LEGISLATIVE CONTROL OF CANNABIS:

A Comparison of the Use of Information about Cannabis by Members of the U.K. House of Commons and U.S. House of Representatives in the Course of Legislating for Drug Control, 1969-1971.

By

WILLIAM JOHN LANOUETTE

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ABSTRACT

This thesis compares the availability and use of information about cannabis by Members of two distinguished legislatures. It reviews the historical, social, legal, and moral contexts of cannabis use in Britain and the United States. It compares contemporary legislative politics in the two countries, with special reference to the relationship between the legislature and the executive, the roles of Members of Parliament (MPs) and Members of Congress (MCs) in their respective houses and societies, and the usual sources and channels of information available to Members. It compares and contrasts the preparation and passage of the U.S. "Comprehensive Drug Abuse Prevention and Control Act of 1970" and the U.K. "Misuse of Drugs Act 1971", giving particular attention to the ways that Members became informed about cannabis, and how they were able (or unable) to use their information in the creation of the two laws. Particular emphasis is given to differences between the two systems. These differences are especially striking when the passage of legislation is viewed from the point of view of the participants.

From the comparisons and contrasts made in this study several conclusions have emerged, chief among them that:

1) MCs had significantly more power in determining the policies and details of legislation than did MPs;

2) Sources and uses of information were significantly greater in Washington than in Westminster;

3) The most important stage in both houses for Members to influence legislation was the committee stage;

4) Information was a valuable resource for MCs, but, at least in this instance, was of little use to MPs;

5) Simply increasing sources of information will not improve the quality of legislation unless more opportunities for Members to use that information are also provided;

6) With regard to the problems now facing both countries, the availability and use of information by legislators is likely to play

a critical part in future social-policy formation, and correspondingly;

7) A lack of opportunities for Members to obtain and use information is likely to impair not only the legislative process in the two countries, but the future of the two societies as well.

ACKNOWLEDGEMENTS

Preparing this thesis has not been a solitary effort, but a lively enterprise, made especially enjoyable by the co-operation, assistance, and friendship of several people.

I am most grateful to my supervisor, Dr. William Letwin of the London School of Economics Government Department, for his careful and patient reading of the thesis, his thoughtful and constructive comments, and his continuing encouragement.

Several details and explanations of the passage of the two laws came from Kenneth Bradshaw, Deputy Principal Clerk of the House of Commons, and James M. Menger, Jr., Professional Staff Member of the Interstate and Foreign Commerce Committee in the House of Representatives.

Many of the participants in the passage of the two laws provided invaluable details, anecdotes, and opinions through personal interviews, informal conversations, questionnaires, and correspondence. In addition to those persons listed in the Bibliography, I am also indebted to several who wished to remain anonymous.

Mr. Jasper Woodcock of the Institute for the Study of Drug Dependence, and Mr. Jim Zacune of Drugs & Society, made many useful comments on an early draft of the manuscript.

Staff Members of the House of Commons Library, Library of Congress, and Institute for the Study of Drug Dependence were very helpful while I studied the array of published material on cannabis and legislation.

The circulation of questionnaires among Members of Parliament and Congress, and a trip to Washington to consult Congressional documents and conduct interviews, was made possible by a grant from the Research Fund of the University of London.

And I am especially thankful to my wife for her patient typing, perceptive comments, and constant support during the writing of this thesis; and to Mrs. Mildred Baker, who prepared the final typescript.

William J. Lanouette
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INTRODUCTION

> One of the principal functions of a legislature is to inform the people about the activities of their government, and members of any parliament, if they are to carry out their duties satisfactorily, themselves need to be informed.[1]

Information Into Law

This thesis compares the information about cannabis that was available to Members of two distinguished legislatures and how they used that information to shape laws that would deal with the critical social problem of drug abuse. It was prompted by an interest in the role that information plays in the creation of legislation, and in the ways that the availability (or scarcity) and use (or non-use) of information may influence the conception, content, and quality of national laws and policies.

The study is predicated on the assumption that legislators must be well informed to deal ade-

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1. K. Bradshaw and D. Pring, Parliament and Congress (London: Constable and Co. Ltd., 1972), pp. 358-9.

quately with the issues that they daily decide upon. Assuming this to be true, several questions come to mind:

a) How are Members best able to acquire and use that information in fulfilling their roles as elected representatives and participants in their respective legislative processes?

b) What information about cannabis was available to Members of these legislatures?

c) How did they obtain and use that information during the legislative process?

d) Did they feel they could have used more information? If so, at what stage in the legislative process would it have been most useful?

e) What limitations restricted their use of the information?

f) To what extent do the laws that they passed reflect the quantity and quality of the information that they used?

Although this study focuses on one aspect (cannabis) of one subject (drug-control laws), it should also be useful in considering how social norms

and individual attitudes combine with scientific information, and personal convictions to create contemporary law and public policy.

This comparison of Members' information is prompted by several conditions common to both Houses:

a) Both the House of Commons and the House of Representatives are considered to be the more "popular" chambers in their countries' bicameral legislatures, supposedly closer in their responsibilities and interests to The People, and as such better able to interpret domestic sentiment and problems.

b) Both houses passed their countries' first comprehensive drug-control legislation within three months of one another, and in their debates reflected many common concerns and confusions about cannabis.

c) In both countries the use of cannabis had increased dramatically during the previous five years, and for many of the same reasons.

d) In both countries there was little vested interest or economic incentive that might have influenced the Members' decisions about cannabis.

e) In both countries the question of cannabis control was non-partisan, and this allowed the individual Members more freedom than they normally would have to take decisions about the drug in the light of their own knowledge rather than as a result of political pressure.

f) In both houses Members cited many of the same sources of information about cannabis.

g) In both houses the question of cannabis use prompted a variety of different types of information sources: not only statistical and scientific, but personal, moral, and social as well.

By analyzing the information that MPS and MCs used while legislating to control cannabis, it has been possible to draw some conclusions about the ways that their respective political systems permit (and prohibit) the flow of information within the decision-making process (Chapter V). Study of the passage of these two bills also revealed the ways in which fact, political and personal influence, and outside pressures, combined to create and shape national laws.

At the outset, one caveat is in order. I have not made the assumption that information, per se,

is either good or bad -- or that having "more" information is a better condition than having "less". Quality and form, as well as quantity, must be considered when assessing the relative value of information in the legislative process, and it is just as conceivable that having "too much" information (for e.g. boundless details from scientific studies of cannabis in rats) of an irrelevant nature is less useful than having "too little" (e.g. only three clinical studies of cannabis use in man when 30 or 300 might be more statistically conclusive). The form in which information is presented, the time at which it becomes available during the legislative process, and the nature of the information used at that time by other Members in debate may be more decisive than its sheer quantity or relative quality.

Information about cannabis presented two peculiar problems for legislators, both of which should be borne in mind. First, people who used cannabis in the two countries were breaking the law, and as such there was not the free communication of attitudes between constituents and representatives that might exist for other social issues. Several Members recognized

this problem and actively sought out cannabis users, in an effort to augment what Government and scientific sources were telling them about the drug. Second, the "literature" about cannabis is overwhelming, and from the point of view of the contemporary lawmaker many articles and books were useless, either because of their medical unreliability, their cultural irrelevancy, or their didactic purpose. The most up-to-date bibliography includes about 2,000 titles, although those of sound medical or scientific character account for less than half the total.[1] A common plea by MPs and MCs during the passage of the two bills was that "we do not have enough information" about cannabis. What most of them meant was that they did not have enough reliable and relevant information. Even some of the recent scientific studies of cannabis were inconclusive, and were cited as support in debates by Members taking opposite points of view.

Speaking on the topic "Unreason in an Age of

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1. Lester Grinspoon, Marihuana Reconsidered (New York: Bantam Books, 1971), pp. 3-4.

Reason"[1] Dr. Griffith Edwards posed some possibilities that should be remembered as we explore this elusive and important topic.

> What identifiable considerations determine the process of societal decision-making that causes one substance to be accepted and another rejected ...? ... We may suspect that in a world which puts a premium on rationality, we are not always, where drugs are concerned, altogether being reasonable, and the cost and pains of such unreason may be tangible. Thus, if the attempt is to be made to list out the motives which dictate a nation's reponses to a particular substance we had best anticipate that our concern must be with identifying varieties of relevant unreason as well as studying varieties of reason; to work on the assumption that our whole task is simply to identify the relationship between a set of rational social actions and rational social perceptions could hardly seem the most hopeful basis for understanding the evidence so far considered. We may indeed well conclude from a historical review that irrationality has played so important a role as to deserve pride of place in any listing of the forces which have motivated responses to psychoactive substance use.

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1. Edwin Stevens Lectures for the Laity 1971, pp. 15-6.

A Few Notes on Terminology

In this thesis the terms "cannabis" and "marijuana" are used interchangeably. In fact, cannabis is the generic term and marijuana a type of cannabis, but the word "marijuana" is also used generically in both countries and thus finds its way into some quotations with that intended meaning. (For more precise definitions of these terms, see Chapter I, pp. 18 to 29 .

An additional point of confusion arises with the two popular spellings of marijuana (marihuana). The British Government (HMSO) spells it with a "j" while the American Government (GPO) uses an "h", and there seems to be no consistent spelling in either the British or American press. I have decided to use the "j", but have retained the alternate spelling when it appeared in quotations or titles.

In describing the American legislature I have used the term "Congressman" to mean a member of either the House of Representatives or the Senate, although in some sources this term is used to describe only a Member of the House of Representatives. To

denote a member of either body, I have used the terms "Representative" and "Senator".

Another distinction that should be made is between "information" and "knowledge". In the use of these words I have followed the conclusions drawn in the American Heritage Dictionary of the English Language, viz., "Knowledge includes both empirical material and that derived by inference or interpretation" while "Information is usually construed as narrower in scope and implies a random collection of material rather than orderly synthesis."[1] The tomes that have been written on epistemology and information theory reflect little general agreement about what either "knowledge" or "information" really are, and it is not my intention to add to those volumes of speculation. While interviewing Members of Parliament and Congress the question "what do you mean by information?" frequently came up. They asked me; and I asked them. After some grins and mumbles we usually agreed that, of course, we both know what information is. I hope that readers of this thesis will approach it in the same spirit.

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1. Op.cit., p. 725.

CHAPTER I

PERSPECTIVES ON CANNABIS

POPULAR EPIDEMIC

On the morning of 6 February 1971 readers of The Guardian were given this dispatch:

> Geneva, February 5
>
> A sharp rise in drug-taking throughout the world over the past year -- with consumption of cannabis reaching almost epidemic proportions -- is disclosed by the annual report of the International Narcotics Control Board, a U.N. agency ...
>
> In the United States millions of people were reported to be taking cannabis and in Europe a tremendous upsurge in the misuse of the drug has been reported. [1]

That morning The Times reported that:

> widespread indulgence in cannabis has now reached almost epidemic proportions and is still increasing sharply, particularly among the younger generation, according to the International Narcotics Control Board ...

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1. The Guardian, 6 February 1971, p. 2.

> The review emphasizes that the public debate on cannabis is clouded by misunderstanding because of the "wide variation in quality of the material consumed as cannabis by different people in different places ..."
>
> Abuse of drugs is now geographically more widespread, includes much larger numbers, and has invaded all levels of society in the countries affected. [1]

The Washington Post published an article on the INCB report that focused on worldwide efforts to control the growth of opium; but in a review of the principal countries where drugs are produced noted that the Government of Lebanon was pressing on with a plan

> for replacing cannabis [and] reports that 4,500 hectares have been converted to sunflowers, but recent illicit seizures illustrate measures so far fall materially short of what is needed.[2]

The release of the Board's annual report confirmed what many newspaper readers in Great Britain and the United States already had other reasons to assume: that the use of cannabis was fast becoming a widespread and popular activity in their countries, despite strong social taboos and strict laws against it.

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1. The Times, 6 February 1971, p. 4.
2. Washington Post, 6 February 1971, p. A10.

Four days earlier in Washington, on 2 February, the U.S. Department of Health, Education, and Welfare (HEW) submitted to Congress a 176-page report,[1] which concluded that almost one-third of the students at American colleges and universities had tried marijuana and that one-seventh used it regularly. The study noted that "the use of marihuana increased 5 to 12 percentage points between 1968 and 1969" in several local surveys.[2]

During this period of near "epidemic", the two countries most directly concerned with the increasing use of cannabis had done what modern, Western societies normally do when confronted with a problem: they turned to their national laws and legislatures for a remedy. In the United States the issue of cannabis use and control was considered by Congress from 16 July 1969, when President Nixon proposed revision of the nation's drug-control laws was presented to Congress, to 27 October 1970, when he signed into law the Comprehensive Drug

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1. National Institute of Mental Health, Marihuana and Health, U.S. Department of Health, Education, and Welfare, 1971.

2. Ibid., p. 25.

Abuse Prevention and Control Act.[1] In Britain, the issue was considered by Parliament between 11 March 1970, when the Government introduced a Bill to revise the country's drug-control laws, to 27 May 1971 when Royal Assent was granted to The Misuse of Drugs Act 1971.[2]

In both countries the drug that dominated the ensuing debates and deliberation was cannabis. Both countries had strong social taboos against the drug, harsh legal penalties prohibiting its possession, trafficking and use, and international commitments to restrict its availability and distribution. In both countries the general public, and their elected representatives, had begun to question some aspects of the way that the anti-cannabis laws then in effect were being enforced. In both countries the national legislature had begun to revise the existing statutes that had accumulated, piecemeal, over the years and become their national drug-control policies. Although many of the same sources of contemporary information

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1. Public Law 91-513; 84 Stat. 1236.

2. Eliz. II, 1971 Chapter 38.

were available to Members of both houses, and similar traditional attitudes, myths, and misconceptions about cannabis were resurrected and compounded during the Congressional and Parliamentary debates, the two legislatures concluded their deliberations by enacting very dissimilar laws.

In retrospect, how effectively did the "legislative process" in each of these two countries come to terms with the details and implications of the cannabis "epidemic" that engulfed them? And, more specifically, what type and amount of information and mis-information about cannabis was available to the legislators, and how was this used by them, as they drafted, debated, and enacted the new drug-control laws?

While the principal focus of this thesis is on the use of information about cannabis during the legislative process, the study would be incomplete without also considering the factual, historical, social, and legal contexts in which that process occurred.

FACTUAL CONTEXT

In Britain the number of persons convicted for cannabis offences rose dramatically during the second half of the 1960s.

TABLE 1

CANNABIS ARRESTS AND CONVICTIONS IN BRITAIN
1965 - 1970

Year	Arrests	Convictions
1965	n.a.	626
1966	n.a.	1,119
1967	2,734	2,393
1968	3,567	3,071
1969	5,287	4,687
1970	8,503	7,520

Source: Home Office

These statistics are particularly striking when compared with records for the previous quarter century. For example, in 1945 the number of convictions for cannabis offences was 4. This figure rose to 79 convictions in 1950, to 115 convictions in 1955, and to

235 convictions by 1960.[1]

In the United States, the number of arrests rose even more steeply during the same period, on both Federal and state levels. (Care should be taken in comparing these statistics, since British sources report arrests and convictions, while American sources report Federal and state arrests and the per cent of Federal arrests that led to convictions.)

TABLE 2

MARIJUANA ARRESTS (FEDERAL AND STATE) IN THE UNITED STATES, WITH PER CENT OF FEDERAL ARRESTS THAT LED TO CONVICTIONS, 1965-1970

Year	Federal Arrests (and % convicted)		State Arrests
1965	523	(90)	18,815
1966	746	(87)	31,119
1967	941	(80)	61,843
1968	1,433	(79)	95,870
1969	2,189	(76)	118,903
1970	2,082	(73)	188,682

Source: Marihuana: a signal of misunderstanding, pp. 106-7.

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1. Advisory Committee on Drug Dependence, Cannabis, (London: Her Majesty's Stationery Office, 1968), p.8.

Estimates of cannabis use in the two countries are less statistically precise. Experts estimated in 1968 that between 30,000 and 300,000 persons in Britain had tried cannabis,[1] and a popular figure quoted frequently in the press that year put the number at 1,000,000.[2] In 1969, a Federal spokesman said that "a conservative estimate of persons in the United States, both juvenile and adult, who have used marijuana at least once is about 8,000,000 and may go as high as 12,000,000 people."[3] Within six months he said that the total "may be closer to 20,000,000."[4] The latest estimate puts the number of users by 1971 at some

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1. Ibid., p. 9.

2. The Guardian, 28 November 1968, p. 10.

3. Dr. Stanley Yolles, Director, National Institute of Mental Health, U.S. Department of Health, Education, and Welfare, as quoted in The National Observer, 27 October 1969, p. 2.

4. Hearings, Drug Abuse Control Amendments, 1970, House Interstate and Foreign Commerce Committee, Subcommittee on Public Health and Welfare, part 1, pp. 180-1.

24,000,000.[1]

A clear understanding of what these millions of cannabis users were in fact using is even less precise, because of the many ways in which the drug is prepared and used. In addition, the limitations in outlook and knowledge of users, law-enforcement personnel, doctors, researchers, lawyers, judges, and laymen have also further obscured the subject.

In an attempt to be as specific as possible, and as a guide to the terms used in this thesis, a brief description of cannabis and its use follows.

The Plant

Cannabis is the generic name of Indian hemp, labelled Cannabis Sativa by Linnaeus in 1753. Although it had been assumed for several centuries that only the female plant yielded cannabis products capable of inducing intoxication, recent chemical analyses have shown that the drug's active ingredient is present in equal

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1. National Commission on Marihuana and Drug Abuse, Marihuana: a signal of misunderstanding, First Report, (Washington, D.C.: U.S. Government Printing Office, March 1972), p. 7.

concentration in both the male and the female plants.[1] Cannabis is an annual plant, relatively hardy, and capable of growing to heights of 8 to 15 feet. Since high temperature and low humidity are the best conditions to yield a potent drug,[2] the countries that produce cannabis of the best quality today include Afghanistan, Turkey, Lebanon, India, Pakistan, Cyprus, and Mexico.

Cannabis is also called "Indian hemp", and sometimes just "hemp". Hemp is described as "a tall plant Cannabis sativa, native to Asia, having stems that yield a coarse fiber used in cordage, and small greenish flowers."[3]

The etymology of the word "cannabis" has been traced to the Greek kannabis, meaning "hemp". This, in turn, has been traced to an Indo-European word of uncertain origin. The Germanic form is hanipiz, and

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1. S. Synder, Uses of Marijuana, (New York: Oxford University Press, 1971), p. 5. See also Y. Gaoini and R. Mechoulam, Journal of American Chemical Society, 86 (1964), 1646.

2. Cannabis, p. 5.

3. The American Heritage Dictionary of the English Language, (Boston: Houghton Mifflin Co., 1969), p. 614.

the Old English forms are henep and haenep, also meaning "hemp". The Greek form gives us the words "cannabis" and "canvas".[1]

The Flowers and Leaves

Marijuana means generally "a hemp plant" and specifically "the dried flower clusters and leaves of the hemp plant, especially when taken to induce euphoria." Slang equivalents of marijuana included "weed", "pot", "Mary Jane", "tea", "gage", "grass", and as a cigarette a "reefer" or "joint". The word is thought to be Mexican Spanish, from mariquana, marihuana, of obscure origin.[2] Another possibility is that the word comes from Portuguese.

Bhang is the Hindi word for cannabis and any of several preparations made from hemp, derived from the Sanskrit bhanga, meaning "hemp".[3] Like "marijuana", it has a specific as well as a general meaning. Used specifically it means the dried, matured leaves

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1. Ibid., p. 1520.
2. Ibid., p. 799.
3. Ibid., p. 128.

and flowering shoots of both female and male plants, grown wild or cultivated.[1] Ganja, also used in India, means the dried flowering tops of the cultivated female cannabis plant.[2] Dagga is a synonym for marijuana, meaning "dried leaves", and is used in South Africa.[3]

The Resins and Extracts

Hashish, also hasheesh, is a purified extract prepared from the dried flowers of the hemp plant, and smoked or chewed as an intoxicating drug.[4] Hashish is known informally as "hash" or "shit", and is traced most commonly to the Arabic hashish, meaning "hemp" or "dried grass". Because it is an extract from the resin of the cannabis plant, hashish can often be five or six times as potent as marijuana.[5] Hashish is usually smoked in a pipe either alone or mixed with tobacco,

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1. Bulletin on Narcotics, IX, No. 11 (1957), p. 4.
2. Ibid.
3. Ibid., II, No. 4 (1950), p. 22; see also Cannabis, p.5.
4. American Heritage Dictionary, p. 873.
5. H. and O.J. Kalant, Drugs, Society and Personal Choice, Don Mills: General Publishing Co. Ltd., 1971, p. 36.

marijuana, or other drugs or spices. It can be kneaded with flour or chocolate and eaten. And, mixed with coffee, honey, or other flavoured liquids, hashish is occasionally drunk.

Extensive confusion surrounds the word "hashish", and several statements about the word's relation to the etymology of the word "assassin" were made during the passage of the two bills. All speakers who raised the question did so to make the point that the word "assassin" is derived from the word "hashish" because a fanatical sect of Moslem assassins killed Christian crusaders while under the influence of the drug.[1] The point was made to prove that both hashish and marijuana had criminogenic qualities. This explanation also has a contradictory variation: that although the assassins did take hashish, it was as a reward for their violent behaviour and not a cause of it.[2]

Probably the most detailed study to date is "Marijuana and the Assassins, an Etymological Investigation" by Don Casto III.[3] This article traced the

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1. See, e.g. pp.201, 330, and 352.

2. See, e.g. p202.

3. British Journal of Addiction, Vol.65, 219-25 (1970).

word "assassin" to three distinct roots:

1) the Arabic word "hashish" as mentioned above;

2) the Arabic noun "hassas" (which in Syria and parts of lower Egypt meant "thief in the night" or "one who sets an ambush") from the verb "hassa" meaning to kill or to exterminate; and

3) the name of a legendary leader of the Isma'-ilites, known as the Old Man (Hassan) of the Mountain, who maintained his hegemony over rival princes with a system of political assassinations, lending his name to this followers as "Hassanin".

After a painstaking review of ancient and modern sources, Mr. Casto concluded that:

> ... the legend of hashish induced violence on the part of the Assassins can no longer be used to support the argument that a causal relationship exists between marijuana and violence. The Assassins, it seems clear, gained their name in a manner unrelated to their purported use of hashish. In itself, of course, this does not prove marijuana is not causally related to acts of violence. It merely suggests that those who seek to link marijuana use and aggressive behavior must look elsewhere for support.[1]

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1. Ibid., p. 224.

Charas, or charras, means "the resin", and is used on the Indian sub-continent as a synonym for hashish.[1]

Kif, or keef, kef, means "Indian hemp" or other related material prepared for smoking, especially in the Maghreb. The word also means the euphoria often associated with its use, and comes from the Arabic kef, the informal form of kayf, meaning "pleasure" or "well-being".[2]

In addition to its celebrated intoxicating effects, the hemp plant is also used for a variety of other purposes, as seen in this chart of cannabis products.

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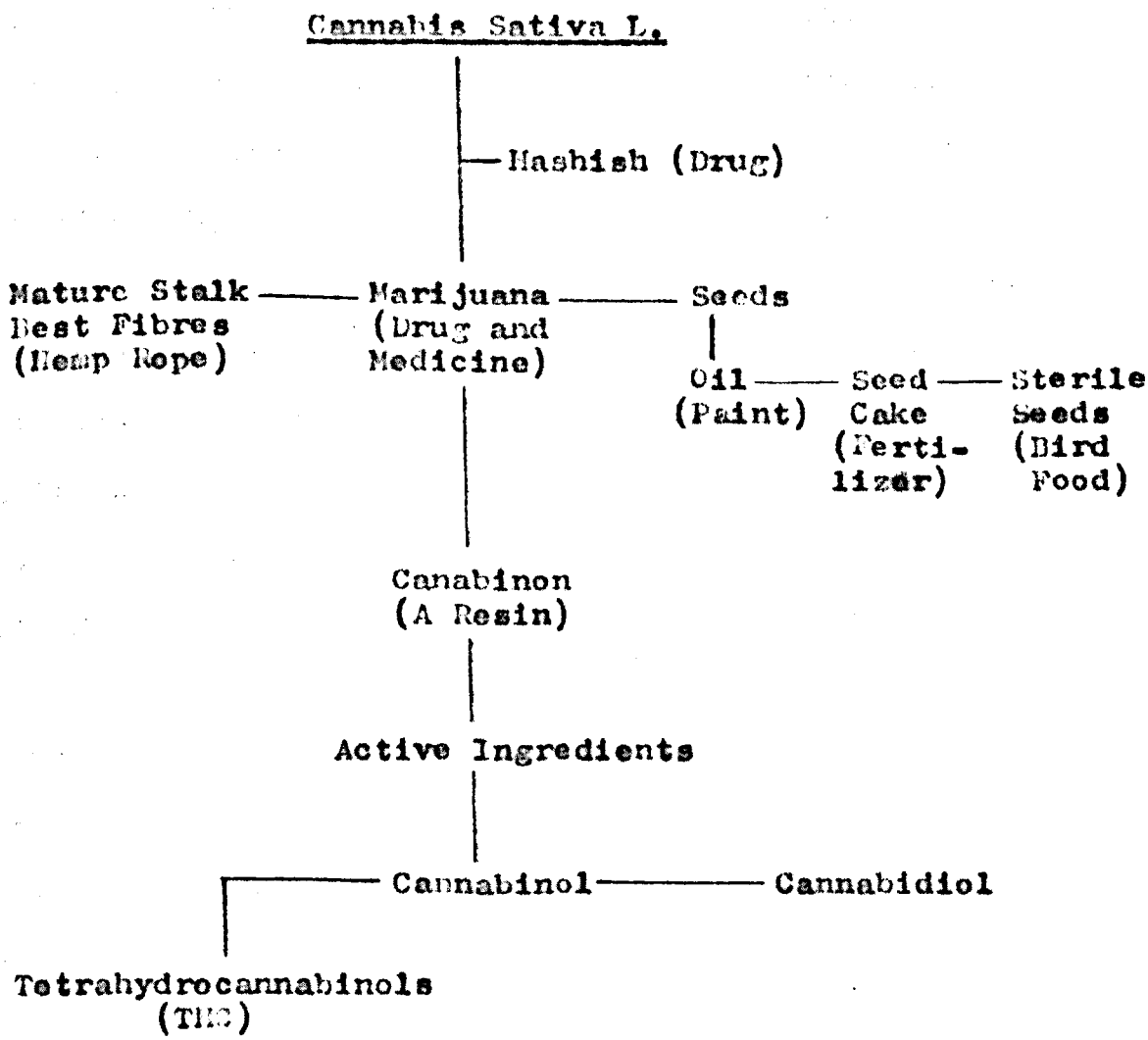
1. Bulletin on Narcotics, IX, No. 1 (1957), p. 4; also Cannabis, p. 5.

2. American Heritage Dictionary ..., p. 720.

CHART 1

CANNABIS AND ITS DERIVATIVES AND USES [1]



1. Adapted from a chart in The National Observer, 10 November, 1969, p.5.

The Pharmacology of Cannabis

The constituents of cannabis include cannabinol, cannabidiol, and several tetrahydrocannabinols referred to collectively as THC. Other contituents are cannabigerol, cannabichromene, and cannabidiolic acid. The active psychotropic principle is THC, two forms of which, Δ^1 and Δ^6 THC, have the greatest potency. The relative and total amounts of the active principles THC in a sample of cannabis depend on several conditions, among them the climate during its growth, the ways it is processed and stored, and the manner in which it is prepared and used. For example, Δ^6 THC is approximately 2 to 5 times as active when smoked as when it is swallowed. When inhaled, the fastest way to absorb cannabis into the body, the maximal effect of the drug can be experienced within 30 minutes to one hour, and with the proper degree of inhalation control may persist from 3 to 5 hours.[1]

Since THC was fully synthesized in 1965, researchers have been able to measure the strengths of the many forms of cannabis against a known standard. The THC level (potency) of cannabis varies greatly from

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1. Cannabis, Appendix 5, par. 1.

one part of the world to another, and even from one side of a cannabis patch to another, depending on climate, soil, moisture, and the stock of the plant. As a rough guideline, marijuana must contain about 2 per cent THC to be potent enough to produce a sustained euphoria or "high". The THC content of cannabis grown in Great Britain (except under strict artificial conditions) is less than 1 per cent. Marijuana grown outdoors in the United States varies from about 0.05 per cent to about 1.5 per cent THC, and rarely above 2 per cent. Turkish marijuana contains about 2 per cent THC, some Mexican stocks vary from about 2 to 4 per cent THC, and a few varieties cultivated in India, and in other parts of Asia may contain more than 5 per cent THC. By comparison the THC content of hashish is generally about 5 to 12 per cent, and is sometimes even higher.[1]

With its wide range of different forms and uses, cannabis used in Britain and the United States can range from a few shreds of marijuana or a few drops of synthetic THC mixed with ordinary tobacco to concentrated

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1. Interview with Dr. Robert Petersen, Research Director, Division of Narcotic Addiction and Drug Abuse, National Institute of Mental Health, U.S. Department of Health, Education, and Welfare. See also The National Observer, 10 Nov. 1969, p. 5, and Marihuana: a signal of misunderstanding, p. 50.

distillates of hashish. To use the analogy between cannabis and alcohol, a drug which has much wider social acceptance and more exacting quality controls, cannabis strength might vary between that of 3.2 beer (3.2 per cent alcohol) to that of 86 proof spirits (43 per cent alcohol).[1]

Marijuana use, in mild doses, normally produces effects that are similar to mild alcohol intoxication, though without the adverse physical discomforts of a "hangover". Unlike alcohol, it does not produce either physical dependence or tolerance. The user feels relaxed, convivial, talkative, giddy, and eventually drowsy. There is usually no impairment of mental abilities with low dosage, and aural and visual sensations are frequently heightened. With higher doses, shapes and sounds, as well as time and distance, can seem to be altered, and vivid hallucinations may occasionally appear. One side effect seems to be an increase in appetite. Intense thirst is also reported after smoking marijuana, but this is thought to be more an effect of the coarse smoke on the mouth and throat

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1. Ibid.

than a psychological consequence.[1] The drug is noted for the extreme unpredictability of its effects, even when dosage is closely controlled. The attitude and expectations of the user, as well as the physical and social setting in which it is used, are usually as important as the drug's strength.

HISTORICAL CONTEXT

Although cannabis use is said to have occurred "since time immemorial", a few milestones do mark its history as a drug of hedonistic, religious, and medical purposes.

The oldest recorded reference to cannabis is said to be found in Ra-va, a Chinese treatise on the drug written in the Fifteenth Century B.C.[2] In Indian literature the earliest mention of bhang appears in the Atharva Veda, written before 1400 B.C.[3] Assyrian sources mention the use of Quonoubu Gunnupa

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1. Kalant, op.cit., pp. 37-8.
2. Bulletin on Narcotics, II, No. 4 (1950), p. 14.
3. Ibid., IX, No. 1 (1957), p. 11.

(cannabis) in the Eighth Century.[1] Apollo's use of "nepenthe" has even been thought by some scholars to be the first use of a hemp product by a celebrity.[2] And, Herodotus (484-424 B.C.) describes the use of the drug by the Scythians in his Historiae.[3]

The steady increase in the popularity of cannabis in the Middle East can be traced to the pronouncements of one man. When Mohammed (570-632 A.D.) banned the use of alcohol by the followers of Allah, many of them turned to cannabis as the most inexpensive drug of intoxication and pleasure available. Its use in most Moslem countries continues to this day.

Hemp was known in Mexico before the Conquest (1519), where it was used in religious rites and ceremonies.[4] North American Indians have also used

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1. Ibid.

2. C. Winick, "Marijuana use by young people" in Harms (ed.) Drug Addiction in Youth, International Series of Monographs on Child Psychiatry, Vol. 3(B), 1964, p. 19.

3. Historiae, IV, 75. "The Scythians, as I said, take some of this hemp-seed and, creeping under the felt coverings, throw it upon the red-hot stones; immediately it smokes and gives out such a vapour as no Grecian vapour-bath can exceed; the Scyths, delighted, shout for joy, and this vapour serves them instead of a water bath; for they never, by any chance, wash their bodies with water."

4. Bulletin on Narcotics, III, No. 1 (1951), p. 32.

cannabis, and similar hallucinogens, for ceremonial purposes. Today Mexico is one of the world's chief producers of the cannabis plant.

Armies, adventurers, and administrators from Western Europe became fascinated by cannabis when they encountered it during their travels to countries where it was traditionally used. The first medicinal applications of cannabis among Europeans were discovered by French soldiers, who used it as a pain-killer and sedative when Napoleon's expeditionary forces attempted to occupy Egypt (1798-1801).[1]

In a more fanciful adventure, Theophile Gautier (1811-1872), a French critic, novelist, poet, and one-time secretary to Balzac, joined with a circle of other writers known as "Le Club des Hachichiens" to smoke hashish for the express purpose of describing their hallucinations. Their visions are recorded in passages of works such as Les Paradis Artificiels by Baudelaire (1860). Other Nineteenth Century French writers who experimented with the drug were Balzac, Hugo, and Dumas pere.[2] Two Americans who wrote about hashish during

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1. Ibid., IX, No. 1 (1958), p. 9; See also The New York Times Encyclopedic Almanac 1971, p. 576, col. 2.

2. L. Grinspoon, Marihuana Reconsidered. New York: Bantam Books Inc., 1971, p. 65.

this period were Bayard Taylor, a member of "Le Club des Haschischins",[1] and Fitz Hugh Ludlow, a Watertown, New York high school teacher who spent most of his time as a music, art, and drama critic.[2]

The first detailed description of cannabis in Western medical literature was written in 1839 by W.B. O'Shaughnessy, a physician serving with the British forces in India. His article stated that in addition to religious and recreational uses, the plant also had several serious medical applications. He reported that it had been used successfully to treat seizures, pain from rheumatism, tetanus, and rabies; and that it could serve as an effective analgesic, anti-convulsant and muscle-relaxant medicine.[3]

From fetish to fad, cannabis increased in stature in the eyes of many Western scientists and medical researchers.

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1. The Land of the Saracens, 1855.

2. The Hasheesh Eater: Being Passages from the Life of a Pythagorean, 1857.

3. W.B. O'Shaughnessy, "On the Preparation of the Indian Hemp, or Gunjah", Transactions of the Medical and Physical Society of Bombay, 8 (1842), 421-61.

> Its introduction into Europe in the mid-nineteenth century led to the familiar burst of enthusiasm for a new remedy. This dwindled as time passed but died slowly: "During the period 1840-1900, there were something over one hundred articles published which recommended cannabis for one disorder or another." Its vogue preceded the advent of synthetic hypnotics and analgesics, and it was lauded for its effect in alleviating pain, migraine, insomnia, dysmenorrhea, difficult parturition and cramps. In 1890 Russell Reynolds wrote that "when pure and administered carefully it is one of the most valuable medicines we possess ..." As late as 1928, an article appeared reporting that cannabis was valuable for severe melancholia.[1]

A report in the British Medical Journal, the official journal of the British Medical Association, in 1883 stated that "Indian hemp has such specific use in menorrhagia -- there is no medicine which has given such good results ..."[2] and The Lancet reported in 1887 that "Indian hemp, night and morning, and continued for sometime, is the most valuable remedy met with in the treatment of persistent headache."[3]

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1. Cannabis, pp. 52-3.
2. J. Brown, British Medical Journal, 26 May 1883, p. 1002.
3. Letter from London, The Lancet, 3 December 1887, p. 732.

Britain's responsibilities in administering India led a group of civil servants to prepare what is to date the most comprehensive survey of long-term cannabis use in one social setting, the Report of the Indian Hemp Commission of 1893-4.[1] This report concluded after a survey of the many varieties and strengths of cannabis in use over several generations, that "the moderate use (of hemp drugs) practically produces no ill effects. In all but the most exceptional cases, injury from habitual moderate use is not appreciable."[2]

In the United States, Indian hemp was planted as early as the Seventeenth Century as a source for such products as cord and fibre. George Washington grew hemp at his Mount Vernon plantation, and there is some speculation that its medicinal and intoxicating properties were known to the first President.[3] Marijuana smoking was introduced on a wide scale during the early Nineteenth Century by Negro slaves and

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1. Government Printing Office, Simla, 1894.

2. Cannabis, p. 7, fn. 1.

3. E.N. Houghton and H.C. Hamilton, "A Pharmacological Study of Cannabis Americana", American Journal of Pharmacology, 80 (1908) 17. See also L. Grinspoon, Marihuana Reconsidered, p. 13.

Mexican migrant workers,[1] and the plant's commercial uses continued through most of the century. Its cultivation flourished particularly in the state of Kentucky from the 1840s to 1860s.[2] Following the vogue of their European counterparts, many American physicians turned to cannabis preparations as a popular cure for a variety of ailments. An important advantage of using cannabis for therapeutic purposes was that, unlike the opiates, it was not addictive. A report of the "Committee on Cannabis Indica of the Ohio State Medical Society" in 1860 stated that success had been achieved in treating pain in childbirth, psychosis, chronic cough, and insomnia with hemp products.[3]

The chief difficulties of using cannabis for medicinal purposes were that the drug was not soluble in water, usually took an hour or more to achieve its full effect, varied greatly in strength from one batch to another, and produced a wide range of responses among

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1. Bulletin on Narcotics, III, No. 1 (1951), p. 32.

2. Library of Congress, Congressional Research Service, Marihuana: Derivation, Use, and Effects (IIV 5801), 12 April 1968, p.6.

3. See Tod Mikuriya, "Historical Aspects of Cannabis Sativa in Western Medicine", Drug Abuse Control Amendments, 1970, part 2, p. 815.

patients. The introduction of the hypodermic syringe to the United States in 1856 led to a marked increase in the use of opiates (which are water-soluble and take effect in a few minutes) during the Civil War (1861-1865).[1]

The first serious study of marijuana use reported in the United States (in 1933) was based on research with users in the U.S. Army stationed in the Panama Canal Zone. It concluded that the drug was relatively harmless and did not cause maladjustment in the user.[2] Ten years later the editor of the Military Surgeon wrote in an editorial entitled "The Marihuana Bugaboo" that "the smoking of the leaves, flowers and seeds of Cannabis sativa is not more harmful than the smoking of tobacco, or mullein or sumac leaves."[3] Of course this was well before the discovery of how harmful tobacco use can be.

Andrew Volstead (1860-1947) followed Mohammed's

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1. Mikuriya, Ibid. Opium addiction, which was prevalent after the Civil War, was sometimes called the "Army Disease".

2. Siler, et al., "Marihuana Smoking in Panama", Military Surgeon, 73 (1933), pp. 269-80.

3. J.M. Phalen, Military Surgeon, 93 (1943), pp. 94-5.

example with less success in 1919. The "great social and economic experiment, noble in motive and far-reaching in purpose,"[1] Prohibition fostered an increase in the use of cannabis in the United States during the Twenties, especially among jazz musicians and their Jazz-Age associates.[2] Marijuana also became popular among migrants during the Depression, since it grew wild along many railroad lines in the agricultural areas of the United States, and, even when lacking the necessary potency for producing intoxication, did serve as a free substitute for tobacco.

The strongest voice opposing marijuana use in the United States came from Harry J. Anslinger (b. 1892) - the U.S. Commissioner of Narcotics from the founding of the Bureau of Narcotics in 1930 to 1962. After the repeal of the Volstead Act in 1933, he mounted a campaign against marijuana because of its alleged criminogenic effects. This campaign resulted in the passage of several state laws against marijuana, and the first

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1. Herbert Hoover in a letter to Sen. William E. Borah, Feb. 28, 1928.

2. Jules Saltman, "What We Can Do About Drug Abuse", Hearings, Drug Abuse 1970, pp. 921-2.

Federal restriction on the drug: the Marihuana Tax Act of 1937.[1] This virtually made the drug illegal by imposing a $100 tax for each transfer of one ounce or less, and effectively put an end to its few remaining medical uses.[2] The law was actively opposed by the American Medical Association, whose Legislative Committee protested when the bill was before the House Ways and Means Committee in 1937 that:

> ... there is positively no evidence to indicate the abuse of cannabis as a medicinal agent or to show that its medical use is leading to the development of cannabis addiction ...
>
> Cannabis at the present time is slightly used for medicinal purposes, but it would seem worthwhile to maintain its status as a medicinal agent for such purposes as it now has. There is a possibility that a re-study of the drug by modern means may show other advantages to be derived from its medicinal use.[3]

Dr. Tod Mikuriya, an American researcher specializing in marijuana studies, has noted that:

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1. Public, No. 238, 75th Congress; See also especially 50 Stat. 551, ch. 553, thence 2590 (a) of the Internal Revenue Code.

2. In 1937 there were 28 pharmaceuticals containing cannabis on the U.S. market. See Mikuriya, Ibid., note 48.

3. Journal of the American Medical Association, 108 (1937), 2214-5.

> the medical use of cannabis preparations declined with the introduction of synthetic analgesics and sedatives. The drug was finally removed from the US Pharmacopoeia and National Formulary in 1941, a seemingly accidental victim of the 1937 Marijuana Tax Act.[1]

Although the medicinal use of cannabis has almost disappeared among Western physicians, except for occasional applications of tincture of cannabis, the recent synthesis of THC has overcome the persistent problem of controlled dosage and several research projects are now underway to re-examine the drug's potential in dealing with such maladies as migraine, menstrual cramps, rheumatism, and senile insomnia.[2] It also remains an integral part of the Ayurvedic, Unani, and Tibbi systems of medicine on the Indian sub-continent.[3]

In the development of a national policy towards cannabis in the two countries, both Britain and the

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1. Mikuriya, op.cit. In fact the Marihuana Tax Act did permit some medical use of marijuana to continue. As Sec. 2(3) stated: "Physicians, dentists, veterinary surgeons, and other practitioners who distribute, dispense, give away, administer, or prescribe marihuana to patients upon whom they in the course of their professional practice are in attendance, [must pay] $1 per year or fraction thereof during which they engage in any such activities."

2. Grinspoon, op.cit., pp. 242-55; and Snyder, op.cit.,p.17.

3. Bulletin on Narcotics, XIV, No. 4 (1962), p. 27.

United States exhibit clear traditions of the administrative departments of government acting to control the drug, first by participation in international treaties and then with the enactment of national laws. Indeed, few legislators in either country showed particular concern with cannabis until, during the 1960s, its use had spread to touch that segment of society whose voice is most dominant in the politics of both nations: the middle class.

SOCIAL CONTEXT

In both Britain and the United States the history of cannabis use reveals how social attitudes and changes come to be reflected in norms of behaviour, develop into customs, and finally become enshrined in law. Because of a variety of influences and events, cannabis use both changed, and was changed by, the social conditions of the two countries.

Researchers who have attempted to develop comprehensive theories about the development of cannabis use have occasionally strayed to some rather far-fetched conclusions; some deceptively simple, others needlessly complicated. For example, one historian stated cate-

gorically that the introduction of marijuana into the United States occurred at New Orleans in 1910.[1] Another scholar was certain that "marijuana has reached the United Kingdom by a round-about route from India, through Africa, the West Indies and the United States."[2] Unfortunately such accounts overlook both the varieties of social experience in the history of the two countries, and certain historical facts.

From the volume of fragmented information that is available, it seems clear that there were at least five channels through which cannabis was introduced into the two countries.

1) Immigrants from areas where cannabis use was traditionally popular, such as Africa, South America, India, the Middle East, and the Orient, brought the habit with them.

2) Seamen and other professional travellers had access to an informal, world-wide network of cannabis distribution through such ports as London, Liverpool, New York, New Orleans, and San Francisco.

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1. R.P. Walton, Marihuana: America's New Drug Problem. Philadelphia: J.B. Lippincott Co. 1938, p. 29.

2. Bulletin on Narcotics, XVIII, 4, p. 4 (1966).

3) Military and government officials assigned to countries where cannabis was used traditionally acquired some familiarity with the drug.

4) Legitimate medicinal uses of cannabis made the drug available to a cross section of the populations of both countries.

5) A small minority of artists, adventurers, and bons vivants discovered cannabis in their travels and searches for new and bizarre pleasures and experiences.

Cannabis Use in British Society

In Britain, the pattern of cannabis use that developed during the first half of this century was restricted to the five sources mentioned above. The steady growth and diversity of cannabis users, evident at the time Parliament revised the drug-control laws (1970-71), had occurred only since the end of World War II. As the 1968 Home Office report noted:

> In the early part of the period [1945-1965], most seizures were of green plant tops, found in ships from Indian and African ports and thought to be destined for petty traffickers in touch with coloured seamen and entertainers in London docks and clubs.

> By 1950 illicit traffic in cannabis had been observed in other parts of the country where there was a coloured population. In 1950, however, police raids on certain London jazz clubs produced clear evidence that cannabis was being used by the indigenous population; by 1954 the tendency for the proportion of white to coloured offenders to increase was well marked, and in 1964 white persons constituted the majority of cannabis offenders for the first time.[1]

A report sponsored by the United Nations at about the same time (1966) reached similar conclusions:

> Until two years ago most of the convictions for misuse of cannabis were among recent immigrants to the United Kingdom, chiefly West Indians and West Africans, but ... at present probably half of them are of British born users of cannabis. The majority of the offenses has been committed in the London area, though it is not entirely confined to the metropolis.
>
> . . . . . .
>
> Users of cannabis are generally either recent immigrants or belong to a "beatnick" subculture. Probably more use [of] the drugs of this type would be found among jazz musicians than other professions.[2]

A description in the Wootton report of the contemporary social context in which cannabis was used stated:

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1. Cannabis, p. 8.

2. Bulletin on Narcotics, loc. cit.

... that cannabis-smoking in the United Kingdom was a social rather than a solitary activity, casual and permissive like the taking of alcohol. Friend introduced friend; the drug was readily enough available; if it did not suit the initiate, no one was the loser. The collective impression was that cannabis "society" was predominantly young and without class barriers. It resented middle-aged society's judgment on alcohol and cannabis. It was not politically inclined and our witnesses saw no special significance in the popularity of cannabis among members of radical movements.

Some witnesses thought that it was possible to distinguish particular social groups within cannabis "society" and mentioned staff and students in universities and art schools, jazz and pop musicians and entertainers, film makers and artists, and others engaged in mass media of publicity. They explained this part of the pattern by the particular appeal of the drug to those interested in creative work and self-expression. But they also mentioned that there were growing numbers of workers in unskilled occupations who smoked cannabis for pleasure at week-ends as their equivalent to other people's alcohol ...

The "professional" group, for example, was described ... as fundamentally law-abiding; discriminating in the use of cannabis for introspection and elation as well as for social relaxation; "involved in life", often to the point of social protest; not much interested in experiments with L.S.D.; generally disinclined to take amphetamines or alcohol (which was regarded as much more damaging than cannabis); and tending to stop the use of cannabis on marriage, or when the risk of prosecution was felt to be inimical to career

> prospects. The "unskilled" group was said to be similarly industrious and law-abiding and to see nothing wrong or harmful in its use of cannabis.
>
> Outside these groups the picture was much more confused and in flux. There were young people who had failed to adjust to university life or professional training or regular work, and who had "dropped out"; actively discontented and rebellious teenagers, looking for "kicks", who were prepared to take any drug offered to them; their weaker associates who took cannabis to avoid rejection by the group; and a few who were severely unstable and sought escape from their problems in a multiple drug use that included cannabis.
>
> None of our witnesses felt able to estimate the relative sizes of the groups that they identified. We judge that they considered the responsible law-abiding regular users to be in the majority ...[1]

Cannabis Use in American Society

In the United States, in addition to the five sources mentioned above, the first users of marijuana were Mexican migrant workers, a few Indians in the Southwest, and Negro slaves and freemen from West Africa and the West Indies. For each of these social groups marijuana served as an inexpensive and easily obtainable

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1. Cannabis, pp. 9-10, pars. 39-43.

intoxicant. Also, since these groups tended to be segregated from most Americans of European background, and lived in the closed communities of urban and rural "ghetto" neighbourhoods, marijuana use became a familiar and acceptable practice, unchallenged by the more conventional social norms of the dominant culture.

After the Civil War, as the geographical mobility of these marijuana users increased, the habit was carried to many areas of the country. Yet it still remained confined to segregated neighbourhood societies. The development from this relatively limited situation to the widespread use of marijuana in the 1960s resulted from the travels of musicians, servicemen, young people, and migrant workers, especially in the periods following the two World Wars.

According to one analyst of the current drug scene, marijuana reached its first real popularity among jazz musicians of the Twenties who believed it made them play "hotter".[1] Its use was actively suppressed by Federal and state laws during the 1930s and 1940s.[2]

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1. Saltman, Op.cit.

2. See pp. 60 to 64, below.

When marijuana began to increase in popularity again in the 1950s, one narcotics official wrote that:

> public opinion and the authorities have become alarmed at the spread of this form of addiction, which increased enormously after the prohibition of alcohol, and spread especially among the younger generation of the Latin-American population, Mexican, Phillippine, Greek and, Spanish immigrant circles, and negroes.[1]

The Director of the National Institute of Mental Health (NIMH), Dr. Stanley Yolles, said in 1969 that:

> marijuana use had been rapidly increasing in the past five years. Although originally restricted to certain jazz musicians, artists and ghetto dwellers, it has now appeared among the middle and upper class.[2]

This spread of marijuana use occurred during a period of unusual social and economic change for the United States. A drive to increase and improve civil-rights laws for disadvantaged minority groups, the migration to the suburbs of many city dwellers with disparate ethnic backgrounds, increasing economic prosperity, and

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1. Bulletin on Narcotics, III, No. 1 (1951), p. 32.

2. Hearings, Drug Abuse 1970, part 1, p. 68; statement made 22 April 1969.

a rapid rise in educational opportunities for the members of all social strata were among the many important features of this change. It was a time of ferment that led to the uprooting of traditional urban-rural divisions in the population. And it produced a flowering of many anti-Establishment life styles.

As one follower of the American drug scene reported:

> A generation ago illicit drug usage was largely restricted to marijuana and heroin. The users -- jazz musicians and psychopathic delinquents from the big city ghettos, for instance -- were culturally isolated from most of society.
>
> Today millions of United States citizens smoke marijuana; the children of senators, governors, judges, and corporation presidents are arrested for possession or sale of illegal drugs, and the smallest and most isolated college has its suppliers of "pot" and "acid" [LSD].[1]

"It would be serious enough if it were only the college students using it [marijuana]", said Dr. Yolles, " ... but when you get down into the junior high schools and into the upper grades of grammar schools, I become very, very much concerned."[2]

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1. L. Lasagna, M.D. New York Times Encyclopedic Almanac 1971, p. 457.

2. Hearings, op.cit., p. 33.

The reasons that middle-class and upper-class citizens became alarmed at their childrens' (and their neighbours') use of marijuana seems to stem, in part, from the lingering association of all drugs with the most potent and dangerous ones such as heroin and cocaine, regardless of their relative strengths and different effects. There was also the reaction of one generation to another, crystalized in the apparent antagonism between the "alcohol generation" of many parents and the "drug subculture" of their children. Both parents and children saw drug use as a form of rebellion, and acted accordingly. And, those who slipped between the generation gap -- the high school and college students of the 1950s -- had a particular tradition of their own, captured in the writings of the "Beat Generation" and expressed by interest in Eastern cultures, religions, and life styles.[1] A recent exponent of cannabis use for literary inspiration is the novelist William Burroughs. He has written that:

> ... unquestionably this drug is very useful to the artist, activating trains of association that would otherwise be inaccessible, and I owe many of the scenes in 'Naked Lunch' directly to the

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1. See Bruce Cook, The Beat Generation (New York: Charles Scribner's Sons, 1971).

> use of cannabis ... Cannabis serves as a guide to psychic areas which can then be re-entered without it.[1]

All these attitudes, conflicts, and uncertainties culminated in the 1960s, in an atmosphere that became increasingly scented with the smoke of marijuana. The results of the change seem well expressed in the reported remark that a suburban Washington D.C. mother made to her son when he was arrested for possessing pot: "You're the kind of kid we were warning you about."[2]

In fact, the phenomenon of well-to-do sons being "busted" (arrested) for possessing marijuana became so widespread that The New York Times Encyclopedic Almanac reported:

> ... up until a few years ago, smoking marijuana was generally associated with the slum-dweller and the jazz musician, who shared the same roots. In more recent years it has been adopted by much of a whole generation of white, middle-class Americans.
>
> All the appropriate comments on generation gap and conflict have been made. Nevertheless, despite a trend toward

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1. "Points of Distinction Between Sedative and Consciousness-Expanding Drugs", Evergreen Review, Dec. 1964.

2. The Washington Post, 7 July 1969, "Parents, Children and Pot."

relaxation of penalties for marijuana use, people are still getting "busted" for possession of pot.

The chasm between practice and precept, and life and law in this area was made particularly vivid by a rash of well-publicized arrests of the sons of well-known fathers -- sons whose relations with the police might normally be expected to be limited to asking directions.

Most prominent of the "busteos" were two members of the Kennedy family, Robert Jr., son of the late senator, and his cousin, R. Sargent Shriver, III, son of the former U.S. ambassador to France. The two youngsters, both 16, were picked up in Hyannis Port, Mass., where many of the Kennedys maintain homes.

Other names in the headlines during the year included John P. Cahill, 17, son of the then recently elected governor of New Jersey; young Jonathan Freedman, son of the city manager of Hartford; Howard Samuels, Jnr., 17, son of the then contender for the New York governorship; Michael Milhous Hollings, 19, son of the South Carolina senator; and Peter Vaughn Rostow, 17, son of the former adviser to Presidents Kennedy and Johnson.

The arrests of these scions of prominent figures left many wondering: If such as these were caught, how many were uncaught? And if so many Americans are in fact guilty of breaking the law on marijuana, what in fact is the meaning of the law? [1]

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1. "Pot and Poppa", New York Times Encyclopedic Almanac 1971, pp. 45-6.

LEGAL CONTEXT

> We must not make a scarecrow of the law,
> Setting it up to fear the birds of prey,
> And let it keep one shape, till custom make it
> Their perch and not their terror.
>
> Shakespeare,
> Measure for Measure, II, i.

The legal fabric, which the legislators of Britain and the United States considered during 1969, 1970, and 1971, resembled, in many ways, Shakespeare's time-worn scarecrow. Drug control policies had no coherent form, but, instead, consisted of a patchwork of laws that had been stitched together during the previous four decades for a variety of limited purposes. The "winds of change"[1] that animated the two societies during the 1960s eventually left these policies in almost irreparable disarray. And, as the subtle shifts in popular attitude made the cannabis-control laws more and more unenforceable, the need to change them gradually became recognized by a broad cross-section of the people in both countries. As the 1968 Wootton committee concluded:

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1. See W. Safire, The New Language of Politics (New York: Random House, 1968), pp. 491-2 for a discussion of this phrase.

> Laws which seek to control the personal consumption of individuals are notoriously hard to enforce. We have to recognize that there comes a point at which pressures become so powerful that it is idle to keep up attempts to resist them ...[1]

Yet, despite the opinions in many quarters to reduce the existing penalties for cannabis offences, and a few calls by a vocal minority to legalise its use, both the British and the United States governments began their moves to revise their drug-control laws by proposing to increase the penalties for certain cannabis offences.

History of British Control

For most of the British public, cannabis and its use remained remote and irrelevant subjects during the first half of this century. The implications of cannabis control were raised during the meeting of a conference to draft the International Opium Convention at the Hague in 1912 (a document signed by a British representative), but at that time they only had meaning for the Foreign Office and its colonial administrators. Cannabis, as the Indian Hemp Commission had revealed,

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1. Cannabis, p. 5.

was something common to another culture. The conference at the Hague concluded that it was

> desirable to study the question of Indian hemp from the statistical and scientific point of view, with the object of regulating its abuse, should the necessity therefore be felt by internal legislation or by an international agreement.[1]

Britain gave effect to the 1912 convention with the passage of the Dangerous Drugs Act in 1920, a law to control opium trade. The Dangerous Drugs and Poisons (Amendment) Act 1923 made unlawful drug possession a crime, and established penalties that have remained in force until today.[2] These penalties were: (1) on conviction or indictment, a maximum fine of £1,000 and a maximum sentence of ten years, and (2) on summary conviction, a maximum fine of £250 and a maximum sentence, with or without hard labour, of one year.

At the Second Opium Conference (1924-1925) Britain's representatives at first opposed the complete prohibition of the use of cannabis resin, on the grounds that it may have had some potential medical value. But,

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1. See Cannabis, Appendix 2, p. 64.

2. These apply until the Misuse of Drugs Act 1971 becomes fully operative, some time in 1973.

eventually they joined other delegates in adopting a number of conditions affecting cannabis in the International Opium Convention that was signed on 19 February 1925. Among these conditions were requests that the contracting parties impose internal control over galenical preparations (extracts and tinctures) of Indian hemp;[1] and "exercise an effective control of such a nature as to prevent the illicit international traffic in Indian hemp and especially the resin."[2]

Later that year Parliament passed the Dangerous Drugs Act 1925, which, though mainly concerned with giving effect to the Opium Convention, also included Indian hemp in its classification and penality structures. This was the first time that cannabis became subject to legal controls in Britain. The penalties then in force (carried forward inter alia from the 1923 amendments) have been in effect for cannabis offences ever since.

Britain was signatory to a third Opium Convention in 1931, and gave effect to this agreement with the

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1. Articles 4-6.

2. Article 11.

passage of the Dangerous Drugs Act 1932.

Little attention was paid to cannabis during the next few years, until the Advisory Committee on Traffic in Opium (of the League of Nations) reported in 1933 that:

> While a taste for Indian hemp products appears to be prevalent mainly among the Asiatic and African peoples, it is by no means confined to them. A smuggling trade in cigarettes containing Indian hemp ("marihuana" cigarettes) appears to have sprung up between the U.S.A., where it grows as a wild plant freely, and Canada. It may well be that, as the control over the opium and coca derivatives make it more difficult to obtain them, recourse will be increasingly had to Indian hemp for addiction purposes, and it is important that the trade in Indian hemp and its products should be closely watched.[1]

A new vigilance about cannabis was displayed by British lawmakers during the next two decades in such legislation as the Pharmacy and Poisons Act 1933 and the Dangerous Drugs Act 1951. And, at first their efforts seemed successful. Despite the rise in convictions for cannabis use from 127 in 1951 to 288 in 1961, the Interdepartmental Committee on Drug Addiction

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1. See Cannabis, pp. 65-6.

(known as the Brain Committee after its chairman, Lord Brain)[1] reported in 1961 that the incidence of drug addiction and trafficking was very small, and noted that:

> the cause of this seems to lie largely in social attitudes, to the observance of the law in general and to the taking of dangerous drugs in particular, coupled with the systematic enforcement of the Dangerous Drugs Act 1951 and its Regulations.[2]

The next decade proved to be an entirely different situation. Commenting on the Brain Committee's conclusions, the 1968 Wootton committee study observed that:

> the position today is very different. Convictions for drug offences have recently shown a sharp increase; many courts are faced for the first time with the task of deciding how to deal with the trafficker and the drug user; some immigrants from countries more familiar with cannabis-use have had to adjust to United Kingdom attitudes; and the task of the police has been growing more onerous, particularly in enforcing the law against young drug-takers without disruptive effect on the wider fabric of society.[3]

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1. This committee was formed in 1958 as the first national review of drug-control policy since the Rolleston Committee of 1926.

2. See Cannabis, p. 3.

3. Cannabis, p. 3.

The Dangerous Drugs Acts of 1920, 1923, and 1932, were consolidated into the Dangerous Drugs Act 1951.

Britain agreed to the Single Convention on Narcotic Drugs, which was adopted in New York on 30 March 1961 to codify and combine all previous international drug-control agreements. The Convention turned away from the idea of establishing total prohibition of cannabis in a mandatory way, and concentrated, instead, on its resin, hashish. As the convention stipulated:

> "Parties undertake to adopt such measures as are necessary to prevent the misuse of and illicit traffic in the leaves of the cannabis plant ...[1]

In other words, while unilateral and bi-lateral control of all forms of cannabis was encouraged, it was only specifically required for a few forms, especially hashish.

