eye of the federal government as well as the American people. However, the government did not succeed in dictating to the public that marijuana was a dangerous drug. In many regards, the federal government assumed that public opinion had crystallized regarding the cannabis question and that it favored the “suppression of a drug with such evil effects.”⁴⁴⁶ The government was, on one hand, being given the push to decriminalize or legalize from the counterculture as well as from internal sources such as Kennedy’s Presidential Commission on Narcotic and Drug Abuse and Nixon’s Commission on Marihuana and Drug Abuse. However, despite this the federal government maintained its war on marijuana. Not only did the government maintain its war, it changed its tactics and allotted more and more money to address the supposed problem. The 1970s marked the first time the federal government had utilized an all out

⁴⁴⁶ Ibid., 1026.

media war. The movement to decriminalize marijuana in the 1970s was also indicative of this lack of complete acceptance among the American public as well as the push for the legalization of medical marijuana in the 1990s. The War on Drugs continues to this day and the federal campaign against marijuana including the media campaign rages on. This fact alone shows that the government has not succeeded in its efforts to convince the American population that marijuana is a dangerous drug without any redeeming value. As more states follow California in legalizing medical marijuana, one wonders if the federal government will one day abandon its war against cannabis. Will hemp once again be legally grown in this nation? Will marijuana ever be legalized or decriminalized on a federal level? The status of cannabis in American history is very complicated and will serve as fodder for many more historical studies in the future.

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