Parliament responded to the growing problem of increasing drug use during the 1960s by passing four laws. The Drugs (Prevention of Misuse) Act 1964

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1. Single Convention, Article 28, par. 3.

was designed chiefly to control the distribution of amphetamines.[1] The Dangerous Drugs Act 1964,[2] which enabled Britain to accede to the Single Convention, made cannabis cultivation an offence, and introduced the legal concept of "strict liability" (see pp. 265 to 268 , below). This was done inadvertently when Parliamentary draftsmen carried forward several phrases from laws to control opium dens and used them to create offences of permitting the use of premises for smoking or dealing in cannabis. The Dangerous Drugs Act 1965[3] codified earlier acts of 1951 and 1964. And, the Dangerous Drugs Act 1967,[4] which was principally intended to regulate heroin prescription, also gave the police powers to search persons reasonably suspected of unlawfully possessing drugs controlled by the 1964 or 1965 Acts. The penalties for cannabis possession in the 1967 Act continued to be those first passed in 1925: for summary conviction a maximum fine of £250 and a maximum sentence of one year, and; for indictment a

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1. Passed 31 July 1964.
2. Passed 10 June 1964.
3. Passed 2 June 1965.
4. Passed 27 October 1967.

maximum fine of £1,000 and a maximum sentence of 10 years.

Ambiguity and uncertainty seemed to characterize the administration of Britain's drug-control laws for most of the 1960s. While penalties remained the same, attitudes about sentencing varied greatly on the bench. As more and more young persons were sentenced to imprisonment, and the destructive results of this practice became known, some judicial leniency was apparent. This attitude was expressed in the recommendations of the 1968 Wootton report, which stated that penalties for cannabis offences should not exceed £100 or 4 months imprisonment, or both, on summary conviction; and an unlimited fine and two years imprisonment, or both, on indictment.[1]

History of American Control

In the United States, as in Britain, the first legal commitment to the control of cannabis came after the signing of the International Opium Convention in 1925. In 1927, Louisiana became the first state to pass a law

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1. Cannabis, p. 33 (7).

prohibiting marijuana use,[1] and several states followed suit. Most public law-enforcement officials were preoccupied then with Prohibition, and had little time or interest in taking on another enforcement problem. The first mention of marijuana in Federal law came in 1929 with the passage of an act authorizing the establishment of the Lexington (Kentucky) and Fort Worth (Texas) hospitals for drug-addiction treatment. The statute included: "Indian hemp and its various derivatives, compounds and preparations" in the category of "habit-forming narcotic drugs."[2]

The Federal Bureau of Narcotics was established in 1930, and, accepting the view of some sensational newspaper reports that marijuana was a new "killer drug", included it with the opiates in a model Uniform Narcotics Drug Act that it circulated to state legislatures in 1932.[3]

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1. See statement by Dr. Roger Egeberg, in U.S. Congress, House, Committee on Ways and Means, Hearings, Controlled Dangerous Substances, Narcotics and Drug Control Laws, 91st Cong., 2nd Sess., 1970, p. 273.

2. P.L. 70-672.

3. Synder, op.cit., p. 116.

In 1933, in response to the report of the Advisory Committee on Traffic in Opium, the United States delegation, of which Harry J. Anslinger was a member, prepared a memorandum that described the increasing habitual use of marijuana and "the alarming influence of addiction to Indian hemp on the development of criminality."[1] By this time 34 of the 48 states had passed laws to suppress marijuana traffic.[2]

On 2 August 1937 after an active campaign against marijuana by the Bureau of Narcotics, Congress passed the Marihuana Tax Act,[3] prohibiting the import, export, manufacture, production, compounding, selling, trading, dispensing, prescribing, administering, or giving away of marijuana without a registration and the payment of costly fees. This legislative approach was taken as a matter of administrative convenience, since the Federal Government's Bureau of Narcotics

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1. See Cannabis, p. 66.
2. Ibid.
3. Public No. 238, 75th Congress.

was established in the Treasury Department in 1930.[1] This Act, and the array of state laws passed during the same decade, remained the basis for U.S. marijuana control for the next generation. The attitudes and assumptions that supported these laws were predicated on the widely-held beliefs that: (1) cannabis was as strong as other drugs of abuse; (2) it was physically harmful and addictive; (3) it was criminogenic, and (4) its use led to hard-drug addiction.

Penalties for marijuana possession under the 1937 Act were a maximum of $2,000 and/or five years in

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1. H.J. Anslinger, The Traffic in Narcotics (New York: Funk and Wagnalls Company, 1953), p. 117.

   The Supreme Court in U.S. v. Sanchez 340 U.S. 42 (1950), upheld the contitutionality of the Marihuana Tax Act by deciding that its regulatory effect and its close resemblance to a penalty were not sufficient to invalidate the Act; that a tax is not invalid because it regulates, discourages, or even definitely deters the activities taxed. The Court also ruled that the Act is not invalid because it touched on activities which Congress might otherwise legislate.

jail.[1] Congress passed the Narcotics Control Act of 1956 to deal with heroin smugglers and traffickers, and, following earlier legislative precedent, included marijuana in the same penalty structure. From that time, Federal law for marijuana offences were increased to include a mandatory 2-to-10 year sentence and a maximum $20,000 fine for first-offence possession; and a mandatory 5-to-20 year sentence and $20,000 maximum fine for first-offence distribution. A minor change was made in 1966 when Congress passed the Narcotic Addiction Rehabilitation Act: One of its provisions extended the possibility of parole from first offence possession to all marijuana violations.

Serious national attention was given to the laws affecting marijuana during the 1960s in two reports issued from the White House, and a Congressional hearing. A 1962 White House Conference on Narcotics and Drug Abuse reflected a growing awareness of the problems that were caused by the existing laws, and reported that:

> it is the opinion of the panel that the hazards of marijuana use <u>per se</u> have been exaggerated and that long criminal

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1. Marihuana Tax Act, Sec. 12.

> sentences imposed on an occasional user or possessor are in poor social perspective.[1]

A 1967 Presidential Commission on Law Enforcement reported that:

> there is no reliable estimate of the prevalence of marihuana use. To the limited extent that police activity is an accurate measure, use appears to be increasing ...
>
> Marihuana use apparently cuts across a larger segment of the general population than does opiate use, but again adequate studies are lacking. An impressionistic view, based on scattered reports, is that use is both frequent and increasing in depressed urban areas, academic and artistic communities, and among young professional persons. There are many reports of widespread use on campuses, but estimates that 20 percent or more of certain college populations have used the drug cannot be verified or refuted.[2]

The report also noted that:

> marihuana is equated in law with the opiates, but the abuse characteristic of the two have almost nothing in common. The opiates produce physical dependence. Marihuana does not.

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1. Report of the White House Conference on Narcotics and Drug Abuse, 1962, p. 286.

2. U.S. President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, 1967, p. 213.

> A withdrawal sickness appears when use of the opiates is discontinued. No such symptoms are associated with marihuana. The desired dose of opiates tends to increase over time, but this is not true of marihuana. Both can lead to psychic dependence, but so can almost any substance that alters the state of consciousness.
>
> The Medical Society of the County of New York has classified marihuana as a mild hallucinogen, and this is probably as good a description as any, although hallucinations are only one of many effects the drug can produce ...[1]

A House subcommittee held two days of hearings on "Problems Relating to the Control of Marihuana" on 14 and 15 November 1967 to investigate the consequences of a news-service story that had led to some public misunderstanding and controversy. The United Press International had carried a dispatch on 17 October 1967 that said: "Food and Drug Administration Commissioner Dr. James Goddard says he would not object to his daughter smoking marihuana any more than if she drank a cocktail." Appearing before the subcommittee on 14 November, Doctor Goddard said:

> I am aware ... that statements attributed to me, but which I did not make, have caused ... concern. Let me clarify the record in this regard.

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1. Ibid.

> I did not say that I would not object to my daughter smoking marihuana.
>
> I did not, and I do not, condone the use of marihuana.
>
> I did not, and I do not, advocate the abolition of controls over marihuana.
>
> I did not, and I do not, propose "legalizing" the drug.[1]

Doctor Goddard estimated that "as many as 20 million people in our society have used the drug" and told the subcommittee that "I am asking that [penalties for marijuana] be reevaluated, re-reviewed in the context of what is happening in our society."[2]

In addition to clarifying the Commissioner's views on marijuana, the hearings also provided a forum for reviewing Federal and Congressional attitudes to the drug. Henry Giordano, Harry J. Anslinger's successor as Commissioner of Narcotics, said that:

> ... only a small percentage of Americans -- on an absolute basis -- are currently abusing marihuana. It is the changing pattern of abuse that seems to be causing so much concern. Marihuana is

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1. U.S. Congress, House, Committee on Government Operations, Intergovernmental Relations Subcommittee, Hearings, Problems Relating to the Control of Marihuana, 90th Cong., 2nd Sess., 1967, p. 8.

2. Ibid., pp. 36-7.

> moving in the suburbs, and into the middle and upper strata of our society.[1]

During questioning by subcommittee members, Commissioner Giordano also remarked that:

> ... the Bureau of Narcotics endeavors to apply the [Marihuana Tax] act against traffickers only.[2]
>
> ... on June 24, 1967, the United States acceded to the 1961 Single Convention on Narcotic Drugs, a treaty which has been adopted by 59 other nations. Under the treaty, marihuana is subject to even more stringent controls than morphine ... The treaty requires imposition of criminal penalties for possession. Failure to continue to provide such penalties for possession would be a violation of our treaty obligations.
>
> ... I have concluded it [marihuana] is a dangerous drug with potentials for far-reaching damage to individuals and to society.[3]
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> . . . . . .
>
> ... of the 60,697 active addicts, 90 percent of those started on marihuana.
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> . . . . . .
>
> ... I want to be clear on this. It's a steppingstone. Now, this doesn't say that just because somebody smokes a marihuana cigarette he is going on to heroin, but it's a trigger.[4]

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1. Ibid., p. 56.
2. Ibid., p. 58.
3. Ibid., p. 59.
4. Ibid., p. 69.

The hearings are most interesting from the point of view of this thesis, however, for the disclosures made by the Department of Health, Education, and Welfare (HEW) about its attitudes on marijuana. A memorandum dated 5 September 1967, listing the department's "Proposed Recommendations on Marihuana Control", was submitted for the subcommittee's hearing record. It read, in part:

> The Department ... believes that control of marihuana can best be accomplished by executive and congressional adoption of the following recommendations:
>
> 1. Repeal the current Marihuana Tax Act.
>
> 2. Place marihuana under the drug abuse control amendments to the Food, Drug, and Cosmetic Act. [These were passed in 1965 to control the hallucinogens, and proscribed maximum penalties of a $5,000 fine and/or 1 year in jail for possession and a $15,000 fine and/or 5 years in jail for trafficking]
>
> 3. Increase the penalty to the felony level for illegal sale, manufacture, distribution, and propogation of marihuana and all drugs controlled under the drug abuse control amendments, but without mandatory sentencing provisions.
>
> 4. <u>Eliminate the penalty for possession of marihuana for personal use</u> [italics mine] but retain executive authority to seize illicit stocks as provided in the drug abuse control amendments.
>
> . . . . . .
>
> 7. Encourage the States to change their laws on marihuana to conform with

> Federal law and where appropriate, to place control of marihuana under State food and drug laws.[1]

Throughout the 1960s, enforcement of the Federal and state laws to control marijuana led to a rapidly increasing number of arrests. But, since many of the penalties on the statute books were mandatory, judges gradually became reluctant to convict first offenders. Pop festivals, hippie communes, the expansion of a music-and-drugs subculture, and the spread of marijuana and other drug use among all age groups and social levels were factors that finally prompted both the Executive and the Congress to take a serious look at the laws. Another event added new impetus to the Federal Governments' drug-reform efforts. On 19 May 1969 the Supreme Court ruled that certain enforcement provisions of the Marihuana Tax Act were unconstitutional.[2]

When Congress began the revision of the laws in 1969, many state legislatures were also attempting the same task. More than half the states had reduced the status of a first offence for marijuana possession from a felony to a misdemeanour by this time, with corresponding

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1. Ibid., p. 26.

2. See Chapter III, pp. 145-7

reductions in penalties, but some other states maintained -- and defended -- a stricter approach to the drug's control. For example, as late as 1970 the minimum penalty in Virginia for possession of more than a half-teaspoon of marijuana was 20 years imprisonment. In Illinois it was possible to receive a maximum sentence of from 15 years to life imprisonment for a first-offence of the drug.[1]

Thus, in deciding to review and revise the existing drug-control laws, both Congress and Parliament accepted the concomitant chore of considering -- at least indirectly -- the mores, social norms, and popular assumptions that had surrounded cannabis for more than a century.

Their reviews did not lead to either the conscious, or the unconscious, legislation of a prevailing moral attitude in the two countries, although some Members spoke of such a need.[2] In fact, there was no single moral or medical attitude about cannabis in

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1. New York Times Encyclopedic Almanac 1971, p. 458.

2. See, e.g.: Parliamentary Debates (Lords), Vol. 314, c. 1402; vol. 315, c. 310; and Congressional Record, 91st Cong., 1st Sess., pp. 30230, 31144-9.

either country. Rather, the laws that they produced reflected a broad diversity of viewpoints. Congress and Parliament, almost unwittingly, became the arbiters of these differing views. As well as revealing the many attitudes about cannabis in the two countries, the passage of the drug bills exemplified the extent to which social policy may be set by the legislative process. They also revealed some of the essential forces that combined to strike the delicate balance at the time between the rule of law and the role of mores.

MORALITY AND LAW

This balance in society between law and morality has existed, and shifted, since the beginnings of civilization. Often law and morality have been so inextricably bound up in an ongoing culture that they could have hardly been discernible as separate forces. Occasionally the two have appeared as identifiable opponents, warring for the authority of the state. At times the two have been complimentary, but even then the process that defined them was apparent in the contemporary powers and activities of the society.

Had one viewpoint dominated during the passage of these two bills (e.g. that of the police, the students, the "drug lobby", the doctors) then there would be little doubt about just who made social policy and just why it was made. But the fact that emotion, vested interest, fear, confusion, and competing moral and factual statements all combined to shape these two laws underscores the obvious conclusion that in the United States and Great Britain the balance between laws and morals remains both an essential, and flexible, component of contemporary democratic government.

Theoretically, and in a few specific historical situations, the forces of law and morals can be seen in clear distinction. At one extreme, laws are passed in order to impose morality on individuals, to protect them from "sin". Examples of such laws are seen in the Massachusetts Bay Colony in the Seventeenth Century, which were passed for the definition and continuation of a theocratic society. At the other extreme are laws passed in order to protect the members of a society from physical harm, to guarantee a minimum preservation of life and limb. This approach to legislation was expressed by John Stuart Mill when he wrote:

> The only purposes for which power can rightly be exercised over any member of a civilized community against his will is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others to do so would be wise, or even right ... Over himself, over his own body and mind, the individual is sovereign.[1]

But few laws, either past or present, can be placed neatly at these two extremes. Most, including the drug-control measures considered in this thesis, fall somewhere between in the peculiar tangle of social, political, and individual interests that together define particular communities, states, and peoples. To recall the observation of Professor Edwards, "our concern must be with identifying varieties of relevant unreason as well as studying varieties of reason."[2]

Indeed, the laws passed in the United States and Britain to control cannabis before 1970 are excellent illustrations of a complicated legal-moral middle ground. For, although the legislation of morality was

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1. On Liberty, (Oxford: Basil Blackwell, 1946), p. 9.

2. See Introduction, p. 7.

not the principal intention of these laws, it was an inadvertent result.

Beyond the interplay of social and legal forces affecting cannabis control, this thesis also raises two questions of a broader, perhaps philosophical, nature. For, in studying the information about cannabis that was available to legislators it would also be useful to try to understand their reasons for providing, seeking, or disregarding the array of facts and attitudes at hand. Two questions we might ask are:

> Do the opponents and proponents of cannabis use reflect any clear philosophical attitudes?
>
> Does an analysis of the ways that information was used in creating these two laws suggest any useful philosophical conclusions?

It would, of course, be convenient to describe all opponents of cannabis use as repressive, Puritanical, emotional zealots dedicated to denying their fellow citizens any pleasures that did not serve constructive social ends; and to describe all proponents of cannabis use as permissive, hedonistic, rational idealists dedicated to allowing their fellow citizens and them-

selves any pleasures that did not cause direct and demonstrable harm. Unfortunately such an exercise would exclude most of the participants in the two legislative efforts under review. In fact, the majority of lawmakers in the two countries displayed individual combinations of doubts, convictions, and confusions that appear to have been resolved finally by pragmatic - rather than philosophical - decisions.

Similarly, it would be convenient to postulate that those who opposed the use of cannabis did so because of a philosophical commitment to the perfection of the general civic virtue; and to conclude that those who favoured the use of cannabis did so because of their intellectual beliefs in, and commitments to, the inviolability of individual free will. But such attempts would simply ignore the fact that most of the lawmakers displayed both idealism and scepticism when considering the information before them. The laws that they produced reflect the adage that politics is the art of the possible, something neither entirely philosophical nor entirely practical.

In both countries the revision of drug-control laws involved a complex interaction of judgments that

were based on medical, legal, social, personal, and political considerations -- and in some instances on no particular considerations at all. Indeed, it appears that whenever the participants did use the issue of cannabis control as a platform for their own philosophical ideas, their views had no significant impact on the concept or the content of the laws that were produced.

Durg-control laws that were passed by earlier generations for a variety of limited purposes came to the attention of legislators in Britain and the United States in 1969 because they were seen by an increasing number of officials and citizens to be ineffective and irrelevant to present social and legal conditions. Some citizens felt the laws were too harsh, others felt they were not harsh enough. The social attitudes, moral assumptions, and factual information about cannabis that led to the legislation of the 1920s, 1930s, 1950s, and 1960s came under such widespread challenge that they could no longer be considered as adequate foundations for existing law. It may, indeed, be essential for every generation to rewrite the laws of its ancestors. By the end of the 1960s it had certainly

become essential for the laws affecting cannabis to be rewritten, though the gap between generations that prompted that rewriting came to be defined more by differences in awareness than by differences in age.

CHAPTER II

CONTEMPORARY LEGISLATIVE POLITICS

Before examining the use of information about cannabis during the passage of the two drug-control laws, it may be useful to review briefly three aspects of contemporary legislative politics in Britain and the United States:

(1) the relationship between the legislature and the executive;

(2) the roles that an MP and MC have in their respective houses and nations' politics; and

(3) the usual sources and channels of information available to Members.

The British Parliament and the United States Congress are pre-eminent national legislatures; and much more. For more than a century the two buildings in which they meet have symbolized not only the political systems and national spirits of the two countries, but also many of the advantages and limitations of modern representative government.

Their existence and influence have so epitomised different styles of elective government that Western democratic traditions are frequently conceived and described in terms of "Parliamentary" and "Congressional" models. Both bodies were founded on similar principles of representation, yet by their separate evolutions they reflect notably different powers and abilities today. A conceptual distinction drawn by Walter Bagehot contends that:

> the English Constitution, in a word, is framed on the principle of choosing a single sovereign authority, and making it good; the American, upon the principle of having many sovereign authorities, and hoping that their multitude may atone for their inferiority.[1]

Since that judgment was made, the differences that Bagehot noted have increased, although the goodness and the inferiority have not always been as neatly apportioned as he once believed. In the last third of the Twentieth Century, with a proliferation of complex technical and social developments, neither the concentration nor the dispersal of political power can be said to be, per se, preferable trends in government.

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1. The English Constitution. (New York: Oxford University Press, 1949), p. 202.

While both Parliament and Congress have the resemblance of being bicameral legislatures, and while many of their procedures (reading, report, motion) and offices (speaker, whip, clerk, sergeant at arms) are identically named, nevertheless, the two bodies today offer us many more instances of difference than similarity. Britain's governing and legislating powers have concentrated into one Parliamentary chamber, the House of Commons, whereas Congress, being bound by the terms of the Constitution and exercising its own competitive internal procedures, has maintained a nearly equal status for its two chambers in most matters, while advancing certain jurisdictional prerogatives peculiar to each. For example, the Senate, which has exclusive responsibilities for ratifying international treaties and approving certain Presidential appointments, represents the general interests of the states; while the House, which has exclusive responsibilities for framing revenue and tax legislation, and approving more local Federal appointments, represents the particular interests of Congressional Districts.[1] During

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1. For a fuller explanation of the principles behind the organization of Congress, see R. Dahl, Pluralist Democracy in the United States: Conflict and Consent. Chicago: Rand McNally and Company, 1967; especially Chaps. 1 and 5.

the last half century, however, the balance of the three main branches of the Federal government has shifted significantly in favour of the executive, placing Congress at a disadvantage in its dealing with some types of public issues, especially international affairs and economic policy.

The Legislature in Britain

Although the history of the English Parliament can be traced to its founding in 1265 by Simon de Montfort, its operations as we know them today result from a succession of reform acts passed between 1832 and 1949.[1] The early history of Parliament is marked by a gradual, though by no means steady, growth of Commons power at the expense of the Crown. The later years have seen an expansion of Commons power at the expense of the House of Lords, a process culminating in the Parliament Acts of 1911 and 1949.

National politics in Britain have become Parliamentary politics and to an ever-increasing extent Parlia-

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1. For a fuller explanation of the reform of Parliament, see K. Mackenzie, The English Parliament, (Harmondsworth: Penguin Books, 1963), especially Chap. IX.

mentary politics have become Cabinet politics. Political parties have played an integral role in both the organization and the development of the constitution, giving a structure of legitimized opposition within Parliament instead of between the Parliament and either the Crown or judiciary. However, even this system of structured diversity has its limitations, as a study of the 1970-71 session indicates:

> Very often one feels that, whichever party is in Opposition, vehement opposition to a measure in principle is largely synthesised for the sake of appearances or is based upon a self-inflicted ideology of long standing which has not been re-examined in the light of contemporary circumstances.[1]

The Cabinet, to some extent, is bound by the concept of "ministerial responsibility", although this notion can be taken to mean that ministers may be held collectively responsible for their decisions rather than owing some direct accountability to the House of Commons.

Because the decision-making process of Parliament is vested in a Cabinet, which is dependent for its power on a majority in the House of Commons, the most

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1. I.F. Burton and G. Drewry, "Public Legislation: A Survey of the Session 1970/71", Parliamentary Affairs, Vol. XXV, No. 2 (Spring 1972), p. 151.

conspicuous form of a Government's accountability to the public is the debate of its policies and legislative proposals. But frequently even this responsibility is limited. As Sir Ivor Jennings wrote:

> It is commonly asserted that the Cabinet system enables Parliament to control the Government. That may be true of France, where any Government is necessarily a Coalition, and where real deference is shown to the opinions of the committees of the legislature. It is not true in the United Kingdom. The Cabinet, or a Department under the control of the Cabinet, formulates the policy, and Parliament must either accept the policy or risk a dissolution ...

As he interprets the Parliamentary system, the Government need only rarely be challenged on its decisions and actions because "... a Government backed by its majority can determine what legislation shall be debated, for how long it shall be debated, and what the results of the debate shall be ..."[1]

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1. The Law and the Constitution. (London: University Press of London, 5th ed., 1959), pp. 180-4.

The Legislature in the United States

As defined in the Constitution "All Legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."[1] Article I defined Congress rather explicitly in 1789, and that definition (with the exception of such details as election dates and the popular election of the Senate) has changed little in form since then. But Congress, unlike Parliament, is only one part of a much larger and more complex scheme: a structure that, despite its formal nature, can be quite flexible. Originally, Congress was to be the primary source of legislation in a land based on the Rule of Law. "Here, sir", Alexander Hamilton boasted to a visitor in the House chamber, "the people govern." Representatives are more concerned with popular opinion than most Senators, because they must run for office every second year. Their campaigns frequently emphasize issues of purely state or local interest. Indeed, much of the present criticism of Congress is based on the contention that

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1. Article I, Section 1.

its activities are too representative of popular opinion, and reflect too little independent, rational initiative.

The President, on the other hand, was meant originally to be more a ceremonial head of state than a powerful politician, although this has changed significantly in the last half century. For with the expansion of the country, the President and a Federal bureaucracy have assumed more and more of the nation's power, frequently at the expense of Congress. True, there have been "strong" and "weak" Congresses and "strong" and "weak" Presidents, but the trend in recent years has been in favour of the chief executive. As Robert Dahl noted in a recent study:

> ... the initiative in legislation has increasingly shifted in this century to the Executive. The Congress no longer expects to originate measures but to pass, veto, or modify laws proposed by the Chief Executive. It is the President, not the Congress, who determines the content and substance of the legislation with which Congress deals. The President is now the motor in the system; the Congress applies the brakes ...
>
> ... it must always be kept in mind that laws, these days, are only one part of policy. Many of the most important decisions, particularly in foreign and military affairs,

> do not require legislation, at least not directly.[1]

Although foreign military affairs - and especially U.S. actions in Indochina - offer the most striking examples of a President's freedom of action, they are not the only ones. In a variety of domestic areas, such as monetary economics, labour relations, education, and domestic social policies, the will of the President, rather than the Congress, has frequently dominated. In answer to the question of "Who makes social policy decisions?", a recent analysis concluded that:

> As the only official who owes his mandate to the entire American electorate, a President uniquely embodies the will of the people. He, more than anyone else, is obligated to speak and act for the Nation as a whole. Thus, while the answer to the question may not conform to any theoretical blueprint for democracy, it does conform to the spirit of democracy.[2]

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1. Dahl, op.cit., pp. 136-7.

2. Peter Corning, The Evolution of Medicare ... from Idea to Law, U.S. Department of Health, Education, and Welfare, Social Security Administration, Office of Research and Statistics, Research Report No. 29 (Washington D.C.: U.S. Government Printing Office, 1969), pp. 120-1.

Congress has had difficulty keeping pace with the activities of the Federal bureaucracy in recent years, despite sizable staff increases of its own. There have been notable exceptions, such as the rejection of two Supreme Court nominees, the cancellation of the supersonic-transport development programme, and the limitation of the anti-ballistic missile programme. But these are exceptions.

In the three-way Federal balance, the shift in power between the President and Congress has also changed the role of the Supreme Court, which, especially during the last three decades, has become increasingly the champion of individual rights. Its function as an instrument of social and political change - though at times decried by both Congress and the President - is now a fact of the Federal system.

> ... the Court must face political questions in legal form, for surely a controversy between two separately organized political societies does present a political question, even if waged with the formalities of a lawsuit. And any decision which confirms, allocates, or shifts power as between different branches of the Federal Government or between it and a constituent state is equally political, no matter whether the decision be reached by a legislative or a judicial process ...

> And all constitutional interpretations have political consequences.[1]

As we shall see in Chapter III, each of the three branches of Government played an important role in the enactment of the 1970 Federal drug-control law.

As the size and multiplicity of modern government continue to increase, administrations - as embodied in the cabinet structures of the Prime Minister and the President - have continued to expand their influences on public affairs, at the expense of Parliament and Congress.

> Reformers seeking to rejuvenate legislatures look back with nostalgia to the nineteenth century when Parliament was having its "golden age" and Congress impeached a President. It could be said of the Victorian Parliament ... that it was in balance with the executive and that Britain truly had parliamentary government. It could be said of the nineteenth century Congress that it determined public policy for the nation and that presidents rarely vetoed its handiwork (until Grover Cleveland showed the way). Woodrow Wilson, writing in the 1880s, said that 'in the practical conduct of the federal government ... unquestionably, the predominant and controlling force, the

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1. Robert H. Jackson, The Supreme Court in the American System of Government, (Cambridge, Massachusetts: Harvard University Press, 1955), pp. 55-6.

centre and source of all motive and of all regulative power, is Congress'.[1]

Legislative Trends

The change since then has come about in domestic policy matters largely because in both countries the central governments have become increasingly involved in problems such as health care, education, and related social services. It has been most notable in the last quarter century. The introduction of the National Health Service in Britain in 1948 and the creation of the Department of Health, Education, and Welfare (HEW) in the United States in 1953 [2] are two examples of administrative accommodations to re-enforce this trend.

With this new involvement came new bureaucracies in Westminster and Washington. With the bureaucracies - and increases in government spending - came also special responsibilities for Parliament and Congress

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1. Malcolm Shaw, Anglo-American Democracy (London: Routledge and Kegan Paul, 1968), p. 89.

2. U.S., United States Government Organization Manual - 1970/71 (Washington: U.S. Government Printing Office, 1970), p. 338.

to scrutinize highly technical budgets. New interest groups, lobbies, and professional associations also multiplied, further bolstering the new administrative institutions.

> It is not difficult to see where the contemporary problem lies. Generally, it is the problem of adapting the methods of parliament to the changing business of government. At various times in the past the administration of justice, the regulation of trade and industry, ecclesiastical settlement, foreign policy and administrative reform have been the main concern of government. In the twentieth century social welfare and economic control have increasingly taken their place. The inauguration of such schemes requires legislation and, to the extent that their outline is prescribed in acts of parliament, the House of Commons retains its traditional method of control - its ordinary procedure for the consideration of a bill. But the operation of such schemes and their implementation in actual practice, these are matters of administration. And from the point of view of the citizen it is the details of administration that matter.[1]

Like other social issues, the question of drug abuse had been dealt with and defined by administrators rather than legislators. Civil servants in Britain (in the Ministry of Health, Customs and Excise

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1. Mackenzie, op.cit., pp. 197-8.

Board, and the Home Office) and in the United States (in departments of HEW, Treasury, and Justice) assumed the principal responsibility for setting drug-control policies. To some offices drug abuse was a law-enforcement problem; to others an education problem; to others a tax or a rehabilitation problem. And, in its own fragmented approach to administrative programmes, both Parliament and Congress, throughout the late 1950s and early 1960s, did little more than pass the appropriations and enabling legislation necessary to keep the central governments' policies in operation.

Indeed, when revision of the existing drug-control laws was proposed in 1969, it was not by the legislators. Rather, administrative and judicial decisions, and practices, were producing problems for the civil servants. The review of drug policy occurred, first of all, to expedite an easier operation of existing administrative practices - not to clarify drugs in law or in the popular consciousness.

Individual Legislators

Understandably the recent changes in the roles of the national legislatures in Britain and the United States have altered the roles of their individual, elected Members as well. Formal legislative scrutiny of executive policies has given way to informal public challenges, due in large part to the increased roles of the mass media, electronic communications, and the science of manipulating public images. The power of publicity, not the power of the purse, is becoming the legislatures' most effective resource; and the individual legislators have little choice but to adopt the same approach.

For both the MP and the Congressman formal methods of control do still exist - and are still used - but they are not always very effective.

The MP in Westminster

For MPs probably the chief opportunity to scrutinize the Government is Question Time. For 50 minutes, four days a week, with representatives of the national press corps in attendance, MPS can put questions

to ministers for oral answers. In addition, written questions may be submitted five days a week, with their answers published in the Offical Report about one week later. On a typical day about 150 questions are asked, with roughly half of these put orally. After a minister's reply, one or two supplemental questions may be asked in order to clarify the answer. Questions usually serve to illuminate specific subjects, or to raise issues for further investigation by the Opposition or the national press, but cannot afford much opportunity for a comprehensive review of a Government policy. Yet, in lieu of the real alternative of introducing corrective legislation,[1] this has been considered the strongest weapon in an MP's rather meagre arsenal. And, it has its limits. As Mackenzie notes:

> It is suited to single points such as can be raised within the ambit of a single Question and answered in a few sentences. It offers little opportunity of setting the matter in its true context and encourages the insidious rather than the penetrating question, the slick rather than the convincing reply. It is a spotlight which, if correctly aimed, may reveal administrative weakness, but it cannot thoroughly illumine a matter of any size or complexity.[2]

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1. The opportunities for legislating open to non-Government Members are strictly limited.

2. Op.cit., p. 201.

The MP can request that he be put on a Standing Committee considering legislation that particularly interests him or his constituents. But with rare exceptions, even as a member of the majority party, he is unlikely to be able to carry amendments that the Government does not want.

An MP may also introduce private member's legislation, although to do this he must first conduct the research and draft the proposals himself, or have it done by interested groups or persons, and win a place on the ballot to give his bill the best chance of being debated by the House. He will probably also need to co-operate formally or informally with the Government if he is to ensure that his bill passes. The chances of success are quite slim, however. In the 1968-69 session, 51 of the 54 Government bills were passed, but only 12 of the 94 Private Members' bills were.[1]

Other ways that an MP may express his interests and convictions are through the local press, or by submitting an Early Day Motion, or by proposing an "adjournment debate" topic.

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1. Bradshaw and Pring, op.cit., p. 295.

The MPs' ability to take independent stands is limited for several reasons; chief among them is the fact that his candidacy must be approved by the central party office and party loyalty can be strictly enforced through a strong whip system. Parliamentary politics are based on a constant tension between Government and Opposition. This, too, depends on the Members' acceptance of voting instructions from party whips. In short, the average MP has few resources, either personal or political, to enhance his position in - and his views on - the legislative process.

The MC in Washington

By way of contrast, the Member of Congress is expected to be "all things to all men": representative of his constituency's interests, participant in the active committee system of Congress, independent legislator, troubleshooter and critic (or partisan supporter) of the Administration. He does this with only informal obligations to his political party, and with facilities that are unrivaled in any

legislature: high salary; a sizeable allowance to hire a personal staff; and, support from committee and Congressional staff. He is elected to perform several jobs, and is forced to defend his stewardship every two years.

By the introduction of legislation, or more effectively as chairman or ranking minority member of one of the 150 or so House committees or subcommittees, an MC is able to call the attention of the public and his colleagues to various issues, and to propose solutions to them of his own choosing. He has constant access to the Washington press corps, and his activities are usually reported in the newspapers and broadcast media of his state and district. Also, his views and remarks are published daily in the Congressional Record and are read by his colleagues and public.

In addition, there is one important source of power in Congress that is insignificant in Parliament - the Committee. Woodrow Wilson wrote that "I know not how better to describe our form of government in a single phrase than by calling it a government by

the chairmen of the Standing Committees of Congress."[1] This observation is, with some exception, still valid today, because a few men, with continued interest in a subject, have the ability to change legislation, and to strongly influence both their Congressional colleagues and the Administration in specific areas by their decisions. This is exactly what happened during the passage of the 1970 drug-control law in Washington.

Yet, in both countries the national governments act with an authority and on a scale that very few legislators can seriously challenge. Only on major issues, with broad political implications and important social consequences, can legislators effectively challenge their executives. The search for such issues, and the contest that ensues when they are defined, leads increasingly to a competition for new information, and for new ways to apply this information to popular, national problems.

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1. Congressional Government: A Study in American Politics (Boston: Houghton Mifflin Company, 1925), p.102.

Sources and Channels of Information

Today a Member of Parliament and a Member of Congress have access to more information about public issues than at any time in their nations' histories. This is so for at least two reasons: Modern government is encompassing more and more economic, legal, social, and scientific details and responsibilities than ever before. And, within government, the trend towards greater specialization has increased the need for elected public representatives to be at least superficially acquainted with a wide variety of complex and technical subjects. Today the legislator receives information from an almost indescribable combination of sources and channels - some "regular" and others quite accidental. But having information is one thing, using it effectively to influence legislation is quite another, and here the differences in the roles of the MP and the MC become most striking and significant.

On both sides of the Atlantic the question of the availability and use of information is of critical importance. As was noted in a recent study of Congress,

> Members of all types complain ... of the difficulties of decision-making and seek new forms of assistance. In a recent survey of problems of Congressmen, the one most frequently mentioned (cited by 62 percent of all Members interviewed) was the complexity of decision-making, and particularly the lack of information on which to make decisions. All observers of Congress agree that Members need better information and improved analytical tools and methods ... In general, expertise in policy areas is monopolized by the Executive Branch.[1]

The situation in Parliament is just as serious. As Barker and Rush point out, MPs are expected to perform at least three roles: "to sustain or oppose the government of the day, to scrutinize the activities of the government, and to represent their constituents."[2] They conclude that "... unless MPs are nothing more than political eunuchs, they need information whatever their role."[3]

For the purpose of this description, I have divided these sources and channels into five general

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1. Congress and the Public Trust, Report of the Association of the Bar of the City of New York, Special Committee on Congressional Ethics. New York: Atheneum, 1970, p. 15.

2. The Member of Parliament and His Information, (London: George Allen and Unwin, Ltd., 1970), p. 22.

3. Ibid., p. 121.

groups. They are:

(a) the central government;

(b) the public, the press and broadcast media;

(c) the legislative process;

(d) methods of inquiry; and

(e) personal resources.

Although these five categories are arbitrary, and at times overlap, they do - I think - offer a useful framework in which to compare and contrast the workings of the two legislatures.

Although the traditions and procedures that the two legislatures use today can be traced back at least 150 years, the information services that support their activities assumed their present dimensions and scope only since the end of World War II. Much of the information facilities now available to MPs in the House of Commons stem from the implementation of a 1945-6 Select Committee Report.[1] The extensive growth of staff and research facilities to assist MCs occurred as a result of the Legislative Reorganization Act of 1946.

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1. House Committee 35 of 1945-6.

The House of Commons

Before presenting a legislative proposal to the House, the Government normally prepares a "White Paper", which is a major policy statement about a topic that is likely to be the subject of debate or legislation, or a "Green Paper", which is usually a compilation of facts on a subject published to stimulate public interest and Parliamentary debate. The appearance of a White or Green Paper frequently prompts an initial wave of public speculation, political criticism, editorial comment, and alternative proposals from the Opposition, much of which is reported in the press and the broadcast media.

The next source of information about the issue is the bill itself, which has been written by senior civil servants for approval by the departmental ministers and subsequently the Cabinet, and then framed by specialized legislative draftsmen attached to the Treasury. The bill's terms, definitions and policies must be precise enough to convey the intentions of the Government unequivocally. Its place in the Government's sessional programme of legislation is then determined. Following that programme, the bill is introduced,

printed, and copies made available to Members and the public.

At any time during the year the Government may issue reports, studies, and policy statements, which either intentionally or accidentally relate to the subject of the bill. Documents published by Her Majesty's Stationery Office (HMSO) that relate to Parliamentary affairs are available free of charge to Members of both houses.

In time more detailed analyses of the Government's bill appear in the press and other media. These usually serve to place the issue in perspective for the interested layman. Such articles and programmes frequently augment the information first published by the Government with historical comparisons, conclusions from independent research, interviews, and statements made by political party spokesmen based on their own research departments' findings.

The MP may also receive a variety of comments by post, either from his constituents or from special interest groups that are affected by, or interested in, the proposed legislation. Constituents' letters

generally express concern about the bill's likely impact on individuals, or discuss the broader merits of the issues that the bill raises. Lobbyists' letters generally present the opinions of particular groups about the bill, and often support their views with information from independent sources, such as company laboratories or university researchers. However, lobbyists rarely write to all 630 MPs. Instead they tend to concentrate their efforts on Members with past or special interest in an issue, and those who may be favourably disposed to the interest groups. (A few MPs become the unofficial spokesmen for certain industry, trade, or professional associations, even to the point that their colleagues expect them to present their group's views on almost every political issue.) In the case of the Misuse of Drugs Bill, for example, Mr. Eric Ogden (Lab. Liverpool, West Derby) served as the spokesmen for the pharmaceutical industry, stating their views on the Floor of the House and in the Standing Committees.

Once a bill has been introduced, the Research Division in the House of Commons Library prepares a "Reference Box" of relevant material; including a

"Reference Sheet" to summarize the intent and organization of the bill. MPs who wish to acquaint themselves with the subject of the bill can browse through the contents of the box, and, for more specialized queries, consult the research staff of the library.

The bill's Second Reading affords the best opportunity for the Government and the Opposition to debate the merits of an issue. Here spokesmen for both sides attempt to muster as much supporting evidence for their views as time and resources permit. New issues, new evidence, and alternative methods of advancing the bill's objectives are frequently raised during this stage of the bill's passage.

The next source of information about a bill is its Committee Stage, when the bill is considered clause by clause and amendments proposed by the Opposition, and backbenchers from either party, are debated and voted upon. For most bills this stage is taken in an ad-hoc Standing Committee usually consisting of Members who have shown a close interest in the bill. For MPs with more interests than time, verbatim reports of the committee's debates are published on the day after each meeting. Yet, while these reports are

potentially useful to all Members, they are usually only read by the Standing Committee's members.

When a bill has been reported back to the House, with or without amendment, it passes through a Report Stage. At this stage any other Member of the House has a chance to move amendments, and any outstanding points can be selected, such as changes promised by the Government during committee stage but not yet carried out. Debate focuses on particular details rather than general principles. Issues not raised in committee may be brought up as amendments, at the discretion of the Speaker, and these are sometimes supported by some new information. The House may then proceed to Third Reading, which is seldome more than a summing up of the issues and compromises that have gone before. From here it goes to "another place", the House of Lords, where it again passes through all the same stages.

If a Commons' Member is particularly interested in a bill, he may attend the Lords' debates, or at least follow their discussions in the daily reports of the debates in the House of Lords. Often the Lords take a different approach to the bill than the Govern-

ment has in the Commons, perhaps concentrating their attention on some social or philosophical aspects, or examining the implications of a few particular provisions. New sources of information are often used in the Lords debates, and these occasionally lead to the passage of substantive amendments. (About half of the MPs questioned in a recent study reported that they regularly read the press reports about the Lords debates. A further 10 per cent said press reports frequently prompted them to look at the Lords Hansard. Thirty-six per cent said they "very rarely or never" look at the Lords press coverage at all.)[1]

Aside from the debates during a bill's passage, the most reliable single source of information for an MP is the House of Commons Library, which is manned by a staff of 29 persons and is open from 9.30 a.m. until the House rises, and sometimes later. The principal purpose of the library is to supply members

> with information rapidly on any of the multifarious matters which come before the House or to which their attentions are drawn by their parliamentary duties.[2]

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1. A. Barker and M. Rush, op.cit., p. 146.

2. Great Britain, The Library of the House of Commons (London: Her Majesty's Stationery Officer, 1970), p.1.

Some 120,000 bound volumes, particularly relating to Parliament, history, biography, law, and the social sciences are available in the six-room suite that overlooks the Thames, just off the Members Lobby. Almost any book may be borrowed by an MP, either from the House Library or from other lending libraries in the country. All Parliamentary papers are available, as well as more than 100 newspapers, about 1,700 British and foreign periodicals, and indexes to clippings and summaries prepared on a wide range of current topics. About 30 Reference Sheets are prepared each year, giving brief background notes and a bibliography for the subjects of pending legislation. In addition, Reference Boxes are prepared, containing a collection of the most important material cited on the Reference Sheets.

The Library has a Research Division, with a staff of 11 graduate researchers, to give MPs answers to particular queries. The Research Division answered nearly 1,800 enquiries in 1967.[1]

To augment the available public information an MP must also rely on his personal resourcefulness, and private resources. These may include the books in

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1. Barker and Rush, op.cit., p. 305.

his home library, the documents and files that he has collected to serve a continuing interest in particular issues, the advice of friends and experts, or simply his own memory and experience. Very few MPs can afford to - or choose to - hire personal research assistants, and if they spend only the official allowance for secretarial help they are usually forced to share one secretary with two or three other Members. The MP's research assistant may use the House Library during certain hours but his secretary may not.

From these sources, and through these channels, information on public affairs reaches the MP. How he is able to use this information in the Parliamentary organization we shall see in Chapter IV.

The House of Representatives

> Although "the most important single source of information in evaluating legislation is the opinion of the trusted colleague", legislators may use many sources in the course of their deliberations.[1]

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1. Charles Clapp, The Congressman, His Work as He Sees It (Garden City: Doubleday and Co. Inc., 1964), p. 125.

Since most major bills originate with the administration, not the Congress, the departments and agencies, and the White House, are frequently the first sources of information about a legislative issue. If a bill is presented by the administration, it might be promoted by a Cabinet member at a press conference. Or, the President might send a message to Congress, to outline the broad goals of the administration in a particular area and to describe the current activities of the government in this field. In a typical two-year Congress about 150 Presidential messages are sent to Capitol Hill, more than half of which concern proposed legislation.

The bill itself is drafted by the Government's departmental lawyers, and introduced in either house by a Congressman who is sympathetic with the Administration's approach on the issue. Frequently he is the ranking member of the President's party on the committee to which the bill will be referred. The bill specifically states the purposes of the proposal (in the preamble) and explains its administrative organization (by titles). The bill also gives the proposed changes in existing law that the Administration

wishes to make to achieve its stated goals. Copies of all bills are available, the day after their introduction, from the House or Senate Document Rooms, and a brief description of each bill is published in the daily Congressional Record, several copies of which are delivered to each MC's office.

When the bill is formally introduced in the House, a speech in support of the measure is made by the MC who introduces it. Other supporters often join in a colloquy, using speeches and statements that may have been drafted for the occasion by the Congressional liaison office of the government department that prepared the bill. In addition, a press release is frequently issued summarizing the intention of the bill, and from these, summaries are made in the specialized press and research publications that serve the Hill, such as Congressional Quarterly, National Journal, and Roll Call.

Other Federal Government publications, such as annual reports required by Congress, budget submissions, and general research reports, are sent to Capitol Hill at regular intervals. These are distributed to MCs by the staff of each department's Congressional Liaison Office.

The original message, and the initial criticism that it prompts from partisan spokesmen, committee chairmen, and other interested legislators, are usually reported in the press and by the news media over the next few days. This wave of public attention is then usually followed by editorial assessments and news features illustrating or challenging the premises of the various claims. And these comments - pro and con - are likely to be inserted in the Congressional Record by Congressmen for or against the bill.

Initial letters from constituents about the issue are usually limited to praising or criticizing the broad intent of the bill, rather than concentrating on its specific details. Since these letters are normally based on national wire-service or media reports, they seldom do more than discuss the general merits or drawbacks of the idea. In later weeks and months, however, constituent mail may become much more specific. By then it is based on new sources, such as the newsletters of special interest groups, or it may apply the concepts to the specific conditions in the states or Congressional districts.

Since the details of the bill will not be decided until after its amendment by a Standing Committee,

lobbyists usually wait until that stage before writing and calling MCs with advice on how they should vote during its floor debate. However, lobbyists will usually approach members of the legislative committee considering the bill soon after the measure is introduced, to present their clients' opinions on its merits or defects.

The administration's bill, and any others related to the same issue, are referred to one of the House's 21 standing committees, then passed on to one of the more than 145 subcommittees for detailed consideration. If the subcommittee holds public hearings on the bill, MCs will probably read about them in the press, or at least note them in the daily calendar of the Congressional Record. If interested in the issue, MCs may testify at the hearings, or order copies of the transcripts and the material submitted by witnesses, from the subcommittee's office.[1]

After the public hearings, the bill is "marked up" (i.e. edited, combined with similar bills, and

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1. During the House hearings held on the 1970 drug-control bill (in Interstate and Foreign Commerce and in Ways and Means committees) 25 Congressmen presented statements on various aspects of the pending legislation.

amended according to the findings of the public hearings and the private presentations of lobbyists) and then approved by a majority of the subcommittee. Next it is sent to the full committee where it is debated more generally, and must receive another majority approval. A "clean", or revised, bill is then reported to the House, accompanied by a committee report that explains the scope of the legislation and compares it with the existing laws and the administration's original proposal. These reports, which are prepared by staff members of the committee and subcommittee (often with help from the administration) usually present extensive detail about the bill, as well as a line-by-line comparison of the new proposal with existing legislation. MCs may request copies of the bill and report at this time and a perusal of these reports can generally give a reliable background on the legislation that he will be expected to vote on in a few weeks' time. MCs routinely receive copies of all bills scheduled for Floor debate, and their Legislative Assistants study these reports to alert their employers of any issues that they may wish to pursue when the legislation is debated.

At this point opponents and proponents of the

new bill may begin to circulate letters to all MCs, giving their views on the merits of the committee's compromise. This is also the time when lobbyists begin to circulate position papers, statements, background studies, and letters urging passage, defeat, or changes in the bill. Groups such as unions, fraternal organizations, and professional associations also frequently start mass-mailing campaigns by their members, urging MCs to pass or defeat certain provisions of the bill that they think will directly affect them.

If a bill is controversial, and is to reach the Floor of the House for debate and vote, it must pass the Rules Committee. In practice this Committee determines the priority to be given to a bill and the arrangements for its final debate and vote. In the Rules Committee presentations are made by spokesmen for and against the measure, and transcripts of these hearings frequently serve as concise summaries of the issues of the bill for MCs who care to request them.

A few days before the bill is debated on the House Floor, instructions from the party whips are sent to each MC's office. In most offices one of the Legislative Assistants scans or studies all pending legis-

lation and collates the constituents' and lobbyists' mail relating to it. He usually briefs the MC on the intent of each bill, the type of letters received, and any political questions or considerations that the measure raises.

The day that the bill is debated on the Floor of the House, copies of most of the last-minute amendments are sent to the MCs offices. And, once debate has begun, "Floor amendments" can be offered by Members to achieve late compromises. Cloakroom employees may telephone MCs, by an elaborate whip system, if their party's leadership calls for large-scale support or opposition of a specific amendment. In this way a Member who has no particular interest in a bill might still walk from his office to the House Floor to vote on part or all of the bill - at the urging of colleagues or his party's leadership. But unlike Parliament, there is no compulsion for Members to follow the whip's urgings. A transcript of the debate and votes, often edited to include additional supporting material for the speeches and debates, is reprinted in the Congressional Record the next morning, and copies of the bill, as amended and passed by the House, are available from the House Document Room.

The bill then goes to "the other body", the Senate, where it passes through similar stages. During the Senate passage an MC may follow the bill's progress by requesting all relevant documents from the appropriate committee or subcommittee. Since the press and broadcast media are more likely to cover the hearings of the bill in the Senate - because they may be televised - the MC will probably be exposed to a new round of public debate on the issue. Or, if the bill originated in the Senate, its issues and features may have already served as background for an MC's information when it comes before the House.

Usually the last time that an MC receives information on a bill is when he is asked to vote on the House-Senate Conference Report. To rectify the differences between House and Senate versions of the same bill, each body may appoint "conferees" who negotiate in closed session and then report the results of their bargaining to their respective chambers. They are usually the members of the committees and subcommittees who were most directly involved with the bill at its earlier stages. As we shall see in Chapter III, important changes in a bill are possible

even at this late date. The House votes to either accept or reject the report of its conferees. If it is rejected, a new conference must be held to resolve the differences. If the conferees cannot agree on a compromise, the bill is set aside and never reaches the President's desk for signature and enactment. The Conference Report specifies the compromise accepted by representatives of the two bodies as they reconciled differences in the two versions of the bill. If the Senate has significantly altered the intent of the bill as passed by the House, the MC may be approached by lobbyists and colleagues to change his original attitude on the measure, in which case he will receive new arguments and more information.

Then, on the rare occasions when the President decides to veto a bill,[1] the MC will receive a copy of the President's veto message which outlines new issues and reasons for his opposition to the Congressional version of the legislation. White House Congressional-liaison staff may approach those MCs who are likely to oppose the President, in order to explain the veto in

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1. In 91st Congress President Nixon vetoed 11 bills, 2 of which were overridden by Congress.

terms of issues that directly relate to their constituencies.

In addition to the information available in the Congressional Record and at the many stages of the legislative process, an MC may also direct inquiries to the staff members of any of the House's committees and subcommittees. He may also write to any department or agency of the government to request specific information on topics that interest him.

The most comprehensive source of information on public issues for an MC, in addition to the administration and the legislative process, is the Library of Congress. The library was modestly established in 1800 "for the purchase of such books as may be necessary for the use of Congress",[1] but has grown so in size and service since then that one British writer recently described it as being comparable to

> the library of the House of Commons, that of the Lords, the House of Lords' Record Office, the departments of Printed Books and of Manuscripts of the British Museum, and all the Departmental libraries of Whitehall rolled into one.[2]

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1. Stat. 56.

2. William Hampton in Bernard Crick, The Reform of Parliament (2nd ed. rev.; London: Weidenfeld and Nicolson, 1970), pp. 290-1.

Members and their staffs may borrow all but the rarest books from its stacks. With more than 14,000,000 books and pamphlets, and more than 44,000,000 other items, it is one of the largest libraries in the world. Its Congressional Reading Room contains a general reference collection of several thousand books, newspapers, and periodicals for the use of Congressmen and their assistants between the hours of 10 a.m. and 10 p.m.

But the library's most useful feature for Congress is the Congressional Research Service (known as the Legislative Reference Service until the Legislative Reorganization Act of 1970), established in 1915 and enlarged by the Legislative Reorganization Act of 1946. Today the CRS has a staff of more than 300 senior academic and research specialists available to answer telephoned and written questions from Members and their staffs, and to advise MCs on any legislative subjects. The CRS also prepares and circulates copies of hundreds of its research projects and analyses on topics that are likely to be of interest to Congressmen and their assistants. In a typical year the CRS handles more than 100,000 Congressional inquiries, some requiring a quick telephone reply, others involving

weeks or months of original research.

The personal resources of each MC are also considerable. Each Member has an allowance to hire as many as 12 assistants for his office,[1] and while most of them are occupied with the flood of mail from constituents who are seeking solutions to their problems with the Federal Government, at least two - and sometimes as many as four - of the staff members (called Legislative Assistants, Research Assistants, Counsels, Aides or the like) spend most of their normally long and busy days analysing or drafting legislation. All MC's assistants have access to the CRS, to the Congressional Reading Room, to the staff members of the various committees and subcommittees, and to the liaison officers from the Government departments and agencies. (The largest Congressional liaison office is maintained by the Department of Defense and has more than 300 employees.)

As with the House of Commons, some of these channels of information may run from the same source. The CRS, for example, might send an inquiring Congressman

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1. 13 if he represents a constituency of more than 500,000 persons.

a series of newspaper articles that had also been reprinted in the Congressional Record. Or, a committee staff member might answer an MC's query with statistics culled from an CRS report, which, in turn, was based on a Government department's annual budget submission to a subcommittee of Congress.

Information into Law

It is seldom possible to identify precisely the point at which a social problem becomes a national political issue, since in most situations, where political activity is expressed simultaneously, in different ways, and by different groups within society, there is no single event that marks the transition. Such apparent imprecision is not a sign of political vagueness so much as an affirmation of the fact that in modern democratic states the interaction between "social" and "political" functions is extremely subtle and varied. In the two countries that this thesis compares, a precise definition of this interaction is difficult for at least three reasons:

a) Most areas of public interest already have established political aspects. Even areas once con-

sidered remote from the influence of politics, such as academic scholarship or scientific research, have become directly or indirectly affected by political decisions. For example, the availability of government money for research is the result of political commitments to the solution of certain problems (cancer control, space exploration) at the exclusion of others through the legislative appropriations processes. Or, the availability to researchers of certain raw materials (radioactive isotopes, cocaine) could result directly from legislative actions that had previously determined the way that such materials should be treated and distributed (the creation of the U.K. Atomic Energy Authority [1] and U.S. Atomic Energy Commission,[2] or the U.S. Bureau of Narcotics.[3])

b) When national problems do arise, many citizens turn to politics for a solution, whether or not such hope is justified. And, to please their constituents, some politicians go through the motions of seeking a political solution to issues that are clearly

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1. Atomic Energy Authority Act, 1954.

2. 68 Stat. 919; 42 U.S.C. 2011 et seq.

3. 46 Stat. 585; 5 U.S.C. 282-282a. Also, Reorganization Plan 1, 8 April 1968.

beyond their control.

c) An issue that first appears to be inconsequential or inappropriate to politics may gradually develop to the point where political action offers the only possible solution. For example, a parent in the U.S. who wrote to his state representative or state senator in 1962, to protest about his son's military assignment to South Vietnam, would have probably been told that foreign affairs and military policy are national - not state - responsibilities, and that his appeal should be sent to Congress or the Department of Defense. The same letter written in 1972, especially in those states where legislatures have challenged the constitutionality of such assignments, would receive an enthusiastic reply.

The way that drug control became an issue of political, and then specifically legislative, interest combines all of these three possibilities.

In both Britain and the United States, laws and administrative procedures had existed for decades to control certain aspects of drug use (see the legislative history, pp. 52 to 72 above.)

In both countries, legislators, acting more in the role of public advocate or "father confessor" than lawmaker, had committed themselves to particular political alternatives by statements about the control of drugs, especially cannabis: some thinking the laws too severe, others finding them too lax, and still others just criticising them for being inconsistent with current events and the present state of scientific knowledge or social attitudes. While the legislators' only recourse, in the early 1960s, was to promise to "look into" a constituent's complaint about drug laws by writing to the appropriate administrative office, by the end of the decade it was possible - indeed, imperative - that the two bodies confront, and devise a legislative solution to, the problem.

In both countries the popularity of cannabis use, while first confined to specific and identifiable minority groups, spread rapidly to other - more politically active - members of society: in particular the middle class. And, in both countries the legislatures are, primarily middle-class institutions.

The decade of the 1960s in both countries was the period in which cannabis laws became important

political issues. In the first years of the decade, the movement towards a political solution to the question of cannabis use was slight and tentative; by the last two years that movement had changed from a cautious step to a headlong rush, culminating with the announcements by the two governments in 1969 that they would seek a legislative solution to their growing drug-control problems: In President Nixon's Message to Congress on 14 July; and in Queen Elizabeth II's speech opening Parliament on 28 October.

CHAPTER III

CONGRESS CONTROLS MARIJUANA

FEDERAL TENSIONS

In theory, and in practice, the American Federal system of government is founded on two fundamental tensions. By the first, which is popularly known as the "separation of powers", the responsibilities and limits of the government are clearly defined in the Constitution as falling under one of the three "branches": the Legislative, the Executive, or the Judicial. This legal division of power is maintained in operation by the second fundamental tension: the "checks and balances". These are an elaborate collection of principles and practices designed to insure that the three branches of the Federal government (and the governments of the individual states) preserve autonomy in some spheres of activity and yet practice interdependence in others. With these two tensions, the Federal system can only function effectively by a continual interplay of responsibilities

between the several component parts.

The passage of the Comprehensive Drug Abuse Prevention and Control Act of 1970 [1] offers a clear illustration of how these two tensions interact in the creation of national public policy. For, during the intricate process that led to the enactment of the new drug-control law, each of the three branches of Federal government played a distinct, and essential, role.

While the principal purpose of this chapter is to concentrate on the information about marijuana that was available to Members of the House of Representatives, and how it was used by them in the framing of legislation, the significance of that information cannot be appreciated fully unless we first examine the broader context in which the legislative process occurred.

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1. PL 91-513, 84 Stat. 1236.

Executive Policies

As early as 1962 [1] the Executive branch of the government, which is responsible for the enforcement of laws, was made aware of the need to improve the existing drug-control statutes. Reports by The White House Conference on Narcotic and Drug Abuse (1962), the President's Advisory Commission on Narcotic and Drug Abuse (1963),[2] the President's Commission on Law Enforcement and Administration of Justice (1967),[3] and the National Commission on the Causes and Prevention of Violence (1969) [4] had all recommended lower penalties for the possession of marijuana. But, as with most major policy decisions in the Federal government, the Executive branch alone could not effect

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1. See Appendix I for a chronology of public events leading up to the introduction of the drug-control bill, especially pages 405 to 409.

2. Established January 1963. Chairman E. Barrett Prettyman. Final Report submitted on 1 November 1963.

3. Established in 1966. Chairman Nicholas de B. Katzenbach. Final Report, entitled "The Challenge of Crime in a Free Society" submitted in February 1967. Chapter 8 by the Task Force on Narcotics and Drug Abuse.

4. Established in June 1968. Chairman Dr. Milton Eisenhower. Final Report submitted in December 1969.

change. Laws, and the money and manpower necessary to enforce them, must first be approved by Congress.

Legislative Adjustments

Of course, Congress was not impervious to the needs of the Executive branch, nor was it ignorant of the recommendations made in the four reports. Indeed, during these years it had passed two measures that significantly affected the development of the nation's drug-control efforts:

1) The Drug Abuse Control Amendments of 1965[1] established, for the first time, controls for all depressant, stimulant, and hallucinogenic drugs (except marijuana); such as amphetamines, barbiturates, tranquilizers, and LSD. This marked a significant departure from the existing narcotics and marijuana laws, because these amendments established penalties that made the possession of a new class of drugs for personal use a misdemeanour. Under the laws then controlling narcotics and marijuana, possession continued to be a felony. The 1965 amendments also established the

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1. 21 U.S.C. 201.

Bureau of Drug Abuse Control (BDAC)[1] to enforce this new regulatory power. BDAC became a branch of the Food and Drug Administration (FDA) within the Department of Health, Education, and Welfare (HEW), with a staff of about 300 law-enforcement officers.

2) The Narcotic Addict Rehabilitation Act of 1966[2] changed the Internal Revenue Code to make all marijuana violators eligible for parole. Before this change parole was possible only for first offenders charged with simple possession.

Reorganization of Drug Control

The Johnson Administration, in an effort to consolidate and improve the Federal government's drug-control authority, and following a recommendations made by the Prettyman and Katzenbach commissions, proposed Reorganization Plan No. 1 on 7 February 1968. Such plans, which are submitted to the Congress routinely, take effect in 60 days unless a majority in either

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1. 79 Stat. 226; 21 U.S.C. 360a note.

2. 80 Stat. 1438.

House votes a resolution of disapproval.[1] No such resolution was passed by Congress, and the plan took effect on 8 April 1968.[2]

Reorganization Plan No. 1 abolished the Bureau of Narcotics, which had been in the Treasury Department since its founding in 1930. The plan also abolished the Bureau of Drug Abuse Control (BDAC), which had been in HEW since its founding in 1965. These were replaced by a new, more general, agency for all Federal drug control: the Bureau of Narcotics and Dangerous Drugs (BNDD) in the Justice Department.

In theory, and administratively, the reorganization plan did consolidate the Federal enforcement programmes then authorized by law. But, until the dozens of drug-control laws themselves could also be consolidated (and based on a single authority) the reorganization plan compounded an already confused situation. With the new administrative operations enforcement officers and attorneys had to apply several

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1. PL 85-286. See also Senate Procedure, Senate Document No. 44, 88th Congress, pp. 588-90.

2. For the text of Reorganization Plan No. 1 see the Congressional Record, 91st Cong. 2nd Sess., pp. 1330-1.

legal concepts at once. And in apprehending drug users or traffickers the agents had to first determine which drugs they were suspected of possessing, then apply the appropriate legal steps to arrest, indict, and convict them. As an example of the cumbersome details that accompanied enforcement procedures, agents were still required to write to the Internal Revenue Service in the Treasury Department to ascertain whether or not a person suspected of possessing or transferring marijuana had registered and paid the fees required by the Marihuana Tax Act before formally they could bring charges. In addition, lawful manufacturers of drugs were also required to comply with several dissimilar regulatory schemes simultaneously.

To overcome this legal confusion the Justice Department set about drafting a bill that would consolidate the government's authority under one power: control of commerce.[1] The Justice Department began

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1. Unlike the British system, where Parliamentary draftsmen are all in the Treasury in the service of the Cabinet, the American government departments have their own staffs of draftsmen, attached to their own legislative liaison offices where bills are prepared and presented to Congress. And, to assist Congressmen in the preparation of bills and amendments, both the House and the Senate have an Office of the Legislative Counsel staffed by expert legal draftsmen.

drafting the bill in the spring of 1968, about the time that the reorganization plan was before Congress. Drafting was well under way by that summer. From the point of view of the Justice Department, this bill was primarily a practical measure to implement the reorganization plan. The classification of drugs, and the penalty structures, were to remain the same as they had been under the previous separate laws - except for the correction of obvious discrepancies in penalty structures and control procedures. The bill was intended as a means to improve the enforcement of the existing drug-control policies, and was in no way meant to expand such activities as research, education, or rehabilitation.

But this Justice Department bill was temporarily forgotten by the end of the summer, as the nation and many Executive and Legislative workers became involved in the approaching election campaign. In the national elections, held on 5 November, the Democratic Party lost control of the White House for the first time in eight years, although it main-

tained majorities in both houses of Congress.[1]

Partisan Conflict

The Nixon Administration, which took office on 20 January 1969, found itself in a politically difficult situation. First, the President's electoral majority was the lowest in years, a fact that prompted much intense - though short-lived - partisan criticism. Second, the new Republican administration faced a Congress that had been controlled by Democratic majorities since 1952. (In fact, it was the first time in 120 years that an incoming President faced both houses of Congress controlled by the rival political party. This also meant that all Congressional committees and subcommittees were controlled by Democratic majorities.)

Under the "spoils system" (a tradition that can be traced back to the Jackson Administration of 1832) all high-level posts in the government go to appointees of the victorious party. Not only are the cabinet and sub-cabinet appointments made by the

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1. The 91st Congress began in January 1969 with Democratic majorities of 58 to 42 in the Senate and 243 to 192 in the House.

incoming President (with the advice and consent of the Senate), but most of the administrative jobs down to the middle-management levels are also open to review and possible replacement. Because of the large number of Republicans looking for government jobs after eight years out of office, and because of the caution displayed by the new President in filling the vacant posts, the process of screening and appointing members of the Party Faithful to the thousands of openings lagged on for several months. This meant that the liaison offices, which work between the government departments and the Congress, suffered from two peculiar strains: the replacement of personnel who had established close working relationships with the Democratic Congress by newcomers with Republican loyalties; and, the attempt to channel all major decisions and activities through the legislative liaison office of the White House. A working arrangement, decentralized but practical, that had become familiar for the committee and subcommittee offices of Congress was destroyed suddenly. In its place were new, partisan tensions that arose not only between the government departments and Congress, but also between those departments and the Congressional

liaison office in the White House.

Indeed, much of the uneasiness of these first few months could be traced to a small office in the West Wing of the White House where Bryce N. Harlow and a staff of four assistants laboured to control what had been achieved in the previous administration by hundreds of specialized workers. As a result, neither the Executive nor the Legislative branches were operating with much mutual understanding for nearly a year - and at a time when such cooperation was essential to the best interests of both.

This serious political impasse was compounded by the Nixon Administration's penchant for presenting many of its routine activities in a flash of publicity. Announcements and press conferences preceded every plan and proposal. Hyperbole became the norm. Few legislative proposals escaped this flim-flam, and the draft of the bill to reorganize the nation's drug-control laws, left behind in the Justice Department when the Democrats departed, was no exception.

The restoration of "Law and Order" was one of the promises that won Richard Nixon the White House in 1968, and he made its attainment one of the first, and

most conspicuous, activities of his administration. His first approach, made early in the spring of 1969, was to circulate privately among Republican Congressmen a draft of the Justice Department's drug-control bill. This draft of the bill in its attempt to correct some obvious discrepancies in the existing policies, included provisions that would have decreased the penalties for possession and trafficking of drugs. This approach was in keeping with previous departmental thinking, and also conformed with the recommendations made to the government by the aforementioned commissions. But reaction to this "soft" approach was overwhelmingly negative. So the administration's strategists in the White House and the Justice Department then decided - for political reasons - that the penalty structures should remain unchanged for possession and increased for trafficking, and that the scope of the bill should be expanded.

There was much debate during the spring between the Justice Department and the White House about what the purpose of the drug-control bill should be: reorganization? enforcement? rehabilitation? education? research? In an effort to coordinate its approach to drug abuse, and to meet the immediate

problems of rapidly increasing marijuana use and extensive marijuana smuggling from Mexico, the Nixon Administration created a 23-member inter-departmental "Special Presidential Task Force Relating to Narcotics, Marihuana, and Dangerous Drugs".[1] Conflicts of philosophy that had developed between the various departments were reviewed: such as the disagreement between the Justice Department, which saw the bill they were preparing as primarily a re-organization measure to enhance law enforcement, and the Department of HEW, which was more interested in research, educational, and medical programmes.

Unavoidably, since it was then accounting for most [2] of all drug-abuse arrests, the principal concern of the task force became marijuana. As the introduction to its final report stated:

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1. This group was composed of Federal bureaucrats from the departments directly concerned with drugs, and included: Richard G. Kleindienst, Deputy Attorney General; Eugene T. Rossides, Assistant Treasury Secretary; John Ingersoll, Director of BNDD, Dr. Stanley Yolles, Director of the National Institute of Mental Health; and representatives from the White House, the Interstate Commerce Commission, and the departments of Defense, Agriculture, Commerce, Labor, Transportation, and HEW.

2. See House Report No. 1444 (pt. 1) of 91st Congress, 2nd Session, p.7.

> Most of the marihuana in the United States today comes from Mexico and is smuggled across the border by various means ... In an effort to find a solution to this problem the Attorney General requested the formation of an interdepartmental Task Force to conduct a comprehensive study of marihuana with specific emphasis on the Mexican border problem. The objective of the Task Force has been to formulate a plan for positive and effective action to control the illicit trafficking of drugs across the Mexican border. The Task Force has also reviewed the best scientific information now available on the health dangers inherent in the use of marihuana and has endeavored to communicate unequivocally in this report the facts concerning the social implications of marihuana use.[1]

The Task Force met on three occasions (26 March, 28 April, and 19 May) and submitted its Final Report to the President on 6 June. Its first meeting was devoted to organization and the discussion of general topics - including the formation of sub-

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1. Special Presidential Task Force Relating to Narcotics, Marihuana and Dangerous Drugs. Task Force Report. Findings and Recommendations (1969), p.1.

committees on "health", "resources", and "enforcement".[1] At the second meeting reports by the three subcommittees were presented and discussed. The third meeting was devoted to the approval of the Final Report. The report's first chapter, entitled "The Dangers of Marihuana", reflected what was to be the administration's official position on the drug for several months - until challenges from Capitol Hill, and from within the Federal bureaucracy (including those by Doctor Yolles himself) forced some major changes.[2]

Although this report cited several recent and well-respected research sources about marijuana (such as reports by A.T. Weil, R.H. Blum, and the

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1. Dr. Stanley Yolles was appointed chairman of the Health Subcommittee, which, in the words of the Final Report (p. 4) was requested "to prepare a comprehensive report on the medical implications of marihuana use. The Task Force was particularly interested in learning by whom and to what extent marihuana is used and the health dangers involved, if any." Mr. Cartha D. DeLoach, Assistant to the Director of the Federal Bureau of Investigation, was chairman of the Resources Subcommittee. Mr. John E. Ingersoll, Director of BNDD, was chairman of the enforcement subcommittee.

2. The text of "The Dangers of Marihuana" appears as Appendix IV.

Wootton subcommittee), its conclusions were somewhat at variance with those reached by the sources.[1] And, when compared to the range of information about marijuana that was publicly available at the time, it appears that the Task Force had prepared its report about the drug to bolster prevailing attitudes within the administration, rather than to present an objective and thorough assessment of its use and possible dangers. Of course, considering the subcommittee's time and resources, this is perhaps understandable.

While evidence for this is imprecise, it appears that some Justice Department employees became apprehensive about the progress of the reorganization bill, and, fearing that its fundamental aims might be compromised, "leaked" a 105-page draft of their version to a sympathetic Senator. Accordingly,

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1. For example, while the Wootton subcommittee concluded that "the long-term consumption of cannabis in moderate doses has no harmful effects" (par.29, pp. 6-7) the President's Task Force report quoted from the section of the report dealing with "very heavy long-term consumption" that was indecisive in its conclusions about whether or not such use would lead to physical or psychological deterioration (par. 30, p. 7; incorrectly cited in the Task Force Report as pp. 14-34).

Sen. Thomas J. Dodd (D. Connecticut), himself a former FBI agent and chairman of a subcommittee with jurisdiction over drug-control legislation,[1] introduced S. 1895, "A Bill to reorganize and coordinate control of the narcotic and drug abuse laws under the Bureau of Narcotics and Dangerous Drugs, Department of Justice", on 18 April 1969. In this bill the penalty for the first offence possession of marijuana was set at a maximum of one year and/or a maximum of $5,000 fine.[2] It also required NIMH and the Attorney General to execute a plan of research on marijuana and, based on that study, to "either place marihuana within one of ... three classifications ... or exclude marihuana from any classifications of this act."[3] Existing penalties

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1. Since the Bill was initiated by the Justice Department, and affected law enforcement, it was referred to the Senate Judiciary Committee. This committee had 15 subcommittees, of which the most logical recipient of the bill would have been the Subcommittee on Criminal Laws and Procedures. However, by agreement with the subcommittee chairmen concerned, the bill was referred to the Subcommittee to Investigate Juvenile Delinquency because: a) it had no other major legislation before it, and b) its chairman and his staff had a long-established personal interest in drug control.

2. Sec. 701, (c) (2) and (d).

3. Secs. 301, 302.

for possession of marijuana were mandatory 2-10 years and a maximum fine of $20,000.

Congress legislates according to the powers stated in the Constitution, and historically it had used three of these powers in its efforts to control drug abuse: the power to tax,[1] the power to regulate commerce,[2] and the power to protect the national health and welfare.[3] Just as the Executive branch of the government is divided into departments and agencies for various activities and responsibilities (e.g. Defense, Agriculture, Labor) so too are the jurisdictions of the Congressional committees and subcommittees organized. The division of labour is frequently a source of jealous rivalries and disagreements within the Legislative branch.[4] Congressional

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1. "The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, ..." Article 1, Section 8, Clause 1.

2. "The Congress shall have Power ... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes ..." Article 1, Section 8, Clause 3.

3. "The Congress shall have Power To ... provide for the common Defence and general Welfare of the United States ..." Article 1, Section 8, Clause 1.

4. See George Goodwin, Jr., The Little Legislatures, Committees of Congress. (Amherst: The University of Massachusetts Press, 1970), pp. 33-45.

jurisdiction over the control of drugs has been divided between several committees, depending on various aspects of the subject, or the type of legislative authority used. In the Senate jurisdiction had been shared by the Judiciary, Labor and Public Welfare, Commerce, and Finance committees. In the House jurisdiction had been shared by the Judiciary, Education and Labor, Interstate and Foreign Commerce, and Ways and Means committees. In our study we will be concerned with the last two, since it was to them that the Administration's Bill was referred.

Judicial Decisions

Independent of the developments between the Executive and Legislative branches, the Judicial branch, through the Supreme Court, had handed down three decisions that were to result in a serious challenge to the legal restrictions on marijuana possession and transfers based on the government's taxing powers. Although these decisions [1] were in areas other than drug abuse, their

1. James Marchetti, Petitioner v. United States; Anthony M. Grosso, Petitioner v. United States; and Miles Edward Haynes, Petitioner v. United States. Delivered by the late Mr. Justice Harlan on 29 January 1968.

principles and implications were clear: it is against the Fifth Amendment of the Constitution (protection against self-incrimination)[1] for a person to be compelled to register publicly an activity that is illegal.

The Federal government's authority to control marijuana possession by the taxing power became especially tenuous after 19 May 1969 (coincidentally the last day that the Special Presidential Task Force met) when the Supreme Court handed down its decisions in the cases of Timothy F. Leary, Petitioner v. United States[2] and United States v. Covington.[3] The Court held that the basic Federal statute [4] dealing with the possession of marijuana - in light of the Marchetti, Grosso, and Haynes decisions - contained requirements compliance with which would violate the Constitutional right against self-incrimination. The Court also struck down the "presumptive evidence" clause contained in the anti-smuggling statute of the Marihuana Tax Act [5] that presumed anyone

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1. "No person shall ... be compelled in any criminal case to be a witness against himself ..." Article V.
2. 89 S.Ct. 1532, 1969.
3. 395 U.S. 57, 1969.
4. 26 U.S.C. 4744 (a).
5. 21 U.S.C. 176a.

possessing marijuana knew it came from outside the country, thus making the possessor party to illegal importation. The Justices ruled that since marijuana is grown in the United States, it is improper to make such a presumption. In ruling on the case of Mr. Covington, the Court held that Fifth Amendment protection also applied to a charge of obtaining marijuana without paying the transfer tax, since the defendant had asserted that because possession of the drug was illegal in Ohio he would run a substantial risk of incriminating himself if he had paid the tax. As a result of these decisions, there was no Federal law prohibiting the simple possession of marijuana from 19 May 1969 to 27 October 1970, although, of course, the states had - and continued to apply - their own laws.

LEGISLATIVE INITIATIVES

White House Proposals

To meet the short-term problem of controlling marijuana, the Nixon Administration introduced bills in the Senate and House that would amend the Marihuana Tax Act (Internal Revenue Code of 1954) to conform with the

Court's decisions in the Leary and Covington cases. The Senate bill, S. 2657, was introduced by Sen. John J. Williams (R. Delaware) on 18 July and referred to the Committee on Finance. The House bill, H.R. 14799, was introduced by Reps. Wilbur D. Mills (D. Arkansas 2) and John W. Byrnes (R. Wisconsin 8) on 13 November and referred to the Committee on Ways and Means. There it was considered in "executive sessions"[1] on 17 and 18 November and 4 December. Both committees decided not to take action on the bills, in part because of resentment against some rather heavy-handed lobbying by the administration and in part because the administration's approach to its own drug-control bill (introduced in July) was by then becoming much more liberal about marijuana penalties than the proposed Revenue-Code amendments expressed. As some members of the Ways and Means Committee explained informally, it would have been difficult for them to endorse a set of strong penalties against marijuana and then take a much more lenient approach to the drug a few months later. Such contradictory approaches would have been not only politically dangerous, but hypocritical as well.

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1. Meetings of committees that are closed to the public.

Even while the Task Force was meeting, legislative strategists in the White House were preparing a collection of proposals aimed at restoring "Law and Order" to the land. To begin this crusade, the new President announced a series of national programmes and urged that Congress enact them as quickly as possible. In late April Mr. Nixon proclaimed a campaign against organized crime and sent to Congress his "Illegal Gambling Business Control Act of 1969".[1] On 5 May his national campaign against pornography was launched with the public presentation of the "Postal Revenue and Offensive Sex Mail Act of 1969".[2] And, on 14 July, to meet his campaign pledges to control drug abuse, a Presidential message to Congress [3] announced the presentation of the "Controlled Dangerous Substances Act of 1969".[4]

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1. Introduced by Sen. Roman Hruska (R. Nebraska) and others on 29 April as S. 2022 and by Rep. William McCulloch (R. Ohio 4) and others on the same day as H.R. 10683.

2. Introduced by Rep. Glenn Cunningham (R. Nebraska 2) on 5 May as H.R. 10877.

3. House Document No. 91-138.

4. Introduced by Senators Everett Dirksen (R. Illinois) and Roman Hruska (R. Nebraska) on 16 July as S. 2637. Congressional Record, 91st Cong., 1st Sess., p. 19808.

Thus began the intricate legislative struggle that was to alter significantly the legal status of marijuana. The struggle within Congress, and between the Capitol and the White House, continued for more than 15 months, first in the Senate, then in the House of Representatives, and finally in a round of Senate-House Conference committees. During this time Congress and the American public were subjected to the most comprehensive review of drug-control laws in the nation's history, and with it a barrage of often contradictory information with which to conduct the ensuing debate. The President's programme - and many of the principles that it supported - came under repeated challenge during this time. And the Bill that was returned to the White House to be signed into law reflected dozens of changes in the nation's policy towards drug control, with some of the most fundamental ones relating to the control of marijuana.

Although the President's message covered ten topics,[1] the purpose of the administration's Bill was

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1. The ten sections of the message were entitled: Federal Legislation, State Legislation, International Cooperation, Suppression of Illegal Importation, Suppression of National Trafficking, Education, Research, Rehabilitation, Training Programme, and Local Law.

principally law enforcement. As the Attorney General said in explaining the Bill at Senate hearings:

> The overall purpose of this bill is . . . to consolidate and rationalize the patchwork of existing legislation and to bring about much needed change so that our basic Federal statutory tool is as effective and as up-to-date as possible ...
>
> We have not sought to incorporate all of the Government's research and education efforts, but only those which relate to the functions of the Department of Justice. Crucial areas, such as the provision of treatment and rehabilitation of addicts and abusers, have not been included. It is believed that these are subjects which should be handled as separate and distinct legislative efforts.[1]

Congressional Actions

During the first six months of 1969, while the Executive and Judicial branches of the government were concerning themselves with problems of marijuana control, the Legislative branch also displayed a strong

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1. U.S. Congress, Senate, Committee on the Judiciary (Subcommittee to Investigate Juvenile Delinquency), Hearings, Narcotics Legislation, 91st Cong., 1st Sess., 1969, pp. 211-3. Statement by John Mitchell, 15 Sept.

interest in the drug - first in speeches and then in a flurry of bills and resolutions aimed at studying or controlling it.

The Congressional Record, unlike the U.K. Parliament's Official Reports, is much more than the verbatim account of debates and business in the House and Senate chambers. In fact, it is sometimes not even that, since supporting material (such as editorials, letters, statistics, articles, songs, computer print-outs, or poems) may be appended to any floor speech routinely.[1] Because of the variety of topics and items that may be inserted in its pages, and the very detailed index that makes all entries readily accessible, the "Record" serves as an important source of information for all Congressmen and their staffs.[2] In addition to listing the many bills and other legislative proposals that are introduced and voted on daily, the "Record" also provides a valuable cross-

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1. The Congressman need not even be in the chamber to "speak", since a member of his staff may turn in typed "remarks" to the printer, and these may be entered as though read on the Floor of the Chamber. See, e.g. Rules of the House of Representatives 89th Cong., 2nd Sess., House Document No. 529, Rule XXXIV § 929.

2. See also Chapter II, pages 111 to 119.

section of the interests and views of the legislators and their constituents. It is read carefully by anyone interested in Congress, and provides, besides essential details of legislative activity, some frequent insights into the attitudes of politicians and the general public.

During the first six months of 1969, entries in the Congressional Record covered a wide range of attitudes about marijuana, from support of the "escalation theory" (that marijuana use leads to narcotic addiction) to calls for drug-control law reform and the establishment of a Presidential commission to study the drug. If anything, they reflected a general feeling of confusion about the real dangers of marijuana, and a reliance on the statements of public officials rather than researchers, medical men, or educators. The emphasis in several of the statements ran to law enforcement rather than research or education, and a few reflected moral indignation. (For a more complete account of "Record" statements during this period, see Appendix II.)

SENATE PASSAGE

Subcommittee Hearings

In a setting that was politically awkward and factually confused, the Nixon Administration presented its drug-control Bill to Congress on 16 July 1969. After its introduction by Senators Dirksen and Hruska, S. 2637, "The Controlled Dangerous Substances Act of 1969", was referred to the Senate Judiciary Committee, and then to its Subcommittee to investigate Juvenile Delinquency. S. 1895 (Senator Dodd's drug-control bill) and S. 2590 (Senator Moss's bill to establish a marijuana study commission) had been referred to the same subcommittee.[1] Since this was the first public setting for consideration of the administration's Bill, the subcommittee was swamped with information by lobbyists and interested

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1. Members of the subcommittee , in addition to Chairman Dodd, were Philip Hart (D. Michigan), Birch Bayh (D. Indiana), Quentin Burdick (D. North Dakota), Joseph Tydings (D. Maryland), Edward Kennedy (D. Massachusetts), Roman Hruska (R. Nebraska), Hiram Fong (R. Hawaii), Strom Thurmond (R. South Carolina), and Marlow Cook (R. Kentucky). The subcommittee also had a professional staff of about 12 persons.

individuals who were eager to have their views on drug control measures heard. During the eight days that public hearings were held,[1] more than 50 witnesses appeared before the subcommittee in person to give testimony and answer the Senators' questions. The public record of these hearings was published in a bound volume of 1,182 pages that contained verbatim transcripts of all oral testimony and questioning, 47 exhibits submitted by witnesses, and an appendix of 56 letters.

The most significant issues raised during the hearings, as they affected marijuana control, were: the legal basis for drug controls; the classification of drugs, and; penalties for drug abuse.

Except for certain powers to control imports and exports through the Bureau of Customs, the legislation proposed that all enforcement and administrative authority be brought under the Attorney General and BNDD in the Justice Department. This new legislative programme was to be based entirely on the power of Congress to regulate commerce.

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1. 15, 17, 18, 24, 25, 26 and 29 September; and 20 October.

Controlled substances were to be classified in one of four major schedules:

I. drugs having no recognized medical value (heroin, marijuana, LSD);

II. drugs which tend to be highly addictive, and, though having some medical use, are subject to widespread abuse (cocaine, morphine, methadone);

III. drugs that normally lead to moderate dependence (amphetamines, barbiturates, lesser narcotics); and

IV. drugs that present the least potential for abuse and induce only a limited amount of physical or psychological dependency (cough medicines, other combination drugs).

This scheme was to replace the existing approach that classified drugs according to their physical properties, or by no apparently rational criteria at all (e.g. defining marijuana as a narcotic).

The most controversial issue to emerge during the subcommittee's hearings and debate, and the one that prompted the most widespread public comment, was

the assignment of penalties. As the Attorney General said when he appeared as the first witness:

> There is perhaps no area of the dangerous drug field which has aroused more controversy than the dispute over criminal penalties ...
>
> . . . . . .
>
> For example, under current law, there is a distinction made between LSD and marihuana, both of which are hallucinogens ... the penalty provided for the first illicit sale of LSD carries no minimum sentence but carries a maximum of 5 years in prison with provision for probation, suspension of the sentence, and parole. But the penalty for the first illicit sale of marihuana carries a minimum of 5 years in prison and a maximum of 20 years, with no provision for suspension and probation.
>
> The medical profession believes that LSD is a much more dangerous drug than marihuana.
>
> For the second illicit sale of LSD, the maximum is still 5 years with no minimum sentence. With marihuana, a conviction for the second illicit sale carries a minimum of 10 years and a maximum of 40 years in prison, with no provision for probation, suspension of sentence, or parole. This penalty structure is higher than the Federal sentence for manslaughter or sabotage which carries no minimum and a maximum of 10 years in prison. Similarly, conviction for simple possession of LSD carries a maximum of 1 year in prison, whereas conviction for a simple possession of marihuana carries a minimum sentence of 2 years and a maximum sentence of 10 years; and upon the

second conviction, a minimum of 5 years and a maximum of 20 years.[1]

Senator Dodd's bill (S. 1895) had proposed that the penalty for first-offence possession of marijuana be a maximum of 1 year in jail and/or $5,000 fine; for second offence a maximum penalty of 2 years in jail and/or $10,000 fine. The Administration's bill (S.2637) had proposed to keep existing penalties for the first-offence possession of marijuana at a mandatory 2-10 years in jail and/or $20,000. It called for an increase in the penalty for first-offence sale, keeping the mandatory 5-20 year sentence but raising to $25,000 from $20,000 the maximum fine. When the Attorney General pointed out the inequities in the existing law, it was to suggest that penalties for LSD be increased to match those for narcotics and marijuana, not that marijuana penalties be decreased.

The Administration's Views

On the opening day of the subcommittee's hearings, after listening to the Administration's proposals, Chairman Dodd asked the Attorney General for his opinion

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1. U.S. Congress, Senate, Committee on the Judiciary, op.cit., pp. 215-6.

on the idea of creating a marijuana study committee as proposed in S. 1895. The Senator said that:

> it has become evident to all of us in recent years that the most popular drug of abuse among young people is marihuana. Everybody agrees on that ... I find that after the last set of hearings [held in 1968] the testimony on marihuana was so conflicting before this subcommittee that it was impossible for me to really make up my own mind about it. I don't know how anyone could legislate in such an atmosphere. The law enforcement people pretty generally took the view that it is dangerous, addictive, very harmful and ought to be dealt with very severely; while the medical, scientific, and educational community pretty generally took the view that it was not quite so.[1]

To this Mr. Mitchell replied:

> I was somewhat amazed and surprised upon becoming involved in this subject to find out that there was such little knowledge about the various aspects of marihuana. I would like to point out that the best thing that we have been able to pull together with the cooperation of the HEW and the other participating agencies on the subject is contained in [the Special Presidential Task Force Report].

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1. Ibid., p. 250.

> . . . . . .
> And you will find that definitive information is certainly not available for ultimate disposition of the matter by permanent legislation.[1]

Yet, despite his own doubts about the information available, the Attorney General urged that the penalties proposed in the administration's Bill be accepted so as not to delay the passage of the legislation.[2]

A few minutes later, during the questioning of Mr. Mitchell by the subcommittee's members, Senator Hruska asked the Attorney General for his thoughts on an experiment then underway in Nebraska that had set a maximum penalty for first-offence marijuana possession at 7 days of orientation and education about drug abuse. "Our thrust is in this direction", Mr. Mitchell replied, explaining that he thought courts should be given more discretion on sentencing.[3]

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1. Ibid.
2. Ibid., p. 251.
3. Ibid., p. 256.

Challenge to the Administration

The credibility of the administration's penalty proposals received its strongest challenge two days later when Dr. Stanley Yolles appeared before the subcommittee - not in his official capacity as Director of NIMH, but as

> a physician [whose] opinions, convictions, and conclusions are based on almost 20 years of professional involvement in the development of research, treatment, and rehabilitation as they relate to users of narcotics and other dangerous drugs.[1]

Doctor Yolles said that:

> a conservative estimate of the number of persons in the United States, both juvenile and adult, who have used marihuana, at least once, is about 8 million and may be as high as 12 million.
>
> On a worldwide basis marihuana is an intoxicant second only to alcohol in popularity and is used by some 200 to 250 million people. These are facts to be reckoned with in a reasoned discussion of the problem and its possible control. But because drug use and abuse touches our deepest values, our hopes, our aspirations as well

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1. Ibid., p. 266.

> as our fears, it is an emotionally charged area.
>
> For every false prophet advocating drug use there is a viewer-with-alarm prone to sensationalism and the advocacy of simplistic solutions.[1]

He cited recommendations of the Mayor's Committee in New York, the 1951 American Bar Association's Commission on Organized Crime, the 1963 Prettyman commission, the 1967 Katzenbach commission, the Wootton Report, and research on marijuana done at NIMH.[2] He explained how marijuana control had developed historically in the United States, and related how the Marihuana Tax Act of 1937 had been rushed into law "even though many of the statements in testimony before Congress were substantially untrue."

As an example of Congressional testimony in 1937, Doctor Yolles read from the report on the Senate bill:

> Under the influence of this drug (marihuana) the will is destroyed and all power of directing and controlling thought is lost. Inhibitions are released. As a

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1. Ibid., p. 267.

2. Ibid., p. 269.

result of these effects, many violent crimes have been and are being committed by persons under the influence of this drug. Not only is marihuana used by hardened criminals to steel them to commit violent crimes, but it is also being placed in the hands of high-school children in the form of marihuana cigarettes by unscrupulous peddlers. Its continued use results many times in impotency and insanity.[1]

Doctor Yolles then concluded by saying that:

the major point I wish to make is that, in the case of marihuana, legal penalties were assigned to its use that are strict enough to ruin the life of the first-time offender, with total disregard for medical and scientific evidence of the properties of the drug or its effects. I know of no clearer instance in which the punishment for an infraction of the law is more harmful than the crime itself.

I would like to make my professional position very clear in this regard, Mr. Chairman.

I do not, at this time, advocate the removal of all restrictions on the use of marihuana. I believe that until we know more than we now do about the long-term effects of marihuana and other forms of cannabis, that use of the drug should continue to be controlled.

Medically speaking, I cannot give it a clean "bill of health".

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1. Ibid., p. 274.

> But, penalties for its use should be lowered, in proportion to the dangers and risk to the individual and society of this drug.[1]

Doctor Yolles then presented a "chart of fable and fact on marihuana", which was quoted extensively in the press, and in subsequent testimony and in Senate and House reports on the drug-control legislation.

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1. Ibid., p. 275.

CHART 2

MARIHUANA FABLES AND FACTS

Fable	Fact
1. Marihuana is a narcotic.	1. Marihuana is not a narcotic except by statute. Narcotics are opium or its derivations (like some synthetic chemicals with opium-like activity).
2. Marihuana is addictive.	2. Marihuana does not cause physical addiction, since tolerance to its effects and symptoms on sudden withdrawals does not occur. It can produce habituation (psychological dependence).
3. Marihuana causes violence and crime.	3. Persons under the influence of marihuana tend to be passive. It is true that sometimes a crime may be committed by a person while under the influence of marihuana. However, any drug which loosens one's self-control is likely to do the same and relates primarily to the personality of the user.
4. Marihuana leads to increase in sexual activity.	4. Marihuana has no aphrodisiac property.

CHART 2 - Continued

Fable	Fact
5. Marihuana is harmless.	5. Instances, of acute panic, depression, and psychotic states are known, although they are infrequent. Certain kinds of individuals can also become over-involved in marihuana use and can lose their drive. We do not know the effects of long-term use.
6. Occasional use of marihuana is less harmful than occasional use of alcohol.	6. We do not know. Research on the effects of various amounts of each drug for various periods is underway.
7. Marihuana use leads to heroin.	7. We know of nothing in the nature of marihuana that predisposes to heroin abuse. It is estimated that less than 5% of chronic users of marihuana go on to heroin use.
8. Marihuana enhances creativity.	8. Marihuana might bring fantasies of enhanced creativity but they are illusory, as are "instant insights" reported by marihuana users.
9. More severe penalties will solve the marihuana problem.	9. Marihuana use has increased enormously in spite of the most severely punitive laws.
10. It is safe to drive while under the influence of marihuana.	10. Driving under the influence of any intoxicant is hazardous.

After reading this chart, Doctor Yolles said,

> it is obvious, therefore, that there are some things we already know about marihuana, in spite of the fact that many people are not willing to accept this knowledge.
>
> A youngster who smoked one marihuana cigarette is not a dope fiend, even though misguided individuals in the past have made this association.
>
> . . . . . .
>
> ... The prohibition syndrome, as applied to marihuana, has already brought about defiance of these specific laws; additionally, it has created in the new generation a credibility gap concerning other laws and law enforcement.[1]

Doctor Yolles then urged that "the first place in which legal reforms can be made is in the removal of mandatory minimum penalties." This position, he noted, had been made at the 1962 White House Conference by Chairman Dodd.[2] He also quoted Dr. Dana Farnsworth, Director of the University Health Service at Harvard and Chairman of the American Medical Association's Council on Mental Health, who had said recently:

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1. Ibid., p. 278.

2. Ibid., p. 279.

> Until now, the official attitude has been "Stamp out drug use and you will get rid of the problem." But the use of drugs is not the central problem - it is only a symptom, an index of the confusions and uncertainties which affect increasing numbers of young people.
>
> Unenforceable laws and inappropriate penalties make a mockery of the whole principle of legal control and provide one more example of the adult world's misunderstanding of the problem.[1]

At the end of Doctor Yolles' appearance, Chairman Dodd said:

> I wish everyone could have heard your testimony. I certainly hope they will read it. You make much sense here, as you have done on other occasions when you have appeared here. And you have certainly helped this committee tremendously by way of information and clear thinking about this very problem.[2]

The next witness was a colleague of Doctor Yolles, Dr. Sidney Cohen, Director of the Division of Narcotic Addiction and Drug Abuse at NIMH, who was also appearing privately. Although he concentrated on "stimulant" drugs in the statement he made before

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1. Ibid., p. 287.

2. Ibid., p. 288.

the subcommittee, he opened his remarks by saying:

> I wish to identify myself completely with the opinions expressed by Dr. Yolles, in particular with his views on the penalty structure for marihuana possession and use. Existing and some of the proposed legislation in this regard is not only excessively harsh but has not worked in the past and is not likely to work in the future. Dr. Yolles' recommendations will not solve our marihuana problem, but they will provide the beginning of a solution, and the resolution of 40 years of misinformation. What must be emphasized is that neither Dr. Yolles nor I are "soft" on drugs.[1]

Doctor Cohen also proposed "that the possession and use of marihuana and the hallucinogens be dealt with as misdemeanors", and that "all possession offenders should receive a conditional discharge of proceedings after satisfactory completion of their sentences."[2]

Widespread press coverage of the statements by Doctors Yolles and Cohen gave the legislators, and the American public, their first unequivocal, authoritative arguments for drastically reducing the existing, and proposed, Federal marijuana penalties. And their viewpoint was supported by many of the witnesses who

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1. Ibid., p. 289.

2. Ibid., p. 295.

followed them in testifying before the subcommittee.[1] The impact of the statements by Doctors Yolles and Cohen had both short- and long-term effects. They continued to explain their views on marijuana at several hearings during the remainder of the 91st Congress - to increasingly receptive audiences. They soon found that the Nixon Administration's approach to marijuana had begun to edge toward their own, and that they could once again testify on Capitol Hill in their official roles. And, less than a year later, they both found themselves unemployed.[2] Both men resigned

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1. Among those who called for reduction of Federal penalties for marijuana possession were: Samuel J. Tedesco, Superior Court Judge of Bridgeport, Conn. (pp. 302-3); L.A. Dear, Commissioner of the Addiction Services Agency, Human Resources Administration, New York City, representing Mayor John V. Lindsay (pp. 337-8); Bard Grosse, Director of Drug Studies, U.S. National Student Association (p. 459); and Dr. R.E. Gould, Psychiatrist in Charge of Adolescent Services in the Psychiatric Division of New York University-Bellevue Medical Center, New York City (p. 474).

   A statement urging that Federal penalties for marijuana possession should remain the same was read by Capt. J.M. Mueller of the Chicago Police Department for Mayor Richard Daley (pp. 482-3).

   A call for stiffer marijuana penalties was made by Mayor Sam Yorty of Los Angeles (pp. 434 ff.).

2. Some Members of Congress were so upset by these remarks that they called for Dr. Yolles' resignation: see, e.g. Congressional Record, 91st Cong., 1st Sess., for remarks by Rep. Albert Watson (R. South Carolina 2), pp. 32483-4.

under pressure, and took positions at the State University of New York at Stonybrook.

The Administration's Reviews

The fact that Chairman Dodd and so many public witnesses had urged a reduction in penalties for marijuana possession and sale could not be ignored by the administration. The weeks that followed Attorney General Mitchell's 15 September statement were a time of doubt and deliberation within the Executive branch. A new round of negotiations (more frantic than those of April and May) began between the White House, the Justice Department, and HEW. Even before the Dodd subcommittee's hearings had begun, Dr. Roger Egeberg, the Assistant Secretary for Health and Scientific Affairs in HEW, had stated publicly that "the present laws are completely out of proportion to the dangers presented by marijuana."[1] On 2 October the Associated Press and United Press International carried stories reporting that the Nixon Administration was preparing more flexible laws to deal with marijuana

1. "Egeberg Criticizes Marijuana Laws", Washington Post, 3 September 1969.

users. These stories quoted an aide in HEW as saying: "We want to provide penalties for marijuana use and possession more in line with the dangers of the drug." This aide also revealed to the two news services that Doctor Egeberg had been meeting with the Attorney General to work out a new approach to marijuana.[1] The fact that the Administration had modified its position on marijuana penalties was indicated by high-level spokesmen before two House committees on 14 and 15 October.[2]

The administration's shift was formally announced before the Dodd subcommittee on 20 October by John Ingersoll, who acknowledged that "the different opinions of the witnesses have been of great benefit to the administration's further evaluation of S.2637, the Controlled Dangerous Substances Act."[3] He announced

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1. See Congressional Record, 91st Cong., 1st Sess., p. 28551.

2. See the statement of Theodore Ellenbogen, Assistant General Counsel for Legislation, HEW before the Select Committee on Crime, 14 October 1969, p. 13; and the statement of John Ingersoll, BNDD Director, before Subcommittee No. 3 of the House Judiciary Committee, 15 October 1969, p. 53.

3. Hearings, op.cit., p. 663.

that:

> It is our conclusion after consulting with the scientific community and with members of the legal profession, that the hallucinogenic substances should not be subject to the same penalty scheme as the narcotic substances ...[1]

and recommended that "donative transfer" of marijuana should be treated as simple possession, not as trafficking. He then proposed three penalty schemes, of varying severity, saying that the administration would accept any of them and leaving the final choice to the Congress.

CHART 3

ALTERNATIVE PENALTIES FOR MARIJUANA OFFENCES

	1st offence possession	2nd offence possession	1st offence sale	2nd offence sale
A	1 yr. jail and/or $5,000 fine (misdemeanor)	2 yrs. jail and/or $10,000 fine (felony)	5 yrs. jail and/or $15,000 fine	10 yrs. jail and/or $30,000 fine
B	"	"	12 yrs. jail and/or $25,000 fine	5-20 yrs. jail and/or $50,000 fine
C	"	"	20 yrs. jail and/or $25,000 fine	5-20 yrs. jail and/or $50,000 fine

1. Ibid., p. 675.

Further impetus for the reform of marijuana-control laws came in early December when the National Commission on the Causes and Prevention of Violence issued a statement on "Challenging our Youth". The statement was placed in the "Record" on 4 December by Rep. Edward Koch, and read, in part:

> The startling recent increase in marijuana use by many young people has intensified the conflict between generations and posed enormous problems in the enforcement of drug laws.
>
> Scientific knowledge about marijuana remains sparse, but some of its pharmacological properties have been established: marijuana is not a narcotic or an opiate and is not addicting. There is as yet no evidence as to the relationship it bears to the use of harder drugs.
>
> We recommend that the National Institutes of Health, working with selected universities, greatly expand research on the physical and psychological effects of marijuana use.
>
> . . . . . .
>
> ... According to the latest available Justice Department figures, the average length of sentence imposed for violation of state laws was 47.7 months
>
> . . . . . .
>
> Erroneously classifying marijuana as a narcotic, this patchwork of federal and state laws, inconsistent with each other and often unenforceable on their merits, has led to an essentially irrational situation.

> ... The present harsh penalties for possession and use of marijuana are a classic example of what legal scholars call "over criminalization" - treating as a serious crime private personal conduct that a substantial segment of the community does not regard as a major offense; prosecutors, judges and juries tend to moderate the severity of the statutory sanctions, and the resulting hypocrisy of all concerned diminishes respect for the law.
>
> In view of the urgency of the marijuana problem, we believe that legislative reform of the existing marijuana penalty structure should not wait several years until further research is completed.
>
> We recommend that federal and state laws make use and incidental possession of marijuana no more than a misdemeanor until more definitive information about marijuana is at hand and the Congress and State Legislatures have had an opportunity to revise the permanent laws in light of this information. (Pending further study, we do not recommend a similar reduction in the penalty for those who traffic in marijuana for profit.)[1]

Executive Sessions

The Dodd subcommittee held executive sessions with Senators, professional staff members, administration spokesmen, and drug specialists from the Library

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1. Congressional Record, 91st Cong., 1st Sess., pp. 37180-1.

of Congress, and prepared a "clean bill",[1] S. 3246, which it referred to the full Judiciary Committee. The Judiciary Committee considered the clean bill on 6 and 8 December, and agreed unanimously that it should be reported favourably to the Senate.[2] On 16 December the clean bill was introduced in the Senate as S. 3246 and Reported the same day. To accompany the Bill, the Committee issued a 165-page Report [3] that explained the background of the Bill, the new provisions added in the subcommittee, and compared, line-by-line, the existing legislation with the proposals to replace it.

S. 3246

The Report, which was presented to each Senator with a copy of the Bill, stated that:

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1. One that is revised to combine portions of other Bills and then introduced as a new piece of legislation.

2. Congressional Record, Daily Digest of the 91st Cong., 1st Sess., pp. D618 and D620.

3. Report No. 91-613, Calendar No. 609.

The penalty provision was added based on evidence developed through subcommittee investigations and hearings which indicated that the penalties provided in S. 2637 were inconsistent, as compared with the harmfulness, abuse characteristics and their social implications of the several classes of drugs. For example, to impose the same high mandatory penalties for marihuana-related offenses as for LSD and heroin offenses is inequitable in the face of a considerable amount of evidence that marihuana is significantly less harmful and dangerous than LSD or heroin.

It had also become apparent that the severity of penalties including the length of sentences does not affect the extent of drug abuse and other drug-related violations. The basic consideration here was that the increasingly longer sentences that had been legislated in the past had not shown the expected overall reduction in drug law violations. The opposite had been true notably in the case of marihuana. Under Federal law and under many State laws marihuana violations carry the same strict penalties that are applicable to hard narcotics, yet marihuana violations have almost doubled in the last 2 years alone.

In addition, the severe drug laws specifically as applied to marihuana have helped create a serious clash between segments of the youth generation and the Government. These youths consider the marihuana laws hypocritical and unjust. Because of these laws the marihuana issue has contributed to the broader problem of alienation of youth from the general society and to a general

> feeling of disrespect for the laws and the judicial process.[1]

The Report also noted that the new Bill

> ... directs the Attorney General to appoint a committee of experts to study the marihuana problem.
>
> As it will be pointed out below, marihuana offenses make up the bulk of drug arrests throughout the Nation. This drug has created greater controversy than any of the other substances of abuse. And the present marihuana laws have embittered, confused, and disillusioned a large segment of this Nation's young people, including those who do not use any drugs at all. The marihuana controversy is baffling to the general public and to the parents as well as the young people.
>
> The span of arguments on this drug ranges from the death penalty to complete legalization of the drug. The gross ignorance and misunderstanding regarding this problem aggravates it and makes it worse than it already is.
>
> It was determined that an authoritative report from a group of experts on this matter is needed to dispel the irrational fears of the public regarding marihuana and to provide better understanding with respect to the substantial dangers associated with this drug.[2]

The Bill proposed that penalties for marihuana should be: 1 year and/or $5,000 maximum for first-

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1. Ibid., pp. 1-2.

2. Ibid.

offence possession, with the possibility of expunging the criminal record after any terms or conditions set by the court are met; 2 years and/or $10,000 maximum for second-offence possession; 5 years and/or $5,000 maximum for first-offence sale; and 10 years and/or $10,000 maximum for second-offence sale. In addition, it allowed that a "quasi-donative transfer" (where a person sells one or two reefers in exchange for 50c or $1.00 to cover the cost of the marijuana[1]) should be treated as a first-offence possession charge, with a maximum penalty of 1 year and/or $5,000 fine.

Because of the extensive work done in committee before the reporting of a Bill, its consideration on the Floor of the Senate is usually limited to general debate and a few specific amendments. Floor managers[2] are usually the ranking majority and minority members of the subcommittee that prepared the Bill - in this case, Senators Dodd and Hruska - and the debate tends to revolve around issues that they feel are of continuing controversy, or new points of view not pre-

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1. Ibid., p. 8.

2. Senators often responsible for marshalling the majority and minority spokesmen on a bill, and allocating time to individual Senators for stating their views. The same title, and responsibilities, occur in the House.

viously raised during the bill's preparation.

Senate Passage

S. 3246 was debated on the Senate Floor on 26, 27, and 28 January 1970, and passed with only minor amendments. During the debate the Senate defeated by 58 votes to 24 an amendment by Sen. Harold Hughes (D. Iowa) to reduce the first-offence possession penalties for marijuana to a maximum of 6 months and/or $2,500.[1] "We must be consistent across the board", the Senator said, "and so we must treat marijuana honestly in proportion to its dangers as we see them."[2] The Senate approved an amendment by Sen.

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1. Three other Hughes amendments to change the Bill's emphasis from law to health were also defeated. One would have limited the Attorney General's authority over drug education and research to those areas directly related to enforcement, with the chief research activities to be kept in HEW (46 to 36). Another would have granted the Secretary of HEW, instead of the Attorney General, primary authority to appoint the committee to study marijuana (56 to 32). And, a third would have allowed the Attorney General to add, delete, or reclassify a drug only on the recommendation of the HEW Secretary or a Scientific Advisory Committee (44 to 39). Senator Hughes was chairman of the Labor and Public Welfare Committee's Special Subcommittee on Alcoholism and Narcotics.

2. The National Observer, 2 February 1970, p. 2.

Joseph Tydings (D. Maryland) that restricted the concept of donative transfer to those of "no remuneration" rather than "little or no remuneration"; a change requested by the Justice Department.[1] On 28 January the Senate passed S. 3246 by a vote of 82 to 0. Senator Dodd reiterated his personal attitude, and that of the administration, when he concluded the debate by saying: "This is an enforcement bill. It is neither a rehabilitation bill nor a research bill. This is a law-enforcement bill."[2]

The Bill was then sent to the House of Representatives, but never referred to a committee there because no one committee had clear jurisdiction over it in its new form. Instead, two House committees, cognizant of the Senate's action but also concerned about preserving their own authority over certain subjects, held hearings on two separate drug-control bills and then combined their efforts to create a clean bill and report it to the House. (see p..234 to 251 below.)

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1. Amendment No. 437, Congressional Record, 91st Cong., 2nd Sess., pp. 1669-70.

2. The National Observer, loc. cit.

If the Congressional Record for the year 1969 reflected the confusion, and a searching for scientific information about marijuana, it also presented the opinions of legislators more eager to find certainty - of any kind - than to face the inherent ambiguities of the escalating, "epidemic" marijuana use that surrounded them. As with most sources of information and ideas, many of the readers took from the "Record" only what they found most useful. For some its pages were simply a place in which to find ammunition to defend the preconceived ideas - pro or con - of themselves or their constituents. But for most of the Members of the House of Representatives, whose direct confrontation with legislating to control marijuana lay ahead in the new year, the attitudes and actions of the administration, the Senate, and their own colleagues must surely have given them as much doubt as reassurance.

HOUSE PASSAGE

By the time the Senate passed S. 3246, on 28 January 1970, several bills affecting marijuana had already been introduced in the House.

1) On 14 April 1969, H.R. 10019, to establish a Presidential commission on marijuana, had been introduced by Mr. Koch and referred to the Judiciary Committee. Hearings had been held on 15 and 16 October.[1]

2) On 11 September 1969 H.R. 13742 (controlling narcotics and marijuana) had been introduced by Representatives Mills and Byrnes and referred to the Ways and Means Committee; and H.R. 13743 (controlling stimulants, depressants, hallucinogens except marijuana) had been introduced by Representatives Staggers and Springer and referred to the Interstate and Foreign Commerce Committee. This was the original administration Bill (S. 2637), split in two because of the jurisdictional claims of these two committees.

3) On 13 November H.R. 14799, to amend the Internal Revenue Code as a result of the Leary decision, had been introduced by Representatives Mills and Byrnes and referred to the Ways and Means Committee.

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1. This Bill was reported to the House after amendment by the committee, on 23 April 1970 (House Report 91-1019), but never debated on the Floor. Instead, the proposal was incorporated in H.R. 18583 and eventually became Part F (Sect. 601) of Title II of P.L. 91-513, "Establishment of Commission on Marihuana and Drug Abuse".

Executive sessions had been held, but no further action was taken.

Legislative interest in drugs extended into a related area as well: education. H.R. 9312, 9313, and 9314 were introduced by Rep. Lloyd Meeds (D. Washington 2) and others as alternative components of the Drug Abuse Education Act, and referred to the Committee on Education and Labor. Hearings were held by the House Select Subcommittee on Education on 9, 10, 11, 14, 21, and 25 July. At these hearings Doctor Yolles' 25 June testimony before the House Appropriations Committee was published. This statement included quotations from the 18 January 1969 Lancet editorial, "Potted Dreams", and the Wootton Report (p. 33) to dispute the escalation theory. John Ingersoll, BNDD Director, testified on 10 July that there was much conflicting evidence about marijuana, and that most studies cited by various speakers were not scientific. Although out of the Bill's purview, the subject of marijuana penalties was mentioned at several points during the hearings. Perhaps one of the country's most influential organizations in the field of education, the National Congress of Parents & Teachers (PTA), was represented by its Chairman for Legislation, Mrs. Edward F. Ryan, who said:

"We do not suggest making marijuana legal, but we do recommend sharply reducing penalties for this possible injury to self which are frequently much greater than for offense and injury to others". A clean bill, H.R. 14252, was introduced on 8 October, Reported favourably by the Education and Labor Committee on 27 October (House Report No. 91-599), and passed unanimously by the House on 31 October.[1] After hearings before the Senate's Special Subcommittee on Alcoholism and Narcotic Drugs on 27 August 1970, the Bill was reported favourably to the Senate, where it was passed on 17 November. It became Public Law 91-527 on 3 December 1970. This law authorized $29,000,000 in Federal grants to be spent over three years for drug-abuse education programmes in schools, colleges, and community-run facilities.[2]

Also, in a move not directly connected with legislation, the House Select Committee on Crime held public hearings on 14 and 15 October 1969 to elicit

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1. Congressional Record, 91st Cong., 1st Sess., pp. 32469-87.

2. For further details see HV 5801 A, 70-304 ED, Congressional Reference Service, Library of Congress, multilith report.

from experts their "views on marijuana". Among the witnesses were Doctors Yolles (who appeared as a private citizen) and Cohen (who spoke this time in his official capacity as Director of the Division of Narcotic Addiction and Drug Abuse of NIMH). Both doctors reiterated the views they had given to the Dodd subcommittee on 15 September, and Doctor Yolles again presented his "Facts and Fables on Marihuana".[1] In addition, the hearings became an occasion for the discussion of the etymology of the word "assassin" (pp.66-7). A statement by Doctor Egeberg was read at these hearings by Dr. Jesse Steinfeld, Assistant Secretary for Health and Scientific Affairs, HEW, that concluded:

> First, because marihuana and similar hallucinogenic drugs are fundamentally different from addictive narcotics and, in our present state of knowledge, cannot be considered as hazardous as the "hard" drugs, penalties for possession and distribution of these drugs should be of a substantially lesser order.
>
> Secondly, the courts should have greater flexibility when imposing sentence on persons convicted of drug abuse. Except in the case of the professional criminal whose

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1. U.S. Congress, House, Select Committee on Crime, Hearings, Crime in America - Views on Marihuana, 91st Cong., 1st Sess., 1969, pp. 14 and 51.

> traffic in drugs poses a real threat to society, minimum mandatory sentences for drug abuse are inappropriate.
>
> Laws that threaten the user of marihuana, even when convicted of a first offense, with lengthy prison terms are unjustified, unnecessary, and very probably unenforceable. They have the effect of making a large part of our population criminals by definition. They deny to the courts the opportunity to fix sentences consistent with the dual requirement of protecting society and rehabilitating the offender. And they impose on the marihuana user a degree of punishment that can be more damaging to him and to society than in his use of the drug.[1]

Another witness at these hearings, Dr. Robert Baird, director of the Haven Clinic of New York City, criticized Doctors Yolles, Egeberg, and Cohen for their lack of practical knowledge about marijuana, and their attitudes about lowering penalties.[2] He said that:

> anyone who smokes marihuana, whether it be a doctor, lawyer, nun, priest, who has to use grass already has a mental problem ... I do not care what euphemism you want to employ, they are mentally ill.[3]

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1. Ibid., p. 7.
2. Ibid., p. 77.
3. Ibid., p. 79.

And he listed 18 ill effects of marijuana use that he considered to be dangerous, among them: a sole desire by users for euphoria; a lack of overt manifestations; a distortion of time; a change in depth perception; a decrease in motivation; uncontrollable laughter; an inability to concentrate; a lack of muscle coordination, and a decrease of inhibitions.[1] While this committee did not prepare any legislation on marijuana, some of its findings were used by its chairman, Rep. Claude Pepper (D. Florida 11), in his testimony before the Ways and Means Committee on 21 July 1970 (see pp. 231 to 233, below.)[2]

Jurisdictional Dispute

The inherent tensions of government by "checks and balance" can affect not only the political activities between the Executive, Legislative, and Judicial branches of the American Federal system, but also events within each branch as well. This tension

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1. Ibid., pp. 91-3.

2. U.S. Congress, House, Committee on Ways and Means, Hearings, Controlled Dangerous Substances, Narcotics and Drug Control Laws, 91st Cong., 2nd Sess., p.316 ff.

proved to be particularly strong within the Legislative branch during the passage of the 1970 drug-control law. And it was expressed in a way that may, at first, seem trivial, but which is in fact a foundation of both activity and power within Congress: the delineation of committee jurisdiction.

There was a question of jurisdiction in the Senate when the administration's drug-control Bill was first introduced. But this was resolved without undue complication mainly because the original intention of the Bill was then clearly accepted by the Senate leadership to be law-enforcement. And, although a few Senators had tried to amend the Bill to include the broader interests of research, reabilitation, and education, the Bill that passed the Senate on 28 January (S. 3246) was still, essentially, an enforcement measure. That situation changed dramatically when the Senate-passed Bill was sent to the House of Representatives. For it was there that the jurisdictional question began to pose serious tactical problems for the Nixon Administration. Indeed, if the administration had won a battle in the Senate, when its Bill reached the House it faced the serious possibility of losing the war. So seriously was the

question of jurisdiction taken, that when S. 3246 was referred to the House, the Parliamentarian, acting on behalf of the Speaker, took the unusual step of holding the Bill rather than referring it to any one committee.

This question of jurisdiction had been anticipated in the House as soon as the administration's original Bill (S. 2637) had been introduced. The next day, 17 July 1969, a lawyer on the staff of the House Interstate and Foreign Commerce Committee wrote a memorandum to the committee's Chairman, Rep. Harley Staggers (D. West Virginia 2), which said, in part, that the administration's Bill

> involves a jurisdictional conflict between the Ways and Means Committee and this Committee which, to my mind, is virtually impossible to resolve. The bill provides a very comprehensive and integrated scheme for regulating all these substances, and I do not see any way that it can be divided.[1]

In this memorandum, Chairman Staggers was advised that while Chairman Mills had said informally that he would be glad to lose jurisdiction because other work in his

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1. Memorandum from James Menger, Jr., Professional Staff Member, to Chairman Staggers, 17 July 1969.

committee (e.g. tax and trade Bills) would prevent him from considering drug control for some time, at least two other committee members, Rep. Hale Boggs (D. Louisiana 2),[1] and Rep. John Byrnes (R. Wisconsin 8) "would be extremely unhappy over losing jurisdiction over these substances" (narcotics and marijuana).[2]

On 16 July 1969 Chairman Staggers wrote to Chairman Mills requesting that the administration's Bill be referred to the Interstate and Foreign Commerce Committee. He sent a copy of that letter to House Speaker John McCormack, the ultimate arbiter of such disputes. But the Speaker saw even more jurisdictional problems than did the two chairmen, because he wrote to Mr. Staggers on 21 July that:

> the proposed legislation contained eight titles dealing with myriad subjects, some of which, under Rule XI [Powers and Duties of Committees], fell within the jurisdiction of the Committees on Ways and Means, Interstate and Foreign Commerce, Judiciary, Banking and Currency, Post Office and Civil Service, and Government Operations.[3]

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1. Mr. Boggs had been chairman of a Ways and Means Committee's subcommittee that had dealt with the last major drug-control bill, passed in 1956.

2. Menger, op.cit.

3. Letter from Speaker McCormack to Chairman Staggers, 21 July 1969, par. 2.

The Speaker added that:

> if, after consultation with the Chairman of the Committee on Ways and Means, an agreement can be reached whereby the Executive Communication can be re-referred to the Committee on Interstate and Foreign Commerce, I would interpose no objection.[1]

This was what eventually happened. But only after one year of uncertainty, during which both committees were obliged to proceed as if they alone would have ultimate jurisdiction. And the way in which this seemingly petty dispute was resolved was to have a decisive influence on how the Nixon Administration's drug-control proposal was to be considered and passed in the House of Representatives. For it meant that both committees held public hearings on various aspects of drug control, forcing the administration, and the general public, into a much more extensive consideration of many issues, such as marijuana control, than would have normally occurred.

To overcome the initial question of jurisdiction in the House, the administration divided its Bill in two - following precedents set with the passage of 1965 and 1966 acts. H.R. 13472, the "Controlled Narcotic Drug Act of 1969", was introduced

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1. Ibid.

on 11 September 1969 by Representatives Mills and Byrnes and referred to the Committee on Ways and Means. This bill covered only those drugs regulated by the taxing power, namely narcotics and marijuana. H.R. 13473, the "Controlled Depressant and Stimulant Drugs Act of 1969", was introduced the same day by Representatives Staggers and Springer, the chairman and ranking minority member of the Interstate and Foreign Commerce Committee, and referred to their committee. This Bill covered only the drugs that since 1965 had been subject to their committee's jurisdiction, namely stimulants, depressants, and hallucinogens (except marijuana).

Subcommittee Hearings

Six days after S. 3246 passed the Senate, the Administration's drug-control proposal was being considered in the House. The Interstate and Foreign Commerce Committee's Subcommittee on Public Health and Welfare began public hearings on H.R. 13743, and a number of related bills. These hearings were held on 3, 4, 17, 18, 19, 20, 25, 26, and 27 February, and

2 and 3 March. Although the subject of marijuana was not specifically under consideration, the drug's control unavoidably became an issue that neither the subcommittee's members, nor most of the public witnesses, could easily ignore. This happened for two reasons:

(1) marijuana, at that time, was a topic that no discussion of drugs could avoid, simply because of the overwhelming proportions of its use, and;

(2) a few Representatives had introduced bills that would have made marijuana subject to the Food and Drug Act, a statute that fell within the Public Health and Welfare Subcommittee's jurisdiction.

During those hearings more than 60 witnesses testified about the various drug-control measures; more than half of them discussed marijuana specifically. The public record, including testimony, questioning, statements, letters, articles, and exhibits, ran to 857 pages when bound and printed.

While the bulk of testimony before the Sub-

committee on Public Health and Welfare [1] covered a broad range of drugs, innumerable comments and suggestions were made about marijuana. The hearings opened on 3 February with the appearance of Rep. Charles H. Wilson, who estimated that there were 5 to 10 million marijuana smokers then using the drug in the United States. He mentioned this statistic while urging the subcommittee's members to consider his own "Comprehensive Narcotic Addiction and Drug Abuse: Care and Control Act" (H.R. 13136), a proposal that contained provisions for controlling marijuana under the Food, Drug, and Cosmetic Act.[2] Another House Member, Rep. Frank Thompson, Jr. (D. New Jersey 4) cited NIMH statistics pertaining to a sample of West-Coast college students, taken during the 1966-7 academic year, about marijuana.

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1. In addition to Chairman John Jarman (D. Oklahoma 5), the members of the subcommittee included Paul Rogers, (D. Florida 9), David Satterfield III (D. Virginia 3), Peter Kyros (D. Maine 1), Ancher Nelsen (R. Minnesota 2), Tim Lee Carter (R. Kentucky 5), Joe Skubitz (R. Kansas 5), and James Hastings (R. New York 38).

2. U.S. Congress, House, Committee on Interstate and Foreign Commerce (Subcommittee on Public Health and Welfare), Hearings, Drug Abuse Control Amendments - 1970 Parts 1 and 2, 91st Cong., 2nd Sess., Serial No. 91-45 and 91-46, p. 68.

> In 1968, up to 57 per cent had tried it, compared with 21 per cent the previous year. Of these, more than half intended to continue using it (53 per cent).
>
> In 1968, 14 per cent used it somewhat regularly compared with 4 per cent the previous year.
>
> A predicted 70 per cent will have tried it by spring 1969.
>
> Approximately 8 per cent began use in high school.[1]

The Administration's View

Attorney General John Mitchell testified that he favoured the idea of establishing a marijuana study committee, as created in S. 3246. He explained his attitude about penalties for drug abuse by saying that:

> while possession offenses are not the major thrust of the Federal law enforcement efforts, the penalties must have enough "teeth" in them to have a meaningful deterrent effect on those inclined toward illegal use of drugs. The greatest enforcement problem with the existing penalty structure is that it is too severe in relation to the culpability of the user and the dangers of the drugs.
>
> . . . . . .
>
> ... Any proposed legislation which does not place together the narcotic,

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1. Ibid., p. 74.

> marihuana, and other dangerous drugs under one regulatory and penal scheme will not enable law enforcement to maximize its efficiency in this area and to handle the drug problem in the best possible way.[1]

John Ingersoll, BNDD Director, offered the same three alternate penalty schemes that he had presented the previous September to the Dodd subcommittee (see p. above).[2] He also mentioned that the White House was then working to coordinate drug-abuse prevention programmes with the newly-created Wilkinson committee[3] and listed 22 research projects then being financed by BNDD during fiscal years 1969 and 1970.[4]

On 4 February, Dr. Roger Egeberg of HEW recommended lower penalties for marijuana use, and the removal of minimum mandatory sentences except for

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1. Ibid., pp. 81-82.

2. Ibid., pp. 90-1.

3. Ibid., p. 94. The White House Interdepartmental Committee on Drug Use and Abuse, whose chairman was Charles D. Wilkinson, Special Consultant to the President. Organizations represented on this committee included: BNDD, NIMH, Office of Economic Opportunity, Office of Science and Technology, Office of Education, National Research Council, Food and Drug Administration, Department of Defense, Bureau of Prisons, Social and Rehabilitation Service, and the Law Enforcement Assistance Administration.

4. In the U.S. government, fiscal years run from 1 July to 30 June, and take the date of the year in which they end.

activities by professional criminals.[1] Doctor Yolles appeared before the subcommittee on the same day, this time in his official capacity as Director of NIMH, and revealed a fundamental change in the Administration's approach to drug control. He said that:

> as recently as last summer, proposals introduced in the Congress to control drug abuse varied widely, in respect to penalties and other control procedures, and their proponents expressed fundamentally opposing views. In recent months, however, attitudes have become less polarized as the facts about drug abuse have become more widely known. These changes in attitude were clearly expressed by President Nixon at a recent Governor's conference when he stated that, although he had once assumed that increasing penalties would solve the drug abuse problem among our youth, he now believes that it is through education and understanding that a solution will be found.[2]

Doctor Yolles said that he

> would like to reiterate and emphasize [his] support of the provisions in the Senate passed S. 3246, to reduce penalties for drug abuse and to abolish mandatory minimum sentences. The administration proposal under consideration today [H.R. 13743] has significantly modified since its introduction in this regard.

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1. Hearings, Drug Abuse Control Amendments - 1970, op.cit., p. 173.

2. Ibid., pp. 174-5.

> . . . . . .
>
> ... I think there is now general agreement that marihuana is not a narcotic but is a comparatively mild hallucinogenic drug.
>
> The Senate passed bill recognizes this distinction by classifying marihuana for penalty purposes with drugs such as the amphetamines.[1]

Doctor Yolles then restated his views about treating marijuana differently from the "harder" drugs and narcotics, and presented for the subcommittee's record his "chart of fact and fable on marihuana".[2] He also restated his estimate that between 12 and 20 million people have tried marijuana in the United States, and then observed that "the marihuana debate continues but the differences between facts about marihuana and the fables surrounding its use are now much more widely recognized than was the case even 6 months ago."[3]

During the 4 February hearing, Doctor Egeberg, was asked by Chairman Jarman about the administration's position on penalties. He explained that they favoured those passed in S. 3246. This reply, however, was not enough for at least one member of the subcommittee, who

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1. Ibid., p. 175.
2. Ibid., pp. 179-80.
3. Ibid., p. 181.

had in mind passing a bill that was more than just a law-enforcement measure - as Senator Hughes had tried to do through amendments on the Senate Floor. As he explained his attitude, Rep. Paul Rogers said:

> Now, Dr. Yolles came out and put his neck on the line from the scientific community and said, now, this is what the scientific knowledge is and we think the Congress ought to act on that. And this is what concerns me about the thrust of the Senate bill, that we are getting away in the determination of what drugs are subject to abuse, what the scientific knowledge is, instead of using the bureau that has the expertise [NIMH], and all the personnel and the background and the research capability, we are now shifting it over to an enforcement agency.[1]

In reply to questions by Rep. James Hastings about the validity of the escalation theory, Doctor Yolles explained that:

> we have never been able to demonstrate a causal relationship between prior marihuana use and hard narcotic addiction afterwards. This has been looked at in every country of the world, so far.
>
> We do know that of the 4 percent of marihuana users who do go on [to heroin use], that they are users of many other drugs. They are the

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1. Ibid., p. 183.

> chronic "potheads". They are the ones that use LSD as well as go on to use hard narcotics.
>
> The fact that 90 percent of hard narcotic users have used marihuana previously does not imply a causal relationship and this is the significant fact. If we felt that there was a causal relationship, we would be very concerned about this. But no one including the World Health Organization, has ever been able to demonstrate such, and they have stated this publicly.[1]

Then, for emphasis, Doctor Yolles added that "the penalties for marihuana use, possession, et cetera, over the years were set without any fundamental basis in scientific fact."[2]

Almost predictably, any discussion of marijuana comes around to the etymology of the word "assassin" and its implications in the criminogenic qualities of hashish.[3] In this case the topic was raised by Rep. Tim Lee Carter, a doctor of medicine on the Jarman subcommittee. As the colloquy developed, Doctor Carter began his questioning by asking

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1. Ibid., p. 187. For a different interpretation of these statistics, see the statement by Rep. Claude Pepper on p. 231.

2. Ibid., p. 187-8.

3. See pp. 21 to 23 in Chapter I for details of this etymology.

Mr. Carter. ... There has been quite a bit of discussion of marihuana this morning. About how long have we known of this drug, Doctor?

Dr. Yolles. Dr. Carter, marihuana as a substance, Cannabis - I suppose it was first mentioned about 2800 B.C. in a Chinese pharmacopeia so we have knowledge of it that goes way, way back.

Mr. Carter. Used through the Middle East and India.

Dr. Yolles. Yes, sir.

Mr. Carter. What was the name of it - what was it called in that area?

Dr. Yolles. It varies. Various terms have been used for it. I suppose the more popular one and one with which misconceptions and wrong assertions have been applied is hashish.

Mr. Carter. What is the meaning of the word hashish?

Dr. Yolles. No one really knows, Dr. Carter.

Mr. Carter. I believe that we do. I correct you there.

Dr. Egeberg. Assassin?

Mr. Carter. Assassin, that is right. I wonder how it got that name, Assassin.

Dr. Yolles. There are various stories, as you know.

Mr. Carter. Well, not too many. All of them, most of them state that a person partook of Cannabis Indica, smoked it and then assassinated people.

Dr. Egeberg. Oh, no; I think it was the reverse. I think he went out and assassinated and his reward was the heaven he had under hashish.

Mr. Carter. That, I disagree with. That is not the way I heard the story.

Dr. Yolles. Gentlemen, this is at least two versions of the story.

[Laughter][1]

Other Views

On 17 February Dr. James Goddard, former Director of the Food and Drug Administration [2] and then spokesman for the American Public Health Association, said that he favoured the "Comprehensive Drug Abuse Control Act of 1969" (H.R. 11701)over the Senate-passed Bill (S. 3246). But when questioned by Rep. James Hastings about the marijuana-control provisions of the Senate-passed Bill, Doctor Goddard conceded that "it's an improvement. Lord knows we need an improvement. I would say we have persecuted far too many people for simple possession. The bill does represent an improvement in handling simple possession with lesser penalties." He then warned that there should be no relaxation in penalties for the distribution of marijuana, and reminded

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1. Hearings, Drug Abuse Control Amendments - 1970, op.cit., p. 192.

2. See pp. 66 to 67 above.

the subcommittee that until NIMH concludes its current research "it would be a grave error to in effect carry out what would be a backdoor legalizing of marihuana."[1] Another speaker that day, Neil Chayet, a lecturer in legal medicine at the Boston University School of Law, the Boston University School of Medicine, and Tufts University, said that government-sponsored research on marijuana was not enough, because state laws restricted the control of the drug to such an extent that it was often impossible even to conduct the limited amount of research that the Federal government allowed.[2]

At the 18 February hearings, the Director of the Washington office of the American Civil Liberties Union (ACLU), Lawrence Speiser, testified that his organization:

> believes that criminal sanctions against the use and possession of marijuana represent excessive and unconstitutional interventions into personal and private rights ... [and views as] positive steps ... [any bill] which transfers marijuana out of the narcotic drug category into another category of

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1. Hearings, Drug Abuse Control Amendments - 1970, op.cit., pp. 256 and 263.

2. Ibid., p. 275.

"depressant and stimulant drugs" under Foods, Drugs, and Cosmetic Act.[1]

Dismayed at this position, Dr. Tim Lee Carter used the time for questions to share some of his etymological convictions with Mr. Speiser

> Mr. Carter. Do you know the history of marihuana?
>
> Mr. Speiser. I know some of the history of marihuana.
>
> Mr. Carter. How long have we known of it?
>
> Mr. Speiser. Pardon?
>
> Mr. Carter. How long have we known of marihuana?
>
> Mr. Speiser. I think it goes back to prehistoric days. It is a fairly old phenomenon.
>
> Mr. Carter. Not prehistoric.
>
> Mr. Speiser. Not prehistoric, but many, many years, back to older historic days.
>
> Mr. Carter. What was it called in India, when it was used?
>
> Mr. Speiser. Hashish? Is that what you are referring to?
>
> Mr. Carter. What is the meaning of "hashish"?
>
> Mr. Speiser. I am not certain.
>
> Mr. Carter. Assassin. Thank you, Mr. Chairman.[2]

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1. Ibid., p. 299. This viewpoint was based on the 14 December 1968 resolution on marijuana by the National Board of Directors of the ACLU, a document that was printed in the hearing record on p. 301.
2. Ibid., p. 310.

Dr. Jonathan Cole, Superintendent of the Boston State Hospital and Chairman of the Committee for Effective Drug Abuse Legislation, made the point that marijuana was difficult to obtain for research purposes because of the existing laws. He stated that:

> ...the Harrison Narcotic Act made it rather difficult for a scientist to get access to marihuana or hashish for research. It required a special stamp; many doctors were somewhat afraid of the Bureau of Narcotics; research on marihuana languished badly over the last 20 years ... Only when it became an obvious national scandal have investigators begun to try to get tax stamps, and to begin to do research. For this reason, research in marihuana really is only about 3 years old in this country at this time.[1]

On 19 February Rep. John Hunt (R. New Jersey 1) appeared before the Jarman subcommittee to deliver an attack against marijuana and its users. He said that marijuana use led to heroin addiction, then added

> I am unalterably opposed to the legalization of marihuana and I am sick to death of hearing sobsisters tell me and tell other people and read through the news media of individuals who have failed in their responsibility of enforcement or who have advocated this for their own pleasure or to learn

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1. Ibid., p. 311.

> that weak-kneed administration in certain institutions of learning have brought in people who testify with their beards and their tattered garments as they sit there smiling on a stage telling students that they themselves, they testify before them, are the users of drugs and this sharpens their mental facilities.[1]

He also said he was convinced that marijuana use led to criminal behaviour, and urged that:

> we just must begin to toughen our attitude on professional pushers and we must begin to realize that we can't legalize marihuana by simply saying it is no worse than alcohol; it is no worse than cigarettes; because neither statement is true.[2]

On 20 February Dr. William Apple, Executive Director of the American Pharmaceutical Association, submitted with his testimony on the drug bills an article for the record entitled "Pharmacognosy and Chemistry of Cannabis Sativa" by Norman Farnsworth, a professor and Chairman of the Department of Pharmacognosy [3] at the University of Pittsburgh. This

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1. Ibid., p. 330.

2. Ibid., p. 332.

3. Pharmacognosy is a branch of pharmacology that deals with crude, natural drugs.

article, which had first appeared in the August 1969 issue of the Journal of the American Pharmaceutical Association, presented a detailed, factual description of the physical properties of the plant.[1]

A reference to current medical research on marijuana use was made on 25 February by Dr. Paul Lowinger, speaking for the Council for Health Organizations, when he called the subcommittee's attention to two published works on marijuana: "Clinical and Psychological Effects of Marijuana in Man" by A. Weil, N. Zinberg, and J. Nelsen (Science 162: 1234-42, 1968) and "The Effects of Marijuana on Auditory and Visual Sensations: a Preliminary Report" by S. Myers and D. Caldwell (The New Physician 18: 212-7, 1969). He mentioned that "we would know an awfully lot more about these drugs if researchers had not been frightened of using them because of concern about their legal positions," and he urged that Congress be sure the new drug law it passes makes it easier for researchers to procure and study marijuana.[2] When Rep. Peter Kyros

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1. Hearings, Drug Abuse Control Amendments - 1970, op.cit., pp. 367-72.

2. Ibid., pp. 527-8.

asked Doctor Lowinger "... is marijuana a harmful drug for people to use?", he replied:

> I have read nearly all of the relevant and useful literature on this subject and I have been on record in my publications and in the public media as feeling marihuana is a relatively safe drug with the low tetrahydrocannabinol (THC) content of American street marihuana.
>
> I recognize that hashish and some of the more concentrated forms in other countries have a higher THC content and present a greater hazard.
>
> But I regard American street marihuana as a relatively safe substance.[1]

On 27 February Dr. Dana Farnsworth, Director of University Health Service at Harvard appeared before the Jarman subcommittee to urge that heroin and marijuana be placed in separate classifications and penalty categories in the new Bill because of the differences in their harmfulness.[2] He estimated that "the marihuana that we have in this country is approximately one-fifth to one-eighth the strength of that found in some other countries particularly the tropical ones", and said that he opposed legalization of marijuana "because it would make more and

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1. Ibid., p. 528.

2. Ibid., p. 550.

more of the stronger products available in the country".[1] Doctor Farnsworth added that: "recently experimental evidence has begun to become more convincing that marihauana is harmful", and cited two examples:

> A recent survey of the literature includes reports of an experiment showing that when marihuana is given to dogs, they become unsteady, swaying from side to side and standing with their feet spread as if intoxicated.
>
> . . . . . .
>
> ... When marihuana is used at the same time as barbiturates, it will increase the hypnotic or sedative effect of the barbiturates; it will also increase the stimulant effect of amphetamines.[2]

He told the committee that:

> it seems to me that anyone who says that there is no evidence that marihuana is harmful simply either has not read the rather meager record which we already have, or he has read it with a determination not to believe what he hears.[3]

And, he went on to explain the rationale behind the

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1. Ibid., p. 553.
2. Ibid.
3. Ibid.

AMA's current view of marijuana

> I am strongly opposed to legalization of marihuana, and my viewpoint is exactly that of the American Medical Association. I was chairman of the committee that helped put together the statement that we released about marihuana and society in June of 1968, in which we said that although it is not as harmful as some of the other hallucinogenic drugs, legalization would then make compounds stronger than our present relatively weak preparations available. This would lead to abuse which would be as serious, perhaps, as the abuse of some of the other move [mood?] drugs.[1]

Finally, Doctor Farnsworth said that he was disturbed by what he called the "amotivational syndrome" of marijuana use - its effect of decreasing anxiety about personal problems and a resulting failure to come to terms with them.[2]

Drug classification, as organized in H.R. 13743, also came under strong criticism from Dr. Charles Schuster, associate professor of psychiatry and pharmacology at the University of Chicago and Director of Basic Research in the State of Illinois Narcotic and Drug Abuse Program. He described

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1. Ibid., pp. 553-4.

2. Ibid., p. 554.

his participation in the 8-10 September 1969 FDA-BNDD conference for scientists and physicians,[1] and reported the group's unanimous opposition to the administration's Bill.

> The placing of marihuana and other psychadelics in class 1 was judged to be unrealistic since the amphetamines were considered to be much more insideously dangerous drugs and were placed in class III

he recounted.[2] And, he added his own reservations about scientific considerations of marijuana.

> The problem that I face as a scientist is quite real when I am called upon to make a judgment concerning the dangers of marihuana. There are so many variables that can affect the drug's action - the dosage, the setting in which it is taken, the individual's expectations and their own emotions.[3]

Another witness that day, Dr. Donald Klein, Director of Research at Hillside Hospital in Glen Oaks, New York, told the subcommittee that he opposed the part of the administration's Bill that established a study of marijuana because the powers for selecting

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1. See p. 171 above.

2. Hearings, Drug Abuse Control Amendments - 1970, op.cit., Part 2, p. 569.

3. Ibid., p. 571.

its members were given to the Attorney General rather than to the Secretary of HEW.[1] And, Rep. Claude Pepper raised the spectre of the escalation theory when he appeared before the Jarman subcommittee. In his testimony the Congressman said that the escalation theory had some validity, not because marijuana use produced a physical need for heroin, but because it created in its users a disposition to try other drugs.[2]

On 3 March the Jarman subcommittee held its last day of public hearings. Appearing to re-state the Nixon Administration's position were John Ingersoll and the BNDD's Deputy Chief Counsel John Sonnenreich. Mr. Ingersoll told the subcommittee that:

> from President Nixon's July 14 message to today, the administration has felt that this legislative measure is essential to giving law enforcement the necessary legal tools and regulatory efficiencies it needs for effective implementation of its mission, which is to curtail and eliminate illicit drug traffic, halt diversion of legitimately produced drugs and bring under control drugs subject to abuse and misuse. S. 3246 is a law enforcement measure and as such requires immediate action by the Congress for the added protection of our society.[3]

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1. Ibid., p. 576.

2. Ibid., p. 649.

3. Ibid., p. 675.

Members of the subcommittee evinced a strong concern about what the relationship between law enforcement and the health aspects of a national drug-control programme should be, and tried to elicit from the two witnesses a clearer understanding of what would happen to health and research programmes if S. 3246 were passed.[1] In support of the Bill, and in an effort to assuage their doubts, Mr. Ingersoll produced a letter to Chairman Jarman from HEW Secretary Robert Finch, dated that day, which read, in part

> Contrary to the impression that I fear has been left by some non-government witnesses before your subcommittee, this is not a Justice Department bill which HEW privately opposes. It is an Administration bill which HEW helped draft. We believe that it makes appropriate distinctions between law enforcement and scientific functions, and we are satisfied that its provisions give due weight and appropriate safeguards to scientific and medical considerations.[2]

He also explained that the proposed law would move marijuana control from the taxing powers to the interstate-commerce powers, which "will make it much easier to administer". And, he stated that the present laws

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1. Ibid., pp. 679-704.

2. Ibid., p. 705.

affecting marijuana could be applied in all cases except simple possession,[1] adding that BNDD's principal targets were now traffickers and not possessors.[2]

As is usual procedure with Congressional hearings, several interested parties who could not appear in person submitted written statements to the subcommittee to explain their views. A letter from Sen. Thomas Dodd praised the work of NIMH in long-range marijuana research, but stressed that:

> we still need a marihuana study committee for different reasons. We need an authoritative short range report from a group of experts. We need it so that the public can be fully informed about all aspects of the marihuana situation.[3]

Another statement was included in the record from Price Daniel, a former U.S. Senator and Governor of Texas, who had served as chairman of the Senate Judiciary Subcommittee on Improvement of the Federal Criminal Code in 1955. This was the body that had conducted national drug hearings, and prepared the Bill that became the Narcotics Control Act of 1956. In his

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1. Ibid., p. 721.
2. Ibid., p. 724.
3. Ibid., p. 729.

letter, Mr. Daniel said that:

> I am quite familiar with the criticism which has been leveled at the heavy penalties, especially the mandatory minimums, which were enacted in 1956, and I agree that some changes must be made in order to prevent penalties intended for professional smugglers and traffickers from being applicable to thousands of young people who are experimenting with these drugs, especially marijuana.[1]

He explained that the 1956 law was written primarily with heroin importers in mind, and acknowledged that the law's application to marijuana in recent years had been unfortunate. He pointed out that by late 1967 the Commissioner of the Federal Bureau of Narcotics had said that "the Bureau of Narcotics endeavors to apply the Act against traffickers only ..."[2] Then he went on to write that in order to correct this situation (of high, inequitable penalties) the new law should make a clear distinction between offences involving such addictive drugs as heroin and those involving such habit forming hallucinogens as marijuana.[3]

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1. Ibid., p. 731.

2. Ibid., p. 732. Statement before Congress by Commissioner Henry Giordano, 15 November 1967. See also p. 67, above.

3. Ibid.

In defence of the 1956 law, Mr. Daniel pointed out that marijuana use was insignificant at the time the Bill was drafted and passed, whereas it had become a popular, wide-spread activity in recent years.

> ... the problem did not begin arising until six years after those [1956] laws were enacted. During that period marijuana was largely confined to slum areas of our larger cities, and LSD was being used only for investigative purposes by duly authorized researchers. Prior to 1962, neither had caused any serious interest or problem on college campuses. Most of them were about as drug free as any place in the Nation. These conditions changed only after Dr. Timothy Leary and another Harvard professor, Dr. Richard Alpert, introduced and began administering marijuana and LSD to students at Harvard in 1961 and 1962, and then became crusaders for its use on practically every major college campus in the United States.[1]

Mr. Daniel also included some "facts about [marijuana's] potential dangers that are already known and which should be given the same exposure that the news media have given Dr. Timothy Leary."

> 1. The World Health Organization in 1965 listed as some of its physiological and psychological effects ... "impairment of judgment and memory ... illusions and delusions that predispose to antisocial behavior; anxiety and aggressiveness as

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1. Ibid., pp. 734-5.

a result of the various intellectual and sensory derangements."

2. Marijuana is now the subject of world-wide prohibition under the Single Convention Treaty on Narcotic Drugs, which binds all signatory nations, including the United States, to prevent its sale and possession.

3. A recent Presidential Task Force of which the Director of the National Institute of Mental Health, Dr. Stanley F. Yolles, was a member, concluded on June 6, 1969 that "the widespread use of marihuana represents a significant mental health problem; there is no known beneficial result from the use of marihuana; there are on the other hand, definite detrimental effects." It states that "85 to 90 percent of heroin addicts reported that they started their use of drugs with marihuana", and that "in relatively high doses psychotic-like phenomena, quite similar to those associated with LSD use, have been reported. Recurrences of the marihuana state (flashbacks) without actually taking the drug again have been reported."

4. Dr. Yolles testified before a Senate Judiciary Subcommittee on September 17, 1969 that marijuana does not cause physical addiction, but "It can produce habituation, which is psychological dependence." He also testified that of the 800,000 to 1 million chronic users, he estimates that 5%, or 40,000 to 50,000 will go on to heroin, and that this is a grave problem.

5. The American Journal of Psychiatry, September 1968, reports that a group of some 1500 psychiatrists, psychiatric residents, internists, etc. in the Los Angeles area said they had seen almost 1900 "adverse reactions" to marijuana.[1]

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1. Ibid., p. 736.

A statement by Leo Hollister, M.D., Associate Chief of Staff of the Veterans' Administration Hospital in Palo Alto, California, criticized both the schedules in which the Bill placed drugs and the penalties that it assigned for their use. He wrote that:

> I have been unable to find any scientific colleague who agrees that the scheduling of drugs in the proposed legislation [H.R. 13743] makes any sense, nor have I been able to find anyone who was consulted about the proposed schedules. This unfortunate scheduling, which groups together such diverse drugs as heroin, LSD, and marihuana, perpetuates a fallacy long apparent to our youth.
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> . . . . . .
>
> The history of 55 years of criminal law for control of drugs of abuse in the United States has been one of unmitigated failure. One law has been repealed; one has been declared unconstitutional; and both have been the most widely disobeyed laws ever passed. If we are not to repeat the mistakes of the past, we should take a critical look at the present legislation, lest it be discredited at its inception.[1]

A statement by members of the Scientific Review Committee of the Center for the Studies of

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1. Ibid., pp. 747-8. See p.233, below, for his proposed changes in the law.

Narcotics and Drug Abuse [1] was also included in the hearing record. With respect to drug classification and the marijuana study committee, it said that:

> the criteria used in the Bill lead to the absurd result of the classification of marijuana in the same schedule as heroin, with amphetamine, among the most dangerous of all abused substances, being placed much further down, in Schedule III.
>
> . . . . . .
>
> We note that Title VIII of the Bill provides for the establishment of a committee on marijuana under the joint sponsorship of the Attorney General and the Secretary of Health, Education and Welfare. We suggest that this committee be under the exclusive jurisdiction of the Department of Health, Education and Welfare in that this is the appropriate governmental organ to provide the most impartial and unbiased study of a substance which has historically evoked great partiality, bias, and irrational comment. [2]

In their statement the doctors praised the approach taken in the Bill to reduce penalties, and urged caution and diligence on the part of the legislators in drawing up the Bill.[3]

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1. Signed by Henry Brill, M.D.; Jerome Jaffe, M.D.; Helen Nowlis, Ph.D.; John Overall, Ph.D.; Neil Chayet; William McGlothlin, Ph.D.; John O'Donnell, Ph.D.; and Bernard Glueck, Jr., M.D.

2. Hearings, Drug Abuse Control Amendments - 1970, op.cit., Part 2, pp. 812-3.

3. Ibid.

Dr. Tod Mikuriya sent to the Jarman subcommittee copies of two articles that he had prepared on marijuana, with the note that "I obviously feel that cannabis should definitely not be described as having no medical usefulness as it appears in the bill." His articles were: "Historical Aspects of Cannabis Sativa in Western Medicine", and "Cannabis Substitution as an Adjunctive Therapeutic Tool in the Treatment of Alcoholism."[1]

A study by Dr. Samuel Irwin, professor of pharmacology in the Department of Psychiatry at the University of Oregon Medical School was printed in the final pages of the hearings. Entitled "Drugs of Abuse: Their Actions and Relative Hazard Potential", it included tables of "intrinsic hazard potential to the individual and to society", based on criteria included in his paper.[2] On a numerical scale of 0 to 5 he reported that marijuana posed a potential hazard to the individual of 2 for psychological dependdnce, 0 for physical dependence, 0 for tolerance

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1. Ibid., pp. 814-25.

2. Ibid., pp. 836-47.

development, 2 for psychotic reaction, 0 for tissue damage, and 0 for acute death. Applying another numerical scale to the drug's intrinsic hazard potential to society, he reported that marijuana was a 20 percent threat to society (alcohol was 100 percent, methamphetamine 90 percent, glue sniffing 10 percent) and a 16 percent threat to law enforcement (according to a survey of law-enforcement personnel). These tables presented the only comprehensive attempt at a comparison of all drugs of abuse in the record of the Bill's passage.[1]

Executive Sessions

After the conclusion of its public hearings, the Jarman subcommittee put aside the subject of drug-control to attend to other pending legislation. On 5 March it met to consider the Waste Reclamation and Recycling Act, on 9 March transportation and retirement benefits for Public Health Service employees, on 13 March communicable disease control, from 16 to 20 March the Reclamation and Recycling Act and Clean

1. Ibid., p. 847.

Air Act, on 9 April communicable disease control, on 14 April the Clean Air Act, on 15 April Air Pollution, and on 16, 21, 22, and 28 April the Clear Air Act. In addition, between 10 March and 30 April subcommittee members were expected to attend meetings of the full Interstate and Foreign Commerce Committee on such topics as the Railroad Adjustment Board, Railroad Retirement, Public Health Officers' Retirement, Transportation of HEW Employees, gold and silver stamping, Pay Television, a national railway strike, and a Clean Air Act.

The Jarman subcommittee and its staff resumed its drug-control work on 5 May when it collated the material it had gathered, and then set about the difficult task of reconciling the diverse viewpoints it had heard with those of the Senate and the Administration. This led to a protracted round of behind-the-scenes meetings between committee members and staff, lawyers from the Justice Department, and liaison workers from the White House, to resolve the several differences that had emerged. But after almost a month of these negotiations some fundamental conflicts still remained.

Committee Conflicts

On 6 May the Ways and Means Committee was once again drawn into the scene, as Chairman Mills introduced H.R. 17463 to be referred to his committee. This Bill was essentially the Senate-passed S. 3246, and contained provisions for controlling all drugs - including those then under the jurisdiction of the Jarman subcommittee. However, the Ways and Means Committee was then involved in lengthy hearings on tax and trade legislation, and did not find time to consider the Chairman's Bill for more than two months.

The Jarman subcommittee continued its efforts to strike a compromise with the Justice Department, but decided that this could be undermined if the Bill that Mr. Mills had introduced could be used by the Nixon Administration to play one committee off against the other. Thus, on 12 May, Representatives Staggers and Springer wrote to Chairman Mills explaining their difficulties.

> The [Jarman] subcommittee has been in markup sessions on this bill [H.R. 13743] for over three weeks now, and the Justice Department is opposed to many of the amendments which the subcommittee is likely to adopt. A

question of philosophy is involved here - should we impose rigid controls, as desired by the Justice Department, and risk a substantial dimunition in research, as predicted by every researcher who testified on the subject?

We believe that the public interest requires the approach the subcommittee on Public Health and Welfare is taking. This approach may make the task of the Justice Department a bit more difficult, but in our opinion the public interest is more important than the convenience of the Justice Department.

. . . . . .

No question of, or challenge to, our jurisdiction has arisen until this Congress, when the Justice Department proposed one bill on the subject of drug abuse, to suit its own convenience, and without regard to our respective committees' jurisdictions.

There are only two reasons we can see at the present time for the Justice Department seeking a reversal of this past history, leading to the introduction of legislation under which the Ways and Means Committee would expand its jurisdiction at our expense - (1) they desire to have one bill, rather than two, to suit their administrative convenience, or (2) they disagree with the approach we are likely to take with regard to their authority over the drugs over which we have jurisdiction, and are hopeful your committee will take an approach more in keeping with their desires. We find neither reason persuasive.

We therefore respectfully request that in the future consideration of H.R. 17463, or any other measure dealing with drug abuse, that the

> Committee on Ways and Means delete from any measure reported to the House, all provisions relating to control by the Department of Justice, or any other agency, of barbiturates, amphetamines, tranquilizers, and hallucinogens (other than marijuana).[1]

After completing its hearings on foreign trade, the Ways and Means Committee followed this recommendation by scheduling public hearings on the administration's Bill but restricting its interest to narcotics and marijuana. By this time the Jarman subcommittee was in its final stages of changing several key provisions of the Senate-passed Bill, most notably the granting of greater authority over drug control, with regard to medical and scientific matters, to the Secretary of HEW.[2] The Ways and Means Committee held its drug hearings on 20, 21, 22, 23, and 27 July, but while they were in progress the Interstate and Foreign Commerce Committee applied overt pressure on the Administration with a carefully timed move: Chairman Staggers introduced a clean bill, H.R. 18583, based on the Jarman subcommittee's amendments, on 22 July. While this new Bill pertained only to

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1. Letter from Representatives Staggers and Springer to Chairman Mills, 12 May 1970, pp. 4-5.

2. See Congressional Research Service multilith HV 5801 A, 71-69 ED, pp. 5-6.

those drugs under the committee's jurisdiction, it was clearly of such a scope that it rivalled both the Senate-passed S. 3246 and Chairman Mills' H.R. 17463 as an appropriate instrument for House passage of drug controls. And this, ultimately, is what happened, since it became the Bill that was signed into law.

Committee Hearings

The Ways and Means hearings were far from a mere formality, however, for they provided a forum for the various participants in the legislative process to state publicly what their positions were in negotiations then proceeding in private. Attorney General Mitchell acknowledged that "extensive and extended discussions" were then underway to make H.R. 17463 conform to the views of the Jarman subcommittee when he testified at the opening session. He told the committee that:

> it is very important that both your committee and the Interstate and Foreign Commerce Committee reach agreement with regard to the proposed revisions in the drug laws. Without such agreement, we are

> likely to have divergent acts emerge from the House of Representatives when our purpose is to unify and clarify the laws into a new code. We stand ready to assist this committee in any way we can to facilitate your consideration of this legislation and coordination of the work of your committee and the Interstate and Foreign Commerce Committee.[1]

Mr. Mitchell then described in some detail the inconveniences in applying the existing drug-control laws, reminded the committee that there was then still no Federal authority for limiting simple possession of marijuana, and urged that Congress act swiftly to pass new legislation.[2]

The Administration's New Views

John Ingersoll conceded in his testimony that some "controversial issues" remained to be resolved, among them "who should control a drug under this bill". He told the committee that "it is with this in mind

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1. U.S. Congress, House of Representatives, Committee on Ways and Means, Hearings, Controlled Dangerous Substances, Narcotics and Drug Control Laws, 91st Cong., 2nd Sess., 1970, p. 200.

2. Ibid., pp. 201-6.

that we are working out a solution to this problem and will suggest language later this week that we hope will resolve this controversy for all concerned."[1] Secretary of the Treasury David Kennedy underscored the pleas of Messrs. Mitchell and Ingersoll by reporting that the use and smuggling of marijuana had increased so much in recent years that "seizures are now more conveniently measured in tons [than in pounds] - 9 tons in June 1970 alone, plus 92 kilograms of hashish, which represents the concentration of 600 times that much marihuana."[2]

On 21 July representatives from the Department of HEW appeared before the committee, with Dr. Bertram Brown replacing Dr. Stanley Yolles as head of NIMH. Dr. Egeberg said that:

> we know now that marihuana is not a narcotic, its use does not lead to physiological dependence under ordinary circumstances, and there is no proof that it predisposes an individual to go on to more potent and dangerous drugs. With respect to its short-term effects, marihuana can be described as a rather mild hallucinogenic drug.[3]

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1. Ibid., pp. 206-9.
2. Ibid., p. 259.
3. Ibid., p. 273.

He admitted that "we are painfully aware of great gaps in our knowledge of the risks associated with regular and continuing long-term use of Marihuana", and listed for the committee some of the facts that were then known about the drug: (1) researchers are now aware of the first metabolic change that THC undergoes in the body; (2) they have been able to discover extremely minute traces of THC in body fluids; (3) the drug produces defects in very recent memory; (4) there are no conclusive results on genetic effects of marihuana use, although it is known that THC does cross the placenta; (5) studies in countries where long-term use of marihuana is known are now underway; (6) the numbers of "acute marihuana panic" remain small; and (7) marihuana "indulgence" is on the increase, although the majority of users are "triers" who have smoked less than a dozen times and have no intention of continuing.[1]

Rep. Joel Broyhill (R. Virginia 10), who is noted for his conservative political views, seemed especially open-minded in his approach to the legal control of marijuana. He said to Dr. Egeberg that:

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1. Ibid., pp. 273-4.

> in light of your lack of proof as to the harmful effects of marihuana and your statement that you had not completed your research in this regard, it would be questioned whether the penalty for simple possession ... is still too great.[1]

To this Doctor Cohen replied that "the judge has flexibility. If he imposes a sentence, it can be erased after 1 year."

Doctor Brown mentioned that marijuana smokers do not build up a tolerance to the drug, and reported that "we are just beginning to have the first breakthrough and being able to see traces of marihuana in the bloodstream which 3, 4, 5 years from now may be used in a similar way to testing driving under the influence."[2]

The question of escalation to harder drugs produced a misunderstanding of Chairman Pepper's views on the matter. Rep. Al Ullman (D. Oregon 2) said that "I know Congressman Pepper and the [crime] committee decided that the use of marihuana did lead to hard drugs ...", to which Doctor Cohen replied: "only

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1. Ibid., p. 276.

2. Ibid., p. 288-9.

in the case of the heavy marihuana user ..."[1] When he appeared before the committee later in the day, Chairman Pepper made some attempt to clarify his position

> I understand somebody made the comment here ... that I said that marihuana led to the use of heroin. I did not say that. What I said was that in our study, in our investigation, we have actually found only one or two cases where a heroin addict had not at the beginning of his use of drugs begun to use marihuana.
>
> Marihuana is not a narcotic and it is not addictive in the sense that heroin is, but most of the heroin addicts unmistakably started off using marihuana.[2]

Chairman Pepper also noted that with only two exceptions, Alabama and Colorado, state laws then allowed parole or suspension of sentences for simple possession of marijuana. He urged that this policy be applied in the legislation then before the committee, adding that "in the case of simple possession ... it would appear that the penalty proscribed in both Federal and many state statutes is too severe." He also urged

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1. Ibid., pp. 289-90.

2. Ibid., p. 333.

his colleagues to apply misdemeanour treatment to first-time offenders, and cited Nebraska as having "one of the more enlightened laws" in the country: a maximum jail term of 7 days; segregation of marihuana users from all other prisoners; and requirement to take a drug-abuse education course.[1]

Several researchers appeared before the committee to complain about the difficulty, under the present law, of studying marijuana, and urged that HEW, not the Justice Department, have primary responsibility in that area. Senator Dodd submitted a letter for the record that included much of the material in his 3 March letter to the Jarman subcommittee. It also accused some researchers of preferring HEW to Justice because they were recipients of HEW grants. And, Norman Farnsworth's "Pharmacognosy and Chemistry of Cannabis Sativa" was also reprinted in the record.[2]

In another statement printed on the last day of the hearings, Dr. Leo Hollister noted that there

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1. Ibid., p. 331.

2. Ibid., pp. 476-82.

had been a drastic change in cannabis use since the 1961 Single Convention was signed, and that for the sake of resolving national and international responsibilities the new U.S. drug-control law should consider cannabis as three separate preparations, depending on varying strengths. He suggested that cannabis be divided into: (1) untreated stocks, (2) concentrates and resins, and (3) tetrahydrocannabinols. Then, for the purposes of classification the first could be considered as sedatives, the second as hallucinogens, and the third as potent drugs subject to the controls of the Single Convention.[1]

Committee Conflicts Resolved

The Ways and Means Committee held executive sessions following the conclusion of its public hearings, and decided to cede jurisdiction to the Interstate and Foreign Commerce Committee on all matters realting to drug control with the exception of imports and exports. As a result, the Jarman subcommittee modified H.R. 18583 to include the domestic control

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1. Ibid., pp. 485-6.

of narcotics and marijuana. With the jurisdictional question resolved, the House could - at last - confront the administration with a single point of view. The showdown had arrived.

More Executive Sessions

Since the early days of this century, the principal work to shape legislation has not gone on in the grand public chambers of Congress, but in the maze of committee and subcommittee rooms, at first tucked into the corridors of the U.S. Capitol, and today spreading through five large office buildings as well: two on the Senate side of Capitol Hill and three on the House side. "Legislation, as we nowadays conduct it", wrote Woodrow Wilson in 1913, "is not conducted in the open. It is not threshed out in open debate upon the floors of our assemblies. It is, on the contrary, framed, digested, and concluded in committee rooms."[1] What may have been a revelation in 1913 is a conspicuous fact of Congressional life today, and with nearly half of all com-

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1. The New Freedom (Garden City, New York: Doubleday, Page and Co., 1913), p. 125.

mittee and subcommittee meetings held in executive session, it is a fact that is especially relevant to this study. For, it is not so much to the Senate and House chambers that we should look to discover how the 1970 drug-control law was created, but to the committee and subcommittee rooms, where the principles and details of the Bill were resolved. Despite repeated public appearances by officials of the Nixon Administration, and an ambitious backstage lobbying campaign, Congress finally approved a Bill that owed more of its features and provisions to the legislative convictions and compromises of the Senate and House subcommittees with jurisdiction over its passage than to the wishes of the President. In the Senate, the Bill that passed (S. 3246) contained most of the features of the original Dodd Bill (S. 1895). In the House, bills similar to S. 3246 were modified to reflect the interests and convictions of Messrs. Staggers and Springer and the members of the Jarman subcommittee.

Writing about the role of Congressional committees, Bertram Gross has observed that:

> public hearings are merely a preliminary. The decisions are made after the hearings are over and the doors

> are closed ... the activity in process behind committee doors is often far more significant than that policy-making process behind the closed doors of the executive branch. The non-public character of executive sessions promotes the free interplay of ideas among committee members. Compromises and alternatives can be shaped in a fluid environment that could never be approximated at a public meeting.[1]

The Ways and Means Committee had played an indirect, but important, role in the House passage of the 1970 drug control Bill, first by refusing to proceed with the passage of legislation (H.R. 14799) that would have merely corrected the unconstitutional provisions of the Marihuana Tax Act (see p. 147 above); then by forcing the administration to clarify its position on marijuana penalties and to publicly acknowledge its willingness to accede to the requirements of Congress on such other issues as classification and research (see p. 228, above). After the conclusion of its public hearings on 27 July, the Committee began executive sessions to consider the various proposals and policies presented to it by more than 50 witnesses. But by this time the Jarman subcommittee was in the final stages of marking up its own drug-

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1. The Legislative Struggle, (New York: McGraw-Hill Book Co., Inc., 1953), pp. 309-10.

control Bill, and, by mutual agreement, the Ways and Means Committee (which does not divide into subcommittees as most others do) voted to cede almost all of its traditional jurisdiction over narcotics and marijuana. (The Ways and Means Committee did retain jurisdiction over the importation and exportation of drugs, a responsibility exercised by the Customs Bureau in the Treasury Department.) In accordance with the agreement on jurisdiction, the Ways and Means Committee drafted Title III of the Bill that finally became law, and the Interstate and Foreign Commerce Committee drafted Titles I and II.

For a better understanding of just how the Senate-passed Bill was modified to the form it took when reported to the House on 10 September, we must focus our attention on the Jarman subcommittee and its work, for theirs were the efforts that finally led to a resolution of conflicts between the Nixon Administration and Congressional viewpoints on several drug-control issues.

H.R. 18583

On 5 May, after completing other business on its calendar, the subcommittee had begun what were to be more than four months of executive sessions on drug-control legislation. With its agenda temporarily clear, executive sessions on drug-control were held on 5, 7, 11, 12, 19, and 26 May; 3, 4, 16, 17, and 30 June; and 1, 7, 8, 9, 10, 16, 17, 21, and 22 July. On that last day a clean Bill, H.R. 18583, was introduced in the House, printed, and referred back to the full Interstate and Foreign Commerce Committee for final modifications. The full committee, in turn, held executive sessions on H.R. 18583 on 29, 30, and 31 July, and 5, 6, 10, 11, 13, and 14 August. On that last day it voted to report an amended version of H.R. 18583 to the House. (In addition, the Jarman subcommittee held sessions on 30 July and 10 and 11 August, to consider last-minute details on some issues then before the full committee.)

It was in the Jarman subcommittee meetings that the remaining disagreements were finally thrashed out. Participants at some or all of these meetings

included the subcommittee's members, its professional staff, representatives from the Ways and Means Committee and its professional staff, spokesmen for the Justice and HEW departments, draftsmen from the Office of the Legislative Counsel, and specialists from the Congressional Research Service of the Library of Congress.

Reviewing in detail what the Jarman subcommittee and its parent body did to the many drug-control proposals then before them is practically impossible to document for several reasons: (1) the meetings were not open to the public; (2) no transcripts of the meetings were kept; and, (3) not all members attended every meeting. But, the atmosphere of the decision-making process can to some extent be recreated by reviewing the choices open to subcommittee members, and comments made by many of the persons who participated. For as Gross notes, an

> "executive session" is far from being a "secret" session. One member may leave the committee room and immediately phone the President or a White House Secretary to ask that the "heat" be put on at a place where it is sorely needed. Another member may move directly from the committee room to a meeting of representatives of

> government agencies and private organizations called to discuss the next steps in their legislative campaign. Sometimes, through either a legal or an unofficial action, the whole story of conflicts within the committee may be given to the press.[1]

As George Goodwin, Jr. wrote,

> while the mark-up sessions of each committee vary according to its chairman's style and the respect with which he is held, there tends to be informal give-and-take among the members that crosses party and seniority lines with considerable freedom.[2]

Charles Clapp has also reported that "a feeling of comradery develops in the committees,"[3] and it is evident that such a feeling certainly pervaded the Jarman subcommittee during its long and detailed deliberations.

Policy Decisions

As far as the issue of marijuana control was concerned, the Jarman subcommittee had included "tetrahydrocannabinols" in Schedule I of its 22 July

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1. Op.cit., p. 310.
2. Op.cit., p. 168.
3. Op.cit., p. 16.

draft of H.R. 18583, and, after the Ways and Means Committee had ceded jurisdiction added marijuana, as originally defined in the Senate-passed Bill [1] to the same schedule. The subcommittee's members were principally concerned with three aspects of the drug's control: (1) penalties for its use; (2) its status in future research, and; (3) the establishment of a body to study it.

The subcommittee's choice on penalties was relatively straightforward, despite the fact that Bills referred to it, and the witnesses who had appeared at its hearings, had proposed a variety of different schemes, ranging from legalization to maintenance of the existing strict controls. The subcommittee members, many of whom had set the $5,000 fine, 1 year in jail maximum penalties for the

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1. (n) "Marihuana" means all parts of the plant Cannabis sativa L., whether growing or not, including its seeds. It also includes the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the extracted resin), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

   From S. 3246, Sec. 102. (n).

hallucinogens, amphetamines, and barbiturates in 1965, had only to assess the relative dangers of these drugs to decide how marijuana compared with them, and this they did by frequently questioning witnesses at the hearings. Since their 1965 amendments provided an almost identical penalty scheme to that of S. 3246 and H.R. 17463, the administration, the Senate, and the Ways and Means Committee were all in agreement with this choice. As one subcommittee member said later: "We decided that possession of LSD should not be a felony in 1965. We would have written a similar law [if we had the jurisdiction then] on marijuana."[1] The consensus of participants, according to a staff member who attended the mark-up, was that "there was no office for stiffer penalties against users."

Since many of the witnesses and subcommittee members were in favour of a major programme of research on marijuana, and several bills had been introduced during the Congress to provide this, the question became one of means rather than ends. A study group would certainly be formed; but how should it be constituted? The Jarman subcommittee was faced with

1. Rep. Tim Lee Carter, in an interview with the author, 23 February 1972.

deciding between two leading proposals:

a) the Senate-passed S. 3246, to establish an inter-departmental, government committee on marijuana, jointly appointed by the Attorney General and the Secretary of HEW, to undertake a two-year study of marijuana, including the efficacy of existing marijuana laws, and;

b) H.R. 10019 (the Koch Bill), to establish a Presidential Commission on Marijuana, to conduct a study of marijuana and to recommend proposals for legislative and administrative action. This Bill had been reported favourably to the House by the Judiciary Committee on 23 April 1970. A Senate counterpart, S. 2590, sponsored by Senator Moss, was considered during the Dodd subcommittee's hearings in 1969, but was set aside in favour of the "committee" solution in the Bill that became S. 3246. By agreement among the committee chairmen concerned, the Koch Bill (amended by the House Judiciary Committee to extend the study from one year to two) was never brought up to the House Floor for debate and passage, but was referred, instead, to the Interstate and Foreign Commerce Committee, where during the last

days of the mark-up it became "Part F, Section 601" of H.R. 18583. Although the Administration had plumped for a committee on marijuana as late as 21 July [1] and the Jarman subcommittee had accepted this preference in its clean Bill (H.R. 18583) of 22 July, the Koch Bill's creation of a Presidential commission (instead of an interdepartmental committee) was included in the final draft of H.R. 18583 when the full committee reported that Bill to the House on 10 September. The Commission would have a budget of $1,000,000, double the amount proposed by the Judiciary committee in its Report of 23 April.[2]

The question of who should supervise and control research on drugs, including marijuana, had been a point of contention since the first administration Bill was introduced in July 1969. Senator Hughes' amendments during the Senate's passage of S. 3246 [3] did much to begin a swing from a purely law-enforcement to the health-and-welfare approach

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1. See U.S. Congress, House, Committee on Ways and Means, op.cit., p. 274.

2. See House Reports 91-1019, p. 6; and 91-1444 (part 1), pp. 5 and 57-8.

3. See p. 180, above.

to drug control, but the administration continued to argue, before the Jarman subcommittee and the Ways and Means Committee, that the Justice Department - and not HEW - should be the principal research coordinator. Members of the Jarman subcommittee thought otherwise, and expressed their viewpoint in the draft of H.R. 18583 that was printed on 22 July. Whereas S. 3246 gave the Attorney General authority to bring drugs under control and to classify them, H.R. 18583 required that unless control is required by a treaty in effect (for example, the Single Convention), the Attorney General must follow the advice of the Secretary of HEW as to scientific and medical matters. It was this issue, and the continuing debate over "no-knock" enforcement powers for Federal agents, that took most of the time in executive session, with the administration finally shifting its position only at the last minute, under the fear that if it did not there would be no drug-control bill at all. As Rep. Ancher Nelsen, a Jarman subcommittee member later related,

> ... finally we were sitting around the table, Republicans and Democrats, HEW people and representatives of

> the Department of Justice, all people trying to figure out how to do the best job that needed to be done.[1]

As late as 20 July, before the Ways and Means Committee, BNDD Director John Ingersoll defended the right of the Attorney General to have the ultimate control, contending that

> ... this legislation deals with the law enforcement aspects of the problem. It does not attempt to deal with the rehabilitative or long-range education and research areas.[2]

Even as he spoke, the Jarman subcommittee was meeting in executive session to put the finishing touches on H.R. 18583, the Bill that expanded the original Senate-passed Bill to include several research and rehabilitation programmes. And, in the long-standing controversy, it was they who ultimately determined this aspect of drug-control policy. As a staff member noted later

> One very obvious difference between the British and American systems, is that, although the drug abuse legis-

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1. Congressional Record, 91st Cong., 2nd Sess., p. 33305.

2. Hearings, Controlled Dangerous Substances, Narcotics and Drug Control Laws, op.cit., p. 210.

> lation was a government-sponsored bill, what ultimately came out of the Congress differed radically in some respects from what the Government recommended. The original legislation would have placed most decision-making powers in the hands of the Justice Department, a law-enforcement agency. It was a bitter, bruising battle, but the legislation eventually enacted provides for a substantial input into the decision-making process from medical agencies, such as the Department of Health, Education, and Welfare, notwithstanding protestations by Secretary of Health, Education, and Welfare Finch, that he was perfectly satisfied with the original Justice Department proposals.[1]

The Final Mark-Up

On 12 August 1970, Chairman Mills sent the draft of Title III, completed by his Committee, to the Interstate and Foreign Commerce Committee, where it was incorporated in H.R. 18583. Two days later the Interstate and Foreign Commerce Committee met to consider H.R. 18583 for the last time. The question of setting penalties for marijuana possession may still have been under discussion at this late stage because

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1. 28 April 1972 letter from James Menger, Jr. to the author.

Dr. Roger Egeberg sent a letter to Chairman Staggers that day urging that marijuana be kept in schedule I (C), along with THC and the psychotropic drugs, "at least until the completion of certain studies now underway ..."[1] At the conclusion of its executive session, the Interstate and Foreign Commerce Committee voted unanimously to Report H.R. 18583 "The Comprehensive Drug Abuse Prevention and Control Act of 1970" to the House.

During the next four weeks, staff members of the committee worked with their counterparts from the Mills committee, the Legislative Research Service, and lawyers from the administration, to prepare the Report that would accompany the Bill. The 183-page Report, like that prepared by the Senate Judiciary Committee (see p. 176, above), described the rationale behind the Bill's proposals, among them the one to establish a Presidential commission on marijuana and drug abuse. The Report also considered marijuana control *per se*, saying that:

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1. See House Report 91-1444 (Part 1), p. 61.

> the extent to which marihuana should be controlled is a subject upon which opinions diverge widely. There are some who not only advocate its legalization but would encourage its use; at the other extreme there are some States which have established the death penalty for distribution of marihuana to minors.

The chart of fable and fact concerning marijuana, by Dr. Stanley Yolles, also appeared in the Report, along with the explanation about penalties that

> in the bill as recommended by the administration and as reported by the committee, marihuana is listed under schedule I, as subject to the most stringent controls under the bill, except that criminal penalties applicable to marihuana are those for offenses involving non-narcotic controlled substances.

The Report also stated that the recommendation to establish a Presidential commission on marihuana and drug abuse "will be of aid in determining the appropriate disposition of this question in the future."[1]

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1. Ibid., pp. 12-13.

House Passage

H.R. 18583 was approved by the House Rules Committee, and assigned a place on the legislative calendar. The Rules Committee is responsible for determining the type and extent of debate each proposal receives on the Floor of the House. Although some measures have been delayed or actually ignored by the Rules Committee, the assignment of debate time for H.R. 18583, under H. Res. 1216, was made routinely. This resolution provided a Rule with 4 hours of general debate; titles I and II were to be considered for three hours and title III for one hour.

The House debated H.R. 18583 on 23 and 24 September, and passed the Bill, with only minor amendments, on the second day. The final vote was 341 to 6. The tone of the debate was set the first day by Chairman Jarman when he said:

> ... many persons consider that ... [the problem of drug abuse] is primarily one involving law enforcement, but in my opinion it is a health problem - a mental health problem.
>
> The abuse of drugs is a criminal offense, but it is a criminal offense only because we have made it one.[1]

1. Congressional Record, 91st Cong., 2nd Sess., p. 33928.

Rep. Tim Lee Carter said that the House Bill achieved the appropriate balance between the interests of science and of law enforcement. And Representative Mills, floor manager of Title III, explained that the penalty for the illegal importation of marijuana had been so severe that judges were reluctant to impose them.

On both days of the debate several Members emphasized the dilemma posed by inadequate knowledge about marijuana, and praised the provision to create a Presidential study commission. No amendments were proposed affecting the status of marijuana in the Bill. The debate was, as are most on the Floor, a review of the Bill's major principles and an opportunity to make last-minute technical changes. As Charles Clapp noted:

> Legislators disagree regarding the extent to which debate affects the fate of legislative proposals, the prevailing view is that speeches rarely influence many House votes. Their main effect, it is said, is to reinforce views already held, and their purpose is to make a record for the Speaker and a case for the position he supports. There is considerable support, however, for the position that debates are significant often enough in this regard to defy being dismissed as inconsequential and to question the accuracy of the description of the

House as a dividing and voting body rather than a deliberative or debating one.[1]

Senate Amendments

Once the House had passed H.R. 18583, it was referred to the Senate for that chamber's approval. The Bill was so unlike S. 3246 by this time that House and Senate leaders agreed informally that the Senate should amend the House-passed Bill rather than try to reconcile the two pieces of legislation. Accordingly, the Bill was scheduled for debate on 7 and 8 October. There is no Rules Committee in the Senate. Arrangements for scheduling legislation on the Floor are made by the Majority Policy Committee, after informal consultations with the minority leadership, then applied by any one of several parliamentary procedures.

During the Senate's consideration of H.R. 18583 most of the debates focused on the "no-knock" enforcement provisions, an aspect of the legislation that had been controversial since it was first introduced more than a year before. The only change in the Bill to

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1. Op.cit., pp. 140-1.

affect the status of marijuana came on 7 October when Sen. Harold Hughes (D. Iowa) introduced Amendment No. 1028, by which "any person who, in violation of this Act, distributes a small amount of marihuana for no remuneration shall be subject to the penalties provided ..." for simple possession. The Senator pointed out that an identical provision had been passed in January 1970 when S. 3246 was before the Senate, and noted that unless the amendment were approved persons sharing marijuana cigarettes would be subject to the penalties for trafficking: on first offence a maximum fine of $15,000 and a maximum jail term of 5 years, with double penalties for a second offence. "Trafficking provisions should apply to the large distributor, rather than to the person who is only using the drug with his friends," Senator Hughes said. "The latter individual falls within the intention of the possession provisions."[1] In support of the Hughes amendment, Sen. Peter Dominick (R. Colorado) said that:

> there are a great number of young people who have been experimenting with marihuana. It has not proven to be something to which they are

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1. Congressional Record, 91st Cong., 2nd Sess., p. 35555.

> addictive [sic] or that would ruin their health. Unless we do something about decreasing the penalties, as suggested by the Senator from Iowa, I think we are further increasing the problems of credibility of the Government as far as young people are concerned.

He also included in the "Record" the introduction to Marihuana and Health - A Preliminary Report, which summarized "the present state of research development concerned with the health consequences of marihuana use ...", as required under Title V of P.L. 91-296.[1] The Hughes amendment was agreed to by voice vote, and the whole Bill, with some other amendments, was passed by the Senate the next day by a vote of 54 to 0.

Conference Compromises

The next stage in the legislative process was the Conference Committee. Legislation may not be referred to the President for his signature until it has passed both houses of Congress in identical form. To avoid the problem of endless referrals and re-referrals between the two chambers, the conference system has been devised. Each house appoints conferees, usually

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1. Ibid., pp. 35555-8.

members of the committees and subcommittees that had jurisdiction over the Bill, and they meet in closed session to reconcile the differences between the two versions of the Bill. For the passage of H.R. 18583, the conferees (who are referred to as "managers") were:

1) for the House, Reps. Harley Staggers, John Jarman, Paul Rogers, David Satterfield III, William Springer, Ancher Nelsen, and Tim Lee Carter; and
2) for the Senate, Sens. Harold Hughes, Ralph Yarborough, Jennings Randolph, James Eastland, John McClellan, Sam Ervin, Thomas Dodd, Jacob Javits, Peter Dominick, Roman Hruska, and Strom Thurmond.

The conferees met, soon after the Senate amendments to H.R. 18583 passed on 8 October, to consider a score of technical details that the Senate's amendments had created. After some heated deliberation, mainly over whether or not two amphetamines would be included in the schedules, agreement was reached on which amendments would remain and which would be discarded. A "Conference Report" [1] was agreed to and filed by the managers in both houses. This report spelled out which

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1. House Report 91-1603.

of the Senate's amendments had been accepted, which rejected, and which modified during negotiations. As it affected marijuana in the Bill, the report read:

> Amendment 19: This amendment provided that any person who distributed a small amount of marihuana for no remuneration should be subject to the penalties provided for simple possession of marihuana for personal use. The managers on the part of the House receded with a clarifying amendment.[1]

Each chamber of Congress must vote to "adopt" the Conference Report before the two versions of the Bill can be made identical, since what conferees are negotiating about are the differences between them, not the Bill itself. The Conference Report was filed in the House and Senate on 13 October, and adopted by voice votes the following day after only minor discussion.

The Bill Becomes Law

A Bill becomes a law (an Act) when the President signs it, and this was done on the morning of 27 October 1970. President Nixon drove from the White House to the offices of the Bureau of Narcotics and Dangerous Drugs in downtown Washington, made a few

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1. Ibid., p. 9.

remarks about the importance of the legislation, and in the presence of many of the Administration and Congressional participants in the Bill's passage, signed H.R. 18583 into law. With the completion of his signature, all but a few record-keeping procedures (for drugs manufacturers) took effect immediately. As enacted, the Bill became Public Law 91-513, with the title "The Comprehensive Drug Abuse Prevention and Control Act of 1970."[1]

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1. Until codified in the Federal statutes, laws are referred to by their "P.L. number". In this instance, the new drug-control law was the 513th enacted during the 91st Congress. When codified the law became 84 Stat 1236.

CHAPTER IV

PARLIAMENT CONTROLS CANNABIS

GOVERNMENT BY EVOLUTION

Theory and Practice

When compared with its American counterpart, the British system of government presents a strikingly compact appearance. It was not designed in a self-conscious and rational fashion. It evolved. And, although there were times in its long history when various powers within the state competed with one another for supreme authority, these components have long since coalesced within the framework of a unified order.

In theory, the evolution of Britain's constitution during the past several centuries has increasingly concentrated the realm's effective political power in one institution: the Parliament. The extent to which the Parliament has become Britain's dominant political institution, and the legal implications that

this has produced, were stated succinctly by Sir T. Erskine May in his writings about the "power and jurisdiction of Parliament."

> The constitution has assigned no limits to the authority of Parliament over all matters and persons within its jurisdiction. A law may be unjust and contrary to sound principles of government; but Parliament is not controlled in its discretion and when it errs, its errors can only be corrected by itself. To adopt the words of Sir Edward Coke, the power of Parliament "is so transcendent and absolute, as it cannot be confined either for causes or persons within any bounds."[1]

Eric Taylor's less reverent view of Parliament's power is that:

> there is nothing that it cannot do - even the celebrated dictum that Parliament can do anything but make a man woman and woman man does not indicate a limitation of jurisdiction, but merely a limitation of human ability.[2]

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1. The Law, Privileges, Proceedings and Usage of Parliament. London: Butterworth & Co., Sixteenth ed. (1957), p. 28.

2. The House of Commons at Work. Harmondsworth: Penguin Books, Ltd., Fifth ed., 1963, pp. 128-9. Mr. Taylor adds in a footnote that "the Interpretation Act of 1889 includes the words 'words importing the masculine gender shall include females'."

In theory, then, British government has evolved to become Parliamentary government. But saying this we have, in fact, said very little. For, although the outward appearance of Parliamentary government seems to be rather straightforward, its essential activities can be much less evident. And while the British constitution may not be quite "the most subtile organism which has proceeded from the womb and the long gestation of progressive history", as Gladstone said in 1878,[1] it is, nonetheless, a curiously elusive reality. As a result, and with some justification, many scholars today approach Britain's constitution, and her Parliament, with a sense of mystery and faith that is more suited to inspired revelation than to scientific analysis.

A significant cause of this sense of mystery and faith is the discrepancy that exists within the British constitution between theory and practice. For, while in theory effective political power is said to be concentrated in Parliament, in fact it is still more specifically centred in the House of Commons,

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1. Quoted in L. Wolf-Phillips (ed.) Constitutions of Modern States. London: Pall Mall Press, 1968, p.182.

and ultimately in the Government's front bench; the Cabinet. As Bradshaw and Pring note:

> the description of the British system as 'parliamentary government' should not convey the implication that Parliament governs. Parliament does not and cannot. The phrase has meaning only if it conveys that the government governs through Parliament.[1]

A clearer indication of just how Britain's form of "Parliamentary government" actually works may be seen in its creation of the Misuse of Drugs Act 1971.

Government Initiatives

While the principal interest of this chapter is with the information about cannabis that was available to Members of the House of Commons, and how it was used by them during the passage of a national law, the significance of that information cannot be appreciated fully unless we first consider the social and political setting in which the legislative process took place. As we noted in Chapter II, the arrival of a bill in the House of Commons is usually the last significant

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1. Op.cit., p. 9.

stage in its enactment. In order to appreciate the social and political genesis of the Misuse of Drugs Act, and the compromise between those two elements that it represents, it is necessary to begin our examination a full decade before its passage, in the spring of 1961, since the Act is the result of years of struggle with the problems of drug control by two Governments.

On 30 March 1961 Britain's representative to the United Nations initialled the Single Convention on Narcotic Drugs, an international treaty designed to coordinate the efforts of the signators to curtail illicit drug trafficking. One of the treaty's provisions committed the parties to make cannabis possession and trafficking offences under their national laws. Such efforts were not new, either for international treaties or British law. Britain's Dangerous Drugs Act 1925, for example, was established in response to agreements made in the Opium Convention of 1925. What is important about the Single Convention, for this study, is its attention to cannabis as a drug of increasing abuse at a time when few countries in the West considered it a problem. Indeed, less than two months later, in May 1961, Britain's Interdepartmental Committee on Drug

Addiction (formed in 1958 as the first national review of drug-control policy since the Rolleston Committee of 1926) issued a report stating that "in our view cannabis is not a drug of addiction; it is an intoxicant." The report concluded that cannabis use in Britain was insignificant.[1]

The early 1960s were a time of significant changes in social attitudes and behaviour, at least among the young, and these changes were reflected in popular music (under the spell of the Beatles) and "mod" fashions (under the inspiration and marketing techniques of Mary Quant). By the autumn of 1964 international publicists had proclaimed Britain's capital "Swinging London", and the Labour Party had regained control of the Government after 13 years in Opposition. Changes were reflected in other ways as well, with 1964 being the first year (since such records were kept) that "white" cannabis offenders in Britain outnumbered "coloured" offenders: 284 to 260.[2]

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1. Great Britain, Ministry of Health, Drug Addiction, Report of the Interdepartmental Committee, (London: Her Majesty's Stationery Office, 1961).

2. Cannabis, p. 8, par. 35.

On 10 June 1964 Parliament passed the Dangerous Drugs Act 1964, enabling Britain to acceded to the U.N. Single Convention. This Act also made cannabis cultivation an offence, and introduced the legal concept of "strict liability"[1] by making it unlawful for a person to permit the use of premises for smoking or dealing in cannabis. Thus the owner or manager of a club or house could be arrested if its inhabitants were using cannabis, even though he had no knowledge of their activities. Parliament also passed the Drugs (Prevention of Misuse) Act on 31 July, a limited law aimed at controlling the distribution of amphetamines. Also in July, the Interdepartmental Committee on Drug Addiction (known as the Brain Committee after its chairman Lord Brain) reconvened, to take another look at drug use in Britain.

In 1965 the new Labour Government passed the Dangerous Drugs Act 1965 to codify the 1951 and 1964 Dangerous Drugs Acts. Part I of this Act dealt with cannabis, cannabis resin, and all preparations of which cannabis resin forms the base. Section 5 made it an offence for occupiers or managers of premises to allow

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1. Section 5.

those premises to be used for smoking or dealing in cannabis or cannabis resin (a provision that had the unintended effect of preventing research into the effects of smoking cannabis). And Section 6 made it an offence intentionally to cultivate the cannabis plant, except under license.

In November 1965 the Brain Committee issued its Second Report. This gave only cursory attention to cannabis, but did note that there was a "risk that young people may be persuaded to turn to cannabis.[1] This report recommended that an Advisory Committee on Drug Dependence be set up

> to keep under review the misuse of narcotics and other drugs which are likely to produce dependence, and to advise on remedial measures that might be taken or on any other related matters which the Ministers may refer to it.[2]

Another Dangerous Drugs Act was passed on 27 October 1967, this time to deal with the problem of doctors over-prescribing heroin to registered addicts.

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1. Great Britain, Ministry of Health. Drug Addiction. Second Report of the Interdepartmental Committee, (London: Her Majesty's Stationery Office, 1965).

2. Ibid., par. 43 (xii).

It also created new powers of search and arrest for the police, by which they could stop and search anyone whom they reasonably suspected of possessing drugs controlled by the 1964 and 1965 Acts.

Legislative Failure

However, this wave of legislative activity failed to stem the increasing drug abuse in Britain for several reasons. The laws were fragmented. One Act dealt exclusively with the internationally agreed list of narcotics (which could not be augmented within the United Kingdom except after a decision of the United Nations). Another Act provided minimal controls over amphetamines and hallucinogens. Yet another act controlled aspects of retail sale. There was little elaboration of defined offences, and little differentiation in penalties. The powers to make regulations were limited. The whole machinery lacked flexibility. The Home Office found that some of its best efforts at control were not achieved by legal sanctions but by the voluntary restrictions of the medical and pharmaceutical professions. To add to the Government's concern, the application of "strict liability" - with

its attendant instances of innocent people convicted for offences of which they were not even aware - was under criticism from the legal professions. And, several celebrities, some of whom were arrested for cannabis possession, flaunted the law and boasted in public of using the drug. This situation contributed to increasing disrespect for the drug-control laws by a wide cross-section of the general public.

Cannabis Study

In the midst of this confusion the new Advisory Committee on Drug Dependence held its first meeting on 12 January 1967, its members having been appointed by the Home Secretary (then Mr. Roy Jenkins), the Minister of Health, and the Secretary of State for Scotland. At its third meeting, on 7 April, the Advisory Committee appointed a subcommittee on hallucinogens, under the chairmanship of Baroness Wootton, "to examine the question of misuse of cannabis and Lysergic Acid diethylamide (L.S.D.) in the United Kingdom, and problems arising."[1] It is not clear

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1. Cannabis, p. 1, para. 1.

from information now available[1] just why the subcommittee chose to investigate cannabis first. The most likely reasons are that researchers (such as Professor Paton of Oxford) were publicly expressing concern about the drug's possible harmfulness; and that cannabis then accounted for almost half of all drug-related convictions.[2] The enterprise was modest. One member wrote later: "a small secretariat was formed to help the committee, but there was no money to pay for research and no special facilities."[3]

The importance of the subcommittee's work, and its subsequent relation to the Misuse of Drugs Act, are explained in the introduction of its report.

> Our first enquiries were proceeding - without publicity - into the pharmacological and medical aspects when other developments gave our study new and much increased significance. An advertisement in The Times on the 24th July 1967 represented that the long-asserted dangers of cannabis were

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1. Civil servants may not discuss the activities of the previous Government under the restrictions of the Official Secrets Act. In addition, all departmental and Cabinet papers are normally not released for 30 years.

2. Cannabis, p. 24, Table B.

3. Michael Schofield, The Strange Case of Pot (Harmondsworth, Middlesex: Penguin Books Inc., 1971), p. 75.

> exaggerated and that the related law was socially damaging, if not unworkable. This was followed by a wave of debate about these issues in Parliament, the Press and elsewhere, and reports of enquiries, e.g. by the National Council for Civil Liberties. This publicity made more explicit the nature of some current "protest" about official policy on drugs; defined more clearly some of the main issues in our study; and led us to give greater attention to the legal aspects of the problem. Government spokesmen made it clear that any future development of policy on cannabis would have to take account of the Advisory Committee's report. Accordingly, we decided to give first priority to presenting our views on cannabis.[1]

The advertisement of 24 July, which was paid for by the Beatles, advocated the reduction of strict penalties for cannabis use, and read in part: "the law against marijuana is immoral in principle and unworkable in practice." Five recommendations were made to the Home Secretary,

1. The Government should permit and encourage research into all aspects of cannabis use, including its medical applications.

2. Allowing the smoking of cannabis on private premises should no longer constitute an offence.

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1. Cannabis, p. 1, para. 2.

3. Cannabis should be taken off the Dangerous Drugs List and controlled, rather than prohibited, by a new ad hoc instrument.

4. Possession of cannabis should either be legally permitted or at most be considered a misdemeanour, punishable by a fine of not more than £10 for a first offence and not more than £25 for any subsequent offence.

5. All persons now imprisoned for possession of cannabis or for allowing cannabis to be smoked on private premises should have their sentences commuted.

A quotation attributed to Spinoza read:

> All laws which can be violated without doing anyone any injury are laughed at. Nay, so far are they from doing anything to control the desires and passions of man that, on the contrary, they direct and incite men's thoughts toward those very objects; for we always strive toward what is forbidden and desire the things we are not allowed to have. And men of leisure are never deficient in the ingenuity needed to enable them to outwit laws framed to regulate things which cannot be entirely forbidden ... He who tries to determine everything by law will foment crime rather than lessen it.

The advertisement was signed by 65 persons, including Nobel laureat in chemistry, Francis Crick, psychiatrist R.D. Laing, social anthropologist Francis Huxley, two MPs, artists and writers such as Peter Brook,

Graham Greene, David Hockney, Jonathan Miller, David Piper, and Kenneth Tynan.

Adjournment Debate

Four days later, on 28 July, the question of cannabis control was raised in an adjournment debate on "soft drugs" in the House of Commons.[1] Mr. Paul Channon (Con. Southend West) opened the debate by speaking of the hypocrisy of those who could condemn the use of cannabis while themselves using alcohol and tobacco, and urged that a report be issued following the hallucinogens subcommittee's study. He said that it was essential "that young people should be convinced of the truth of the findings and the honesty of its approach to the matter."[2] He also urged that the inquiry be held in public, and "that the Minister of State will ensure the widest publicity for its findings."[3]

Mr. Tom Driberg (Lab. Barking), one of the MPs who had signed the Times advertisement, said that

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1. Great Britain, Parliamentary Debates (Commons), Vol. 751, cc. 1148-65.

2. Ibid., c. 1153.

3. Ibid.

he was convinced, on the basis of medical evidence available to him, that the "escalation theory" had no validity, and cited as his source an article by Dr. J.H. Jaffe in the medical textbook, The Pharmacological Basis of Therapeutics.[1] He quoted from the book that:

> there are no lasting ill effects from the acute use of marijuana and no fatalities have ever been recorded ... The causal relationship between marijuana smoking and heroin addiction has never been substantiated.[2]

Miss Alice Bacon, the Minister of State for the Home Office, said that cannabis convictions had increased to 1,119 in 1966, from 544 in 1964, and that the legal penalties against the drug's use were severe because Britain agreed with the example set by other countries for the drug's control, and because of the need to honour treaty obligations under the Single Convention. "It would be entirely mad", she said, "for the Government to relax the laws without more information. We want more information to be obtained

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1. L.S. Goodman and A. Gilman (eds.), (3rd ed. New York: Macmillan, 1965). Dr. Jaffe later became Director of the Special Action Office for Drug Abuse Prevention in the White House. See Postscript, p. 400.

2. Parliamentary Debates (Commons), Vol. 751, c. 1157.

by the [Wootton] committee."[1]

In an incident that attracted considerable public attention in June 1967, Mr. Mick Jagger, head of the popular musical group, The Rolling Stones, was arrested for possession of cannabis and heavily fined. In all, 2,393 persons were convicted for cannabis offences that year, with 2,193 convicted of unlawful possession, 376 of whom were imprisoned for having amounts of about an ounce or less.[2] In reaction to the increase of drug-related convictions, Release, a non-profit organization giving legal advice to persons arrested on drugs charges, was formed in July. A more tendentious group, SOMA, launched a publicity campaign to criticize the existing drug-control laws. Release and SOMA, became known informally as the "pot lobby", although neither of them advocated that cannabis be legalised; only that its legal status be changed and that penalties for its use be reduced.

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1. Ibid., c. 1163. Despite this declaration, the Government did not assign additional staff, or commit any money, to the Wootton subcommittee.

2. Cannabis, p. 26, Table 3. 30 grams are slightly heavier than one ounce.; 376 of those imprisoned had less than this amount in their possession when arrested.

Throughout this period the Wootton subcommittee continued to hold meetings and interview witnesses. From April 1967 to October 1968 it held 17 meetings, received testimony from 16 witnesses, and drafted a final report. Lady Wootton recalled that when her subcommittee presented its final report to the members of the full Advisory Committee they encountered "a slightly sticky procedure" over some of their recommendations. The principal disagreement was over recommendation 7, which stated that:

> The offence of unlawful possession, sale or supply of cannabis should be punishable on summary conviction with a fine not exceeding £100, or imprisonment for a term not exceeding four months, or both such fine and imprisonment. On conviction on indictment the penalty should be an unlimited fine, or imprisonment for a term not exceeding two years or both such fine and imprisonment ...[1]

Two members of the subcommittee entered reservations: one urging that the recommendation was too strict, the other that it was too lenient. But after "some minor adjustments" the work of the subcommittee was given the complete endorsement of the Advisory Committee and sub-

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1. Ibid., p. 33, par. 101 (7).

mitted to the Home Secretary, Mr. James Callaghan.[1]

In a covering letter dated 1 November, Sir Edward Wayne, the Advisory Committee's chairman, wrote to Mr. Callaghan that:

> we think that the adverse effects which the consumption of cannabis in even small amounts may produce in some people should not be dismissed as insignificant. We have no doubt that the wider use of cannabis should not be encouraged. On the other hand, we think that the dangers of its use as commonly accepted in the past and the risk of progression to opiates have been overstated, and that the existing criminal sanctions intended to curb its use are unjustly severe.[2]

During November and December 1968 several newspaper articles speculated about the contents of the Wootton report, although with little detail or accuracy. For example, the Daily Mail reported three of the recommendations of the report in a news article on 27 November. Although two of these were correct, a third (that the report would warn that a danger to pot smoking was that it led users to mix with hard-drug

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1. Mr. Callaghan replaced Mr. Roy Jenkins on 30 November 1967.

2. Cannabis, p.v.

addicts.), was not, and this error was repeated in several other papers the next day.[1] As Michael Schofield, a Wootton subcommittee member, later wrote:

> The disadvantage of a leak on such a large scale is that the general public really do believe that the report has been published. Not only do they get an inaccurate summary of the recommendations, but when the real report is published, there is a danger that it may be thought of as stale news ... The effects of these leaks in the newspapers caused the resumption of the public discussion on cannabis, based on ignorance and prejudice, without the facts which the committee was set up to provide and which were the essential part of their report.[2]

The political atmosphere at this time helped to set the tone for the public's reaction to the Wootton Report. Mr. Quintin Hogg, the shadow Home Secretary, publicly proclaimed the need to "pursue the addicts of hashish and marihuana with the utmost severity that the law allows",[3] a stance that made it especially awkward for the Home Secretary to receive the report with much dispassion. "Most of the papers

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1. Schofield, op.cit., pp. 86-7.
2. Ibid., p. 87.
3. Ibid.

gave the impression that Mr. Callaghan was not likely to approach the Wootton report with an open mind", Michael Schofield wrote,[1] although it remains a moot point whether his reaction to the recommendations would have been different without the pressures from the Opposition and the press.

The Wootton Report was finally released on 8 January 1969 with a flurry of news coverage that varied considerably in its detail and conclusions. According to a study conducted by the Institute for the Study of Drug Dependence (ISDD), reactions to the report were "unfavourable" from the British Medical Journal, the Pharmaceutical Journal, Justices of the Peace and Local Government Review, the U.N. Division of Narcotic Drugs, and the World Health Organization. Reactions described as "not unfavourable" came from The Lancet, Release, and the National Council for Civil Liberties.[2]

On 23 January, the Lords of Appeal, the highest court in the country, reversed a Court of Appeals

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1. Ibid., p. 88.

2. Institute for the Study of Drug Dependence, "Analysis of Press Comment on the Cannabis Report", Table V, p. 3.

decision, against the principle of "strict liability", in connection with cannabis use on premises and settled a case that had attracted much public attention. The Lords ruled in Sweet v. Parsley (1969 All. E.R. 347), that it was essential to show that the accused person had knowledge of the particular purpose to which the premises were put.

Political Decisions

On the same day, Mr. Callaghan announced his rejection of the Wootton Report's recommendations, principally because of its view that penalties for cannabis possession should be reduced. He reiterated his position in a debate about the report in the House of Commons four days later when he said that:

> I think that it came as a surprise, if not a shock, to most people, when that notorious advertisement appeared in The Times in 1967, to find that there is a lobby in favour of legalising cannabis. The House should recognise that this lobby exists, and my reading of the Report is that the Wootton Sub-Committee was over-influenced by this lobby ...
>
> The existence of this lobby is something that the House and public opinion should take into account and be ready to combat, as I am.

> It is another aspect of the so-called permissive society, and I am glad if my decision has enabled the House to call a halt in the advancing tide of so-called permissiveness.[1]

The shadow Home Secretary, Mister Hogg, concurred in this view, saying that the effects of hashish were well known; they were associated with crime, abnormality, poverty, and misery all over the world.[2]

In reaction to Mr. Callaghan's criticism of the Wootton subcommittee and its report, the Advisory Committee met to reaffirm its support of that group and its report. According to Stephen Abrams,

> it was felt that the Home Secretary's deliberately insulting remarks may have been intended to provoke resignations from the Advisory Committee, and so put an end to its embarrassing activities, such as the subcommittee on Search and Arrest ... which began to function prior to the publication of the Report.[3]

Reliable sources have indicated to the author that several members of the Advisory Committee were on the

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1. Great Britain, Parliamentary Debates (Commons), Vol. 776 (27 January 1969), c. 959.

2. Ibid., c. 956.

3. Stephen Abrams, "Cannabis Law Reform in Britain", The Marijuana Papers, ed. D. Solomon (London: Panther Books, 1970), pp. 72-3.

verge of resigning over the Home Secretary's attitudes and behaviour about Cannabis. Instead of provoking resignations, however, the meeting provoked public reaction. Sir Edward Wayne and Lady Wootton wrote a letter to The Times, which said, in part:

> We regard this statement as offensive to our distinguished colleagues and to ourselves, and particularly to the eminent medical men who signed our Report; and we particularly deprecate the use of the emotive word "lobby" in this context.[1]

Editorial comment about the report, and Mr. Callaghan's reaction, varied widely. The Times, in a balanced leader, concluded that while the present law was unjust, Mr. Callaghan was right to turn down the committee's proposals for a change.[2] The Guardian was even more cautious in its equivocation, noting that "the responsibility of recommending discriminating changes in the law is one that the Home Secretary must find heavy, but the responsibility of letting the present situation continue is no less grave."[3] In a post-publication editorial the paper criticised Mr.

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1. The Times, 5 February 1969.
2. 24 January 1969, p. 27.
3. 28 November 1968.

Callaghan for his discourteous treatment of Lady Wootton's committee and praised the committee for applying rational standards of discussion to the argument about drugs and producing a careful, authoritative report.[1] The Daily Telegraph said that Mr. Callaghan's decision to turn down the main recommendations of the committee - for the reduction of penalties - was regrettable, and criticised his logic. It also urged that the law should not treat cannabis smoking or peddling as though it were so extreme a crime as taking or peddling heroin.[2] The ISDD analysis of press reaction to the Wootton Report concluded:

> The popular Press provided Mr. Callaghan with the assurance that the vast majority of responsible British people backed him up in his "sensible" and "level-headed" decision. The Daily Mail gave some reasons for rejecting the Committee's views; the Sunday Express preferred to abuse the Committee and its Chairman. In general, the strength of adverse comment varied inversely with the content of the reasoning.[3]

As Jock Young noted in his chapter on social policy and the drugtaker, "the Report was rejected and the combined

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1. Ibid., 6 February 1969.
2. 24 January 1969.
3. Institute for the Study of Drug Dependence, op.cit., p.4.

medical, psychological, police and judicial experience of the committee ignored out of hand. It did not fit the facts as the politicians and the popular press saw them."[1] Reflecting on the episode that March, Lady Wootton told the House of Lords:

> I think it will be agreed that the Report of this Subcommittee provoked what can only be called an hysterical reaction from a great part of the Press, from a considerable part of the public, and, I regret to say, apart from one or two outstanding exceptions, in discussions in another place. I think the causes for this hysteria are quite familiar to students of social psychology. They occur also in other connections, particularly in relation to sexual crimes, and they are always liable to occur when the public senses that some critical and objective study threatens to block an outlet for indulgence in the pleasures of moral indignation.[2]

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1. The Drugtakers, The Social Meaning of Drug Use, (London: Granada Publishing Ltd., 1971), p. 201.

2. Great Britain, Parliamentary Debates (Lords), Vol. 300 (26 March 1969), c. 1306.

THE DECISION TO LEGISLATE

Permissiveness, Publicity, and Piecemeal Statutes

It appears in retrospect that Mr. Callaghan's decision to introduce new drug-control legislation was taken sometime between the date he received the Wootton Report (1 November 1968) and the date he first condemned it in public (23 January 1969). The report's Recommendation 3 had proposed that "the law should progressively be recast to give Parliament greater flexibility of control over individual drugs", and this suggestion, together with at least three other circumstances, seems to have moved the Home Secretary to take a serious interest in the possibility of the comprehensive drug reform that he first hinted at in late January. The other circumstances that inclined him in this direction were: (1) his sensitivity (and that of the Labour Government) to charges of "permissiveness"; (2) the widespread public attention to drugs prompted by the publication of the Wootton Report, and; (3) the limitations of the piecemeal drug-control statutes then in force. From a practical point of view something had to be done; and from a

political point of view something had to be seen to be done.

1) The Labour Government was especially concerned about charges of "permissiveness" because it had been in office during the recent passage of liberal reforms in three controversial areas: homosexuality,[1] abortion,[2] and capital punishment.[3] As Mr. Callaghan said in the House of Commons on 23 January:

> In our opinion, to reduce the penalties for possession, sale or supply of cannabis would be bound to lead people to think that the Government take a less than serious view of the effects of drug-taking.
>
> That is not so. It would be entirely contrary to Government policy to allow this impression to spread ...
>
> Accordingly, it is not the Government's intention to legislate to reduce existing penalties.[4]

And, as he said four days later, he was glad if his rejection of the Wootton Report's recommendations had "... enabled the House to call a halt to the advancing

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1. Sexual Offences Act 1967.
2. Abortion Act 1967.
3. Murder (Abolition of Death Penalty) Act 1965.
4. Great Britain, Parliamentary Debates (Commons), Vol. 776, c. 662.

tide of so-called permissiveness."[1]

2) For many members of the general public, cannabis use had come to be identified with the more general, anti-establishment, youth-oriented social changes of the 1960s. It had become a symbol of the forces that threatened the status quo. Thus, any suggestion that the existing penalties for cannabis use should be reduced could also be seen as condoning a sub-culture or "alternative society" that many citizens misunderstood and feared. Popular attitudes had polarized in such a way that a host of complicated and subtle social issues could be indicated by the simple choice of whether or not a person (or a politician, or a national party) was "soft on drugs". Also, because of inaccurate or superficial reporting by much of the popular press, many people thought that the Wootton subcommittee's report had recommended the legalization of cannabis use, when in fact it had only urged a reduction in the maximum penalties.[2]

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1. Ibid., c. 959.

2. As late as the spring of 1972, Baroness Wootton said that some people she spoke with still assumed that she and her subcommittee favoured legalization. "The report did not sell very well", she said in an interview on 19 April. "Many more people have talked in public about the report than have actually read it."

3) Existing drug-control statutes were inadequate for several reasons. They were fragmented, limited in scope and powers, and inflexible. (See p. 58, above).

The Preliminary Stages

Mr. Callaghan's idea for a new drug-control bill was taken up in public about two months later in a speech by Lord Stonham, the Home Office Minister of State, when he indicated in the House of Lords that the Government was thinking in terms of a single, comprehensive code covering the whole field of drug abuse, and that the Home Secretary would be looking to the Advisory Committee on Drug Dependence for help and advice in preparing the legislation.[1] From this, and other sources, it is reasonable to conclude that the process of consultation with the Advisory Committee on the possible contents of a bill began during the late summer, and consultation with other Government Departments and outside bodies began in the

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1. Great Britain, Parliamentary Debates (Lords), Vol. 300, cc. 1285-7 (26 March 1969).

autumn of 1969.[1]

As a general rule the preparation of bills within the Government departments is a confidential matter, and little has been written about this phase of the legislative process. MPs have difficulty in trying to influence the Government's thinking during this stage of a Bill's enactment, and some of them consider this period to be so critical to the outcome of legislation that they have publicly complained about being excluded from participation. As Bradshaw and Pring write:

> The exhaustive inquiries made by the government departments (or royal commissions) concerned; the elaborate consultations with interested parties and pressure groups; the protracted study in cabinet committees as the bill begins to take shape: it is the thoroughness of these stages which leads members sometimes to complain that they are the only important and interested parties omitted from consultations when the bill is still malleable ... After a bill's presentation to Parliament, its progress is, with rare exceptions, processional and predictable.[2]

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1. See, e.g. Great Britain, Parliamentary Debates (Commons), Official Report of Standing Committee A, 3rd - 17th Nov., 1970, c. 101.

2. Op.cit., pp. 291-2.

This strong control, both before and during the public stages of the legislative process, accounts for a fundamental difference between the ways that proposals are made and modified in the U.K. and the U.S. As we have seen in Chapter III, the administration's legislation can be substantially altered in both houses of Congress. "Under the British system", Bradshaw and Pring note, "since a high proportion of important bills reaching the statute books are government bills, the bulk of the effective work of lawmaking is done before the bill reaches Parliament."[1]

It is not possible to study in much detail how the Misuse of Drugs Bill was created but, based on material gleaned from a variety of sources, the broad picture seems clear. The usual series of steps in preparation was followed, although, because of the urgency with which the Home Secretary viewed the issue of drug control, the process of discussion, consultation, drafting, and presentation to Parliament was somewhat compressed. The actual drafting appears to have been completed in a matter of a few weeks just before the Bill was introduced in the House of Commons on 11 March 1970.

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1. Ibid.

Normally the first step in a bill's creation comes when the minister concerned with its general subject matter decides that a new law, or a major change in existing law, is needed.[1] This may be based on the gradual realization of a need for legislative changes, or may come in response to the sudden impact of public or departmental events. In this instance the administrative options available to the Home Secretary by altering the regulations were so limited that new legislation offered the only possibility for significant change.

Consultative Document

After the Home Secretary took the decision to proceed with the preparation of a bill, in the summer of 1969, the Drugs Branch of the Home Office outlined the reasons for having a new bill and described some of its possible features in a "consultative document". (This is one of the three ways that a department can prepare for the possible introduction of legislation. The other two are a "White Paper"

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1. This section of the thesis is based, in part, on an account of legislative "preliminaries" in Taylor, on.cit., pp. 134-6.

and a "Green Paper".) The decision about what type of document to prepare had not been made by late March,[1] but by mid-summer it appears that the form of a consultative document had been chosen, chiefly because this requires the least amount of time before legislation can be introduced.[2] Consultative documents are normally circulated first within the Departments with an interest in their subject, and eventually to interested persons and organizations outside Government. The purpose of this circulation procedure is to elicit reactions from those who are likely to be affected by the bill once it becomes law. (An MP would not have access to such a document unless he were a junior minister in the Government, or involved in one of the outside groups that was privately consulted.)

In the autumn, the Home Office circulated its consultative document on the proposed drug-control bill

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1. See, e.g. Great Britain, Parliamentary Debates (Lords), Vol. 300, c. 1287.

2. Since a consultative document states only the Government's position on a topic, and its proposals for legislation, and since it is circulated privately to interested bodies, it need not be as well-researched, or as comprehensive as a White Paper or a Green Paper - both of which are intended for wide public distribution.

to a number of principal bodies likely to be affected by its enactment, e.g. the medical profession, pharmaceutical industry, and law enforcement agencies. Among the associations consulted were: the British Medical Association, the General Medical Council, the Association of the British Pharmaceutical Industry, the Pharmaceutical Society, the Magistrates Association, the Law Society, and organizations representing the police. Other interested bodies, such as the National Council for Civil Liberties, the Institute for the Study of Drug Dependence, and Release, were not consulted, presumably because they did not have professional interest in the legislation. Reaction to the proposed bill, apparently, was overwhelmingly favourable.

The idea of introducing a bill had advanced sufficiently within the Labour Party's leadership so that it was mentioned in the Queen's Speech at the opening of the Parliamentary session on 28 October 1969. This speech, though read by the Queen, is prepared by the Government as a statement of its obectives of the forthcoming session. The Queen said that "a Bill will be brought before you establishing a more

effective system of control over dangerous drugs."[1] Mention in the Queen's Speech is no guarantee that a specific proposal will be drafted into a bill and presented to Parliament, but it makes that step very probable. In the debate about the Speech that followed in the House of Commons, the Prime Minister said that the Bill would bring "all the existing powers under one Act" and would give the Home Secretary "powers on advice from the international bodies or experts in this country, to devise appropriate regimes of control for any drug, new or old."[2]

Final Decisions

After reaction to the consultative document (or White Paper or Green Paper) are received, they are discussed by senior civil servants and junior ministers and then final proposals are drafted and sent to the Head of the Department. The procedure is then for the minister concerned to refer his proposal to a committee of the Cabinet with jurisdiction over its subject matter;

1. Parliamentary Debates (Lords), Vol. 305, c.4.

2. Ibid., (Commons), Vol. 790, cc. 36-7.

in this instance the Home Secretary referred the proposals to the Home Affairs Committee. Once the Home Affairs Committee approved the proposal, it was recommended to the Cabinet for final approval (often a formality). With Cabinet approval for the proposed legislation, the actual drafting of the Bill could begin.

Recalling the process that preceded the drafting of the Misuse of Drugs Bill, one participant noted that despite the public attention given to the control of cannabis, those directly involved in framing the statute, choosing classification and penalty structures, and determining the extent of the new law, gave the policy very little thought.

> There was no definitive discussion and decision on cannabis policy - it did not take place. This was not because the information [about cannabis] was not there, but because of the way the Bill was prepared.
>
> When we prepare a bill, it is based on our thoughts, mulled over for a while, and the best advice we can muster from someone else. And that's exactly what we did.

The drafting of a bill is carried out by legislative draftsmen from the office of the Parliamentary Counsel, a staff of about 20 barristers or solicitors attached to the Treasury. This office is responsible

for actually working the proposals and ideas of the Government into the specialized language of the statute books. So much prior approval and screening of a legislative proposal are necessary before it reaches the draftsmen because of the competition among the various departments for time in the Government's sessional programme. The fact that there is an acute shortage of draftsmen[1] is merely a result, not a cause, of this selection process. Legislative drafting in Britain, write Bradshaw and Pring,

> is a highly specialized and somewhat arcane activity. The small band of Parliamentary Counsel are virtually responsible for the shape and form of the statute book as it emerges, session by session from Parliament, since they draft not only the government's bills but virtually all the amendments agreed to those bills. They work to the instructions of the government, not of Parliament.[2]

It appears that the Home Secretary had obtained Cabinet approval for his proposals, and that Government drugs specialists and Parliamentary drafts-

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1. See Great Britain, Parliamentary Papers, Second Report from the Select Committee on Procedure: The Process of Legislation. (London: Her Majesty's Stationery Office, 1971), p. xxvii.

2. Op.cit., p. 293.

men were working on the new Bill, by the first weeks of 1970. The Bill was probably referred, as all Government bills are, to the Cabinet Legislation Committee[1] for final approval a week or so before it was presented to Parliament.

Unlike the American system, in which a flood of Bills comes to Congress from a variety of sources (individual Congressmen, lobbyists, Government departments, public and private organizations), the preparation and passage of legislation in Britain is almost exclusively controlled by the Government of the day. As Bradshaw and Pring note: "The Government, secure in the knowledge that it controls the time of the Commons, can lay a planned programme of legislation before Parliament."[2] And not only does the Government control the legislative time-table, but it can also count on the probable success of any proposal that it decides to sponsor. "Generally speaking",

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1. This Committee is usually made up of the Attorney-General, the Lord Chancellor, leaders of the two Houses, and the Chief Whips of the Government. Its principal tasks are to ensure that the Bill is precisely draftdd and clear in its intent and powers, and to identify any new legislative principles that it may create.

2. Op.cit., p. 265.

Taylor writes, "Bills introduced by the Government are passed, and passed in the form which the Government will accept."[1]

The final step in a bill's journey to the Floor of the House is the allocation of a place in the Government's programme. The minister in charge of the Bill consults with the Leader of the House, and he, in turn, through "the usual channels",[2] sets a date. The date set was 11 March, and that afternoon the Misuse of Drugs Bill was introduced in the House, given a First Reading, and ordered to be printed: as Bill 121 of the session. The public phase of the legislative process had begun. If the Bill's preparation was hastier than most, its consideration by Parliament turned out to be unusually long and especially thorough.

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1. Op.cit., p. 130. In the 1968-9 session, for example, the Government introduced 50 Bills, 48 of which became law (The Process of Legislation, Appendix 9, p. 312). And, of the 48 "ordinary government bills" passed during the previous session, 6 were amended "substantially", 18½ were amended "slightly", 18½ had amendments that were "negligible", and 5 were not amended at all (The Process of Legislation, Appendix 15, p. 332).

2. "The usual channels" is a phrase that refers to the day-to-day, informal consultations that take place between the Chief Whip and the Opposition Chief Whip.

COMMONS PASSAGE

The Powers of Debate

As noted in Chapter II, the power of Parliament is not to make law, but to criticize the way in which it has been made. From the etymology of its name [1] to the exercise of its contemporary responsibilities, Parliament is essentially a place of debate. It is a place where things are said about the actions and decision that have been made elsewhere; and increasingly in this century the "elsewhere" has been the Cabinet and Government departments in Whitehall.

The debate on a bill during the public phase of its passage serves at least three important functions: it allows MPs to bring to the attention of the Government the opinions of their constituents (and themselves) about policy and law; it allows the Government to state to the MPs (and their constituents) reasons for the form and content of the Bills that will implement its policy decisions; and it allows alternative

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1. Parliament, from Old French for "spdaking". The Concise Oxford Dictionary, Fourth ed., Oxford: The Clarendon Press, 1960, p. 866.

policies to be stated and considered."Parliament is not, and never has been, a legislature, in the sense of a body specially and primarily empowered to make laws", wrote L.S. Amery. As he explained it,

> the main task of Parliament is still what it was when first summoned, not to legislate or govern but to secure full discussion and ventilation of all matters, legislative or administrative, as the condition of giving its assent to Bills ... or its support to ministers.[1]

Indeed, that discussion is considered to be so important that, unlike its counterpart in this comparison, what is said in Parliament must be recorded and reported verbatim.[2]

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1. Thoughts on the Constitution, Oxford: Oxford University Press, 1947, pp. 11-12.

2. As Bradshaw and Pring note: "A member may make verbal alterations to the published report only if, in the opinion of the Editor [of the Official Record] these do not substantially alter the meaning of anything said in the House." (p. 131). The reason that the verbatim reports of Congress may be so heavily amended and augmented is that in Washington the Congressional Record serves the added function of being a forum for Members' views as well as a record of debates. See, e.g. Appendix II.

Introduction and First Reading

On the afternoon of 11 March 1970, at 3.40, in the House of Commons,

> Mr. Secretary Callaghan, supported by Mr. Secretary Crossman, Mr. Secretary Ross, Mr. Secretary Thomas, Mr. Dick Taverne, Mr. Attorney-General, and Mr. Elystan Morgan, presented a Bill to make new provisions with respect to dangerous or otherwise harmful drugs and related matters, and for purposes connected therewith: And the same was read a First time; and ordered to be read a Second time tomorrow and to be printed [Bill 121].[1]

Thus began the public side of the legislative exercise that was to revise the country's drug-control laws, and involve some 50 Members of Parliament [2] in the active public participation of debating and voting the nation's first comprehensive review of the subject of drug abuse.

During the deliberations that followed, about one-fourth of the discussion was directly concerned with the subject of cannabis, the drug that by this

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1. Great Britain, Parliamentary Debates (Commons), Vol. 797, No. 77, c. 1349.

2. The number of MPs who participated in the debates in Commons or in the two Standing Committees.

time accounted for 85 per cent of all drug-offence prosecutions in Britain.[1]

As is usual for the passage of major legislation, the House of Commons Library Research Division prepared a "Reference Sheet" to summarize the intent and organization of the Bill, and to provide some basic background information and bibliographic references. The Reference Sheet on the "Misuse of Drugs Bill, 1970" was issued by the Library on 16 March 1970,[2] and copies were available to any MPs who wished to take them from the rack just inside the Oriel Room, about 60 paces from the House of Commons chamber.

As the Reference Sheet explained:

> a) "Controlled drugs" are divided into three classes, A, B, and C. The severity of punishments for offences connected with these drugs varies with the classification. Schedule 2 lists the drugs in each class. Opium, heroin and LSD are in class A; cannabis in class B; and "pep" pills in class C.
>
> b) Penalties are to be related not only to the class of drug but also to the type of offence. Schedule 4 lists the punishments for the various offences under the Bill. Possession

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1. Drugs & Society, Vol. 1, No. 1 (Oct. 1971), p. 18.

2. Ref. 70/4.

> of drugs is to be punished less severely than trafficking in drugs. For example, possession of a Class B drug under section 5 (2) carries a maximum penalty on indictment of 5 years or a fine or both. Supplying a Class B drug under Section 4 (3) carried a maximum penalty on indictment of 14 years or a fine or both.[1]

Thus, by reading the Reference Sheet an MP could quickly gain a general idea of the classification and penalties that the Government had assigned to cannabis, and the approach that the Bill would take to the enforcement of the new law.

In addition to the Reference Sheet, the Library staff also prepared a "Reference Box", a rectangular, green file box containing recent press cuttings, Parliamentary debates, and the titles of books and pamphlets relevant to the Misuse of Drugs Bill.[2]

Second Reading

On 25 March 1970, two weeks after its introduction, the Misuse of Drugs Bill was read a Second

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1. Ibid., p. 1.

2. Copies of Reference Sheets, and an index to the contents of the Reference Box, are included in Appendix VI.

Time, and a money resolution was agreed to.[1] As is customary during the consideration of a Government-sponsored bill, a major debate on the legislation preceded the vote. As Taylor notes,

> second reading is generally accepted to be the most important stage of the Bill. It is then that the main principles of the Bill are stated, attacked, and vindicated.[2]

The debate lasted for five-and-a-half hours, with one hour and forty minutes of that time devoted to discussion of cannabis. As was evident in previous debates about cannabis, Government decisions and personal opinions, medical, social, and legal evidence, hearsay, and conjecture all had a place. Some of the statements were backed by references to specific sources or evidence, while others were made with no attempt to establish either their authority or accuracy. Two-thirds of the statements made about cannabis were credited to sources, while the rest were simply stated as opinion or common knowledge. In analysing the content of this debate, I have attempted to consider not

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1. Great Britain, Parliamentary Debates (Commons), Vol. 789, cc. 1466-1560.

2. Op.cit., p. 138.

only what was said, but also the strength - or weakness - of evidence used to support the various viewpoints.

Sources varied considerably. Some were official reports: of this type the single most quoted source for statements made in the debate was the Wootton Report, cited more than half the times that specific references were given.[1] Other sources cited during the evening included newspaper articles, the opinions of specific researchers, the reports of public study groups, previous Parliamentary debates, and such references as "other pieces of research",[2] "statements by international organizations",[3] and "my own prejudice".[4]

During the debate, about twenty particular issues relating to cannabis were raised. Some, such as the extent of cannabis use, proposals for reducing penalties for cannabis possession, and the "escalation theory" (whether or not cannabis use leads to "hard"

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1. 24 of 46 times.
2. Great Britain, Parliamentary Debates (Commons), Vol. 789, c. 1540.
3. Ibid., c. 1545.
4. Ibid., c. 1534.

drug addiction) prompted comments by several Members. Other issues, such as the way that existing drug-control laws were applied to cannabis users, or the adequacy of the Wootton Report, received only passing mention.

A principal question in the debate was the extent of cannabis use in Britain. The number of pounds of cannabis confiscated by customs authorities, and the number of convictions for the possession of the drug were known; but what remained in serious doubt was the relationship of such statistical data to the people who - regularly or casually - used the drug and would therefore be affected by the proposed law.

Four speakers made estimates of the extent of cannabis use, although only one gave a specific source for his statement, and even he was vague. Mr. William Deedes (Con. Ashford), a member of the Advisory Committee, said that body

> hazarded the guess that there are between 30,000 and 300,000 people on marijuana. We do not know. If somebody were to say that the figure was 1 million, I would not be disposed to argue.[1]

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1. Ibid., c. 1463.

The Home Secretary, Mr. James Callaghan (Lab. Cardiff, South-East), who had previously denounced both the Wootton subcommittee's procedures and its conclusions, said on three occasions during the debate, without giving any support, that cannabis use was increasing rapidly.[1] His Under Secretary for Home Affairs, Mr. Elystan Morgan (Lab. Cardiganshire), relied on an estimate made by W.D.M. Paton, Professor of Pharmacology at Oxford, that one person in every 2,000, or a total of 25,000 persons, was a "cannabis taker".[2]

Referring to the area of her constituency, Mrs. Renee Short (Lab. Wolverhampton, North-East) said that, based on the number of arrests reported, "it appears that the use of cannabis in the West Midlands, as in the London area, is increasing ..."[3] In advancing this conclusion, however, she did not refer to the number of arrests on which to base her calculation, the ratio of arrests to use, or the possible difference of drug use in the two areas.

Mr. Peter Jackson (Lab. High Peak) challenged

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1. Ibid., cc. 1446, 1447, 1450.

2. Ibid., c. 1555.

3. Ibid., cc. 1529-30.

a Home-Office estimate that about three per cent of the country's immigrants from Pakistan and the West Indies used cannabis. "The practice of 'pot' smoking is more common ... [among this group] than the figure would appear to indicate," he said, but gave no source for his statement.[1]

In itself, the paucity of information about the extent of cannabis use left a factual gap in the debate. But this also posed a more serious problem because it undermined the basis of discussion about the most important concern of the day: the "escalation theory". If it were not known how many persons used cannabis, then it would not be possible to relate statistically the use of this drug with the known number of heroin addicts.

Only two sources were cited in the debate to support the belief that the escalation theory was true. Mr. G.J. Oakes (Lab. Bolton, West) referred to that morning's edition of the Daily Express, in which "the President of the New York State Council on Drug Addiction" was quoted as saying that:

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1. Ibid., c. 1541.

> Any teenager who smokes 'pot' more than ten times runs a one-in-five risk of getting hooked on more dangerous drugs ... Surveys in the United States allow us to assess the direct connection between marijuana and other drugs.
>
> One survey in particular among students showed conclusively that of those who smoked pot once a month, 22 per cent went on L.S.D. and other drugs.
>
> Of those who smoked once a week, 49 per cent went on to stronger drugs.
>
> The worst drug inheritance was among those who smoked pot every day - 82 per cent.[1]

The escalation theory was also supported by Mr. Morgan, the Under-Secretary, who cited "an article ... published 18 months ago by Professor Paton" in which it was stated that a causal relationship could be demonstrated between cannabis and heroin use because: (1) cannabis use begins at ages 16 or 17, while heroin use comes a year or two later, and (2) a graph plotting cannabis and heroin convictions for a two-year period showed that the "two lines are almost exactly parallel."[2] While these data show that the numbers of cannabis users and heroin addicts were increasing in the same manner,

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1. Ibid., c. 1507.
2. Ibid., c. 1555.

they do not establish a causal relationship between the two. Giving no support for his opinion, Mr. Norman St.John-Stevas (Con. Chelmsford) said that "there is no evidence to show that many takers of heroin have started on cannabis."[1] And, Mr. Thomas Iremonger (Con. Ilford, North) said simply that "my prejudice is that cannabis leads to heroin."[2]

Those MPs who took the opposite view, and argued that the escalation theory was untrue, were also lacking in many specific sources of support. Mr. Jackson cited the Wootton Report as the basis for his view,[3] and also quoted the LaGuardia Report's conclusion that cannabis "... is not a significant addiction-producer itself, nor a serious channel to other addictions."[4] He also quoted from a paper by a Mr. Bender on "Drug Addiction in Adolescence" which stated that cannabis "only occasionally is followed by heroin usage, probably in those who would become heroin addicts as readily without marijuana."[5]

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1. Ibid., c. 1479.
2. Ibid., c. 1534.
3. Ibid., c. 1508.
4. Ibid., c. 1540.
5. Ibid., loc. cit.

Mr. Jackson then added a quotation from the Wootton Report that "it can clearly be argued on the world picture that cannabis use does not lead to heroin addiction."[1] And, he mentioned, without being more specific, that "research which has been undertaken" suggests that marijuana use does not escalate to heroin addiction.[2] Dr. M.P. Winstanley (Lib. Cheadle), a medical practitioner, broadcaster, and journalist, warned that "in talking about cannabis, we must be careful not to confuse what may be a statistical relationship with a causal relationship."[3] He also said he believed

> ... that when the history of drug addiction is written it will be seen that it was methyl amphetamine and the amphetamine drugs generally, and not cannabis, which provided the fatal link between the soft and the hard drug scenes.[4]

Compared with the amount, variety, and quality of information on the escalation theory that was available in the House of Commons Library during this debate,

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1. Ibid., c. 1541. From Cannabis, p. 13, par. 51.
2. Ibid., c. 1540.
3. Ibid., c. 1510.
4. Ibid., c. 1511.

both pro and con, these arguments can only be judged as very limited, including - at best - only about one-sixth of the material that was relevant to the question.

Debate about whether or not cannabis use is, in itself, dangerous developed into little more than a litany of quotations from reports dating back to the late Nineteenth Century. No one cited research or conclusions published after 1968, although several recent studies and articles were then available in the House Library. Taking the view that cannabis use is dangerous, per se, Mr. Marcus Worsley (Con. Chelsea) said that:

> the Wootton Reprt was softer on cannabis than many other reports, some of which have come out subsequently. I should like to refer the House to some of the recent statements by international organizations.[1]

He did not mention any statement or organization by name, although, presumably, he had in mind reports by the World Health Organization, a body that had consistently taken a critical view of cannabis. Mr. Morgan, in taking the same view, offered as his support the conclusions of a League of Nations committee that met

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1. Ibid., c. 1545.

in 1925, to discuss the use of hashish and cannabis resin.[1] Also taking the position that cannabis use was dangerous, Doctor Winstanley noted that:

> there is a close similarity between the molecular structure of the basic alkaloid in cannabis and the molecular structure of morphine, the main alkaloid of the opiates.[2]

Yet he did not attempt to explain the significance of this close similarity. Whether this is a case of "guilt by association", or the basis for a demonstrable scientific conclusion, remained unclear.

Mr. Jackson, the only MP who argued that cannabis use was not dangerous per se, relied exclusively on statements from the Wootton Report to support his view.[3]

The Wootton Report also served as the only quoted source for those MPs who argued that the legal

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1. Ibid., c. 1554.

2. Ibid., c. 1511.

3. Ibid., c. 1541. The three statements were: " ... the long term consumption of cannabis in moderate doses has no harmful effects," (p. 7, par. 29); "there is no evidence that in Western society serious physical dangers are directly associated with the smoking of cannabis," (p. 7, par. 32); and "... in terms of physical harmfulness, cannabis is very much lessdangerous than the opiates, amphetamines and barbiturates, and also less dangerous than alcohol." (p. 17, par. 70).

penalties for abuse of the drug should be reduced. Mr. Michael Foot (Lab. Ebbw Vale) quoted the report's statement "that the present penalties for possession and supply are altogether too high,"[1] and he challenged the Government to either produce an authoritative new study of cannabis to support its criticisms, or to accept the recommendations of the Wootton Report.[2] Mr. Jackson quoted a statement by Sir Edward Wayne, Chairman of the Advisory Committee on Drug Dependence "that imprisonment is no longer an appropriate punishment for those who are unlawfully in possession of a small amount [of cannabis]."[3]

Arguing that the penalties for cannabis use should be reduced, but offering no source for his view, Mr. Deedes said that "Draconian penalties" had not succeeded to control the spread of drug use in America, and were not likely to succeed in England.[4] Mr. Eric Heffer (Lab. Liverpool, Walton) said "that people should

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1. Ibid., c. 1497.
2. Ibid., c. 1493.
3. Ibid., c. 1494 and c. 1542. From Cannabis, p. vi.
4. Ibid., c. 1462.

not go to prison for having cannabis in small amounts ..."[1] And, Mr. St. John-Stevns suggested that "a perfectly rational case" could be made for the removal of restrictions on cannabis,"[2] although he stopped short of making it.

Sources and Resources

Reviewing the arguments and sources in the first Second Reading debate, they seem seriously limited in two respects: the variety of information used to defend or attack points of view, and; the apparent acceptance of most scientific and medical authorities without distinguishing either the quality of their work or their possible biases. Only a few speakers took issue with the source of an opponent's contention, while the overwhelming majority either could not judge the reliability of various judgments, or simply thought it unnecessary to bother. For example, Mr. Arthur Blenkinsop (Lab. South Shields) interrupted Mr. Morgan's explanation of Professor

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1. Ibid., c. 1495.

2. Ibid., c. 1478.

Paton's position on the escalation theory by pointing out that "it is only fair to say that his view is challenged vigorously by other eminent scientists."[1] To this, Mr. Morgan replied: "That is certainly so. I am not maintaining that this should be regarded as the authoritative declaration and as the last word in this connection."[2] Yet the ideas of Professor Paton were the only ones offered by the Government to support its view about the need to keep high penalties on cannabis because of the possible connection with heroin addiction. At another point in the debate, Mr. Worsley said: "The Wootton Report has been quoted, but it is not the only document concerning cannabis."[3] But, aside from these instances, scepticism about debate sources was rare.

The sources cited by MPs and ministers during the Labour Government's Second Reading debate represented only a tiny fraction of the items then available in the House Library about cannabis. It may be

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1. Ibid., c. 1556.
2. Ibid.
3. Ibid., c. 1545.

argued that the reason for the absence of specific information about the drug during the debate was that most MPs had little time to acquaint themselves with the subject during the fortnight between the introduction of the Misuse of Drugs Bill and its Second Reading. Yet, even accepting this possibility, there appears to be at least three reasons why more MPs could have been better informed than they were: (1) all but one of the sources then in the Library had been available before the introduction of the Bill; (2) MPs had been alerted to the Government's plan to introduce drug-control legislation in the Queen's Speech (and subsequent debate) more than four months earlier; and (3) the specific question of cannabis control had been debated in the House of Commons on two occasions during the previous 14 months.

Furthermore, the books, pamphlets, and articles that were available in the House Library (in addition to the Wootton Report, which could also be obtained free from the Vote Office) were both efficiently organized and easily accessible.[1] For general background

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1. All books on drugs were on two shelves under the heading "drugs" in Room B, under the heading "medicine" in the same room, or under "Penguins" in the hall just outside the library's main entrance. All pamphlets relating to drugs were shelved in file boxes just inside the main entrance, in the Oriel Room. And, the more

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an MP could have consulted the Reference Box on the Dangerous Drugs Bill 1967, which had been on the shelves since before its passage.[1] The contents of this box has been augmented by the library's staff on 24 January 1969 (when eight items were added) and on 5 November 1969 (when 25 items were added).[2] Thus, even before the Reference Box for the Misuse of Drugs Bill[3] was prepared on 16 March 1970, it was very convenient for an MP to read through a wide variety of material about cannabis and other drugs.[4]

Standing Committee D

It may also be argued that very little information was used or cited during the Second Reading

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Note 1, from p.316- continued:

than 200 magazine and newspaper articles on cannabis were filed under the heading "drug addiction" in the Home Affairs, International Affairs, or Science & Technology indexes.

1. Ref. 67/10.

2. Addenda to Ref. 67/10, dated 24 January and 5 November 1969.

3. Ref. 70/4.

4. See Appendix VI for a list of the contents of the Reference Box.

simply because that was not the appropriate place and time for either a detailed discussion of the Bill, or a specific consideration of cannabis. Rather, any thorough review of the subject should be made at the next stage of the legislative process: the Standing Committee. Indeed, there is sound theoretical support for such a view, since, according to Taylor, "the purpose of the Committee stage is the discussion of the Bill in detail. Every clause must be put separately to the Committee and accepted, amended, or rejected, with or without debate."[1] During the committee stage, MPs who are "specialists", and ministers backed by civil servants well acquainted with the subjects of the bill, may apply their particular expertise to the bill's minutiae - the technical and practical details that can determine the future success of a measure if it is to become an effective instrument of national law. As the Parliamentary system of law-making has evolved, "it is widely believed that they [standing committees] are more efficient than the whole House when it comes to the details of legislation."[2]

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1. Op.cit., p. 140.

2. Ibid., p. 174.

However, such an argument cannot be easily sustained by the work of Standing Committee D, the body to which the Misuse of Drugs Bill was referred on 16 April.[1] For, although the Standing Committee spent more than two hours specifically on the subject of cannabis during its six sittings, its debates drew on only one more source of information that was cited during the Second Reading: the Encyclopaedia Britannica.[2] In fact, without the benefit of new perspectives or facts the committee did little more than cover the same issues about cannabis that had previously been discussed by the whole House: its harmfulness; penalties for its use; the escalation theory; and the adequacy of the Wootton Report. Its performance is an excellent illustration of the limits in which scrutiny,

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1. The Bill was read a second time and commited to a Standing Committee on 25 March 1970. It was allocated by Mr. Speaker to Standing Committee G on 6 April, then transferred to Standing Committee D on 16 April.

   Mr. J.C. Jennings was appointed Chairman on 23 April, and Mr. Carol Johnson appointed an additional Chairman on 14 May. Members of the Committee included: Mr. Arthur Blenkinsop; Mr. /Antony Buck; Mr. William Deedes; Dr. John Dunwoody; Mr. R.W. Elliott; Mr. Michael Foot; Mr. Philip Goodhart; Mr. Richard Hornby; Mr. Thomas Iremonger; Mr. Neil McBride; Mr. Elystan Morgan; Mr. Ronald Moyle; Mr. Gordon Oakes; Mr. Eric Ogden; Mr.Norman St. John-Stevas; and Mrs. Renee Short.

2. Vol. 14, p. 876 (1967).

when not enhanced by authority, may be circumscribed. As Bradshaw and Pring describe the "powers of committees" in Parliament,

> ... the House of Commons Standing Committees exist to carry out certain duties (chiefly legislative) on behalf of the House in a fixed way and without the power to display initiative of any kind.[1]

The one new debate source was cited during a discussion about the harmfulness of cannabis. Mr. Foot (Lab. Ebbw Vale) had quoted from the Wootton Report that "cannabis has intrinsically different effects from most other drugs"[2] and that "... in terms of physical harmfulness, cannabis is very much less dangerous than the opiates, amphetamines and barbiturates, and also less dangerous than alcohol."[3] Mr. Morgan replied that:

> Society for centuries has known that cannabis has a harmful effect. May I quote from the current edition of the Encyclopaedia Britannica dealing

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1. Op.cit., p. 231.

2. Great Britain, Parliamentary Debates (Commons), Official Report of Standing Committee A, 3rd (17 November 1970), c. 68.

3. Cannabis, p. 17, para. 70.

with cannabis, under the heading of marijuana, where it says:[1]

> Marijuana intoxication may be accompanied by such physical and psychic manifestations as thirst, hunger, craving for sweet foods, nausea, dizziness, abdominal pain, drowsiness, irritability, delusions of grandeur or persecution, uncontrollable hilarity, talkativeness, apprehension, mental confusion, prostration, depression, inarticulate speech and delerium.[2]

A curious sidelight to this debate source is that it did not come from the "current edition of the Encyclopaedia Britannica", as Mr. Morgan said, but from the previous edition. The current edition at this time was the 1970, which contained a new entry on "cannabis"[3] written by Neil Francis Cairncross, an Assistant Under-Secretary of State in the Home Office. This new entry was significantly less critical of the drug's harmful effects, and included a bibliography of works that were more recent (and less negative) than those listed in the 1967 article. The

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1. Great Britain, Parliamentary Debates (Commons), Official Report of Standing Committee D, c. 95.

2. Encyclopaedia Britannica, Vol. 14 (1967), p. 876. This entry was written by Harry J. Anslinger (see p. 37, above).

3. Encyclopaedia Britannica, Vol. 4 (1970), p. 783.

bibliographies of the two encyclopaedia entries are as follows:

1967 Bibliography

R.J. Bouquet, "Cannabis", United Nations, Bulletin on Narcotics, vol. 2, no. 4, pp. 14-30 (Oct. 1950) and vol. 3, no. 1, pp. 22-45 (Jan. 1951).

David W. Maurer and Victor H. Vogel, Narcotics and Narcotic Addiction (1954).

Pablo Osvaldo Wolff, Marihuana in Latin America: the Threat it Constitutes (1949).

P.O. Wolff, The Physical and Mental Effects of Cannabis (1955).

1970 Bibliography

Council on Mental Health, "Marihuana and Society", JAMA, 204: 1181-2 (1968).

"Dependence on Cannabis (Marihuana)", JAMA, 201: 368-71 (1967).

World Health Organization, "Drugs", World Health (July 1967.

Martin H. Keeler, "Adverse Reaction to Marijuana", Am. J. Psychiat., 124: 674-7 (1967).

Mayor's Committee on Marihuana, The Marihuana Problem in the City of New York (1944).

President's Commission on Law Enforcement and Administration of Justice, "Mind Altering Drugs and Dangerous Behavior", Task Force Report: Narcotics and Drug Abuse (1967).

D. Solomon (ed.), The Marihuana Papers (1966).

A.T. Weil, N.E. Zinberg, and J.M. Nelsen, "Clinical and Psychological Effects of Marihuana on Man", Science, 162: 1234-42 (Dec. 13, 1968).

G.E.W. Wolstenholme and J. Knight (eds.), Hashish: Its Chemistry and Pharmacology (1965).

Advisory Committee on Drug Dependence, Cannabis (1969).

Both the tone and the content of the Cairncross article (which was prepared by civil servants in the Drugs Branch of the Home Office) were at variance with the position taken by the Home Secretary and his ministers. A copy of the 1970 edition had been placed on the shelves in the Reference Room of the House of Commons Library at least a month before this debate.[1]

Mr. Morgan's quotation prompted some interest in the Government's sources of information during the next meeting of the Standing Committee the following morning. Mr. Philip Goodhart (Con. Beckenham) said that the quotation from the encyclopaedia

> reinforces the feeling which exists in some parts of the country that the Home Office carries out its research on the subject by reading the

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1. An assistant in the Library certified that the edition had been shelved "sometime before Easter". Easter Saturday, the last day that the Library was open before the holiday, was 28 March; the debate occurred on 28 April.

> Encyclopaedia Britannica - and not always the most up-to-date edition of that encyclopaedia.[1]

Mr. Goodhart also referred to the Wootton Report's "Appendix 1", a survey of cannabis literature by Sir Aubrey Lewis that had been quoted by Mr. Morgan to support his claim that cannabis was seriously harmful. In Mr. Goodhart's view, the Appendix "contained evidence to fit every possible point of view on this argument [of cannabis strength and harmfulness]."[2] Another Member who argued that the Appendix by Sir Aubrey Lewis deserved special attention, and caution, was Mr. Deedes. "If one reads Sir Aubrey's report carefully and then reads the Wootton Report one finds a certain conflict of evidence ..."[3] Mr. Deedes also gave to the committee's debate what was certainly the vaguest source of information cited during the entire passage of the Bill when he said that "from the sort of bush telegraph which operates in the drug world now, I hear occasional reports of this and that sort

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1. Official Report of Standing Committee D, op.cit., c. 106.
2. Ibid., c. 107.
3. Ibid., c. 76.

of abuse ..."[1]

For most of the committee stage, however, the Members' sources of information did not suffer from being too obscure, but rather from being too familiar. When arguing that penalties for the possession of cannabis should be reduced, Mr. Foot recited from the Wootton Report.[2] When the question of the escalation theory was discussed, Mr. Foot criticized Mr. Morgan for relying on Professor Paton as his principal source [3] "as if his words deserve special recognition."[4] And, when Mr. Foot proposed amendments that would place cannabis in a separate legal classification from other drugs [5] he cited the recommendations of the Wootton Report. He also criticized the Government for not abiding by its claim that the Bill "will divide [drugs] according to their accepted dangers and harmfulness in the light of

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1. Ibid., c. 292.
2. Ibid., c. 70; Cannabis, p. 17, para. 70.
3. Great Britain, Parliamentary Debates (Commons), Vol. 798, c. 1555.
4. Official Report of Standing Committee D, c. 67.
5. Ibid., c. 63.

current knowledge."[1]

The committee stage was also the first time that a point made in earlier Parliamentary debate was extended inaccurately. Mr. Antony Buck (Con. Colchester) said:

> It was pointed out on Second Reading that half of the secondary school children in America, about 7½ million teenagers, were thought to be familiar with marijuana. I drew the attention of the House to the fact that teachers in the United States were said to be "frightened of the addict and terrified of the pusher" and that one teacher was quoted as saying "You don't tangle with a suspected pusher. It is dangerously big business."[2]

The quotations that Mr. Buck repeated here, however, did not apply to cannabis at all, but came from a Times article entitled "The Teenage Heroin Epidemic That Has Alarmed the United States."[3]

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1. Ibid., c. 66; see Parliamentary Debates (Commons), Vol. 798, c. 1453.

2. Ibid., c. 44. The estimate of 7½ million was made by Mr. Deedes, Parliamentary Debates (Commons), Vol. 798, c. 1461.

3. Parliamentary Debates (Commons), Vol. 798, c. 1552.

General Election

Standing Committee D met six times[1] to consider the Misuse of Drugs Bill, then adjourned until 2 June for the Whitsun Recess. The House of Commons was scheduled to recess from 21 May to 1 June. But with rising public speculation during the month of May that Parliament would be dissolved for a general election, it came as no surprise when the Prime Minister announced on 18 May that dissolution would occur on 29 May and a general election would be held on 18 June.[2] What was a surprise was the result of that election. The Conservative Party returned to office, after nearly six years in Opposition, winning 330 seats in the House of Commons.[3]

This turnabout left the new Conservative Government with the unexpected task of governing. The new Parliament was opened by the Queen on 2 July. In her

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1. 23, 28, and 29 April; and 5, 7, and 12 May.

2. Whitaker's Almanack (1971), Parliamentary Summary, pp. 358, 567.

3. Labour won 287 seats, the Liberals won 6, other parties won 6, and 1 seat went to The Speaker.

Speech she made no mention of drug-control legislation being a goal of her Government. Yet, with practically no new bills ready for introduction, the Government wasted little time in picking up its predecessor's Misuse of Drugs Bill, which had been left stranded in committee at the time Parliament was prorogued.

Second Introduction and First Reading

On 8 July the new Home Secretary, Mr. Reginald Maudling (Con. Barnet), introduced his Government's Misuse of Drugs Bill.[1] The Bill was almost identical to the one introduced by the Labour Government, and its clauses relating to cannabis were all as originally introduced.

Second Second Reading

Eight days later, on 16 July, the Bill was given its Second Reading and a money resolution was

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1. Great Britain, Parliamentary Debates (Commons), Vol. 803, c. 666; Bill 15.

agreed to.[1] During the evening's debate cannabis was mentioned frequently, and discussion of the drug occupied more than one of the five hours devoted to the Bill. But the time spent discussing cannabis appeared to do little to advance a clear understanding of either the drug, or the law designed to control it. Compared with the first Second Reading, the issues seemed more confused. MPs who had previously stated their views about cannabis with certainty began to qualify and question their assumptions; and, although most of the same sources were cited, there seemed to be less respect for them than at any of the preceding debates.

Questions about the harmfulness of cannabis, and the validity of the escalation theory, were raised. But discussion seemed almost perfunctory, and no new information was cited to advance the state of knowledge reached in earlier sessions. The only new food for thought was an old chestnut: the well-known (yet frequently misunderstood) association between the words

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1. Ibid., cc. 1749 to 1849.

"hashish" and "assassin". Mr. Percy Grieve (Con. Solihull) introduced the familiar subject when he said:

> ... one need not throw oneself very far back in history to remember that the sect of the Assassins buoyed themselves up by smoking hashish in order to carry out their crimes.[1]

Mr. Deedes, who was a member of the Advisory Committee, and was in a better position than most of his colleagues to speak with authority about cannabis, now seemed more perplexed than ever about the drug's dangers. "I know a doctor who thinks that people who are smoking [cannabis] twice a week are in danger. I am not qualified to say whether this is true or not ..."[2]

It was the Government's underlying assumption that cannabis use was dangerous, both physically and psychologically. Yet front-benchers made no attempt to expand on the earlier arguments of their Labour predecessors. Likewise, those who had previously said that cannabis use is not dangerous pre-

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1. Ibid., c. 1808. See also p. 21, above for an account of this etymological curiosity; and pp. 201 and 205 for examples of its appearance in the House of Representatives.

2. Ibid., c. 1781.

sented no new arguments for their viewpoint. It fell to Mr.Reginald Paget (Lab. Northampton) to say that moderate use of the drug was not harmful, although for support he did no more than cite the findings of the Indian Hemp Commission, the LaGuardia committee, and the Wootton Report.[1] Mr. Tom Driberg (Lab. Barking) added that "from observing the considerable number of young people who do smoke cannabis from time to time ..." he thought that the drug was not addictive.[2]

Even Mr. Elystan Morgan, who had spoken with certainty when he argued for the Misuse of Drugs Bill's approach to cannabis under the Labour Government, back-tracked on what he thought were some of the facts. On estimates of how widespread was cannabis use, he noted figures given previously,[3] then said that "every expert who testifies on this subject qualifies his observation by saying that the number of people who

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1. Ibid., c. 1805.

2. Ibid., c. 1847.

3. Cannabis, p. 9, para. 36: 30,000 to 300,000; Professor Paton: 25,000; Mr. Deedes, Parliamentary Debates (Commons), vol. 798, c. 1463: 30,000 to 1,000,000.

take cannabis with any frequency at all, simply cannot be gauged."[1]

While speakers seemed to rely on familiar sources of information to make some points, they abandoned them when making others. Discussing the validity of the escalation theory, MPs speaking both pro and con failed to refer to a single source of information for their views. Messrs. Maudling,[2] Callaghan,[3] and Stuttaford [4] asserted that the escalation theory was true, while Messrs. Deedes [5] and Paget,[6] and Mrs. Short [7] said that it was false. Mr. Deedes and Mrs. Short, again without attribution, did, however add some new opinions to the theory: Mr. Deedes said that he thought that while pot did not lead to heroin, he suspected that it did lead to the use of LSD;[8] and,

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1. Great Britain, Parliamentary Debates (Commons), Vol. 803, c. 1838.
2. Ibid., c. 1754.
3. Ibid., c. 1757.
4. Ibid., c. 1762.
5. Ibid., c. 1780.
6. Ibid., c. 1802.
7. Ibid., c. 1785.
8. Ibid., c. 1780.

Mrs. Short said that she thought that there was some proof of escalation between amphetamines and heroin.[1]

During this Second Reading debate, no one urged specifically that penalties for cannabis possession be lessened, although Mrs. Short did quote a statement by Mr. Deedes from the earlier Second Reading debate [2] that America's Draconian penalties had not curbed drug use.[3] However, both Mr. James Callaghan, the former Home Secretary, and Mr. Elystan Morgan, his former Under-Secretary, said that based on "the most recent market research"[4] that they had seen, more than 90 per cent of young people in Britain favoured strict laws against cannabis use.[5] Such an estimate had never

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1. Ibid., c. 1785.
2. Ibid., Vol. 798, c. 1462.
3. Ibid., Vol. 803, c. 1783.
4. Ibid., c. 1756 and c. 1837.
5. Mr. Callaghan said that:
   > ... the plain truth is, as far as I know it and as far as the most recent market research that I have seen has gone, that over 90 per cent of young people are in favour of stringent penalties against those who smoke "pot". (c. 1756).

   Mr. Morgan said that:
   > It is clear on the latest market researches that nine out of every 10 young people utterly condemn the use of cannabis. (c. 1837).

been made in public before, and did not seem to square with any other writing about the attitudes of young persons to cannabis. Perhaps their reliance on public-opinion polls to determine their attitude about this social problem had been just as faulty as their use of the polls to engineer a general election.[1]

Mr. Morgan also added that "the prohibition, the condemnation [of cannabis] has existed for a very long time"[2] and he cited again the 1925 League of Nations resolution. He failed to mention, however, that the British delegate had abstained from voting for a complete prohibition on the production and use of cannabis resin on the grounds that it had potential

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1. Long after the arguments are forgotten, the general election of June 18, 1970, will be remembered as the occasion when the people of the United Kingdom hurled the findings of the opinion polls back into the faces of the pollsters and at the voting booths proved them wrong - most of them badly wrong ... On the morning of polling day only one poll, Opinion Research Centre, put the Tories ahead - and then by only 1 per cent. ("The Election Campaign" by George Clark, in The Times Guide to the House of Commons 1970, Times Newspapers Limited, London, 1970, p. 26.)

2. Great Britain, Parliamentary Debates (Commons), Vol. 803, c. 1838. See also pp. 311 above.

medical value.[1]

One "loose end" from a previous debate remained unresolved during this Second Reading when Dr. Tom Stuttaford, an MD, said that the argument about the similarity between the molecules of THC and morphia [2] was clinically insignificant,[3] but he failed to explain the reasons for this view or to give a specific source to corroborate it.

Sources and Resources

At the conclusion of the Conservative Government's Second Reading of the Misuse of Drugs Bill, the Minister of State for the Home Office, Mr. Richard Sharples (Con. Sutton and Cheam) said that "the debate throughout has been thoughtful and constructive."[4] He added that "we shall now have the whole of the summer months before the Committee stage starts" to consider amendments, and official and unofficial reports.[5]

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1. Cannabis, p. 64, Appendix 2, para. 4.
2. See p. 312, above.
3. Parliamentary Debates (Commons), Vol. 803, c. 1762.
4. Ibid., c. 1839.
5. Ibid.

Apparently he felt that this time was needed - at least by his own Government - to become acquainted with the subject of drug abuse and the Bill just introduced. Indeed, from the point of view of information about cannabis, the debate that he concluded had little to commend it. The only new sources of information given that evening were an unidentified market-research poll taken among young people, and an etymological anecdote.

It may be argued that the reason for such an unambitious examination of the subject of cannabis was the impact of the recent general election. Another cause may be the assumption (actually stated by some MPs[1]) that the subject had been thoroughly covered in the House even before the introduction of the Misuse of Drugs Bill, and that little more could be said. It seems unfortunate if either of these possibilities is true, however, because during the time that the Bill was before Parliament a number of significant and useful sources of information about cannabis were added to the files of the House of Commons Library, many of which had direct bearing

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1. Ibid., Vol. 798, c. 1554.

on the topics raised in debate.

Standing Committee A

One week after the autumn opening of Parliament, on 3 November, the Misuse of Drugs Bill was again "upstairs" in the committee rooms, this time before Standing Committee A.[1] Mr. Deedes noted that:

> in the intervening six months ... the Home Office has been able to conduct inquiries and hold an investigation on a scale which would normally be impossible between the usual legislative stages of Bills.[2]

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1. The day after the second Second Reading debate, on 17 July, the Bill was allocated by Mr. Speaker to Standing Committee A. On 23 July Mr. Carol Johnson was appointed chairman. He resigned, and a new chairman, Mr. Bryant Godman Irvine (Con. Rye) was appointed on 27 October, the day of the state opening of Parliament. Members of the committee included: Mr. Michael Allison; Mr. Arthur Blenkinsop*; Mr. S. Clinton Davis; Mr. William Deedes*; Mr. Ben Ford; Mr. Philip Goodhart*; Mr. Victor Goodhew; Mr. Peter Hardy; Mr. Alan Haselhurst; Mr. Thomas Iremonger*; Mr. Elystan Morgan*; Mr. Eric Ogden*; Mr. Timothy Raison; Mr. Richard Sharples; Mrs. Renee Short*; and Dr. Tom Stuttaford. (Members whose names are marked with an asterisk had been members of Standing Committee D).

2. Official Report of Standing Committee A, c. 95.

Mr. Sharples, the Minister of State for the Home Office and leader of the debate for the Government, agreed, saying that:

> ... an enormous amount of studying has taken place during the period between the introduction of the first Bill and the introduction of the present Bill, and in the long gap during the Summer Recess between Second Reading and Committee stages.[1]

In fact, there had been no inquiries, investigations, or extensive studies at all. The two were referring to the arrival in the Home Office of the Interim Report of the Commission of Inquiry Into the Non-Medical Use of Drugs, which had been published in Canada on 15 May. (See Postscript for a note about the Commission's Final Report.) Mr. Sharples held the view that debate on the Bill had been exceptional throughout the five sessions of the standing committee, and concluded on the final day that "there has been full and fair discussion of the Bill ..."[2] However, looking at the statements made about cannabis during this committee stage, and at the information that was

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1. Ibid., c. 99.

2. Ibid., c. 236.

cited and presented in their support, it is difficult to agree with the minister's conclusions.

Several Members who had made statements suggesting that they held strong convictions based on facts about various aspects of cannabis in previous debates, now said that they were unsure of their assumptions, yet they offered no new reasons to support their changes of mind. For example, Mr. Morgan, who had expended great energy establishing that the escalation theory was true while an undersecretary in his own party's Government, said

> ... we must accept that we are very far from either proving - I put it as fairly as I can - or disproving the contention that there is a strong and, perhaps, even direct causal connection between the taking of cannabis and heroin addiction.[1]

He also abandoned his assertion (based on the estimate of Professor Paton) that about 25,000 persons in Britain were using cannabis. Instead, he adopted some of Mr. Deedes' doubts, saying that:

> ... we do not know whether the numbers in Britain who take cannabis are 30,000 or 300,000 - and many respon-

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1. Ibid., c. 228.

> sible people suspect that the number could be in excess of half a million or a million.[1]

Mr. Deedes, who had previously argued that cannabis was properly classed in the Labour Government's Bill[2] now spent several minutes arguing that putting "cannabinol except where contained in cannabis and cannabis resin" and "cannabinol derivatives" in Part I, Class A of the Bill, and putting "cannabis and cannabis resin" in Part II, Class B, was an inconsistency that "could lead to a genuine miscarriage of justice"[3] in which a person could be charged with a more serious crime than he had, in fact, committed. And, Mr. Sharples, who had previously defended the penalties for cannabis in the Bill[4] said that it was not necessary to lower them - as some MPs had urged - because the law courts would be more lenient in sentencing in the future as

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1. Ibid., c. 229.
2. See Parliamentary Debates (Commons), Vol. 798, No. 87, c. 1467.
3. Official Report of Standing Committee A, cc. 220-1.
4. Parliamentary Debates (Commons), Vol. 803, c. 1843.

a result of the recommendations made by the Wootton Report.[1] The original contentions of all these Members (Morgan, Deedes, Sharples) were backed by references to specific sources of information, while their modified positions were made without reference to any support whatsoever.

But, if some Members were surprisingly flexible on certain issues, others displayed lasting determination. For example, Mr. Blenkinsop continued to urge the Government that first offenders should not be imprisoned for possession of cannabis,[2] citing as his basis for this view the Wootton Report.

While Mr. Morgan continued to quote Professor Paton and Sir Aubrey Lewis [3] to support his view that cannabis use was dangerous, Mr. Deedes adopted the same view on the basis of some more recent, though more vague, information. He quoted from a report "by two eminent and experienced practitioners"[4] that

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1. Official Report of Standing Committee A, c. 233. See also Cannabis, pp. 32-3.

2. Ibid., c. 224. See also Cannabis, pp. 20-1, pars. 80-1.

3. Ibid., cc. 230 and 227.

4. Ibid., c. 16.

read: "... marijuana is a toxic substance in itself, particularly to the brain, and ... prolonged consumption produces personality changes and brain damage."[1] He did not disclose the source of the report, except to say that it had been sent to him "by a senior official in Whitehall."[2] Mr. Deedes then added that:

> there is a certain area of research, which I shall not particularize, which has now yielded some limited results. So far as they go, these results are disturbing. They suggest that this drug [cannabis] has properties of which we have hitherto been unaware ... [and that] what may soon be disclosed about the properties of cannabis will emphatically not make us less cautious.[3]

These references by Mr. Deedes were the only new sources of information about cannabis cited during

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1. Ibid., c. 17.

2. Ibid.

3. Ibid. These results, he later said, were based on experiments by Professor Paton, who injected rats with cannabis compounds. The experiments have since been criticized on two grounds: (1) cannabis was injected, not ingested or inhaled, and; (2) the doses were far in excess of comparable amounts normally taken by even heavy users of the drug.

the committee's debates. The Wootton Report remained the single most-quoted source, as it had been at every stage of the legislative process. This seems surprising, in view of the fact that Members had been urged to study the Bill closely during the long summer recess, and some new sources had appeared in the House Library between July and November (see Appendix V).

Report and Third Reading

Standing Committee A reported the Misuse of Drugs Bill, as amended, on 17 November [Bill 33]. On 9 December the Report Stage of the Bill was taken in the House. The object of the Report Stage is to give the House

> ... some opportunity of considering the Bill in detail, and making amendments to particular sections ... The discussion upon report stage is like the discussion in Committee, essentially a discussion of details, as opposed to a discussion of basic principles.[1]

Debate on the Report Stage of the Misuse of Drugs Bill began at 10 p.m., and during the debate that

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1. Taylor, op.cit., p. 144.

followed the number of MPs in the House chamber varied from about 10 to 25.[1] Several of the Members present had followed the Bill from its beginnings (e.g. Mr. Deedes, Mr. Morgan, Mr. Blenkinsop, Mr. Goodhart, Mr. Ogden, Mrs. Short), while others spoke about drugs in debate that evening for the first time (e.g. Mr. Tam Dalyell, Mr. James Scott-Hopkins, Mr. Selwyn Gummer).

The subject of cannabis was raised three times during the debate: once on a new issue and twice on issues of continuing interest. The new issue was raised by Mr. Tam Dalyell (Lab. West Lothian) who introduced an amendment that would have authorized medical testing of pupils for drug use at state-run schools. After noting that narcotics, amphetamines, heroin, and barbiturates can be detected in the human body, he read:

> Tetrahydrocannabinol (THC), which is believed to be the principal active constituent, cannot at present be detected in body fluids, although it is readily detectable in the raw

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1. The quorum of the House is formed by 40 Members, including the Speaker. At the time of the Bill's passage, the initiative in ascertaining whether a quorum was present rested with the House, though under the rules it was not possible to do so after 10 p.m.

> material or in air samples of cannabis smoke. It is likely however - this is the crucial part - that this position will change since unpublished work indicates that a metabolite appears in the urine in reasonable amounts. Further, THC has now been synthesized and pure reference material is available.[1]

He concluded: "Briefly, does this not add up to the fact that by the time legislation gets through this House, it is more than likely that cannabis will be traceable?"[2] No one answered his question, and within two minutes Mr. Sharples said that "for practical reasons" the amendment could not be accepted. It was negatived without a division.[3] Apparently, Mr. Dalyell based his amendment on a 29 November Observer article entitled "Cannabis Spot Checks?" in which Professor Paton was quoted as saying that a simple urine test for detecting cannabis was "now being developed" and might be ready in six months' time.

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1. Great Britain, Parliamentary Debates (Commons), Vol. 808, No. 53, c. 565. The source of this statement, he said, was "the Advisory Committee's Report", although no such quotation appeared in any of that body's publications.

2. Ibid.

3. Ibid., c. 567.

(To date little progress on such a test has been reported.)

More than two hours later, Mr. Sharples, in his summing-up before the final vote on the Third Reading, referred to the question about classification of cannabis that Mr. Deedes had raised in Committee.[1] He rejected this proposal by saying that "this is a very complex question to which we need to give further thought. Fortunately, the Bill allows for changes in the schedule should this seem right."[2]

The final mention of cannabis in the House of Commons came when Mr. Blenkinsop said that he was still unhappy with the fact that the possibility remained for a first offender found with a small amount of cannabis in his possession to be sentenced to prison.[3] This was an issue with which he had been concerned since his membership on the Advisory Committee, and one that he had mentioned several times during debate on the passage of the Bill. The

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1. See p. 340, above.

2. Great Britain, Parliamentary Debates (Commons), op.cit., c. 612.

3. Ibid., c. 619.

minister did not reply to his point.

Finally, at 1.15 a.m. on 10 December, the Bill had an unopposed Third Reading. It then passed to the House of Lords, where it became HL 64.

LORDS PASSAGE

The Powers of Influence

The dispatch of the Misuse of Drugs Bill from the House of Commons to the House of Lords, marked its passage from a realm of political persuasion to one of social influence. While, technically speaking, peers of the realm are politically impotent, both individually (they cannot vote in national elections) and as a body (they cannot prevent Bills passed by the Commons from becoming law, but may only delay them),[1] they have been able, in recent years, to persuade Governments to alter some of their policies. For, although it is thought of as an "amending" body, in some ways this "upper" house can actually initiate

1. The Parliament Act of 1949 curtailed powers already limited under 1832 and 1911 laws. Today the House of Lords may only delay a money Bill for one month, and other Bills for one year.

changes in public policy that its more political counterpart cannot. In the social and political composition of Britain, where public influence can be as forceful as political power, their influence on legislation is often significant. Indeed, it is precisely its apolitical approach that sometimes makes the House of Lords an effective second chamber. Its detachment frequently allows its members to indulge in much more reflection and study, and a more rational assessment of legislation is often apparent in their debates. In recent years, this chamber has been the forum for the beginning of public social-reform legislation that was considered too sensitive for initiation in the House of Commons (e.g. homosexuality, abortion, capital punishment).

In its treatment of the issue of drug abuse, and the legislation intended to control it, the work of the House of Lords offers an instructive contrast to the Bill's passage in the House of Commons. Its debates about cannabis drew on factual information that was more current and more relevant than that mentioned in "another place". But at the same time, its members also revealed some examples of profound

ignorance and irrelevance. And in these extremes the House of Lords reflected both its advantages and its limitations as an effective forum for the discussion and enactment of social change.

The House of Lords debated the Misuse of Drugs Bill on six occasions,[1] and considered the particular problems of cannabis control at each meeting. During these debates many of the sources cited earlier by MPs were raised again, such as the Wootton Report, the Indian Hemp Commission report, and the LaGuardia report. In addition, several new sources were introduced, such as the LeDain Commission report,[2] and two reports of recent experiments on the effects of cannabis on man. Predictably, some familiar arguments were also repeated, such as the etymology of the word "assassin" and the validity of the escalation theory.

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1. 14 Jan.; 4, 9, and 11 Feb.; and 9 and 25 Mar. 1971.

2. The Commission of Inquiry into the Non-Medical Uses of Drugs, headed by Gerald LeDain, submitted its Interim Report to the Minister of National Health and Welfare (of Canada) on 6 April 1970. It had been published in Canada on 15 May.

Second Reading

When the Bill was given a Second Reading on 14 January 1971, four new sources of information about cannabis were cited in the debate. Baroness Wootton, chairman of the subcommittee that had produced the report on Cannabis, and an outspoken critic of the approach to the drug taken in the Government's Bill, reported that some changes in public policy had come about as a result of her group's report. She said that the Minister of State (Mr. Sharples) had reported to her that the number of cases of persons found in possession of small quantities of cannabis who had been sent to prison for a first offence had been reduced.[1]

Lord St. Just said that young people were faced with much conflicting evidence about cannabis: Dr. Stafford Clarke, a consulting psychiatrist at Maudesley Hospital was quoted in The Times and on

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1. Great Britain, Parliamentary Debates (Lords), Vol. 314, No. 42, c. 254. It was later revealed that the statistics on which the Minister had based his conclusion were incorrectly tabulated. When recalculated, the same point could be made, but without the original numerical strength.

television as stating that there is no harm whatsoever in taking the drug, while specialists such as Professor Sir Aubrey Lewis say it is harmful.[1] Lord Gifford cited "perhaps the most authoritative and recent investigation", the LeDain Commission's Interim Report, as recommending that simple possession of cannabis should not be prohibited at all.[2] He also noted that, according to a leader in The Times of the previous week,[3] the prohibition of cannabis use threatened to call the authority of the law into disrepute, especially among those persons who did not consider cannabis to be dangerous.

Committee (First Day)

The House of Lords conducts the Committee Stage of Bills on the Floor of the House much more frequently than does the House of Commons, and this procedure was followed for its consideration of the Misuse of Drugs Bill. During the first day of

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1. Ibid., c. 267.
2. Ibid., c. 270.
3. 6 January 1971.

committee, 4 February, five sources not previously cited in the Commons about cannabis were mentioned to support a variety of viewpoints. Baroness Summerskill referred to that morning's edition of The Times in which was reported a survey conducted by the National Institute of Mental Health in the United States that revealed one-third of American university students had tried marijuana, and one-seventh used the drug regularly. She quoted Dr. Bertram Brown, NIMH Director, who said that many facts about marijuana remained unclear, and that for most smokers the drug did not seem harmful. She asked, as Dr. Brown had, if marijuana use, to escape from reality, should be encouraged; and she answered this query strongly in the negative, concluding her argument by saying that:

> I ask the Committee at this stage not for one moment to be diverted, but to be strong minded and to recognize that this is a drug which may lead young people to take even stronger drugs from which there can be no return.[1]

Lord Ferrier followed with the first of several references to the etymology of "assassin" when he said:

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1. Great Britain, Parliamentary Debates (Lords), op.cit., No. 52, c. 1372.

> I spent many years in the East, in a country where hashish was well known and its dangers were well known. It might be well to recall - I do not think I have seen it mentioned on the Record - that our word "assassin" stems from the word "hashish". Therefore, it is not of this day and age that the dangers of the drug are known.[1]

After an interruption for discussion of the "Rolls-Royce Difficulties",[2] the debate on the drugs Bill was resumed by Lord Gifford, who cited the conclusions of the Indian Hemp Commission, the LaGuardia committee, the Wootton Report, and the LeDain Commission Interim Report to support his view that the short-term effects of the drug are negligible. He then said that "one authoritative and meticulous experiment was conducted in 1968 by Weil, Zinberg and Nelsen with controlled tests on marijuana smoking subjects" that concluded:

> The near-absence of significant psychological effects makes it unlikely that marijuana has any seriously detrimental physical effects in either a short-term or a long-term usage.[3]

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1. Ibid.

2. The company had gone into bankruptcy that morning.

3. Ibid., c. 1398. The experiment to which he referred was reported in New Society (16 Jan. 1969) pp. 84-6 and was entitled "Cannabis : the first controlled experiment."

He also cited research done by Crancer on the effects of marijuana on driving skills made in 1969, relating that:

> some subjects were given no drugs at all, some had a very high dose of marijuana given to them and others were given a high dose of alcohol. Astonishingly, it was found that those with alcohol had a very high degree of error but that the errors committed by those with marijuana and those who had nothing were almost exactly the same.[1]

To counter this argument, Lord Hankey said of cannabis that:

> I know that it is common knowledge that this is really a dangerous drug. Its misuse (and who can be sure that anybody who uses it will not subsequently misuse it?) leads to the most extraordinary delusions. It is not for nothing that the word "assassin" is derived from the word "hashish". It is common knowledge in the Middle East that people who get too much of this stuff inside them go absolutely berserk.

He said that "this drug is a pathway along which people fall into the stronger drugs,"[2] and added that:

> it so happens that I have a close relation who leads a team of researchers into the drugs problem

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1. Ibid.

2. Ibid., c. 1400.

> at the Karolinska Institute in Stockholm. The advice that I have given to your Lordships would certainly be in accordance with what the leading Swedish researchers would say on this subject. Although I cannot give it its proper scientific terminology in every respect, I know enough about science to assure your Lordships that I am not talking through my hat.[1]

Several peers argued that they should not "go soft" on cannabis, and that the drug led irrevocably to the use of stronger, addictive drugs. And the criminogenic effects of cannabis were argued by the Earl of Mansfield, who referred to life in Jamaica, where,

> in the local Press ... hardly a week passes without one seeing an account of some crime being committed - murder, culpable homicide, rape or violent assault - by someone under the influence of cannabis, there known as ganja. That happens the whole time.[2]

The NIMH report mentioned earlier was cited again, this time in support of a moderate approach to cannabis control, when Lord Foot quoted that "it is generally conceded that marijuana use does not lead

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1. Ibid.

2. Ibid., cc. 1412-3.

directly to the use of other drugs."[1] At the conclusion of this debate, the House divided 116 to 23 against an amendment (No. 1) that would have placed cannabis in a separate legal category from all the other drugs in the Bill.[2]

Committee (Second Day)

On 9 February the House of Lords held its second day of committee debate on amendments to the Misuse of Drugs Bill. This sitting was opened with a discussion of Clause 6, to prohibit the cultivation of cannabis, with an amusing "theological" argument by Lord Foot. "I presume that the earliest record and reference to cannabis that we have is in the first chapter of Genesis," he said.

> "And the earth brought forth grass, and herb yielding seed after his kind, and the tree yielding fruit, whose seed was in itself, after his kind" - and the words to which I direct your Lordships' particular attention are the concluding words:

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1. Ibid., c. 1416.
2. Ibid., c. 1417.

> "and God saw that it was good."
>
> So far as cannabis is concerned, obviously that is an opinion which is not shared by Her Majesty's Government, nor I may say, by Her Majesty's Opposition ...
>
> This is not perhaps the first time that the Tory and Labour Parties have found themselves in what, quite literally might be described on this occasion as "an unholy alliance."[1]

This amusement aside, the debate turned to two other sources. Baroness Summerskill opposed an amendment to delete Clause 6 from the Bill by quoting a report from the International Narcotics Control Board, as reported in The Times during the previous week. This article reported the board's finding that cannabis use had reached "almost epidemic proportions."[2] Shortly thereafter, when confronted with strong opposition to his proposal, Lord Foot withdrew this amendment and Clause 6 was agreed to. Later in the day's debate, other amendments to temper the severity of laws affecting cannabis were also withdrawn by their sponsors, in the face of

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1. Ibid., Vol. 315, No. 53, c. 63. Lord Foot's quotation was from Genesis, Chapter I, Verse 12.

2. Ibid., c. 66. The article appeared in The Times, 6 February 1971, p. 4. See also p. 10, above.

certain defeat by a strongly conservative majority.[1]

Committee (Third Day)

During the third day of committee debates on the Bill, 11 February, Baroness Summerskill said that "the International Narcotics Control Board stated that there is evidence that the individual who consumes cannabis deteriorates and finally takes heroin,"[2] a viewpoint accepted by a large majority of the participants in the debate. At one point during the proceedings, a challenge of sources of information developed. While referring to the Indian Hemp Commission, the New York Mayor's Committee, and the studies of Zinberg and Weil as presenting a generally positive view of cannabis use, Lord Windlesham, the Government's spokesman, also cited a few sources that led to different conclusions: the Report of the New Zealand Board of Health Committee on Drug Dependence and Drug Abuse, the work of Farnsworth at Harvard in

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1. Ibid., cc. 78, 81, and 83.

2. Ibid., No. 55, c. 254.

1956, and that of Dr. Ochsner of New Orleans in 1970. He did not say what these works had proven about cannabis, but, rather, referred to a general note of caution about information on the drug by quoting from the LeDain Commission:

> Usually reliable authorities have publicly taken diametrically opposed positions, not only on moral and social policy issues, but on supposed 'hard' scientific facts as well. Although the current world literature on cannabis numbers some 2,000 publications, few of these meet modern standards of scientific investigation. They are often ill-documented and ambiguous, emotion-laden and incredibly biased and can, in general, be relied upon for very little valid information.

"It is therefore not possible to look for some magic touchstone in international scientific literature which would guide our approach to this problem," he said.[1] An amendment that would have moved cannabis from class B to class C in the Bill was opposed by Lord Windlesham on the grounds that it would violate Britain's "treaty obligations" because, in placing the drug in a category with lower penalties the Government would be failing in its agreement to "effectively

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1. Ibid., c. 297.

counter any publicity which advocates legislation or tolerance of the non-medical use of cannabis as a harmful drug."[1] Shortly after this speech the amendment was withdrawn.

Baroness Wootton began to move a series of amendments that would have implemented many of her subcommittee's recommendations. One, which would have prevented the Bill's increase in the penalty for cannabis trafficking from a 10- to a 14-year maximum prison sentence, was opposed by Baroness Summerskill who told her colleagues:

> I believe that as Parliamentarians it is our duty to protect the physical and moral welfare of the young people of this country. We are failing in our duty if we put on the Statute Book legislation which can be interpreted by the young people of the country as indicating that this House wishes to take a more lenient view of this crime.[2]

When Lord Windlesham continued to remind the committee that time was short for considering so many amendments, because the deadline set for ending debate on the Bill had passed, Baroness Wootton complained:

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1. Ibid., c. 298.

2. Ibid., c. 310.

> This is the third time that this debate has been conducted under a timetable, and there is no guillotine in this House. It is the only time - the noble Lord will forgive me for saying so - in the twelve years that I have been in this House that I have heard a Minister say that he must reject all amendments that follow before they have been moved or spoken to. In the circumstances, I do not propose to continue this discussion. I ask leave to withdraw this Amendment and I give an undertaking not to move the orders, but I do it under protest.[1]

Then the remaining schedules of the Bill were hastily agreed to, and it was Reported to the House without amendment.

Report and Third Reading

The few amendments that were added by the House of Lords were made during the Report Stage, on 9 March, when 15 technical points were corrected, at the request of the Government. These "clarifying amendments" were the only changes made in the Bill during its time before the House of Lords. None of these amendments affected the status of cannabis in the Bill.[2]

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1. Ibid., cc. 320-1. The "guillotine" to which she referred is a device of Parliamentary procedure, used in the House of Commons, to limit the amount of time spent on particular stages of a bill.

2. Ibid., No. 67, cc. 14 and 33.

The Third Reading of the Bill was given on 25 March, but, aside from providing a forum for a few concluding remarks about cannabis, did nothing to affect the drug's status in the proposed law. Baroness Summerskill, who had been a critic of any moves to "go soft" on cannabis throughout the debates, announced that a research group headed by Professor Paton of Oxford had just been awarded another £10,000 by the Medical Research Council to continue experiments into the harmfulness of cannabis. "He has thought fit to give publicity to some of their findings", which are, she read,

> ... consistent with the findings of two Jamaican scientists who treated rats with crude cannabis.
>
> Their little-publicised experiments showed that when pregnant rats were given the drug during the vulnerable period of gestation, only 13 per cent of the offspring were normal ..."[1]

In summing up, Lord Windlesham noted that:

> there have been some matters, particularly the classification of cannabis ... on which there have been strong differences of view, but those have resulted from personal conviction rather than from Party motives, and I

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1. Ibid., No. 77, c. 1004.

> should like to thank noble Lords for the cogent and tolerant way in which they have been advanced.[1]

Baroness Serota, making reference to Baroness Wootton's earlier complaint about the procedural restrictions that were placed on her amendments, said that:

> ... it is exactly a year ago to-day when it [the Bill] first received its Second Reading in another place. It had two Second Readings and almost completed two Committee Stages. So no-one could begin to suggest that this Bill has been rushed through with undue haste.[2]

The Bill was then passed and returned to the House of Commons.[3]

Royal Assent and Regulations

Two months later, on 26 May, the House of Commons agreed to the Lords' Amendments. The next day, the Bill became an Act with the granting of Royal Assent.[4]

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1. Ibid., c. 1017.
2. Ibid., c. 1020.
3. Ibid., c. 1021.
4. Royal Assent is granted, in the name of the Queen, by Commissioners (normally three peers) in the Chamber of the House of Lords.

If the Act's passage was slow and deliberate, taking more than 14 months, its application was even more drawn out. After Royal Assent the Act was referred to the Home Office, where the drafting of regulations for its implementation could begin. But this was to involve more consultations, more decisions, and more drafting. On 18 November 1971, in the House of Commons, Mr. Elystan Morgan asked the Home Secretary when the main provisions of the Act would be brought into operation. In a written reply, Mr. Sharples said that an order to establish an Advisory Council on drugs (as authorized in Clause 1) would take effect from 1 January 1972, while "the commencement of the remaining provisions of the Act depends upon the preparation of regulations." He assured the House that "consultation with the interested organizations is to start soon, but a great deal of detailed work remains to be done."[1] The most specific estimate now available from the Home Office is that the Bill's remaining provisions will come into effect "some time in 1973".

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1. Great Britain, Parliamentary Debates (Commons), Vol. 826, cc. 189-90.

CHAPTER V

COMPARISONS AND CONCLUSIONS

In reviewing how Members used the information about cannabis that was available to them during the passage of the two-drug control laws, it should be helpful to augment our study of each bill's creation (Chapters III and IV) with a sampling of their own comments about the legislative process in which they participated. In particular, we shall consider the Members' answers to six questions:

1) Where did the information about cannabis that proved most useful to you come from?

2) How did you acquire this information?

3) When during the passage of the bill was this information most useful to you?

4) Was the information that you had adequate for your requirements? If not, why?

5) During the passage of the bill could you have used more or better information than you had?

6) What limitations restricted your use of information about cannabis?

After presenting a sampling of the Members' answers to these questions (based on personal interviews, questionnaires, or correspondence), I propose to compare and contrast certain aspects of their use of information. Finally, I will offer some conclusions about the thesis topic in general.

SOME VIEWS BY MEMBERS

Where did the information about cannabis that proved most useful to you come from?

House of Representatives

Most of my information came from the Legislative Reference Service and the Administration. (Vanik)

My source was the Attorney General's office, for the most part. (Conable)

The Office of the Legislative Counsel and the committee staff were both very helpful. (Springer)

Most of the information came from the hearings, conversations with the witnesses, and the committee's trips. (Rogers)

I considered the W.H.O. material helpful; also visits to half-way houses, talks with educators and administrators, and meetings with some of the families of drug users. (Rogers)

I studied the pharmacology of cannabis as a medical student. (Carter)

The best sources of information were the users themselves; plus researchers who have observed marijuana use and its effects; and also a few physicians whose patients use drugs. (Carter)

NIMH and the Bureau of Narcotics were two sources. But I think the most important were talks with young people. (Hastings)

The committee staff was particularly helpful since they're working on it constantly. Their sources are amazing. Another good source was some of the researchers I met during the hearings. (Kyros)

One of my chief sources you might describe as the "grass roots". The University of Illinois had a grant to study wild marijuana along the Sangamon River, in my District, and I've had a chance to talk with the researchers. (Springer)

House of Commons

I learned much from visits and discussions at treatment centres. Also, the debates on the 1965 and 1967 laws gave me a good background in the subject. (Worsley)

The Wootton Report, unquestionably, was the main document on the subject of cannabis, and that served as the principal source of information. (Worsley)

The Canadian (Ontario) government have a good centre in Toronto, which I have visited, and since the visit I've received some useful information from them. (Worsley).

The House Library was good on providing newspaper cuttings. (Worsley)

Researchers who influenced me were Prof. Paton and Dr. [A.M.G.] Campbell. Also, I listened to the attitudes of young people at some public schools where I spoke. (Deedes)

The Presidential Commission report of 1967, the La-Guardia report, and the Indian Hemp Commission report, were all useful as background. I was also impressed with the LeDain report. (Deedes)

I was a member of the Advisory Committee on Drugs Dependence and that was my principal source of information about cannabis. (Raison)

Materials provided by the Home Office, the meetings of the Advisory Committee, and verbal evidence were the best sources of information. (Raison)

I have read much information from the Canadian and U.S. newspapers; and the laws of those countries. (Davis)

I had access to official Government information and made enquiries as a member of the Advisory Committee. (Blenkinsop)

Publications of the Government agencies, the Home Office, and the Health department were useful. Also materials from W.H.O., and the results of some British, Swedish, and American research. (Blenkinsop)

Some of the medical journals were helpful. (Dunwoody)

I gained much information from meetings of the Home Affairs Committee [in the Conservative Party], and from talking with the medical officer at a university in my Constituency. Also from some chats with clerks of justices. (Buck)

How did you acquire this information?

House of Representatives

Being able to cross-examine witnesses, we were able to decide whether or not they really knew their business. (Springer)

I used the medical library at Bethesda [the chief U.S. Government Medical Library at the National Institutes of Health, Bethesda, Maryland, a suburb of Washington, D.C.]. (Carter)

Talking with young people is very informative. I search them out for their views, and made a point of talking with a number of Congressional interns [university students working in Congressional offices as part of their studies in Government]. Some of the interns were very knowledgeable. (Hastings)

House of Commons

Participating in the 1965 and 1967 drug-bill debates; and visiting the Toronto centre. (Worsley)

I've subscribed to the Toronto magazine Addiction for some years. This has had some excellent pieces on cannabis. (Deedes)

I was able to make enquiries as a member of the Advisory Committee. (Blenkinsop)

In the House of Commons Library I consulted the subject index, and read through the reference box. (Dunwoody)

My home library was another source. (Dunwoody)

Employees of the House of Commons Library were helpful with specific enquiries. (Buck)

The National Council for Civil Liberties supplied me with much of the information I used. (Foot)

I have a practice of picking up hitch-hikers, and I learned a good deal about drugs talking with some of them. (Buck)

When during the passage of the bill was this information most useful to you?

House of Representatives

The information that I did have was most useful during the committee hearings. (Kyros)

During the markup stage we could really make practical use of all the material we had collected. (Preyer)

The hearings. (Carter)

The work of the committee staff in mustering the information was excellent, especially during the markup and the conference. (Springer)

House of Commons

The information was most helpful before the Bill was even prepared, and during the drafting. Too much comes at the last minute. You need it by the Second Reading. (Buck)

The information that I did have was most useful during the Second Reading Debate. (Worsley)

The pace of legislation in the House of Commons is very fast. Unless you've done your homework before the publication of a bill, you cannot be prepared for the debate on Second Reading. You must acquaint yourself with the basic background material ahead of time. (Worsley)

Was the information that you had adequate for your requirements? If not, why?

House of Representatives

There was ample material around - for example, the committee witnesses, the Surgeon General, and talks with college students. (Kyros)

We had the opportunity to have all sides heard. (Kyros)

I'd like to have some independent input on the matters that need to be thoroughly thrashed out, though. Especially the long-range effects of smoking it. The scientific guys are on both sides of the marijuana issue. (Kyros)

I felt there was nothing really conclusive about much of the information. We are in a state of flux with the final information from research on marijuana. (Rogers)

Sources were very limited, especially on the basic psychological causes of drug use. We just don't know. (Vanik)

The information was incomplete. It simply isn't available now. Nobody was willing to admit that it [marijuana] wasn't more harmful than it appeared to be. (Conable)

There was a lack of adequate research, and too much of it was presented in a populistic, rather than a scientific, form. (Hastings)

There was simply not the broad spectrum of information that we have on most subjects we legislate about. (Vanik)

There wasn't as much known, and not every research project was reliable. There is probably still much [research] to be done. (Carter)

We did not have sufficient long-range studies of the effects of various results and reactions from various strengths of marijuana. (Rogers)

The Executive departments and agencies turned out a lot of material; but, somehow, it just didn't contain enough information that we could use in the types of decisions we were forced to make. (Hastings)

House of Commons

It was possible to get a lot of information, about some aspects of cannabis use ... But the only thing no one knew for sure was exactly how many people were using it. (Worsley)

I followed the articles in The Lancet, but they were not of much value. The material from NCCL was too subjective, too tendentious. (Deedes)

Much of the technical literature is too scholarly for the layman; and the national press is too superficial. But there was some useful middle-range information: WHO. publications, the LaGuardia report, the 1967 Presidential Commission. (Deedes)

The evidence was imprecise and contradictory ... (Davis)

The literature here in Britain has only arisen in the last 5 to 6 years. Most publications are anecdotal rather than scientific. And, until quite recently, the period of study has been inadequate - too short for any conclusive results. (Blenkinsop)

The evidence was highly conflicting on the long-term, heavy consumption. (Blenkinsop)

Information was easily available, and well presented, but it was not adequately detailed. (Dunwoody)

We needed more scientific knowledge. Much that's said about drugs is highly emotive. (Dunwoody)

I would have been glad if more in-depth research had been done. There's never enough of that. (Buck)

When during the passage of the bill could you have used more or better information than you had?

House of Representatives

We could have used more information at every stage. (Vanik)

More information would have been helpful during the hearings. Some of the information is too technical, but it could be interpreted and explained by the scientists and researchers at the hearings. (Rogers)

I felt we could have used more information during the hearings. (Carter)

There was simply not enough information. We could have used more especially before the Bill was introduced, during the hearings, and during the markup. (Hastings)

House of Commons

We needed more time and more information between the publication of the Wootton Report and the first Second Reading. (Deedes)

I could have used more information particularly during the committee stage of the Bill. (Davis)

I could have used more information on cannabis at all stages. (Dunwoody)

What limitations restricted your use of information about cannabis?

House of Representatives

We did not have enough time to study marijuana, especially about such things as the cause of drug abuse. We recognized that more information was needed. That's why the [Presidential] study commission was written into the law: as an attempt to get more information. (Rogers)

Information comes out much faster than people are willing to accept it. (Springer)

As a legislator you must weigh scientific evidence with public acceptance. Should you take legislative steps in preparing the public? This is the judgment that the legislator must make. You must balance the scientific body of information with what is possible in public acceptance when making public policy. (Rogers)

My constituents are totally opposed to marijuana use. It is our responsibility, as legislators, to do an education job on our constituents. This could become a serious issue for me at election time. Politically it's tough not to hold a view that's opposed to marijuana. Five years ago they were adamant on legalization; today they don't know. They need information. Once we have the medical-scientific judgment, then information can be repeatedly made available so the future judgments will lead to honest legislation. Unfortunately, we are still confronted by Puritanistic attitudes. What we really need is a realistic look at marijuana over time. (Hastings)

House of Commons

There was not sufficient time to consider cannabis problems in the House. We needed more time as well as more information. (Worsley)

There was not sufficient time to consider cannabis as a separate issue. We needed more time, especially during the committee stage. (Davis)

Most of the memoranda from interested bodies came too late - sometimes the very morning a clause was being considered a memo on it would arrive in the mail. You really need to have all your information before second reading. It's not much use to you after that. (Buck)

There couldn't be a major relaxation of the laws because long-term effects were not known; and public opinion wouldn't have accepted it. We were faced with this great difficulty of proving a negative; of saying cannabis is not dangerous. (Dunwoody)

There is a danger to changing the status quo too quickly. The new cannabis legislation is satisfactory for the great majority because it gives a long-range rationalising position and a coherent line for the developing of policy. (Blenkinsop)

I think the legislators here were profoundly ignorant of cannabis. This is true of a large number of subjects they deal with. This is the result of the technological society we live in. Concorde is another good example. They voted for it because they didn't know the first thing about supersonic aircraft.

You must understand the interplay of information that take place here [in the Commons]. Most MPs are not technicians. They get an impression of a subject. They play off what the executive says in the light of expert advice and advisory committees. You find a clash between MPs and their home-made expertise and the opinions of the experts on cannabis ... (Deeds)

COMPARISONS OF INFORMATION USE

One of the most striking features of the debates in the two countries was the international nature of many of the information sources, and the number of citations and anecdotes based on foreign situations to support points about national issues. This complicated blend of materials seems to have occurred for several reasons, chief among them that:

1) Long-term social use of cannabis was not a feature of either British or American society.

2) Scientific data are considered to be applicable beyond the situations in which they are derived.

3) International organizations have disseminated information through an expanding network of conferences and cooperative control and research ventures. And,

4) Except for climatic differences, cannabis is a plant that grows easily in most parts of the world.

It had been estimated by the World Health Organization that cannabis was second only to alcohol

as a drug of intoxication, with an estimated 250,000,000 habitual users, and this despite restrictive controls on its use in all but a few countries. Because cannabis has been considered recently to have no medical value in either Britain or the United States, there was a paucity of up-to-date and scientifically acceptable research on it. This forced legislators in both countries to base their examples and their conclusions on information that varied widely in historical, social, legal, and moral perspectives. Even comparisons based on relatively similar national experiences, such as those between Britain and the United States, were dubious in some regards, e.g. the prevalence of hashish use in Britain and marijuana use in the United States. Nevertheless, such comparisons were made quite freely throughout the legislative debates in both countries, and served as a significant part of the information sources.

As an adjunct to this, there also appeared to be a rather uncritical acceptance of contemporary scientific reports from other countries (e.g. from the Karolinska Institute in Stockholm, Oxford University, Boston Medical Center) that either overlooked or discounted the possible biases of the researchers who produced them.

At the other extreme, a few legislators seemed to put a good deal of trust in strictly local sources: a neighbourhood doctor, casual conversations with students, or the views of administrators or scientists at nearby universities.

The quotation of information and opinions from the daily press did little to enhance the factual or perceptual basis of the debates, but, instead, appears to have been used most often to buttress convictions already held with current examples. Even when these accounts reported announcements or publications by research authorities, the selectivity of the writer and editor (for bold copy) and the speaker (for rhetorical impact) usually gave the listeners and participants in debates little factual material.

These problems of sources and use of information should serve more as caveats than condemnations, however, for in the shared resources that legislators in both countries had (House Library, Library of Congress, Congressional Record) a wealth of complicated and contradictory material was exchanged.

The exchanges of information between the Government departments and legislatures in the two countries

offer some significant parallels, and contrasts. While Members in both countries considered their respective governments to be important sources of information, MPs and MCs differed markedly in the amount of information they thought their governments provided, and in the relationship of that information to their total resources. MCs said that newspapers and magazines, state and local governments, Congressional hearings and committee reports, and conversations with fellow Congressmen, researchers, and committee staff members were just as important as the information they received from the Federal government. MPs, on the other hand, said that reports by the U.N., and other governments, were the chief alternatives to Government information, and that conversations with fellow MPs, and researchers were of secondary significance.

A striking difference in the passage of the two bills is seen in the form that information reached Members.

A. MCs, even when they were not following the subject, could rely on their personal staff, and the committee staff, for background information and guidance. They could also put direct questions to

a broad range of witnesses at hearings, either formally or informally. If they decided to pursue a particular approach, they could sponsor amendments either within the mark-up stage or when the Bill reached the Floor.

B. MPs could read a broad range of published material, but unless they were in special positions - such as being junior ministers, or specialists with time to conduct independent study, or members of the Advisory Committee or a similar fact-finding body - there was very little help available to interpret the scientific and technical data in terms of public and political alternatives.

Another point of contrast is the difference in the range of government sources in the United States, as compared with Britain, and the ability of Congress to deal directly with each. In Washington, organizations such as NIMH or the BNDD had their own public-relations departments dealing directly with the public and the press, and their own legislative liaison departments dealing directly with Congress. In Whitehall, information was released only by the central information office of the Home Office, or by the

Government.

Satisfaction with the results of the legislative process was also notably different. Of the Members interviewed (see Bibliography), about two-thirds of the MPs thought that the penalties they had just passed for cannabis possession were "too severe", and only one-third thought the penalties were "about right". More than three-quarters of the MCs, on the other hand, said the penalties for possession that they had just passed were "about right" and only one-seventh believed the penalties were "too severe". This is reflected also in comments that the Members made in interviews about the availability and usefulness of their information about cannabis. About half of the MPs felt that they could have used more information, while more than two-thirds of the MCs said that they could have used more. Apparently, MPs felt less concerned about their lack of information because they realized the limited extent to which it could be used. This is also reflected by the fact that a higher proportion of MPs than MCs (two-thirds to one-third) felt that they did not have enough time to adequately consider the particular problems of cannabis use and control.

It is interesting to note the resources that Members' did not use, as well as those they did. No MP with whom I spoke or corresponded consulted the Science and Technology index in the House of Commons Library, yet there was much relevant information on cannabis in it (see Appendix V). In the United States, MCs spent very little time reading special reports by Presidential commissions, although many of these contained relevant material and recommendations for proposed changes in the drug-control laws. Instead, they relied on the staff members in their offices and committees to do such basic research and reading, then questioned them for details informally. In neither country did the Members seek out, or obtain, any useful information from their political party organizations. In general, the Members' sources and uses of information appear to conform with the few studies on the subject now available, in particular the works by Crick, Bradshaw and Pring, and Barker and Rush in this country and Clapp and Gross in the United States.

Most MPs and MCs actively sought out young persons and cannabis users for their views. Surprisingly, MPs tended to give less emphasis to their

conversations with their colleagues than did MCs. In both legislatures, Members expressed a cautious attitude to the views on drugs found in the popular press, and to the views they received by post or in conversations with their constituents. On the whole, MCs tended to give more attention to their role as "educator", making speeches and writing or distributing articles on cannabis, than did MPs.

CONCLUSIONS

I. In both countries the inadequacy of the existing laws, and the widespread nature of cannabis use, was acknowledged and publicly recognized by Members.

II. In both countries the judiciary (Lords of Appeal, Supreme Court) had given emphasis to the need for drug law reforms by recent decisions.

III. In both countries the impetus to change the laws began with the Government, although in Congress a few individual legislators (Dodd, Koch, Moss) had also taken iniatives to effect limited reforms.

IV. In both countries, reports made to the Government by independent bodies (the Advisory Committee, Presidential commisions) provided information and recommendations for the reduction of cannabis penalties.

V. In both countries the civil servants supported the reduction of penalties for cannabis offences, while politicians (Callaghan, Nixon and Mitchell) decided, for political reasons, that such reductions should not be made.

VI. The differences in views of senior civil servants and their political superiors produced opposite results in Britain and the United States, mainly because of the essential differences in the role of the legislature in the two countries:

A. In the United States, Congress overruled the political decision on penalties taken by the administration, and enacted a drug-control law that was in accord with the information then available to the Government and the general public. In many cases, Congress also significantly added to the available information (e.g. by requiring the annual Marihuana and Health report, increasing research funds, and cross-examining administration witnesses and outside experts).

B. In Britain the Parliament made no changes in the government's cannabis-control policy, although many MPs criticized it actively during the debates.

VII. Both Houses of Congress passed significant reduction in cannabis penalties, based on information from the administration (such as NIMH studies) or otherwise readily available to it; while both Houses of Parliament made no change in the Government's penalty structures despite the ready availability of information to support such a move.

VIII. With much of the same information available in both countries, and with similar conditions of increasing cannabis use by a broad cross-section of their populations, the most striking feature of this comparison is how the Attorney General of the U.S. could be reversed in his policies and the Home Secretary could not. This resulted, I believe, not from any significant differences in the availability of information, nor from any differences in its relevance to the problems at hand. Rather, the difference can be traced directly to the ability of Members to use their information effectively.

IX. In both Congress (Dodd and Jarman subcommittees, Senate Judiciary Committee, House Ways and Means and Interstate and Foreign Commerce committees, Senate and House Floor debates) and Parliament (Adjournment Debate on "soft drugs", debates on the Wootton Report, two Second Reading debates, nearly two Standing Committee stages, House of Lords Second Reading and Committee stages) considerable time was spent on debating the drug-control bills, with particular emphasis given to the status of cannabis. In both Congress and Parliament

the legislative committees offered the best opportunities for the particular consideration of cannabis-control policies.

A. In the United States, the Dodd and Jarman subcommittees had recent experience with drugs through their hearings and legislative-oversight responsibilities.

B. In Britain, government ministers, shadow-cabinet members, and members of the Advisory Committee on Drug Dependence, all of whom had experience with the Wootton Report and current drug-control policies, participated in both the preliminary and legislative stages of the Bill.

But, because of the differences in the power of the committees of Congress and Parliament to influence legislation proposed by the governments, U.S. committees made substantial changes in the policies and provisions of the bill, while British committees made practically none.

X. In Congress the subcommittees and their standing committees could act on the decisions of their members, after public hearings and consultations in executive sessions. These decisions were then referred to the full House for debate and final approval. In Parliament, on the other hand, the standing committees were restricted to considering in detail the policies announced by the Government and accepted by the House at the Second Reading.

Based on this study, it appears that legislators were better able to deal with a broad range of specific and often contradictory information (such as was available to them on cannabis) when the committee stage came before the general debate, rather than after it, because:

A. they could shape the details and principles with considerable flexibility, and;

B. they could deal with the interrelated problems (such as classification, police powers, and research priorities) without being bound to previously determined policies.

XI. The manner in which MCs and MPs obtained specialized information about cannabis was also different. The MCs who had the greatest expertise about cannabis, and who exerted the most influence on the Bill to control it, received their information in the normal course of their legislative duties, in particular as members of the committees and subcommittees with jurisdiction over the subject. By contrast, those MPs who had the most information about cannabis, and used it most during the various debate and committee stages, received their information from sources outside the normal legislative process, in particular as members of the Advisory Committee on Drug Dependence, as junior ministers with access to the civil service, or as medical practitioners.

XII. In the Congress, MCs had several ways to use the information about cannabis that reached them (such as in Congressional Record speeches, in appearances at subcommittee hearings, in press releases, by their routine scrutiny of government policies, by their introduction or co-sponsorship of bills and amendments, and in Floor speeches both during and outside the formal

debate on a Bill). In Parliament, MPs had very few ways to use their information (during Second Reading and Report stage debates, and as members of the standing committees).

XIII. In Congress, MCs were able to use their powers (see XII, above) to force the administration to change its position on marijuana control policies; while in Parliament, MPs using their powers were not able to change the position of the government.

A. This contrast resulted, at least in part, from the fact that Members of the two houses perform jobs that can be intentionally dissimilar. For, in Congress, MCs are sometimes expected to perform a "governmental" job of coordinating policy, while in Parliament this has already been done by the government <u>within</u> the department.

B. However, even granting this fundamental difference, it appears that in the tasks that Members of the two houses had in common (e.g. criticism of the government bill, proposal of alternate approaches, explanation of constituent views) MCs were able to use their information more effectively than MPs.

XIV. The limitations on a Member's ability to influence legislation were stricter than usual in the passage of the Misuse of Drugs Bill because both Government and Opposition leaders took the same attitude to cannabis (e.g. Hogg and Callaghan in general debate, Sharples and Morgan in committee). This front-bench agreement made it practically impossible for Members who disagreed with the government's position to force a division on issues.

A. In the House of Commons, all stages of both bills passed unopposed.

B. In the House of Lords, a majority acting on moral and emotional (rather than scientific) arguments overwhelmingly defeated amendments that were introduced to change the status of cannabis in the Bill.

XV. If a legislature is effectively to scrutinize actions of the government - as both Congress and Parliament are meant and expected to do - it is essential that it have independent means of obtaining information about the subjects it is required to debate and vote on.

A. In both countries compared in this study, that capacity did exist, though in to different extents:

1) in America with the Library of Congress, Congressional Reference Service, and independent committee staffs, and;

2) in Britain with the House Library and the participation of several Advisory Committee members at the Second and Third Readings and the committee stages.

B. Because of the essential differences between the division of executive authority and power in the two political systems:

1) MCs were able to use the available information about cannabis to change the government's policies.

2) MPs were not.

3) Furthermore, MPs were not able to apply very much of the relevant information that was available to them in the several debates on the Bill. And, a large percentage

of the available information
appeared to be unused.

XVI. If this fundamental difference in the ability of Members to use information is to be overcome, it would not be enough simply to expand the research and information-gathering facilities and staff available to MPs (such as the Research Division of the House Library or the standing committees of the Commons) to make them more like their Congressional counterparts. The powers that MPs have at their disposal, to use any quantitative and qualitative improvements in information, would need also to be expanded. But this is unlikely to happen because of the necessity, under the Parliamentary system, for the government of the day to control every stage of the legislative process.

XVII. While some modifications have taken place in recent years to expand, for example, the powers of Parliamentary Select Committees, these have been of little consequence in the entire legislative process. Changing the scope and powers of the Parliamentary

committees might well enhance the individual MP's ability to influence legislation. But such changes are unlikely because of the governmental controls (see XVI) and initiatives that are essential to the Parliamentary system.

XVIII. It appears that the most immediate and effective change that could be made to enhance an MP's ability to use the information at hand on a subject of legislation would be to include him in the pre-legislative stages.

A. The Misuse of Drugs Bill, in fact, would have been ideal for this sort of approach: it was technical, had bi-partisan support, and dealt with a controversial problem. For all these reasons, deliberation in private might have resulted in a law that reflected the interests of MPs while also serving the political ends of the government.

B. Owing to the part-time nature of most MPs' work in Westminster, there is simply not enough time between the presentation of a bill and its Second Reading to permit much effective study, even assuming

that future reforms would somehow make the Second Reading stage more open to the results of competitive points of view.

XIX. Based on the circumstances that existed during the passage of the Misuse of Drugs Act 1971, I am inclined to agree with the conclusion of Burton and Drewry that:

> ... what is lacking is a clear sense of purpose when it comes to a re-appraisal of Parliament's role in the light of contemporary conditions. Year by year, the legislative process is becoming increasingly important and increasingly involved while Parliament is by-passed by delegated legislation; by pre-legislative consultations between interest groups and government parties; and by the proliferation of 'departmental rules' subject to no scrutiny by Parliament and often not available to the general public they so significantly affect. Parliament is a victim of its adherence to out-moded and stereotyped procedures which make it ill-equipped to deal with the complexity and diversity of measures brought before it. The time is rapidly approaching - indeed, it may already be past - when piecemeal tinkering with devices like second reading committees is no longer enough.[1]

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1. Op.cit., p. 151.

In this study we have seen both the potentials and the limitations that legislators face when using information to determine social policy. If the elected Members can maintain the delicate balance between information and popularity, Parliament and Congress have the potential to solve many of the serious problems that now threaten the future development of their two societies. If the elected Members cannot maintain this balance, their legislatures - and, indeed, the legislative process - may well become anachronistic and irrelevant institutions that are increasingly circumvented by the decisions and actions of centralized national governments.

Based on this study of the legislative control of cannabis, there is evidence to give us hope, and to give us pause.

POSTSCRIPT

Since the passage of the American and the British drug-control laws, the question of how information about cannabis can influence social-policy formation has continued to be an important issue. The contrasts between the two political systems, as noted in Chapter V, continue to be exemplified in events that have occurred since the two laws were passed.

The United States since 27 October 1970

Three major sources of information about marijuana have appeared in the United States since the passage of the 1970 law, all of which were the result of Congressional initiative. The first annual report to Congress by the Department of Health, Education, and Welfare on Marihuana and Health, in January 1971, concluded that: (1) there was no evidence to suggest that marijuana use by humans causes birth defects or affects foetal development; (2) there was no direct evidence of any progression from marijuana to heroin or other stronger drugs, and; (3) marijuana

had little, if any, effect on major crimes and violence and was far less likely to be associated with such conduct than alcohol. The second annual report, released in February 1972, concluded that new studies of long-term marijuana use show that the drug's dangers were even less than had been previously suggested.

But the most significant source of new information came with the publication of the first report (of two) by the National Commission on Marihuana and Drug Abuse, the 13-member panel established by the 1970 law. After conducting a year-long study, which cost more than $1,000,000 and was said to be the most comprehensive yet made in the United States, the commission reported in March. Its report recommended that Federal laws be amended so that

> possession of marihuana for personal use would no longer be an offense, but marihuana possessed in public would remain contraband subject to summary seizure and forfeiture.
>
> Casual distribution of small amounts of marihuana for no remuneration, or insignificant remuneration not involving profit would no longer be an offense.[1]

The commission stopped short of recommending "legalization" of the drug (a policy that President

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1. Marihuana: a signal of misunderstanding, op.cit., p.152.

Nixon had announced in May 1971 he would reject) and chose instead to recommend "decriminalization", discouraging but not prohibiting its use. It recommended that trafficking continue to be an offence.

The previously hostile attitudes to marijuana of several commissioners were changed as a result of meetings with doctors, lawyers, and businessmen who told them they preferred marijuana to alcohol and had used the drug for years. An example of the change in attitude was evident with Rep. Tim Lee Carter, who as a member of the Jarman subcommittee had taken the view that marijuana use was dangerous. In an interview with the Washington Post on the day the commission's report was issued, Representative Carter said that "we have not found marijuana as deleterious as we had thought."[1]

Not all attitudes about marijuana were changed by the National Commission's report, however. President Nixon said that "I oppose the legalization of marijuana and that includes the sale, possession, and use." And, Harry J. Anslinger said that the

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1. Reprinted in the International Herald-Tribune, 24 March 1972, p. 2.

Commission's recommendations would have "very serious national repercussions" and called their findings "terrifying". Maintaining the same attitude to the drug that he had held since the 1920s, Mr. Anslinger warned that "if these recommendations go through, allowing smoking in secret without any penalty, then I think in a couple of years we'll have a million lunatics filling up the mental hospitals." [1]

Congress continued to legislate for drug control by passing a Drug Abuse Office and Treatment Act (P.L. 92-255) on 17 March 1972. This act established a Special Action Office for Drug Abuse Prevention in the Executive Office of the President, and created a National Institute on Drug Abuse in NIMH and a National Advisory Council for Drug Abuse Prevention to assist the Attorney General in setting enforcement policy. The act contained an authorization of $1.7 billion through fiscal year 1975.

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1. As quoted in The Leaflet, Vol.2, No.4 (May-June 1972), p.8.

Great Britain since 27 May 1971

By contrast with the United States, very little has happened in Britain as a result of the passage of the Misuse of Drugs Act 1971. The principal reason for this is that the new law, except for one clause, has not yet come into effect. This clause creates an Advisory Council, to replace the Advisory Commission. The new body has met on a few occasions since its establishment 1 January of this year.

The remaining provisions of the act are not likely to take effect until some time in 1973, because it is not expected that the regulations to implement them will be ready until then. No clear attitude about cannabis control is apparent either within the Government or the Home Office. As one person now involved in writing the regulations said this spring: the Misuse of Drugs legislation "was an enabling bill. We just didn't know what we had to be responsive to [when it was being drafted and passed]. We don't know how we are going to use the bill quite yet."

Assessing the Misuse of Drugs Act six months after its enactment, Don Aitkin of "Release" pointed out that

> the maximum penalty for a wide range of drug offences [had been] ... increased to fourteen years imprisonment - the highest fixed penalty in British law, and approximately twice the average sentence served for murder.
>
> . . . . . .
>
> With regard to cannabis, the legislators have ... ignored the unanimous opinion of the late Advisory Committee on Drug Dependence that "the (then) present penalties for possession and supply are altogether too high" -- one of the conclusions of the Wootton Report which met with no objection or reservation. We now propose to increase the penalty for the supply of cannabis to fourteen years, ignoring in the process the recommendation of a very senior Metropolitan Police Officer, scarcely noted for liberal attitudes, that a penalty of five years would be quite sufficient. As another member of the committee observed, 'if a politician thinks that making the law more severe will stamp out the use of cannabis he is going to be disappointed -- but not before many people have been hurt'. [1]

Problems about cannabis control remain in both countries.

In the United States, several state laws still impose heavy penalties for marijuana possession. The Justice Department has circulated a model code to state

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1. Drugs & Society, Vol. 1, No. 2 (Nov. 1971), p. 8.

legislatures, based on the 1970 Federal law, and some states have followed this example in amending their laws. The National Commission has recommended that states amend their laws so that

> possession in public of one ounce or under of marihuana would not be an offense, but the marihuana would be contraband, subject to summary seizure and forfeiture.

The Commission also urged that under state laws "possession in private of marihuana for personal use would no longer be an offense", and that "distribution in private of small amounts of marihuana for no remuneration or insignificant remuneration not involving a profit would no longer be an offense."[1]

In Britain the new law, when it takes effect, poses a serious question of definition, which, apparently, the new regulations will not clarify. Since there is a distinction in the law between possession and supply, but no explicit definition of what each entails, it is technically possible for a person to be

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1. Marihuana, op.cit., p. 154. By the spring of 1972, 42 of the states, and the District of Columbia, classified possession of marijuana as a misdemeanour, or have adopted special provisions so classifying possession of small amounts of marijuana. In half the remaining states, the courts have discretion to sentence possessors as misdemeanants. (See Marihuana: signal of misunderstanding, p. 108).

convicted of trafficking if he hands another person a marijuana cigarette. The courts alone will have this discretion to decide what is "possession" and what is "supply".

More information than ever before is becoming available about cannabis in Britain and the United States, and an increasing proportion of each country's population is becoming more familiar with its use. How this new information -- and any resulting changes in public attitude -- are likely to be reflected by Members of the two legislatures is a subject of continuing importance. It is likely, based on the conclusions reached in this study, that any significant changes in the legislative control of cannabis will come about in Washington before they do in Westminster.

APPENDIX I

CHRONOLOGIES OF THE PASSAGE OF U.S. AND U.K. DRUG-CONTROL BILLS

The United States: 1960 - 1970

1960

26 Jan. — Harry J. Anslinger, Commissioner of Narcotics, tells a House Appropriations subcommittee that marijuana use leads to heroin addiction.

1961

Jan. to March — Plenipotentiary Conference for Adoption of the U.N. Single Convention on Narcotic Drugs; U.S. represented.

1962

27 and 28 Sept. — White House Conference on Narcotic and Drug Abuse. Later reports that "the hazards of marihuana use *per se* have been exaggerated and that long criminal sentences imposed on an occasional user or possessor are in poor social perspective."

1963

15 Jan. President's Advisory Commission on Narcotic and Drug Abuse established; E. Barrett Prettyman appointed chairman.

1 Nov. Prettyman Commission submits its Final Report.

1965

Drug Abuse Control Amendments of 1965 passed. Establish maximum penalties of $5,000 and/or 1 year imprisonment for possession of amphetamines, barbiturates, L.S.D., and the hallucinogens (except marijuana). Act takes effect 1 Feb. 1966.

1966

President's Commission on Law Enforcement and Administration of Justice established; Nicholas de B. Katzenbach appointed chairman.

8 Nov. Narcotic Addiction Rehabilitation Act (80 Stat. 1438) passed, extending parole from first-offence possession to all Federal marijuana violations.

1967

Feb. Katzenbach Commission submits its Final Report: The Challenge of Crime in a Free Society. Chap. 8 deals with "Narcotics and Drug Abuse."

24 June United States accedes to the Single Convention.

1967 (continued)

8 Sept. — Department of Health, Education, and Welfare recommends that the Federal penalty for marijuana possession for personal use be eliminated.

14 and 15 Nov. — "Problems Relating to the Control of Marihuana" the subject of hearings by the Subcommittee on Intergovernmental Relations of the House Government Operations Committee.

1968

29 Jan. — Supreme Court hands down Marchetti, Grosso, and Haynes decisions.

8 April — Reorganization Plan No. 1 takes effect, moving drug-control enforcement from the Treasury and HEW departments to the newly created Bureau of Narcotics and Dangerous Drugs (BNDD) in the Justice Department.

12 April — "Marihuana: Derivation, Use, and Effects", a 54-page survey of current information about the drug, prepared and distributed by the Legislative Reference Service.

Spring — Drafting of a bill to implement Reorganization Plan No. 1 begun in the Justice Department.

5 Nov. — National elections. Richard Nixon elected President, bringing in a Republican Administration; Democrats retain control of both houses of Congress.

1969

3 Jan. — 91st Congress, 1st Session convenes.

20 Jan. — Nixon inaugurated President.

1969 (continued)

26 Mar. Special Presidential Task Force on Narcotics, Marihuana & Dangerous Drugs meets for the first time.

Spring Nixon Administration circulates drafts of Justice Department bill to implement Reorganization Plan No. 1, including proposals to reduce marijuana penalties. Reaction unfavourable from Republican Congressmen.

14 April H.R. 10019, to establish a Presidential Commission on Marihuana, introduced by Rep. Edward Koch. Referred to Judiciary Committee.

18 April S. 1895, to reorganize and coordinate control of narcotics and drug-abuse laws (implementing Reorganization Plan No. 1) introduced by Sen. Thomas Dodd. This Bill resembles the Justice Department's earlier draft, rejected by the Republican Congressmen, and contains provisions to reduce the penalty for first-offence possession of marijuana from a felony to a misdemeanour, with a maximum $5,000 fine and/or 1 year imprisonment. Referred to Judiciary Committee.

28 April Special Presidential Task Force meets for a second time.

19 May Special Presidential Task Force meets for third and final time.

Supreme Court hands down Leary and Covington decisions, declaring certain provisions of the Marihuana Tax Act unconstitutional.

21 May H.R. 10019 receives additional co-sponsors.

27 May H.R. 11697, to place marijuana under the control of the Food and Drug Administration (HEW), with significantly reduced penalties, introduced by Rep. Paul Rogers. Referred to Interstate and Foreign Commerce Committee.

1969 (continued)

6 June	Special Presidential Task Force submits its Final Report. Chapter I presents Administration position on "The Dangers of Marihuana".
9 to 11 July	Hearings by the House Education and Labor Committee on a bill to increase Federal drug-abuse education programmes.
10 July	S. 2590, to establish a Presidential Commission on Marihuana, introduced by Sen. Frank Moss. Referred to Judiciary Committee.
14 July	President Nixon sends Message to Congress on drug-abuse control; outlines a 10-point programme.
	Drug-abuse education hearings continue.
16 July	S. 2637, to amend the drug laws in accordance with Reorganization Plan No. 1, introduced by Sens. Everett Dirksen and Roman Hruska. This is the Nixon Administration's drug-control Bill. Penalties for marijuana remain as they are in the existing laws. Referred to Judiciary Committee.
18 July	S. 2657, to amend the Internal Revenue Code in accordance with the Leary and Covington decisions, introduced by Sens. John Williams and Everett Dirksen. Referred to Finance Committee.
21 and 25 July	Drug-abuse education hearings continue.
2 Sept.	Dr. Roger Egeberg of HEW calls existing marijuana penalties too strict.
8 to 10 Sept.	BNDD convenes 50 drug experts to discuss proposed legislation. On the last day, the group unanimously rejects the proposals contained in S. 2637.

1969 (continued)

11 Sept.	H.R. 13742, to implement narcotics and marijuana control according to the Administration's approach in S. 2637, introduced by Reps. Wilbur Mills and John Byrnes. Referred to the Ways and Means Committee.
	H.R. 13743, to implement amphetamine, barbiturate, L.S.D., and hallucinogen (except marijuana) control according to the Administration's approach in S. 2637, introduced by Reps. Harley Staggers and William Springer. Referred to Interstate and Foreign Commerce Committee.
15 Sept.	Dodd subcommittee of the Judiciary Committee (to Investigate Juvenile Delinquency) begins public hearings on S. 1895, S. 2590, and S. 2637.
17, 18, 14, 25, 26, 29, Sept.	Dodd subcommittee hearings continue. On 17 Sept. Dr. Stanley Yolles, NIMH Director, testifies as a private citizen, to criticise administration drug-control Bill's marijuana penalties.
2 Oct.	Associated Press and United Press International report that the Nixon Administration is preparing flexible drug-control penalties.
8 Oct.	H.R. 14252, a "clean" Bill on drug-abuse education programmes, introduced by Rep. Lloyd Meeds and others. Referred to Education and Labor Committee.
14 to 16 Oct.	House Select Committee on Crime holds three days of public hearings on "Crime in America - Views on Marihuana". On 15 Oct. Nixon Administration spokesman hints that a more flexible approach to marijuana penalties is being prepared by the Justice Department.
15 and 16 Oct.	Public hearings by House Judiciary Committee's Subcommittee No. 3 on H.R. 10019.

1962 (continued)

20 Oct. Dodd subcommittee concludes hearings on drug-control bills. Administration presents three alternate penalty schemes for drug control. Subcommittee begins executive sessions that produce a "clean" bill on 16 Dec., S. 3246.

27 Oct. H.R. 14252, to improve drug-abuse education programmes, Reported to the House.

Anthropologist Margaret Mead, speaking about the topic of "psychotropic drugs" before the Senate Subcommittee on Monopoly of the Senate Select Committee on Small Business, urges that marijuana use no longer be a crime.

31 Oct. H.R. 14252, to improve drug-abuse education programmes, passed by the House.

13 Nov. H.R. 14799, to amend the Internal Revenue Code in accordance with the Leary and Covington decisions, introduced by Reps. Wilbur Mills and John Byrnes. Referred to the Ways and Means Committee.

17 and 18 Nov. Ways and Means Committee holds executive sessions on H.R. 14799.

1 Dec. S. 3190, to require annual reports by HEW to Congress on "Marihuana and Health", introduced by Sen. Peter Dominick. Referred to Committee on Labor and Public Welfare.

4 Dec. Ways and Means Committee holds last executive session on H.R. 14799, decides to take no further action.

Early Dec. Dodd subcommittee reports its "clean" drug-control bill, to the full Judiciary Committee.

6 and 8 Dec. Judiciary Committee considers clean drug-control bill. On 8 Dec., recommends that it be reported favourably to the Senate.

Early Dec. National Commission on the Causes and Prevention of Violence recommends that marijuana possession be made a misdemeanour in Federal and state laws.

1969 (continued)

16 Dec. Senate Judiciary Committee reports S. 3246 to the Senate. Accompanying report explains the decision to reduce marijuana penalties.

1970

19 Jan. 91st Congress, 2nd Session convenes.

26 to 28 Jan. S. 3246 debated by the Senate. Passed 28 Jan. and referred to the House. Because of a jurisdiction question, the Bill is never referred to a House committee.

3, 4, 17, 18, 19, 20, 25, 26, 27 Feb. Jarman subcommittee of the Interstate and Foreign Commerce Committee (on Public Health and Welfare) holds public hearings on H.R. 13743 and other bills relating to drug control.

2 and 3 March Jarman subcommittee concludes hearings.

11 March National Clearinghouse for Drug Abuse Information established in NIMH.

6 April "Marihuana", a report based on its October hearings, issued by the House Select Committee on Crime.

7 April H.R. 11102, to improve hospital facilities, passed in the Senate. Senator Dominick's "Marihuana and Health Reporting Act "(S. 3190) added to this Bill.

5, 7, 11, 13, 19, 26 May Jarman subcommittee holds executive sessions on drug-control bills.

6 May H.R. 17463, a bill similar to the Senate-passed S. 3246, introduced by Rep. Wilbur Mills. Referred to Ways and Means Committee.

1970 (continued)

12 May	Reps. Staggers and Springer write to Rep. Mills requesting that he respect the traditional jurisdictional divisions between Ways and Means and Interstate and Foreign Commerce committees, and confine the scope of H.R. 17463 to narcotics and marijuana. (Rep. Mills later agrees to do this.)
3, 4, 16, 17, 30 June	Jarman subcommittee continues executive sessions on drug-control bills.
8 June	Senate adopts Conference Report on H.R. 11102.
10 June	House adopts Conference Report on H.R. 11102.
Week of 22 June	District of Columbia Council proposes penalties of a $300 fine and/or 10 days imprisonment for marijuana possession.
15 June	H.R. 11102 passes House over Presidential veto.
30 June	H.R. 11102 passes Senate over Presidential veto. Becomes P.L. 91-296, Title V of which requires an annual report to Congress by HEW on Marihuana and Health.
1, 7, 8, 9, 10, 16, 17, 20, 21, 22, July	Jarman subcommittee continues executive sessions on drug-control bills. Clean bill, H.R. 18583, introduced 22 July by Reps. Staggers, Springer, and others. This Bill covers all drugs except narcotics and marijuana; although it also covers tetrahydrocannabinols. Referred to Interstate and Foreign Commerce Committee.
20, 21, 22, 23, 27 July	Ways and Means Committee holds hearings on H.R. 17463 and other bills.
End of July	Ways and Means Committee holds executive sessions on its hearings, agrees to cede jurisdiction on narcotics and marijuana (except their import and export) to Interstate and Foreign Commerce Committee.

1970 (Continued)

29, 30 July	Interstate and Foreign Commerce Committee holds executive sessions on H.R. 18583.
30 July	Jarman subcommittee holds executive session on H.R. 18583.
5, 6, 10, 11, 13, 14, Aug.	Interstate and Foreign Commerce Committee continues executive sessions on H.R. 18583.
10 and 11 Aug.	Jarman subcommittee continues executive sessions on H.R. 18583.
12 Aug.	Ways and Means Committee submits Title III of H.R. 18583 (covering import and export of drugs) to Interstate and Foreign Commerce Committee.
27 Aug.	Senate Special Subcommittee on Alcoholism and Narcotic Drugs, of the Labor and Public Welfare Committee, holds hearings on H.R. 14252, the House-passed Bill to expand Federal drug-abuse education programmes.
10 Sept.	H.R. 18583, with Titles I and II drafted by Interstate and Foreign Commerce Committee, and Title III drafted by Ways and Means, reported to the House. Accompanying report explains policy decisions taken on marijuana penalties.
23 and 24 Sept.	House debates and passes H.R. 18583. Bill referred to the Senate.
28 Sept.	H.R. 14252, to improve drug-abuse education programmes, reported by Labor and Public Welfare Committee to the Senate. (The bill passed the Senate on 17 Nov.; the House agreed to Senate amendments on 19 Nov.; and it was signed into law 3 Dec. as P.L. 91-527.)
6, 7, 8 Oct.	Senate debates and passes H.R. 18583. Hughes amendment, assigning simple-possession penalties for donative transfers of marijuana, passed 7 Oct.

1970 (Continued)

9 to 13 Oct.	House-Senate Conference on H.R. 18583.
13 Oct.	Conference Report on H.R. 18583 filed in House and Senate.
14 Oct.	Conference Report on H.R. 18583 adopted by House and Senate. Bill sent to the President.
27 Oct.	President Nixon signs H.R. 18583 into law as P.L. 91-513 (84 Stat. 1236). All provisions of the new law, except for recording procedures for certain drug manufacturers, take effect immediately.

Great Britain: 1958 - 1971

1958

3 June — Interdepartmental Committee on Drug Addiction established to review drug-control policies in Britain; Sir Russell (later Lord) Brain appointed chairman.

1960

29 Nov. — Brain Committee completes its study.

1961

Jan. to March — Plenipotentiary Conference for Adoption of the U.N. Single Convention on Narcotic Drugs; U.K. represented.

30 March — Single Convention initialled by U.K. representative.

May — Drug Addiction, the First Report of the Brain Committee, released.

1964

10 June — Dangerous Drugs Act passed, giving effect to the Single Convention from 2 Sept. Also introduced the legal concept of "strict liability".

31 July — Drugs (Prevention of Misuse) Act passed, principally intended to control amphetamine pushers.

July — Brain Committee reconvened.

1964 (Continued)

2 Sept. Britain accedes to the Single Convention.

Oct. Labour Party wins general election, returns to Government after 13 years in Opposition.

1965

2 June Dangerous Drugs Act 1965 passed, consolidating the Acts of 1951 and 1964.

Nov. Drain committee issues its Second Report; proposes that an Advisory Committee on Drug Dependence be established to assist Home Secretary in drugs-related matters.

1967

12 Jan. Advisory Committee on Drug Dependence established; holds its first meeting.

7 April At its second meeting, the Advisory Committee establishes a Hallucinogens Subcommittee, under the chairman ship of Baroness Wootton, to investigate cannabis and L.S.D. The subcommittee holds a few meetings before an advertisement in The Times (see 24 July, below) appears, urging cannabis law reform. By the time the advertisement appears, the subcommittee has begun to study cannabis.

June SOMA, the Society for Mental Awareness, formed to work for cannabis-law reforms.

24 July Full-page advertisement in The Times recommends reform of cannabis-control laws, including the elimination of penalties, or small fines, for possession.

28 July House of Commons debate on Times advertisement.

1967 (Continued)

July — Release established, a group giving legal advice to persons arrested for drugs offences.

27 Oct. — Dangerous Drugs Act passed, principally intended to control over-prescription of heroin to registered addicts.

30 Nov. — James Callaghan replaces Roy Jenkins as Home Secretary.

1968

July — Wootton subcommittee's report on cannabis completed, referred to the full Advisory Committee for debate and approval.

Oct. — Home Secretary asks Law Commission for advice on the question of "strict liability" in drugs offences.

1 Nov. — Advisory Committee refers Wootton Report to the Home Secretary. Recommends reduction of cannabis penalties and reform of existing drug-control laws.

Nov. and Dec. — Press speculation about contents of the Wootton Report.

Autumn — Sweet v. Parsley, a case involving the "strict liability" of a manager of a premises for the use of cannabis thereon, appealed to the Lords of Appeal after an appeals court upheld a lower court conviction.

1969

8 Jan. — Cannabis, the Wootton Report, released.

15 Jan. — Actor Peter Sellers publicly advocates the use of cannabis for enjoyment and relaxation.

1969 (Continued)

23 Jan. — Sweet v. Parsley conviction reversed by the Lords of Appeal.

Parliamentary questions on Cannabis; Mr. Callaghan rejects most of the Wootton Report recommendations, including those for lower cannabis penalties.

27 Jan. — Commons debate on Cannabis; Mr. Callaghan repeats his rejection of the Wootton Report recommendations; he accepts their view that drug-control laws should be studied.

Late Jan. — Advisory Committee meets with Mr. Callaghan, amid some threatened resignations, to discuss his negative reaction to Cannabis recommendations.

5 Feb. — Sir Edward Wayne, chairman of the Advisory Committee, and Baroness Wootton write a letter to The Times criticising Mr. Callaghan's reaction to Cannabis.

22 March — Pop singer Dusty Springfield advocates cannabis use; claims that British pop stars are being persecuted for using the drug.

26 March — Lords debate on drugs; Lord Stonham, speaking for the Government, mentions the intention to produce new drug-control legislation; is not certain at this point if a White Paper or a Green Paper will be prepared on the subject.

Mid-July — Mr. Callaghan decides to proceed with the preparation of new drug-control legislation, if possible to be introduced in the next session of Parliament. Consultations begin between the Home Office and the Advisory Committee on what form the new legislation might take.

Aug. — Drafting of a Consultative Document on the new drug-control legislation under way in the Home Office.

1969 (Continued)

Sept. Consultative Document on new drug-control bill is completed, and circulated to other Government departments; it is also circulated to interested outside organizations.

28 Oct. New drugs legislation forecast in the Queen's Speech at the State Opening of Parliament; also mentioned in Commons debate that follows.

5 Nov. Addenda to 1967 Reference Sheet prepared by Research Division of the House of Commons Library (see Appendix VI).

13 Nov. Mr. McNair-Wilson expresses concern in Commons speech about lack of information on cannabis available to teachers and headmasters.

Dec. Home Affairs Committee of the Cabinet agrees that a drug-control bill should be drafted.

1970

Jan. Home Office and Legislative Counsel draft Misuse of Drugs Bill.

11 March Misuse of Drugs Bill introduced in the House of Commons; given First Reading.

16 March Reference Sheet 70/4 on Misuse of Drugs Bill prepared by Research Division of the House of Commons Library (see Appendix VI).

20 March Early Day Motion by Capt. Henry Kerby deploring the decision of the Labour Government (in its Misuse of Drugs Bill) to reduce penalties for cannabis possession from 10 to 5 years maximum. Calls this a surrender to the permissive society.

25 March Misuse of Drugs Bill Second Reading debate in the House of Commons; commited to a Standing Committee.

1970 (Continued)

16 April	Misuse of Drugs Bill referred to Standing Committee D.
23 April	Standing Committee D meets first time to consider Misuse of Drugs Bill.
28, 29, April and 5, 7, and 12 May	Standing Committee D continues its consideration of Misuse of Drugs Bill; adjourns for Whitsun holiday.
18 May	Prime Minister Wilson announces that Parliament will be dissolved on 29 May and a general election will be held on 18 June.
18 June	General election. Conservative party returned to office.
2 July	New Parliament opened.
8 July	Misuse of Drugs Bill re-introduced by Mr. Maudling, the new Home Secretary.
16 July	Second Reading debate on Misuse of Drugs Bill; money resolution agreed to.
17 July	Misuse of Drugs Bill allocated to Standing Committee A.
24 Sept.	U.S. House of Representatives passes H.R. 18583.
27 Oct.	President Nixon signs H.R. 18583 into law. Becomes P.L. 91-513.
	State Opening of Parliament.
3, 5, 10, 12, & 17 Nov.	Standing Committee A debates Misuse of Drugs Bill. Reports Bill to House on last day.
10 Dec.	Commons completes Report Stage and Third Reading of Misuse of Drugs Bill. Bill is referred to the Lords.

1971

Jan.	Actor Peter Fonda advocates cannabis use in a magazine article that appears in Britain; an MP criticises this in a speech.
14 Jan.	Lords Second Reading debate on Misuse of Drugs Bill.
4, 9, 11 Feb.	Lords Committee Stage of Misuse of Drugs Bill.
9 March	Lords Report Stage of Misuse of Drugs Bill.
25 March	Lords Third Reading of Misuse of Drugs Bill. Bill returned to Commons with minor amendments.
26 May	Commons considers and agrees to Lords amendments.
27 May	Royal Assent granted to Misuse of Drugs Act as Eliz. II, 1971, Chapter 38.

APPENDIX JJ

SUMMARY OF MATERIAL ABOUT MARIJUANA THAT APPEARED IN THE CONGRESSIONAL RECORD FROM THE BEGINNING OF THE 91st CONGRESS TO THE PASSAGE OF PL 91-513.

FIRST SESSION (3 January to 23 December 1969)

Even before Mr. Nixon became President,[1] Members of Congress were raising the subject of marijuana in their public speeches and statements. The first reference to marijuana printed in the "Record" during the 91st Congress was made by Sen. Frank Moss (D. Utah). He read a "Marihuana Status Report for 1968" that had been prepared at his request by the National Institute of Mental Health (NIMH). This review noted that by the spring of 1969 an estimated 70 per cent of the students at one west-coast university will have tried marijuana, and that regular users had increased from about 4 to 14 per cent during the past year. The

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1. In the year following an election, Congress usually convenes on 3 January, or the next weekday. The President is inaugurated, every fourth year, on 20 January.

report also stated that:

> the dangers to the infrequent user or experimenter may not exceed those intoxicated by other mind altering chemicals - alcohol, for example; however, the marked visual and time distortions that can be associated with marihuana make their behavior more hazardous ... Infrequent panic or paranoid states are known to occur.
>
> It is the "pothead" who can sustain more frequent psychological retardation. He is using this chemical to escape from life stress, thereby impairing his personal maturation.[1]

Two days later, on 17 January, Rep. John Rooney (D. New York 14) inserted the text of "Marihuana: A Calling Card to Narcotic Addiction", a speech by Henry L. Giordano, Associate Director of the Bureau of Narcotics and Dangerous Drugs (BNDD), which argued (on the basis of surprisingly little evidence) in support of the escalation theory.[2]

Two warnings about the social consequences of marijuana use were made in the next month. On 17 February Rep. Louis Wyman (R. New Hampshire 1) inserted an editorial from the conservative Manchester Union-

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1. Congressional Record, 91st Congress, 1st Session, pp. 904-5.

2. Ibid., pp. 1269-71.

Leader (New Hampshire) of 12 February entitled "It's Not Just Their Life - Others are Involved", which described the dangerous consequences of young persons turning to crime as a result of smoking marijuana.[1] And, on 19 February Rep. John March (D. Virginia 7) spoke of the "Growing Problem of Misuse of Drugs Among Young People" in which he endorsed the escalation theory.[2]

As frequently happens in the "Record", even with the most apparently obscure sources, an item may be included by several Congressmen. This occurred with the text of a speech by John G. McNamara, the police chief of Cheshire, Connecticut, entitled "Beware of the Marihuana Menace", which had been printed in the FBI Law Enforcement Bulletin of April 1969. The speech described efforts in his town to hold a symposium on drugs, but despite its title, in fact, gave no information about marijuana. The same speech was inserted in the "Record" on 2 April by Rep. John

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1. Ibid., pp. 3593-4.

2. Ibid., p. 3976.

Monagan (D. Connecticut 5),[1] and on 18 April by Sen. Thomas Dodd (D. Connecticut).[2]

The first proposal during the 91st Congress for the formation of a Presidential commission to study marijuana (and the one that ultimately became law) was made by Rep. Edward Koch (Dem.-Lib. New York 17) on 14 April.[3] During the first session of Congress, bills were also introduced by Rep. Gilbert Gude (R. Maryland 8) on 21 May.[4] Sen. Frank Moss on 10 July,[5] and Rep. John Monagan on 25 November,[6] all with accompanying speeches and supporting material. The idea of sponsoring or co-sponsoring Bills and Resolutions to set up a Presidential study commission

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1. Ibid., pp. 8387-9.
2. Ibid., p. 9611.
3. Ibid., pp. 8866-7. The Bill, designated H.R. 10019, attracted several co-sponsors during the months that followed. Representative Koch also spoke in favour of this Bill on 21 May (p. 13281) and 15 July (p. 19633). It eventually became part of P.L. 91-513.
4. Ibid., pp. 13340, 13407 (H.R. 11540).
5. Ibid., pp. 19025-6. (S. 12590).
6. Ibid., pp. 35719-20. (H.R. 14981). He made a second "Record" statement in favour of this Bill on 19 December (pp. 40249-50).

on marijuana became increasingly popular as debate and hearings on the administration's drug-control legislation proceeded. A variation on this theme was proposed by Sen. Charles Goodell (R. New York) with the introduction of S. 2921, the "Drug Abuse Services and Marihuana Study Act of 1969", on 18 September, to establish a commission in HEW.[1]

Other information that appeared in the "Record" prior to the introduction of the Administration's drug-control Bill (on 16 July) included: a plea about "A desperate Need for Reform in New Drug Evaluation" by Rep. Wendell Wyatt (R. Oregon 1) on 14 April;[2] a speech by Rep. Paul Rogers (D. Florida 9) on 23 April entitled "NIMH Presents an Excellent Program on Drug Abuse Education" in which he quoted from testimony about marijuana by Dr. Stanley Yolles, given to a House subcommittee the day before;[3] and

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1. Ibid., p. 26087.

2. Ibid., p. 8972.

3. Ibid., pp. 10103-6. This entry also included statements by Dr. Sidney Cohen, Director of the Division of Narcotic Addiction and Drug Abuse at NIMH and by Gerald Kurtz, Director of the Office of Communications at NIMH. Their testimony was made before the Subcommittee on Public Health and Welfare of the Interstate and Foreign Commerce Committee, the body that eventually supervised the passage of the 1970 drug-control Bill in the House.

an announcement on 27 June by Rep. Don Edwards (D. California 9) of the availability of a booklet entitled "Parents' Guide to Marijuana", published by the Western Electric Co.[1]

On 14 July President Nixon's message to Congress,[2] was presented to the Senate by Vice President Spiro Agnew (who is ex officio President of the Senate) and referred to the committees with jurisdiction over the subject: Finance, and Labor and Public Welfare.[3] In the House the message was presented by the Speaker,[4] Rep. John McCormack (D. Massachusetts 9). This was followed by speeches in praise of the proposal from Rep. Gerald Ford (R. Michigan 5), the Minority Leader,[5] Rep. John Rhodes (R. Arizona 1),[6] and Rep. William Steiger (R. Wisconsin 6).[7] The next day, Rep.

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1. Ibid., p. 17655.
2. House Document No. 91-138.
3. Congressional Record, 91st Congress, 1st Session, pp. 19353-5.
4. Ibid., pp. 19327-8.
5. Ibid., pp. 19328-9.
6. Loc. cit.
7. Ibid.

Laurence Burton (R. Utah 1) inserted another statement in praise of the President's message.[1] On 16 July, in the Senate, Everett Dirksen (R. Illinois), the Minority Leader, formally introduced the Administration's drug-control Bill, S. 2637, with a brief statement to explain why the measure would be referred to the Judiciary Committee rather than to Commerce, Finance, or Labor and Public Welfare.[2] In the House that day a further note of praise for the Nixon Bill was sounded by Rep. Ed Edmondson (D. Oklahoma 2).[3]

Clearly, the most popular proposal during this period was for the creation of a marijuana study commission. Rep. Edward Koch criticized the President's message on 15 July for its error "in failing to make a distinction between the use of hard narcotics such as heroin and the use of marihuana",[4] and reiterated his proposal (H.R. 10019) to establish a Presidential commission on marijuana. His speech also included an article by political columnist, editor, and broadcaster

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1. Op.cit., p. 19695.
2. Ibid., p. 19808.
3. Ibid., p. 19840.
4. Ibid., p. 19633.

William F. Buckley - from the New York Post of 12 July - that concluded:

> ... it would appear plain that the marijuana laws are not much more effective than Prohibition. Those who desire pot probably find and smoke it in about the same proportion as those who desired booze found and drank it. We need a crash program of testing and investigating, and above all, the de-ideologization of the arguments.

On 16 September Mr. Koch noted that "yesterday Attorney-General John N. Mitchell, testifying before the Senate Juvenile Delinquency Subcommittee, stated his support of a proposal for the creation of a commission to study marihuana."[1] And on 25 September he quoted Dr. Roger Egeberg, Assistant Secretary for Health and Scientific Affairs in HEW, as saying that "I think the penalties for marihuana are punitive, vindictive, and utterly out of relationship to the importance of marihuana." He also listed 37 House Members who were co-sponsoring his Bill.[2]

On 19 September Rep. Robert Kastenmeier (D, Wisconsin 2) announced in the "Record" that Sub-

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1. Ibid., p. 25646.

2. Ibid., p. 27060.

committee No. 3 of the House Judiciary Committee, of which he was chairman, would hold public hearings on the Koch Bill, and invited anyone interested to give oral or written statements about the proposal. He also included an editorial from the New York Times of 15 September, "The Facts of 'Pot'", that began: "The question of whether 'taking pot' is a step toward self-destruction or merely an innocent diversion is being debated as though it could be decided by majority vote." The editorial stated that none of the previous studies of marijuana is entirely applicable to the American situation today, and concluded that "there has been nothing in the United States comparable to the investigation proposed by Mr. Koch, either in scope or in the stature of the investigators. It is time the American people had the hard facts on a possibly soft drug."[1]

Rep. Joseph Minish (D. New Jersey 11) announced his co-sponsorship of the Koch Bill in the "Record" of 8 October.[2] And three other co-sponsors supported the Koch proposal by introducing articles from their

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1. Ibid., p. 26432.

2. Ibid., p. 29286.

home-states' newspapers: on 9 October Rep. Ken Hechler (D. West Virginia 4) introduced the editorial entitled "Sane 'Pot' Idea Finally Offered" from the Charleston Gazette (West Virginia) of 4 October;[1] on 16 October Rep. Dante Fascell (D. Florida 12) introduced the editorial entitled "A Study of Marijuana Would Serve the Nation" from the Miami Herald of 22 September;[2] and, on the same day Rep. Abner Mikva (D. Illinois 2) introduced the editorial entitled "For a Marihuana Study" from the Chicago Sun Times of 19 September.[3]

Bills to require annual reports on the health consequences of marijuana use were introduced during this session in both chambers of Congress. On 1 December Sen. Peter Dominick (R. Colorado) introduced S. 3190, "The Marihuana and Health Reporting Act of 1969", to require the Secretary of HEW, after consulting with the Surgeon General, "to report annually on recent research developments concerning the health consequences of using marihuana," and inserted in the

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1. Ibid., p. 29383.
2. Ibid., p. 30461.
3. Ibid., p. 30466.

"Record" a compilation of material about current marijuana research and information sources. This included details on more than 50 marijuana research projects then being financed or aided by the Federal Government.[1] A similar bill, H.R. 15186, was introduced by Rep. William Minshall (R. Ohio 23) on 10 December.[2]

Sen. George Murphy (R. California) inserted the text of the 6 June "Narcotics, Marihuana and Dangerous Drugs Task Force" report into the "Record" on 15 September.[3] On 30 September he inserted testimony taken on 27 September in Los Angeles by the Special Subcommittee on Alcoholism and Narcotics of the Senate Committee on Labour and Public Welfare, which he said, revealed conclusively that drug abuse "represents clear and present danger" to the country.[4]

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1. Ibid., pp. 36157-65.
2. Ibid., pp. 38143-4.
3. Ibid., pp. 25454-60.
4. Ibid., pp. 27507-8. The phrase "clear and present danger" comes from Schenck v. United States, a 1919 Supreme Court decision that laid down criteria for limiting free speech. While the Senator's statement did not suggest that free speech about drugs be curtailed, he did urge that the Congress pass his Resolution (S.J. Res. 142) to set up an international commission that would coordinate efforts to curtail the flow of drugs across the Mexican border.

Statements about the extent of drug abuse, including information about marijuana, by Sens. Charles Goodell and Jacob Javits (R., New York), and Mayor John Lindsay of New York City, were inserted in the "Record" by Senator Goodell on 21 October.[1] The same day Dr. Stanley Yolles' testimony before the Dodd subcommittee on 17 September (see Chapter III, pp. 161 to 168 above) was inserted by Sen. Joseph Tydings (D. Maryland).[2]

The subject of drug-law reform was raised on several occasions by Rep. Charles Wilson (D. California 31), who made a practice of sharing information with his colleagues through the "Record". On 7 August he inserted, an endorsed, an article from that morning's Washington Post entitled "Senator Hughes Urges Drug Law Overhaul", which stated that:

> since a White House conference six years ago, Hughes said, four major national groups have made recommendations for drug law reform. He asked ... "why so little had been done to implement these recommendations." 3

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1. Ibid., pp. 30688-92.
2. Ibid., pp. 30704-9.
3. Ibid., pp. 22960-1.

On 19 September Mr. Wilson inserted a Washington Post editorial of 9 September about "The Riddle of Marijuana" and an 18 September news story about Doctor Yolles' testimony before the Dodd subcommittee.[1] And on 1 October he inserted a statement, made by California Attorney General Thomas Lynch before the Dodd subcommittee on 25 September, warning that the shrinkage in marijuana supplies because of the Federal Government's surveillance of the Mexican border was leading young persons to experiment with more dangerous drugs.[2]

Rep. Charles Wilson also kept his colleagues informed about the shift in the Administration's attitude to marijuana penalties. On 4 September he inserted a 3 September Washington Post article entitled "Egeberg Criticizes Marijuana Laws" that was based on an interview in which the doctor said "the present laws are completely out of proportion" to the dangers presented by the drug.[3] On 3 October he cited reports by the Associated Press and United Press International

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1. Ibid., pp. 26445-6.
2. Ibid., pp. 28059-61.
3. Ibid., pp. 24555-6.

that quoted an aide in HEW as saying: "We want to provide penalties for marijuana use and possession more in line with the dangers of the drug."[1] And on 23 October he commended the Nixon Administration for its change in attitude about marijuana penalties, as expressed by John Ingersoll before the Dodd subcommittee on 20 October (see Chapter III, pp. 172 to 173, above).[2]

Other views on marijuana were also expressed through reprints of newspaper editorials. Rep. Jefferey Cohelan (D. California 7) introduced the 9 September Washington Post editorial entitled "The Riddle of Marijuana" in a "Record" statement on 23 September, with the comment that increasing marijuana use, especially among young people, "is a problem which demands our immediate attention. Our current laws on marijuana do nothing to curtail its use; if anything, they force users to blatantly flaunt the law."[3] On 19 November Rep. Edward Derwinski (R. Illinois 4) inserted what he described as "a very sound and pene-

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1. Ibid., p. 28551.
2. Ibid., pp. 31245-6.
3. Ibid., p. 26778.

trating editorial on the subject" from the 8 November Chicago Polish American that warned against taking a relaxed view of marijuana simply because it is not physically addictive. The editorial concluded:

> One thing must remain clear, however - that we cannot solve the matter of marijuana usage, or the use of other hallucinatory drug [sic] by condoning it. We have to remove the reasons, the forces which cause members of our society to use them.[1]

"The Real Harm of Marihuana" was the title of a "Record" insert provided by Rep. Catherine May (R. Washington 4) on 17 September that contained the text of a judgment made on 26 August 1969 by Justice of the Peace Albert J. Yencopal of Richland Precinct, Benton County, Washington.[2] She concluded that the real harm of the drug is "social", and quoted the judge's first ruling on marijuana, which said, in part:

> Marijuana is a dangerous drug. It is much more dangerous to the non-user than to those who resort to it. It is the hard-working, responsible citizen who suffers by the cult that it creates. For it is he, the responsible citizen, who is called upon not only to support himself and his family, but also to carry the burden of the drug-oriented, anti-social user.

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1. Ibid., p. 34985.
2. Ibid., pp. 25939-40.

Rep. Bob Wilson (R. California 36) warned of the drug's most immediate perils in two "Record" inserts on 24 September. In the first, entitled "Professor Sees High Risk in Legal Marihuana", he presented a 20 September Chicago Tribune article that described the 19 September appearance of Dr. Daniel Freedman, Chairman of the University of Chicago's Psychiatry Department, before the Senate Special Subcommittee on Alcoholism and Narcotics, in which the professor said that those advocating legalizing marijuana use "should be willing to risk exposure of many to becoming casualties." The article also stated that "Creed Black ... assistant secretary of HEW [for legislation], denied there was a lack of interest in the problem and blamed the delay [in taking firm positions on many of the pending drug Bills] on the tremendous load of bills awaiting administration position papers."[1] Rep. Bob Wilson's second insert, entitled "Pot is Dangerous", contained an article from the Chula Vista Star (California) that outlined findings made at the Donner Laboratory, University of California, Berkeley. The article stated that:

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1. Ibid., p. 26973.

> ... marijuana is not only habit forming and productive of hallucinatory intoxication, but also has probably long range physical and cumulative mental effects which can permanently damge the mind and personality.[1]

However, no specific reasons or examples were given to support this conclusion.

Rep. John Hunt (R. New Jersey 1) criticized Doctors Egeberg and Yolles for their "off-the-cuff personal comments" that "may well have the unfortunate effect of giving license by implication to the curiosity-seekers to at least give marihuana a try." This insert also contained Chapter I of the 6 June "Narcotics, Marihuana and Dangerous Drugs Task Force" report, entitled "The Dangers of Marihuana".[2] On 15 October he also warned that marijuana is "encouraged by permissiveness" and decried such headlines as "HEW Egeberg Hits 'Pot' Penalties", "Egeberg Criticizes Marihuana Laws", "Administration Flexible on Penalties in Drug Bill", and "Mitchel Favors a Flexible Drug Law".[3]

On 5 November Sen. Edward Kennedy (D. Massachusetts) inserted a 13-page statement into the "Record"

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1. Ibid., pp. 27013-4.

2. Ibid., pp. 26612-5.

3. Ibid., p. 30230.

entitled "Marihuana, Narcotics, and the Drug Scene", which presented nine articles culled from a variety of sources. These, he said, "raise some very important questions about our laws and our attitudes on marihuana today."[1] The Senator called particular attention to an article in the 31 October issue of Life magazine by Dr. James L. Goddard, former Director of the U.S. Food and Drug Administration (see Chapter III, pp. 66 to 67 above) that warned of fully legalizing marijuana. This article went on to state:

> Our laws governing marijuana are a mixture of bad science and poor understanding of the role of law as a deterrent force. They are unenforceable, exceedingly severe, scientifically incorrect and revealing of our ignorance of human behavior. The federal and state laws should be revised to reflect the fact that marijuana is a hallucinogen and should be classified as such. The federal statutes should be repealed, and the Food, Drug and Cosmetic Act should be amended to bring marijuana under the jurisdiction of that act, thereby automatically de-escalating the penalties for simple possession to a more reasonable level (a misdemeanor, with the judge being given considerable authority to adjust the penalty to more nearly fit the circumstances).

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1. Ibid., pp. 33069-81.

> At the same time sufficiently serious penalties should be provided to handle the major traffickers in the drug. State laws should then be revised in conformance with a model law containing similar provisions.

Undoubtedly the most sweeping indictment of marijuana made during the entire Congress came from Rep. John Rarick (D. Louisiana 6) in a 22 October speech entitled "The New Morality - Sodom and Gomorrah". In it he warned:

> It is not just a coincidence that serious recommendations are being made by quasi-respectable bodies for permissive abortion, for legitimated homosexuality, for sexual perversion and promiscuity, for legalized marihuana and hallucinogens.

His example of a serious recommendation made by a quasi-respectable body for legalized marijuana and hallucinogens was, in fact, a 21 October Washington Post article entitled "Nixon Proposes Light Penalty for First Possession of Drugs". This article reported John Ingersoll's 20 October presentation of three alternate penalty schemes for drug control before the Dodd subcommittee (see Chapter III, pp. 172 to 173 above).[1]

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1. Ibid., pp. 31144-9.

SECOND SESSION (19 January 1970 to 2 January 1971)

The Second Session of the 91st Congress saw the passage of comprehensive drug-control Bills in both houses, and the enactment of the 1970 law. In the Congressional Record, the session began with a detailed "Analysis of State Laws Governing Marihuana" inserted on 20 January by Sen. Charles Mathias (R. Maryland) as a basis for comparison with the provisions of S. 3246, which were about to be debated in the Senate. The six-page survey [1] which was compiled by the Senator's staff, was at that time the most up-to-date review of this subject available. Senator Mathias said in his introduction that:

> I invite attention to several of the trends that are illustrated in this survey. It will be noted that 20 States at present classify the simple possession of marihuana as a misdemeanor. Eighteen of these 20 States have made this revision in their laws in the past 3 years, and there are similar legislative proposals pending in a number of other States. S. 3246 takes a similar approach to the treatment of simple possession of marihuana.
>
> It should also be noted that 16 States do not restrict or prohibit

1. Ibid., pp. 425-30.

> the mitigation of sentencing by suspended sentences, probation, or parole. Only one state prohibits mitigation in every marihuana offense; 48 States allow suspended sentences and probation in the first offense of possessing marihuana. I agree with the Attorney General that the limitation in Federal law against such mitigation is unfortunate; the mandatory minimum sentences have been one of the most criticized aspects of the Federal drug laws. S. 3246 does away with many of the prohibitions against mitigation of sentences, and reflects the State trend in this respect.
>
> Some 24 States have substantially revised their marihuana laws in the past 3 years. Only 2 of the 24 have increased the general penalty structure. The remaining 22 have reduced the penalty schedule, in most instances rather substantially. S. 3246 reflects this modern approach to the marihuana problem in that it distinguishes marihuana from the hard narcotics.[1]

Taking an opposite view, Rep. John E. Hunt (R. New Jersey 1) saw the relaxation of marijuana laws as a dangerous trend. In a speech in the Congressional Record on 4 February, entitled "Marihuana Laws", he said:

> I find it somewhat less than amusing that the political parties in this city are preoccupied with efforts to outdo one another in advancing proposals to downgrade the penalties for violations of the marihuana laws.[2]

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1. Ibid., pp. 425-6.

2. Ibid., p. 2370.

The District of Columbia Democratic Central Committee had voted to legalize marijuana; the Republican City Council Chairman had supported a proposal for "token penalties". "I might remind my colleagues of the Gallup poll of last October", he said, "which revealed that 84 percent of the adults polled were opposed to legalizing marihuana." On 9 February Mr. Hunt said, in a second speech entitled "Marihuana Laws",[1] that "a sampling of news articles in recent months on the subject of drug laws leads to the unmistakeable conclusion that there are those at the heart of the debate who are bent on legalizing marihuana." He concluded this speech with the warning that:

> This kind of weak-kneed rationale [that present laws discredit the legal system because they are largely unenforceable] should be of little consolation to the law-abiding citizens in this crime-ridden city and, to be sure, the abuse of marihuana, interwoven as it is with other dangerous drugs and narcotics, is a serious social problem whose danger should not be minimized by a scheme of penalties that attempts to segregate these drugs in terms of their relative physical dangers.

Mr. Hunt continued his warnings about law reforms with a speech on 25 June entitled "The Absurdity of District

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1. Ibid., p. 2787.

of Columbia Council Action on Marihuana Penalties." [1] The "action" to which he referred was preliminary approval to a proposed regulation that would make the "use" or "being under the influence" of marijuana a misdemeanor with a punishment, upon conviction, of no more than $300 fine and/or 10 days in jail, and with no police records kept. He then called attention to the nearby states of Maryland and Virginia for comparison of penalties for possession of marijuana.

> For a first offense in Maryland, the new law enacted this year provides for penalties upon conviction of not more than $15,000 fine and/or not more than 5 years' imprisonment. Virginia's law specifies first offense penalties ... of up to $1,000 fine and/or 3 to 5 years' imprisonment. In both States, the violation is declared to be a felony.

Mr. Hunt concluded that "the District of Columbia Council is asking for trouble by attempting to downgrade marihuana penalties relative to those in surrounding States."

For Members of the House of Representatives, the "Record" was an ideal place to review the debate that preceded the Senate's 82-to-0 passage of S. 3246.

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1. Ibid., p. 21606.

As it related to marijuana, the bill reduced penalties significantly, established a study committee, and eliminated mandatory minimum sentences for possession and trafficking.[1]

Warnings about the dangers of marijuana use appeared three times in the "Record" during the Second Session. A speech by Rep. William Minshall (R. Ohio 23) on 26 January, entitled "Army Medical Adviser Warns Against Changing Marihuana Laws" repeated a 24 January letter to the Washington Star from Col. John Kovaric, the commander of an evacuation hospital in Vietnam.[2] In the letter, Colonel Kovaric dismissed comparisons between marijuana and alcohol as "invalid", warned that more potent marijuana, of the type now used in Vietnam, would be freely available in the United States if the drug's use were legalized, and concluded that:

> because the punishments for the use of marijuana seem to be excessive, it is sheer lunacy to overreact by legalizing it in an attempt to eliminate a problem!

Extracts from this letter were also put in the "Record" by Rep. John Hunt on 18 February.[3] On 23 July Rep.

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1. Ibid., pp. 972-80, 992-1012, 1129, 1159-77, 1180-3, 1303-36, 1630, 1637-91.
2. Ibid., pp. 1234-5.
3. Ibid., p. 3870.

James Collins (R. Texas 3) said in a statement that "none of the drug debates solve anything" and that despite the fact that "the extent of physical harm caused by marihuana may be uncertain", "the shattering effect that sale or possession of marihuana may have on an individual's life is startling."[1] He inserted in the "Record" a Dallas Times Herald editorial that warned of the penalties and loss of certain employment eligibilities that are possible for conviction in Texas.

Research on marijuana was the subject of three articles in the "Record". Sen. Frank Moss (D. Utah) said that:

> Congress has been talking and legislating too long about marihuana without knowing very much about it. Some young people believe marihuana is practically harmless while many of us fear that its use can lead to tragic consequences. But neither side of the marihuana controversy has conclusive evidence.
>
> Last week I learned firsthand from the marihuana experts of this basic lack of information ... [at] a conference on marihuana at the Salk Institute in La Jolla, California, where the medical experts readily admitted that their research thus far has been very primitive.

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1. Ibid., p. 25700.

> The results of more sophisticated research are now beginning to come in. What we now need is a careful evaluation of this information which will soon become available ... It is my hope that the [marijuana study committee, as proposed in S. 3246] will come up with an authoritative report that will help to resolve this controversy. We cannot go on with this two-sided credibility gap much longer.[1]

On two occasions Sen. Peter Dominick (R. Colorado) spoke of research into marijuana conducted by the U.S. Army. He complained about the delay involved in declassifying reports on this research on 3 February,[2] and on 5 March[3] he summarized the findings of research with synthetic marijuana used by 35 human volunteers. The experiments, completed in 1963, were conducted to discover if various THC isomers could be used as incapacitating agents in chemical warfare. The results of the studies first came to light at an NIMH scientific meeting in January 1969, when an Army scientist described that some of the isomers produced lowered blood pressure and body temperature. After a protracted correspondence with the Army, Senator Dominick succeeded in having the reports on the

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1. Ibid., p. 1342.
2. Ibid., pp. 2217-9.
3. Ibid., pp. 6145-7.

research declassified, and placed the report's introduction (on human data) and the conclusion in the Congressional Record. The significance of these studies is their discovery that THC compounds might have some medical uses in treating persons suffering from high blood pressure and sunstroke. In addition, an article from the Washington Post [1] that Senator Dominick inserted in the "Record" on 3 February, reported that at the NIMH meeting other studies of marijuana had shown its possible application in treating epileptic seizures, tetanus, and migraine headaches.

On 29 January Rep. Charles Vanik (D. Ohio 21) introduced into the "Record" a series of articles from the Sun Papers of his Cleveland-area Congressional District.[2] One, entitled "Is Marijuana Really Bad for You? Consensus is Yes", reported the majority of views expressed by 600 educators attending a seminar on Drug Use and Abuse sponsored by the Cleveland Academy of Medicine. Among the reasons given for not using marijuana were: the possibility of "psycho-

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1. 3 February 1970 by Stuart Auerbach.

2. Congressional Record, 91st Congress, Second Session, pp. 1952-5.

logical dependence"; the lack of research; the possibility of "disorientation"; the danger of exposure to "other elements in the drug culture"; the possibility of buying what is in fact not marijuana; the tendency of pot smokers to escape reality; and the felony sentences for marijuana use in Ohio.

Sen. Ralph Smith (R. Illinois) announced in the "Record" on 4 February that he was co-sponsoring Senator Dominick's Marihuana and Health Reporting Act (S. 3190), and stressed the need for more scientific information about the drug.[1] He underscored his views by including in his speech an article from Science News for 24 January by Barbara J. Culliton, entitled "Pot Facing Stringent Scientific Examination". This article concluded that:

> the extent to which laws and attitudes to marijuana will be affected by the outcome of scientific investigation remains to be seen, but researchers contend that without the body of information they are accumulating there will be no possibility of reaching rational positions. The present situation, they agree, is founded simply on ignorance.

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1. Ibid., pp. 2396-8.

The idea of creating a marijuana study commission was supported by three speakers during 1970: Rep. Benjamin Blackburn (R. Georgia 4) on 5 March;[1] Rep. Thomas Kleppe (R. North Dakota 2) on 10 March;[2] and Sen. Ralph Smith (R. Illinois) on 20 April.[3] This proposal was also mentioned indirectly, and supported in debate, by a large number of Senators and Representatives during the course of the session.

The general problem of "Drugs in our Schools", with special attention given to marijuana, was discussed by Rep. Richard McCarthy (D. New York 39) on 11 March.[4] After criticizing "the lack of concrete information" on drugs, he inserted into the "Record" a Washington Post article by Richard M. Cohen about a drug study conducted in Montgomery County, Maryland, a suburb of Washington. The article began:

> A landmark survey of drug use and drug attitudes in Montgomery County's junior and senior high schools [ages

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1. Ibid., p. 6202.
2. Ibid., p. 6695.
3. Ibid., p. 12365.
4. Ibid., pp. 6812-4.

> 12-18] shows that 12 per cent of the students have smoked marihuana but that heroin use is virtually non-existent.

Rep. Tim Lee Carter said on 23 April that

> We constantly hear that the effects of marihuana are unknown. Perhaps some are, but there are many effects that have been known over the years; and in the Middle East, it is called hashish, which means assassin. In my opinion the name was well deserved.

He also inserted into the "Record" a letter from S.H. Flowers, M.D., of the Middlesboro Clinic and Hospital (Kentucky), which reported on his interviews with a number of veterans returning from Vietnam, stating that marijuana use among infantry units in the field had reached dangerous proportions and should be curbed.[1]

On 7 April, during a Senate debate of the Hospital and Medical Facilities Construction and Modernization Amendments of 1970 (H.R. 11102), Senator Dominick introduced an amendment to create in the legislation Title VII, the "Marihuana and Health Reporting Act". In his presentation, Senator Dominick cited several examples of how information about current marijuana research is not efficiently coordinated or

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1. Ibid., p. 13002.

used within the Federal government, and concluded by saying that:

> there is a desperate need to bring a sense of order to the marihuana debate ...
>
> My amendment requires a periodic compilation and judgment by health experts on the state of health knowledge from private and publicly financed research ... what I am asking for is an authoritative decision - regularly updated - on whether marihuana can be given a clean bill of health.[1]

(The amendment was accepted.)

On 20 April Senator Ralph Smith, in a speech entitled "Marihuana - A Step Toward Truth", praised Senator Dominick's amendment to H.R. 11102 that required the Surgeon General to report to Congress on the health consequences of marijuana use. He urged House-Senate conferees, who were then considering the Bill, to accept the Dominick amendment, which he had also co-sponsored. The speech also contained an editorial on the amendment broadcast on 8 April by KOSI, a Denver (Colorado) radio station.[2]

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1. Ibid., p. 10551.

2. Ibid., p. 12365.

The joint Mexican-U.S. campaign to prevent drug smuggling across their common border was praised in both Houses during June and July. Sen. Charles Percy (R. Illinois) spoke on "Successful War on Drugs Results from Operation Intercept" on 1 June;[1] a speech entitled "Crackdown on Drugs is Working" was made on 29 June by Rep. Bob Wilson (R. California 36);[2] and a laudatory speech about "Operation Cooperation" was made on 2 June by Rep. Howard Robinson (R. New York 33).[3]

Rep. Silvio Conte (R. Massachusetts 1) included the text of "A Parent's Manual on Drug Abuse", prepared by the Rev. John McDonnell of Pittsfield, Massachusetts, in a "Record" speech he gave on 6 May.[4] In the manual "The Marijuana Abuser" is described as follows:

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1. Ibid., pp. 17694-5.
2. Ibid., p. 22557.
3. Ibid., pp. 22729-30.
4. Ibid., pp. 14541-4.

> They are difficult to recognize unless under the influence of the drug at the time they are being observed.
>
> (1) In the early stages student [sic] may appear animated and hysterical with rapid, loud talking and bursts of laughter.
>
> (2) In the later stages the student is sleepy or stuporous.
>
> (3) Depth perception is distorted, making driving dangerous.

The manual concluded about marijuana that:

> We know too little on the subject to permit legalization. However, most people feel that the laws of punishment for marijuana could be updated both for the benefit of the law-enforcement officials and the saving of the youth. It would seem that our people while hesitant to change laws at this time of epidemic in drug abuse still want to punish the major supplier more than the casual user. I am sure that the laws will be updated.[1]

"A Special Report on Drugs" was prepared and presented by Rep. J. Herbert Burke (R. Florida 10) "to aid and to better acquaint you with facts concerning drugs ..."[2] The entry for marijuana read:

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1. Ibid., p. 14544.
2. Ibid., 25086-7.

> Marihuana - Called "pot" or "grass". Derived from female hemp plant. Usually smoked. A mild hallucinogen that distorts perceptions of time and space and coordination. Strong doses can cause short-term psychotic reactions. Long-term effects are not known. To use marihuana is to "get high", "turn on", or "get stoned". Marihuana cigarettes are called "joints".
>
> Hashish - Called "hash", same as marihuana, except more potent.

In a chart at the end of the speech, Representative Burke listed "Marihuana, pot, grass" as giving its users the physical symptoms of "sleepiness, wandering mind, enlarged eye pupils, lack of coordination, craving for sweets, increased appetite." The chart told observers to look for "strong odor of burnt leaves, small seeds in pocket lining, cigarette paper, discolored fingers." And it listed as its dangers "damage to liver, inducement to take stronger narcotics."

Two speeches about drugs by Administration spokesmen were also reproduced in the pages of the "Record". Attorney General John Mitchell's 20 July 1970 testimony before the Ways and Means Committee (see p.227) and President Nixon's 14 July drugs message, were inserted by Rep. Hale Boggs (D. Louisiana 2) on 22 July.[1] And the text of a speech by

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1. Ibid., pp. 25478-81.

BNDD Director John Ingersoll to the New York Association of Chiefs of Police was inserted by Sen. George Murphy (R. California).[1] In this address Mr. Ingersoll urged law-enforcement officials to "hold the line" against drug abuse until the medical and scientific communities could develop new approaches to control the drug problem.

Rep. William Springer (R. Illinois 22), the ranking minority member of the House Interstate and Foreign Commerce Committee, made two speeches in the "Record" about marijuana in mid-August. In "Marihuana by the Wayside" on 13 August, he inserted two articles from his constituency's Champaign County News-Gazette about the growth of wild marijuana in rural Illinois.[2] The next day, in a speech entitled "It is Possible to Eradicate Marihuana", Representative Springer introduced a third article from the News-Gazette, in which Dr. Ellery Knake, a weed specialist from the University of Illinois, was quoted as predicting that by the widespread use of chemical sprays in May and June an entire season's crop of wild mari-

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1. Ibid., pp. 30608-9.

2. Ibid., pp. 28890-1.

juana could be eradicated.[1]

The National Clearinghouse for Drug Abuse Information, which was set up in the NIMH on 11 March 1970, was mentioned by Sen. Richard Schweiker (R. Pennsylvania) in a speech in the "Record" on 17 August.[2] In it he mentioned that the Nixon Administration was supporting a campaign by the Advertising Council, a business association, to publicize the availability of "Drug Abuse Questions and Answers", an NIMH pamphlet available through the National Clearinghouse. The information about marijuana presented in this pamphlet was largely based on the 6 June 1969 Presidential Task Force Report.

On 23 September, the first day of the House's debate on H.R. 18583, Rep. Henry Helstoski (D. New Jersey 9) inserted an Associated Press article in the "Record" that reported the views of New Jersey Chief Justice Joseph Weintraub about marijuana.[3] Chief Justice Weintraub was quoted as saying that marijuana should not be legalized "until we are darn sure it's

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1. Ibid., pp. 29083-4.

2. Ibid., pp. 29192-3.

3. Ibid., p. 33515.

harmless". The article also stated that:

> Weintraub, who said he recognized that there has "been quite a change in public attitude" towards marijuana in the past year, said he thought it was "nonsense" to equate the laws against marijuana with prohibition on liquor during the 1920's. "One day it may be proven that it's no more harmful than Scotch", Weintraub said. "But I doubt it."

Following the House passage of H.R. 18583, former Supreme Court Justice Arthur Goldberg, then a candidate for governor of New York State, had said that he would work for the legalization of marijuana if the Presidential commission established by the Bill recommended it. This inspired the wrath of Rep. James Grover, Jr. (R. New York 2) who, on 29 September, inserted a speech in the "Record" entitled "Goldberg Wants to Legalize Marihuana".[1] His speech concluded: "One thing certain about Mr. Goldberg's blatant appeal to the hophead vote - his campaign has already gone to pot." The same day Rep. John Monagan (D. Connecticut 5), in a speech in the "Record" entitled "A Stern Drug Bill", quoted an editorial from that day's issue of

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1. Ibid., pp. 34253-4.

the Waterbury Republican, a traditionally conservative newspaper in his constituency, that said H.R. 18583

> reduces possession of narcotics for one's own use from a felony to a misdemeanor, but stiffens punishment for those convicted of distributing drugs for profit ...
>
> The House bill wisely differentiates between the unfortunate user and the profit-motivated pusher, who indiscriminately destroys lives through distribution of his pernicious wares ...

The last entry about marijuana to appear in the "Record" before H.R. 18583 became law was by Sen. Henry Bellmon (R. Oklahoma) on 14 October. His speech included the text of an article from the 10 October issue of Stars and Stripes, the daily newspaper of the U.S. Military. The article reported that, according to 18-month studies made by Maj. Forest Tennant, Jr., and Maj. Paul Ventury, while stationed in Germany, "hashish, when smoked in large quantities over an extended period of time, will produce significant and in some cases disabling physical consequences." The study was based on 31 soldiers who smoked an average of 10 to 12 grams (about one-half ounce) of hashish a day, and some up to 25 grams (just under one ounce) a day. Among the symptoms reported were "severe

bronchitis, allergic reactions, skin problems such as acne and dandruff, and abdominal cramps and diarrhea ranging from slight to severe."[1]

1. Ibid., pp. 37174-5.

APPENDIX III

CHRONOLOGICAL LIST OF ARTICLES IN U.S. PERIODICAL PUBLICATIONS AVAILABLE TO MEMBERS OF CONGRESS DURING THE PASSAGE OF PL 91-513

Gollan, A. "Great Marijuana Problem", National Review, 20 (30 Jan. 1968), 74-80.

Mount, F. "Wild Grass Chase", National Review, 20 (30 Jan. 1968), 81-4.

Goldberg, M.J. "Father's Talk About Marijuana", Good Housekeeping, 166 (Feb. 1968), 80-1.

"Marijuana or Alcohol, Which Harms Most?", U.S. News and World Report, 64 (5 Feb. 1968), 15.

Shepherd, J. "Wheeling and Dealing With Tragedy", Look, 32 (5 Mar. 1968), 56-9.

Abelson, P.H. "LSD and Marihuana", Science, 159 (15 Mar. 1968), 1189. Discussion: 160 (7 June 1968), 1061-2.

Shane, J. "Marijuana Law", New Republic, 158 (23 Mar. 1968), 9-10.

8 April, 1968
Reorganization Plan No. 1 takes effect. Drafting of Bill begins in Justice Department to implement necessary changes in drug-control laws.

"Pot: Safer than Alcohol?", Time, 91 (19 Apr. 1968), 52-3.

Etzioni, A. "America's Social Frontiers: Why Not Smoke Pot?", Current, 95 (May 1968), 38-41.

Gannon, R. "Truth About Pot", Popular Science, 192 (May, 1968), 76-9.

Tunnley, R. "Marijuana: Just How Harmless Is It?", Seventeen, 27 (May, 1968), 138-9.

Crancer, A., Jr., et al. "Comparison of the Effects of Marihuana and Alcohol on Simulated Driving Performance", Science, 164 (16 May, 1968), 851-4. Discussion: 166 (31 Oct. 1969), 640.

"Marijuana Warning", Time, 91 (28 June 1968), 61.

Scheckel, C.L. et al., "Behavioral Effects in Monkeys of Racemates of Two Biologically Active Marijuana Constituents", Science, 160 (28 June 1968), 1467-9.

"Good Housekeeping Poll: Should Marijuana Laws be Changed?", Good Housekeeping, 167 (July 1968), 10+.

Snider, A.J. "Drug Dangers, The Case Gets Stronger", Science Digest, 64 (July 1968), 62-3.

"Drop that Pot!", Newsweek, 72 (1 July 1968), 61.

Sterba, J. "Politics of Pot", Esquire, 70 (Aug. 1968), 58-61.

"Morality of Marijuana", Time, 92 (16 Aug. 1968), 58.

Fort, Joel. "AMA Lies About Pot", Ramparts Magazine, 7 (24 Aug.1968), 12+.

"Pot and Parents: High School Students Smoking Marijuana", Time, 92 (30 Aug. 1968), 44-5.

Gagnon, J.H. and Simon, W. "Children of the Drug Age; High School Students", Saturday Review, 51 (21 Sept. 1968), 60-3+.

"How to Use Pot; Course Description From The Bulletin of the Midpeninsula Free University, Stanford, California", Saturday Review, 51 (21 Sept. 1968), 62.

5 November 1968

R. Nixon elected President; Democrats retain control of Congress.

"Graduate Students as Marijuana Users", School and Society, 96 (9 Nov. 1968), 392.

Yolles, Stanley F. "Before Your Kid Tries Drugs", New York Times Magazine, (17 Nov. 1968), 124.

Farnsworth, N.R. "Hallucinogenic Plants", Science, 162 (6 Dec. 1968), 1086-8.

Weil, A.T., et al. "Clinical and Psychological Effects of Marihuana in Man", Science, 162 (13 Dec. 1968), 1234-42. Discussion: 163 (14 Mar. 1969), 1144-5 and 165 (11 July 1969), 204.

"Effects of Marijuana: Findings of Scientific Tests", Time, 92 (20 Dec. 1968), 52.

"Boston Pot Party: Research Sponsored by the Boston University Medical Center", New Republic, 159 (21 Dec. 1968), 8.

"Verdict on Marijuana: Findings of Team of Boston University Investigators", Newsweek, 72 (23 Dec. 1968), 48.

"Have a High Holiday; Use of Marijuana on Campus", Newsweek, 72 (30 Dec. 1968), 50-1.

20 January 1969
R. Nixon inaugurated.

"Mild Intoxicant", Scientific American, 220 (Feb. 1969), 43-4.

Johnson, R.D. "Why So Many Teenagers Fall for Marijuana: With Group-Discussion Program", Parents Magazine, 44 (Mar. 1969), 22+, 58-61+.

"What is Marijuana? Questions and Answers", Todays Education, 58 (Mar. 1969), 39-41.

"Crackdown; Sentence of Three and a Half Years in State Prison for Possession of Marijuana", Nation, 208 (10 Mar. 1969), 293-4.

"Some Questions and Answers About Marijuana", Senior Scholastic, 94 (21 Mar. 1969), 11-13.

"What About Marijuana?", National Review, 21 (25.Mar. 1969), 286+, Discussion: 21 (6 May 1969), 451.

26 March 1969
Presidential Task Force on Narcotics, Marihuana, and Dangerous Drugs meets for the first time.

Gonzalez, A.F., Jr. "Vietcong's Secret Weapon: Marijuana", Science Digest, 65 (Apr. 1969), 14-18.

14 April 1969
H.R. 10019 introduced to establish Presidential Marijuana Commission.

Berg, R.H. "Warning: Steer Clear of THC", Look, 33 (15 Apr. 1969),46.

18 April 1969
S.1895 introduced -- similar to pre-Nixon Justice Department drug bill.

"In Vietnam: Mama-san Pushers vs. Psyops", Newsweek, 73 (21 Apr.1969), 108.

Keiffer, E. "Trial of Elaine Murphy", Good Housekeeping, 168 (May 1969), 12+.

Weil, A.T., and Zinberg, N.E. "Scientific Report, the Effects of Marijuana on Human Beings; Research by Boston University School of Medicine", New York Times Magazine, (11 May 1969), 28-9+. Discussion: (8 June 1969), 22.

"Personal Business; If Your Teenager Uses Pot", Business Week, (17 May 1969), 137-8.

19 May 1969
Leary and Covington decisions by Supreme Court invalidate many Federal anti-marijuana law enforcement provisions.

6 June 1969
Task Force submits final report to President.

14 July 1969
President's Drug-control Message.

16 July 1969
S. 2637 introduced.

"Is the Pot User Driven, or in the Driver's Seat?", Time, 94 (25 July 1969), 64-5.

"Penalties and Programs; National Drive Against Narcotics and Other Drugs", Time, 94 (25 July 1969), 65.

"How Pot-Smokers Start", Science Digest, 66 (Aug. 1969), 57-8.

Farrell, B. "Marijuana Famine", Life, 67 (22 Aug. 1969), 20B.

"Nixon Drug Law: A Crucial Fault", Life, 67 (5 Sept. 1969), 32.

"Will Cigarettes Take to Pot?", Business Week, (6 Sept. 1969), 28.

15 September 1969
Dodd Subcommittee hearings open.

"Pot: Year of the Famine; Mexican Border Crackdown", Newsweek, 74 (22 Sept. 1969), 36-7.

"Pop Drugs: The High As a Way of Life", Time, 94 (26 Sept. 1969), 68-70+.

"Pinning Down the Weed", Science News, 96 (27 Sept. 1969), 263-4.

"Pot Spotters; U.S.-Mexican Border", Newsweek, 74 (6 Oct. 1969), 81-2.

"Pondering Pot: Effects of Pot-Smoking", Christian Century, 86 (8 Oct. 1969), 1270.

"Marijuana: What It Is, and Isn't", U.S. News and World Report, 67 (13 Oct. 1969), 48-50.

"Operation Showboat: Mexican Border Crackdown", Nation, 209 (13 Oct. 1969), 365-6.

"Scarcity, Higher Prices, Crooks: Effects of Crackdown on Drug Trade", U.S. News and World Report, 67 (13 Oct. 1969), 48-9.

14 October 1969
Pepper hearings on "Marihuana and Crime" open.

15 October 1969
Hearings on H.R. 10019 open.

"Telltale Trash: R. Edwards Case", Time, 94 (17 Oct. 1969), 54+.

20 October 1969
Administration proposes alternate drug penalties.

Lloyd, J. "Washington Report: A New Look at Marijuana", Scholastic Teacher, (20 Oct. 1969), 2.

Lloyd, J. "Washington Report: A New Look at Marijuana", Senior Scholastic, (20 Oct. 1969), 95.

"Nixon's New Plan to Deal with the Marijuana Problem", U.S. News and World Report, 67 (27 Oct. 1969) 14.

Goddard, J., and Howard, J. "Marijuana Paradox; with Reports", Life, 67 (31 Oct. 1969), 26B-35.

"Marijuana Legislation", America, 121 (1 Nov. 1969), 378.

"Little Less Illegal", New Republic, 161 (8 Nov. 1969), 11.

Crawford, K. "Vogues in Vice: Views of Margaret Mead", Newsweek, 74 (10 Nov. 1969), 45.

"Pursuit of Pot; Nixon Eases Proposals", Senior Scholastic, 95 (10 Nov. 1969), 14.

13 November 1969
H.R. 14799 introduced, Ways and Means Committee holds executive session on 17 and 18 November and 4 December. Shelves Bill.

Angel, K. "No Marijuana for Adolescents", New York Times Magazine, (30 Nov. 1969), 170+. Discussion: (25 Jan. 1970), 9+.

Fort, J. "Drug Use and the Law: A Case for Legalizing Marijuana", Current, 113 (Dec. 1969), 4-13.

Grinspoon, L. "Marihuana", Scientific American, 221 (Dec. 1969), 17-25.

"On Smoking Pot; Report of the Indian Hemp Drugs Commission", Trans-Action, 7 (Dec. 1969), 8+.

16 December 1969
S. 3246 reported by Judiciary Committee.

Manheimer, D.I., et al. "Marijuana Use Among Urban Adults", Science, 166 (19 Dec. 1969), 1544-5.

"Mexico's War on Marijuana", U.S. News and World Report, 67 (29 Dec. 1969), 21-3.

Spencer, S.M. "Marijuana: How Dangerous Is It?", Readers Digest, 96(Jan. 1970), 67-71.

Culliton, B.J. "Pot Facing Stringent Scientific Examination", Science News, 97 (24 Jan. 1970), 102-5.

26-28 January 1970
Senate debates and passes S.3246.

"Marijuana: The Other Enemy in Vietnam", U.S. News and World Report, 68 (26 Jan. 1970), 68-9.

Goodwin, D.W."'Marijuana' by L. Grinspoon; reply with Rejoinder", Scientific American, 222 (Feb. 1970), 6-7.

Margetts, S. "Pot-Smoking Young Executives", Dun's Review, 95 (Feb. 1970), 42-3.

3 February 1970
Jarman Subcommittee opens hearings on H.R. 13743 and other bills.

Massett, L. "Marijuana and Behavior; The Unfilled Gaps", Science News, 97 (7 Feb. 1970), 156-8.

Buckley, W.F., Jr. "Pot in Prison", National Review, 22 (24 Feb. 1970), 221.

"Sparks Fly Over Pot", Nation's Business, 58 (Mar. 1970), 24.

3 March 1970
Jarman Subcommittee concludes hearings.

Beckelhymer, H. "Grams and Damns", Christian Century, 87 (4 Mar. 1970), 267-8.

"To Parents: Plain Talk on Marijuana", Business Week, (21 Mar. 1970), 121.

Keat, J. "Appraising Marijuana: The New American Pastime", Holiday, 47 (Apr. 1970), 52-34.

6 April 1970
Pepper committee issues "Marihuana" Report.

"Fresh Disclosures on Drugs and GI's; Senate Investigation", U.S. News and World Report, 68 (6 Apr. 1970), 32-3.

"Marijuana: It's Big Business Now: House Select Committee on Crime Report", U.S. News and World Report, 68 (20 Apr. 1970), 103.

Sanford, D. "Grass and the Brass", New Republic, 162 (25 Apr. 1970), 11-12.

Kentfield, C. "Turning Off the Tijuana Grass; Operation Intercept", Esquire, 73 (May 1970), 8+.

5 May 1970
Jarman Subcommittee begins executive sessions.

"Pot Bust", Newsweek, 75 (11 May 1970), 92+.

Melges, F.T., et al. "Marihuana and Temporal Disintegration", Science, 168 (29 May 1970), 1118-20.

Mechoulam, R. "Marihuana Chemistry", Science, 168 (5 June 1970), 1159-66.

30 June 1970
H.R. 11102 becomes law over veto, includes Marihuana and Health Reporting Act.

"Bust Insurance; Organization Free Weed, Dedicated to the Legalization of Marijuana", Time, 96 (20 July 1970), 15.

"If Pot were Legal", Time, 96 (20 July 1970), 41.

20-23 and 27 July 1970
Ways and Means Committee holds drug hearings.

"Magic Garden", Time, 96 (27 July 1970), 14.

"Pot Samplers May be Dabbling with Psychosis", Today's Health, 48 (Aug. 1970), 71.

Mechoulam, R., et al, "Chemical Basis of Hashish Activity", Science, 169 (7 Aug. 1970), 611-12.

Blum, S. "Marijuana Clouds the Generation Gap", New York Times Magazine, (23 Aug. 1970), 28-9+. Discussion: (6 Sept. 1970), 4 and (20 Sept. 1970), 16+.

"Marijuana: Is It Time for a Change in Our Laws?", (with views of John Mitchell), Newsweek, 76 (7 Sept. 1970), 20-2+.

Buckley, W.F., Jr. "Private Enterprise and Dope; Creative Learning Group, Distributor of Scientific Educational Materials on Drug Damage", National Review, 22 (8 Sept. 1970), 964.

Du Bois, L. "Marijuana, by John Kaplan, a Review", National Review, 22 (8 Sept. 1970), 955-6.

10 September 1970
Interstate and Foreign Commerce Committee reports H.R. 18583. House debates Bill 23 and 24 September; Bill passed 24 September.

Hering, M.B. "Law and Maryjane", American Library, 1 (Oct. 1970), 896-9.

"What's It Like to Smoke Marijuana?", Science Digest, 68 (Oct. 1970), 18-19.

27 October 1970
PL 91-513 signed into law.

King, M. "Wild Hemp of Indiana", Nation, 211 (26 Oct. 1970), 402-3.

APPENDIX IV

THE DANGERS OF MARIHUANA

This extract, which is Chapter I of the Special Presidential Task Force's Report, reflects the official attitude to marijuana by the Nixon Administration at the time its drug-control Bill (S. 2637) was introduced.

WHAT IS MARIHUANA?

Marihuana (pot, grass, weed, etc.) is a product of the Indian hemp plant known to botanists as cannabis sativa (L.). It is derived from the leaves and flowering tops of the female plant which are the source of the psychoactive material. Under federal law, marihuana is defined to mean all parts of the cannabis plant except for the stalks and sterilized seeds.

Marihuana contains a number of potent compounds called tetrahydrocannabinols (THC) which affect the mind and body in various ways. Potency of the drug varies greatly depending on growing conditions such as temperature, humidity, soil conditions, and methods of cultivation. Generally, plants grown in sunny, dry climates are most likely to contain the highest proportion of THC. The pharmacologic potency of any preparation of marihuana depends upon the amount of THC which it contains.

The drug is most commonly smoked in hand-made cigarettes (reefers, sticks or joints). The butt is called a "roach". Marihuana is also smoked in ordinary pipes or water pipes. The effects of the drug are decreased three or four times if it swallowed rather than smoked.

Various forms of marihuana are prepared from extracts of the plant. Hashish (hash, charas) is the purest and most concentrated of the natural cannabis products. It consists of the concentrated resin of the plant and is usually eight times as concentrated as the typical marihuana available in North America. Once rare in the United States, hashish is reported to be increasingly obtainable in response to a rising demand. Relating foreign studies of cannabis use to the American scene is difficult because of the generally higher potency of the cannabis products used abroad. Marihuana grown in this country is typically of lower potency and is often weakened further by additives such as oregano. However, Mexican grown marihuana has a high potency and is regularly sold in the United States. It should be noted that all marihuana products lose strength over time.

While marihuana contains many ingredients, THC is believed to be the principle psychoactive substance. With the synthesis of THC in 1966,[1/] and the demonstration of its psychopharmacological effects in 1967,[2/] a basis was finally established for more precise, systematic pharmacological investigation of the drug. At present, THC is being synthesized in research quantities. Along with other natural marihuana constituents, THC is being made available under appropriate precautions to qualified researchers through the National Institute of Mental Health's Center for Studies of Narcotics and Drug Abuse.

1/ Mechoulam, R. et al., A total synthesis of a 1-Δ tetrahydrocannabinol, the active constituent of hashish. Journal of the American Chemical Society, 1965, pp. 3273-3275.

2/ Isbell, H. et al., Effects of Δ^9 Tetrahydrocannabinol in Man, Psychopharmacologia, 1967, pp. 184-188.

Since marihuana products produce effects similar to other hallucinogens like LSD, and their reactions are often indistinguishable from those produced by other psychedelics, they are pharmacologically classified in that category.

PRESENT EVIDENCE OF EXTENT OF USE

Marihuana use has been rapidly increasing in the past five years. Although originally restricted to certain jazz musicians, artists and ghetto dwellers, it has now appeared among the middle and upper class. A conservative estimate of persons, both juvenile and adult, who have used marihuana at least once is about five million.

One of the most alarming aspects of the current drug crisis is the involvement of young people. In California alone juvenile arrests for drug offences increased from 1,271 in 1961 to 14,112 in 1967. Of the 14,112 juvenile arrests in California during 1967, 10,987 were arrested for marihuana violations. To understand the full significance of this figure it must be compared with the year 1961 in which there were 401 arrests. In 1967 alone there were over 2,000 more arrests for marihuana violations than in the previous six years combined.

Two years ago, surveys in parts of the country where marihuana use is known to be high suggested that twenty percent of the college students in those areas had experience with marihuana. Present evidence, although spotty, suggests that as many as sixty percent of the students on some campuses have used it. Some students feel that official estimates are low, and that the true extent of drug abuse among college students is even higher. There are

also many reports of increasing use of marihuana in high schools although there is not sufficient data to establish a countrywide pattern. Significantly, most recent college data indicated that many college users were first exposed to marihuana in high school. However, the bulk of users are more aptly characterized as "triers" rather than habitual "potheads". Two out of three who have tried the drug have used it not more than one to ten times. In the most recent (Fall, 1968) survey based on a geographic area of high use, about one person in ten reported using marihuana regularly for as much as a year's duration. Finally, there is growing evidence that the number of pre-teenagers who are using marihuana is increasing.3/

EFFECTS

The use of marihuana produces a variety of mental and physical effects. If active marihuana is smoked effectively (inhaled and kept in the lungs as long as possible) symptoms may appear after one or two puffs and the effect may last from several minutes to several hours.

Dr. Stanley F. Yolles, Director, National Institute of Mental Health, has stated:

> "Little can be added to previous reports on the toxicity of marihuana. It is considered to be a mild hallucinogen, taken by the usual route of smoking, occasionally by ingestion. It may induce a mild euphoria and lead to heightened suggestibility and faulty perception, really an exaggerated notion of thinking more clearly, profoundly and creatively. In addition, it is known to cause reddening of

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3/ Blum, R.H. et al., Students and Drugs, Vol.II, 1969, pp. 31-47.

> the membranes of the eyes, rapid heartbeat, muscular incoordination, unsteadiness, drowsiness, and distortion of time and space perception.
>
> "In acute intoxication, especially when ingested, it may also produce visual hallucinations, pronounced anxiety, paranoid reactions, and transient psychoses lasting four to six hours. It generally tends to lessen inhibitions and creates for the user a false reality based on his wants, his motivations, or the situation. In this respect it is similar to LSD, but its effects are not as potent.
>
> "The muscular incoordination and the distortion of space and time perception commonly associated with marihuana use are potentially hazardous, since the drug adversely affects one's ability to drive an automobile or perform other skilled tasks.
>
> "We still do not know enough about the long-term effects of marihuana use. As in the case of tobacco, it is possible that there are serious consequences of chronic use which will only become apparent through careful, longtime studies." 4/

A 1965 report on drug dependence for the World Health Organization describes the nature of marihuana intoxication in the following terms:

> "Among the more prominent subjective effects ... are: hilarity ... carelessness; loquacious euphoria ... distortion of sensation and perception ... impairment of judgment and memory; distortion of emotional responsiveness; irritability; and confusion. Other effects, which appear after repeated administration ... include: lowering of the sensory threshold, especially for optical and acoustical stimuli ... and aggressiveness

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4/ Hearings before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, Mar. 4-6, p. 4658, 1968.

as a possible result of various intellectual and sensory derangements; and sleep disturbances." 5/

In small, low potency quantities marihuana may act as a mild euphoriant and sedative somewhat similar to alcohol. In relatively high doses psychotic-like phenomena, quite similar to those associated with LSD use, have been reported. Recurrences of the marihuana state (flashbacks) without actually taking the drug again have been reported. These recurrences can be anxiety provoking. Unlike the stronger hallucinogens, such as LSD, which produce wakefulness, marihuana tends to be more sedative in its properties. THC in sufficiently high doses can induce psychotic reactions in almost any individual.

Despite marihuana's long history - spanning thousands of years and many cultures - there has been comparatively little sound research on this drug. Only four laboratory studies investigating marihuana's immediate effects on humans have been report in the American scientific literature. The first of these was done with a group of 34 soldiers in the Canal Zone. A second study, reported in the 1944 LaGuardia Report, is based on 72 prisoners' responses to marihuana extract. In 1946, a small number of chronic using prisoners were studied. A more carefully controlled study recently produced a report on some laboratory work with marihuana in humans done partially with NIMH support. 6/

5/ Eddy, N.B. et al., Drug Dependence: Its Significance and Characteristics, Bull. World Health Organization. 32:721, 1965.

6/ Weil, AT. et al., A Controlled Study of Cannabis in Humans, Science, pp. 1234-1242, 1968.

All of these studies generally found loss of inhibitions, and feelings of relaxation and self-confidence together with some mild impairment of thinking and coordinated performance. It has also been demonstrated that THC, when administered in sufficiently high dosage, will cause a psychotic-like state, similar to that induced by LSD.

While no long-term physical effects of marihuana use have been adequately demonstrated in this country, the American experience has been extremely brief and additional studies are needed to resolve this and other issues. Although there is no firm evidence that marihuana use in humans has either teratogenic or genetic implications, this possibility should be explored - particularly in view of some evidence on this point with respect to LSD. It is possible that there are serious consequences of chronic use which will only become apparent after careful, long-term studies. In foreign countries where heavy use of the stronger cannabis preparations is common, a variety of physical ailments supposedly related to marihuana use have been reported - notable conjunctivitis, chronic bronchitis and certain digestive ailments.

There have also been reports of adverse psychological effects of marihuana both in this country and abroad. Recently a group of some 1500 psychiatrists, psychiatric residents, internists, general practitioners and psychologists in the Los Angeles area reported that they had seen almost nineteen hundred "adverse reactions" to marihuana. 7/ It is difficult to interpret this finding since

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7/ Ungerleider, J.T. et al., A Statistical Survey of Adverse Reactions to LSD in Los Angeles County, American Journal of Psychiatry, Sept. 1968, p.355.

"adverse reaction" was poorly defined, and there has been no follow-up to define just what the reactions to the drug were. However, there have been reports of increased number of hospitalizations following the usage of marihuana.

Considerable concern has been expressed in the United States over the possibility of personality changes and a loss of motivation among youthful marihuana users. The potential effects of a reality distorting agent on the future psychological development and maturation of the adolescent user are of special concern. Normal adolescence is a time of considerable psychological turmoil. Patterns of coping with reality developed in the teen years to help determine later adult behavior. Persistent use of an agent which serves to ward off reality during this critical period of development is likely to effect adversely the future ability of the indivudal to cope with the demands of a complex society. While systematic studies of large numbers of American chronic users are not yet available, a number of clinicians have observed that at least some users show evidence of a loss of conventional motivation. They seem to prefer instead a non-goal oriented life style, which emphasizes immediate satisfactions to the exclusion of ambition and future planning. The "pot-heads", then, may well retard his own chances for emotional growth by not learning how to deal with life stress. Characteristic personality changes among impressionable young persons from the regular use of marihuana include apathy, loss of effectiveness, and diminished capacity or willingness to carry out complex long-term plans, endure frustration, concentrate for long periods, follow routines, or successfully master new material. It has also been observed that verbal facility is often impaired, both in speaking and writing.

The British cannabis report by the Advisory Committee on Drug Dependence (1968) concluded:

> There have been reports, particularly from experienced observers in the Middle and Far East, which suggest that very heavy long-term (italics, theirs) consumption may produce a syndrome of increasing mental and physical deterioration to the point where the subject is tremulous, ailing and socially incompetent. This syndrome may be punctuated on occasions with outbursts of violent behavior. It is fair to say, however, that no reliable observations of such a syndrome have been made in the Western World, and that from the Eastern reports available to us, it is not possible to form a judgment on whether such behavior is directly attributable to cannabis-taking. 8/

PROGRESSION TO OTHER DRUGS

A basic question that frequently arises is the extent to which marihuana use in some sense predisposes users to escalate to stronger and more dangerous drugs. There is little question that most heroin and LSD users have had experience with marihuana. Indeed, 85 to 90 percent of heroin addicts reported that they started their use of drugs with marihuana. There is also a question whether any but a small percentage of marihuana users progress to other drugs, the evidence tending to show that only five percent of the habitual marihuana users progress to heroin addiction.

In discussing the question of progression, it is vital to distinguish between the casual experimenter with marihuana, and the regular and continuous user, and between

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8/ Cannabis, Report by the Advisory Committee on Drug Dependence, 1968, pp. 14-34.

physical addiction and psychological dependency.

A casual experimenter by definition is not dependent upon the drug. A regular and continuous user, on the other hand, may very well be dependent upon it.

Once he has become psychologically dependent upon one drug as a "crutch" to cope with life stress, the user is substantially more susceptible to the acquisition of a larger crutch through the medium of a stronger drug.

An example of the importance of this distinction is the heroin addict. The most desperately "hooked" of junkies with a "habit" costing hundreds of dollars per day can be "detoxified" in under 8 days, and brought to a point where absence of the drug will produce no physical reaction or withdrawal symptoms. Yet, let that individual be imprisoned for 5 years without access to the drug, and without effective psychiatric treatment, upon release he will seek a pusher. He will do so because he is still psychologically dependent upon heroin. Recognition of the fact is basic to the New York State rehabilitation program which spends years, rather than weeks, treating addicts. Their physical craving is terminated in days - their psychological dependency is the subject of years of treatment.

In view of the foregoing, it must be concluded that regular and continuous use of <u>cannabis</u> can and does produce psychological dependency and marked susceptibility to progression to stronger reality concealing drugs.

The progression is, however, probably not a consequence of the pharmacological properties of marihuana, but rather is due to sociological and psychological factors present in a vulnerable minority of users. For example, in ghetto situations where both drugs are freely available,

sometimes from the same supplier, a progression based on availability may be likely. Similarly, heavy drug using subcultures may encourage widespread experimentation with a wide variety of drugs. It is generally true that a heavy marihuana user is more likely to be a multiple drug user. In one study, half of the heavy users of marihuana had tried LSD. One in seven had used LSD more than 25 times or had tried heroin. Two out of five heavy users in this same study had abused amphetamines. This trend to multiple drug experimentation may increase in the future. In this connection it is important to point out that use of a combination of dangerous drugs may have a synergistic effect and may result in the death of the user.

There is reason to believe that heavy marihuana users are likely to have considerable interest in the use of the stronger forms of cannabis such as hashish. If hashish is available, many would probably use it in preference to low-potency marihuana. The history of mind-altering drugs invariably reveals that excessive indulgence increases sharply as more potent preparations of a given drug become available.2/

MARIHUANA VS. ALCOHOL

Some marihuana users have tried to justify their behavior by claiming that it is no worse than consuming alcohol. It is estimated that the consumption of alcohol is a major problem for some five to six million Americans who are unable to control their drinking. In most cases, excessive drinking of alcoholic beverages causes serious

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2/ McGlothlen, W. et al., American Journal of Psychiatry, Sept., 1968, p. 373.

physical, psychological, social and vocational problems for these people and their families. It is well known that one-half of the fatal traffic accidents in the United States are related to excessive drinking.[10/]

While alcoholism constitutes a major social problem, surely it is not valid to justify the adoption of a new abuse on the basis that it is no worse than a presently existing one. The result could only be added social damage from a new source. It would not solve our alcohol problem and would only lead to additional numbers of marihuana intoxicated individuals. Moreover, marihuana, unlike alcohol, is nearly always consumed by its users for the express purpose of obtaining a "high", a disorientating intoxication.

Allegations have been made and attributed to government officials that marihuana is no more dangerous than alcohol. When these stories appear in the mass media they often do considerable harm, even when subsequently retracted. Dr. James Goddard, former Commissioner of the Food and Drug Administration, was extensively quoted as saying that marihuana is no more dangerous than alcohol. Dr. Goddard was, in fact, misquoted and never made such a statement. Although the wire service issued a written apology, the retraction has never caught up with the misquote.

THE POSITION OF THE AMA AND WHO

The American Medical Association has stated that marihuana is a dangerous drug and, as such, is a public

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10/ 1968 Alcohol and Highway Safety Report, U.S. Government Printing Office, 1968, pp. 11-21.

health problem.[11] They reiterate that while no physical dependence develops this does not mean that it is an innocuous drug. Further research is considered essential, and educational programs should be directed to all segments of the population.

The World Health Organization recently reaffirmed its previous opinions that cannabis is a drug of dependence, produces public health and social problems, and that its control must be continued.[12] More basic data are needed on acute and chronic effects on the individual and society to permit accurate assessment of the degree of hazard to public health.

MARIHUANA USE AND CRIME

Aside from the fact that marihuana use and possession is in itself a crime, it has not been proven that its use is a direct cause of other types of criminal behavior. Generally, assertions that marihuana plays a casual role in the commission of crime are based on reports from other than scientific agencies. The validity of these impressions is, however, questionable because of the unscientific basis on which such data has been collected. The New York Mayor's Committee (1944) reported that many criminals might use marihuana, but the Committee did not feel marihuana played a causal role in crime. In the United Kingdom, the use of cannabis has not been generally regarded as a

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11/ Marihuana and Society, Journal of the American Medical Association, June 24, 1968, pp. 1181-1182.

12/ World Health Expert Committee on Drug Dependence, WHO Technical Report Series 407, 1969, p. 19.

direct cause of crime.

The President's Commission on Law Enforcement and Administration of Justice has observed:

> One likely hypothesis is that, given the accepted tendency of marihuana to release inhibitions, the effect of the drug will depend on the individual and the circumstances. It might, but certainly will not necessarily or inevitably lead to aggressive behavior or crime. The response will depend more on the individual than the drugs. 13/

While perhaps it cannot be statistically proven that marihuana or other dangerous drugs may be the cause of originating crime, nevertheless the use of marihuana or dangerous drugs is related to increased criminal activity.

According to the President's Crime Commission Task Force Report on Narcotics and Dangerous Drugs, page 11, the FBI submitted criminal histories on 7,920 narcotics offenders. These criminal histories, when examined as to marihuana users and heroin users, indicated that the criminal careers of narcotics users, both marihuana and heroin, were longer, and resulted in more frequent arrest activities than the average non-narcotic criminal offender. For the marihuana offender this comparison demonstrated that during the course of his criminal career he was proportionately more frequently involved in violent crimes than the normal non-narcotic criminal offender.

13/ Task Force Report: Narcotics and Drug Abuse. President's Commission on Law Enforcement and Administration of Justice, 1967, p. 13.

CONCLUSION

There is no question that the widespread use of marihuana represents a significant mental health problem.

There is no known beneficial result from the use of marihuana; there are, on the other hand, definite detrimental effects.

More research is needed to further our understanding of the effects of marihuana use. However, it is clear that, depending on the dose, the active ingredient found in marihuana may have substantial detrimental effects on both the mental and physical well-being of the user. In this connection it is important to point out that use of a combination of dangerous drugs may have a synergist effect and may result in the death of the user.

Medical evidence neither proves nor disproves that marihuana is a cause of crime. Criminal records do establish clearly an accelerating rate of association between crime and the use of marihuana.

The Task Force recommends:

Continued and expanded research to further our understanding of the causes and effects of marihuana use.

Prevention by wide distribution, among other means, of scientifically accurate information and materials about the dangers of drug abuse.

Provision of resources to treat and rehabilitate marihuana users in need of mental health care.

APPENDIX V

A CHRONOLOGICAL LIST OF PUBLICATIONS AVAILABLE TO MEMBERS OF PARLIAMENT DURING THE PASSAGE OF MISUSE OF DRUGS BILL

(Indexes in which these works were listed in the House of Commons Library are indicated after each title by the following abbreviations: HA = Home Affairs Index; SI = Subject Index; S & T = Science & Technology Index.)

Johnson, D.Mc.I. Indian Hemp, A Social Menace. London: Christopher Johnson. 1952. SI.

Maurer, D.W., and Vogel, V.H. Narcotics and Narcotic Addiction. Springfield, Illinois, U.S.A.: Charles C. Thomas, 1954, SI.

Ministry of Health. Drug Addiction. Interim Report of the Interdepartmental Committee. 1960. SI.

30 March 1961
U.K. Representative initials the U.N. Single Convention on Narcotic Drugs

Ministry of Health. Drug Addiction. Report of the Interdepartmental Committee. May 1961. SI.

Schur, Edwin M. Narcotic Addiction in Britain and America. The Impact of Public Policy. London: Tavistock Publications, 1963. SI (In House of Commons Library, 11 December 1963)

10 June 1964
Dangerous Drugs Act passed, enables Britain to accede to Single Convention on 2 September.

Harms, E. (ed.). Drug Addiction in Youth. International Series of Monographs on Child Psychiatry, Vol. 3 (B), 1964. SI.

Talaly, P. (ed.) "Drugs in Our Society". Based on a conference sponsored by John Hopkins University, 1964. SI.

2 June 1965
Dangerous Drugs Act passed, codifies 1951 and 1964 Dangerous Drugs Acts.

Ministry of Health. Drug Addiction. The Second Report of the Interdepartmental Committee. November 1965. SI.

Bestic, A. Turn Me on Man. London: Anthony Gibbs, Library Thirty Three, 1966. SI.

Great Britain. Parliamentary Debates (Commons). Vol. 740, cc. 121-74. (30 Jan. 1967), Adjournment Debate. S & T.

7 April 1967
Wootton Subcommittee established.

Camps, Professor Francis E., M.D., M.R.C.P., F.C. Path. "Marijuana and the Present Controversy about Drug Legislation", Medical News, (12 May 1967), 7. S & T.

Great Britain. Parliamentary Debates (Lords). Vol. 283, cc. 1269-1317. (20 June 1967), Debate on Dangerous Drugs Bill. S & T.

24 July 1967
Advertisement in The Times urges lower penalties for cannabis use, and increased research.

Abel, A.L., F.R.C.S. "Social Aspects of Drug Addiction", Talk by the Chairman of the National Association on Drug Addiction to the London Council of Social Service, (25 July 1967). (In House of Commons Library, July 1967). SI.

Silberman, M. "Aspects of Drug Addiction", Royal London Prisoners Aid Society. (In House of Commons Library, July 1967). SI.

"The So-Called 'Soft' Drugs. What It Costs to Obtain them", Financial Times. (25 Aug. 1967), 436-8. S & T.

Collier, Dr. H.O.J. "The Essence of Pot", New Scientist, (21 Aug. 1967), 436-8. S & T.

Drugs and Civil Liberties. National Council for Civil Liberties. House of Commons Library. (In House of Commons Library, Nov. 1967). SI.

30 November 1967
James Callaghan replaces Roy Jenkins as Home Secretary.

Drug-dependence in Britain: An Emerging Problem. Church of England and Council for Social Aid. 1967. SI.

Eldridge, William Butler. Narcotics and the Law. London: University of Chicago Press, 1967. SI.

Laurie, P. Drugs: Medical, Psychological and Social Facts. London: Penguin Special, 1967. SI.

Leech, Kenneth, and Jordan, B. Drugs for Young People: Their Use and Misuse. Oxford: The Religious Education Press, Ltd., 1967. SI.

Office of Health Economics. Drug Addiction. Pub. No. 25. 1967. SI.

Pick, Hella. "Marijuana and LSD Could Result in 'Monster Child'", Guardian, (27 Jan. 1968), 7. S & T.

Jones, T. Drugs and the Police. London: Butterworth, Feb. 1968. SI.

"Hitches in Pot Reform", Sunday Times, (18 Aug. 1968), 9. HA.

"Pot Luck", New Society. (29 Aug. 1968), 292. HA.

1 November 1968
Cannabis, the report of the Wootton Subcommittee, submitted to the Home Secretary.

"Dilemma on Cannabis", Guardian, (28 Nov. 1968), 10. HA.

Paton, W.D.M. "Drug Dependence - A Socio-Pharmacological Assessment", Advancement of Science, (Dec. 1968), 200-212. S & T.

"Pot", Observer, (1 Dec. 1968), 25. HA.

"Legalising Pot?", Guardian, (2 Dec. 1968), 8. HA.

"Pot, Permissiveness and Parliament", New Society, (5 Dec. 1968), 827. HA.

"The Cannabis Taboo", New Society, (5 Dec. 1968), 848. HA.

"The Depressive Perils of Pot", Guardian, (7 Dec. 1968), 9. HA.

"Pharmacology. Marijuana's Effects Studied", The Times, (19 Dec.1968), (write-up of article from Science, 162, 13 Dec. 1968, 1234). S & T.

Dawtry, F. Social Problems of Drug Abuse. London: Butterworths, 1968. (On shelves Dec. 68 - Jan. 69). SI.

Socialist Medical Association. The Problem of Drugs: A Socialist Discussion of Drug Addiction, 1968. SI.

Wood, Dr. A.J. Drug Dependence. London: Corporation of Bristol and Bristol, Council of Social Service. Rev. ed. 1968. SI.

Home Office, Cannabis (Report by the Advisory Committee on Drug Dependence), (Wootton Report). London: Her Majesty's Stationery Office, 1968. SI.

"Pot in Perspective", Daily Telegraph, (8 Jan. 1969), 16. HA.

8 January 1969
Cannabis released.

"Relaxation of Cannabis Laws is Proposed", Times, (8 Jan. 1969), 2.HA.

"The Problem of Cannabis", Times, (8 Jan. 1969), 7. HA.

"Courts May Heed Cannabis Report", Times, (9 Jan. 1969), 1. HA.

"One for the Pot", Spectator, (10 Jan. 1969), 2. HA.

Deedes, William. "'Pot' and the Political Dilemma", Daily Telegraph, (11 Jan. 1969), 12. HA.

"The Pot-Smokers' Charter?", Economist, (11 Jan. 1969), 45. HA.

"Cannabis Reason", Sunday Telegraph, (12 Jan. 1969), 16. HA.

"How to Live with Cannabis", Observer, (12 Jan. 1969), 8.

"The Man [Zinberg] Lady Wootton Should Have Met", Sunday Times, (12 Jan. 1969), 4. S & T.

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16 July 1970
Misuse of Drugs Bill, Second Reading.

"Legislating for Drugs", The Times, (17 July 1970), 9. HA.

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Bill referred to Standing Committee A.

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reports Bill.

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4, 9, and 11 February 1971
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9 March 1971
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26 May 1971
Commons agrees to Lords Amendments on Bill.

27 May 1971
Royal Assent to Misuse of Drugs Act.

APPENDIX VI

REFERENCE SHEET AND REFERENCE BOX ON MISUSE OF DRUGS

Reference Sheet 70/4 was prepared on 16 March, 1970 to provide Members with a general outline of the Misuse of Drugs Bill, and to list titles of debates and publications relating to the new approach to drug control.

In addition, an Addendum to the 1967 Reference Sheet contained references to articles relating to the Wootton Report.

DANGEROUS DRUGS BILL, 1967

Ref. 67/10
5th April, 1967.

ADDENDUM ON THE REPORT BY THE
ADVISORY COMMITTEE ON DRUG DEPENDENCE

24th January, 1969.

*38. Home Office: Cannabis: Report by the Advisory Committee on Drug Dependence.

A. PRESS COMMENT ON THE
ADVISORY COMMITTEE REPORT

*39. "Time and the Drug Scene", by Lady Wootton. Sunday Times, 12th January 1969, p.12.

*40. "The Pot Smokers' Charter?", The Economist, 11th January 1969, p.45.

*41. "Pot and Heroin", New Society, 23rd January 1959, pp. 117-118.

B. SPECIALIST PRESS AND
PERIODICAL COMMENT ON CANNABIS DEPENDENCE

*42. "Pot", The Observer, 1st December 1968, p.25.

*43. "The Problem of Cannabis Dependence", by Griffith Edwards. The Practitioner, February 1968, pp. 226-233.

*44. "Drug Dependence - a Socio-Pharmacological Assessment", by Professor W.D.M. Paton, F.R.S. Advancement of Science, December 1968, pp. 200-212.

*45. "Cannabis: The First Controlled Experiment", New Society, 16th January 1969, pp. 84-86.

C. DRUGS AND THE LAW

*46. "Sentencing Drug Offenders", The Criminal Law Review, August 1968, pp. 434-446.

KAY ANDREWS
Scientific Section

HOUSE OF COMMONS LIBRARY RESEARCH DIVISION

REFERENCE SHEET

MISUSE OF DRUGS BILL, 1970

Ref. 70/4
16th March, 1970.

* For the convenience of Members, copies of starred items have been assembled in a green box in 'C Room' of the Library. File copies of all material are held by the Library, and further copies of very recent Parliamentary material are also available in the Vote Office. Other material which may be added to the box will be listed on an 'Addenda' sheet kept inside it.

A. MISUSE OF DRUGS BILL, 1970

*1. Misuse of Drugs Bill [Bill 121, 1969/70] presented 11 March 1970.

The Bill replaces the Dangerous Drugs Acts of 1965 and 1967 and the Drugs(Prevention of Misuse) Act 1964 with new and more extensive provisions for controlling drugs.

The main changes proposed in the Bill are:-

a) "Controlled drugs" are divided into three classes, A, B and C. The severity of punishments for offences connected with these drugs varies with the classification. Schedule 2 lists the drugs in each class. Opium, heroin and LSD are in class A; cannabis in class B; and "pep" pills in class C.

b) Penalties are to be related not only to the class of drug but also to the type of offence. Schedule 4 lists the punishments for the various offences under the Bill. Possession of drugs is to be punished less severely than trafficking in drugs. For example, possession of a Class B drug under section 5(2) carries a maximum penalty on indictment of 5 years or a fine or both. Supplying a Class B drug under Section 4(3) carries a maximum penalty on indictment of 14 years or a fine or both.

c) The Home Secretary is given new powers to ban a doctor from prescribing drugs when a tribunal finds him guilty of over-prescription. The maximum penalty for contravening such a direction under section 13(3) is 14 years or a fine or both (in the case of Class A and B drugs).

d) The Home Secretary is also given power under section 2 to change the classification of a drug or to add new drugs to the controlled list by Order in Council.

*2. Debate on the Queen's Speech; 29 October 1969:

a) Mr. Callaghan; H.C. Deb. 790, cc. 189-191.

b) Mr. Edelman; H.C. Deb. 790, cc. 223-225.

*3. Press Comment on the Bill.

B. PREVIOUS LEGISLATION AND OFFICIAL MATERIAL

*4. House of Commons Library Reference Sheet 67/10 entitled the "Dangerous Drugs Bill, 1967", 5 April 1967.

This covers the Drugs (Prevention of Misuse) Act, 1964; the Dangerous Drugs Acts 1964 and 1965; regulations made under this legislation; the Brain Committee Reports on Drug Addiction, 1961 and 1965; the international control of drugs; and selected books and articles.

It has an Appendix containing a glossary of technical and vernacular words connected with drug addiction and a table showing the effects of various drugs. There is a short Addendum covering the Wootton Report on Cannabis.

*5. Addenda to Reference Sheet 67/10 on Dangerous Drugs, 5 November 1969.

This covers the passage of the 1967 Dangerous Drugs Bill through Parliament; orders made under the Act; Parliamentary debates on drugs May 1967 - October 1969; and selected books and articles.

The material listed in this "Addenda" will be found in the Green Box for this reference sheet [70/4].

C. OFFICIAL STATISTICS

*6. Report to the United Nations by Her Majesty's Government on the working of the International Treaties on Narcotic Drugs for 1968. [Library location: Dep. 2650].

This is the latest report and includes statistics on notified addicts; classification of addicts according to age and sex; illicit traffic; convictions under the Dangerous Drugs Act.

*7. Answer to P.Q. by Lord O'Hagan giving the number of convictions under the various parts of the Dangerous Drugs legislation from 1955 to 1967; H.L. Deb. 300, cc. 1256-8 - 26 March 1969.

D. PRESS NOTICES

*8. Press Notice - Ministry of Health: London Hospitals providing treatment for heroin addiction, 30 January 1968.

*9. Press Notice - D.H.S.S.: The Report of the Advisory Committee on Drug Dependence on "The Rehabilitation of Drug Addicts", 1 May 1969.

E. RECENT BOOKS

More books on drugs are kept in 'B' room of the Library in location 'Drugs'.

10. Dr. R.S.P. Wiener: "Drugs and Schoolchildren", 1970. Report of a survey of just over 1,000 children in schools around London.

* Reported in Sunday Times, 8 March 1970.

11. G. Birdwood: "The willing victim: a parent's guide to drug abuse", Secker and Warburg, 1969. [Library location: Drugs].

A "hard-hitting manual" which "describes drugs as they are: what they consist of, how they are obtained, what effects they have, how addicts can be recognised, and what treatment is desirable and available."

12. S. O'Callaghan: "The Drug Traffic", Anthony Blond, 1967. [Library location: Drugs].

Mr. O'Callaghan spent 5 years in the East investigating the vast international drug rings. This book is the result of his researches. It is mainly concerned with the drug problem in Eastern countries but chapter XVIII is on "The Drug Menace in Britain".

F. RECENT PAMPHLETS

*13. M. Schofield et al.: "Behind the Drug Scene", Family Doctor booklet, November 1969. [Library location: Pam: HV (NS) Vol. 9].

An "authoritative and objective" survey of "the drug scene" from the points of view

of a social psychologist, a pharmacologist, a psychiatrist, a sociologist and a doctor.

14. Simon Randall: "Drugs in your town", Bromley Council of Social Service, August 1969. [Library location: Pam: HV (NS) Vol. 9].

A comprehensive survey of drug abuse, particularly among 14-21 year olds in Bromley. The Appendices include an analysis of a questionnaire to young people on drug-taking and a summary of voluntary and statutory services provided for drug-takers.

15. T. Jones: "Drugs and the Police", Butterworth, February 1968. [Library location: Pam. R (NS) Vol. 13].

A useful handbook, written by an experienced police officer, giving "a factual account of the problems facing those whose task it is to control and contain this spreading disease". It gives a summary of the present law on drugs, and a glossary of addicts' slang.

16. Dr. A.J. Wood: "Drug Dependence", 1968. [Library location: Pam: HV (NS) Vol. 1]. A comprehensive handbook.

17. Socialist Medical Association: "The Problem of Drugs", 1968 (?). [Library location: Pam: HV (NS) Vol. 6]. "A socialist discussion of drug addiction".

18. National Council for Civil Liberties: "Drugs and Civil Liberties", November 1967. [Library location: Pam: R (NS) 40 Vol. 5].

A report intended to "contribute to the clarification and better understanding of dangerous drugs legislation, particularly as it effects civil liberty". The report makes several proposals for changes including some - e.g. an emphasis on the importance of discriminating between different types of drugs - which are recognised by the new Bill.

19. Office of Health Economics: "Drug Addiction", October 1967. [Library location: Pam: R(NS) Vol. 13].

A survey of some of the international research into the extent of drug addiction and the medical dangers of different classes of drugs.

20. Church of England Council for Social Aid: "Drug-Dependence in Britain", Church Information Office, 1967. [Library location: Pam: R (NS) Vol. 13].

A brief information paper on "the drugs which concern us"; their use and abuse; measures taken to prevent abuse; and treatment and rehabilitation.

21. P. Hunter: "Needle of Death", Studio Vista, 1967. [Library location: Pam: R (NS) 40 Vol. 5].

A study in photographs and text of "the realities of a young addict's life".

22. A.L. Abel: "Social Aspects of Drug Addiction". [Library location: Pam: R (NS) Vol. 13].

A talk given by the Chairman of the National Association on Drug Addiction to the London Council of Social Services, July 1967.

G. RECENT ARTICLES

*23. Times, 13 March 1970: "Teenage heroin epidemic that has alarmed U.S."

*24. New Society, 7 February 1970: "Weekend Junkies".

*25. Forum World Feature, 29 November 1969: "Suicide on the Instalment Plan".

*26. British Journal of Addiction, October 1969: "The Growth of Heroin Addiction in the U.K." by a Deputy Inspector of the Drugs Branch at the Home Office.

*27. Crossbow, April-June 1969: "Conservatives and cannabis" by Tony White. An assessment of the debate on the Wootton Report.

*28. British Journal of Criminology, April 1969: "Delinquency and Heroin Addiction in Britain".

*29. British Medical Journal, 23 March 1969: "Heroin and the New Prescribers" - discussion of the health centres for the treatment of drug addiction set up under the 1967 Act.

*30. British Medical Journal, 18 January 1969: "Potted Dreams" - an assessment of the Wootton Report.

*31. The Lancet, 18 January 1969: "Some hospital admissions associated with cannabis".

*32. Criminal Law Review, August 1968: "Sentencing Drug Offenders".

*33. Law Quarterly Review, July 1968: "The possession of drugs and absolute liability".

*34. The Lancet, 1 June 1968: "Heroin use in a provincial town".

35. The Practitioner, February 1968: a series of articles on dangerous drugs including:

"The Diagnosis and Management of Heroin Addiction";

"Some problems of opiate addiction";

"The use and abuse of amphetamines";

"The hallucinogenic drugs".

II. INTERNATIONAL CONTROL OF DRUGS

References to international material are kept on the International Affairs Index in 'A' Room of the Library, under the heading:

DRUG ADDICTION.

I. PRESS COMMENT

A wide selection of press cuttings will be found on the Home Affairs Index in the Reference Room of the Library under the heading:

DRUG ADDICTION.

J.M.L.
16.3.70.

HOUSE OF COMMONS, LONDON, S.W.1.

REF. 70/4

ADDENDA

*1. Second Reading of Misuse of Drugs Bill: H.C. Deb. 798, c.1446 - 25.3.70.

*2. P.Q. from Mr. Deedes on number of drug offences 1968 and 1969: H.C. Deb. 797, c. 296-7w - 10.3.70.

*3. [Assorted Press Cuttings]

*4. P.Q. on number of prosecutions for illegal importation of drugs 1967-9: H.C. Deb. 798, c. 39w - 16.3.70.

*5. P.Q. on number of prosecutions for possession of heroin, cannabis, cocaine and LSD, 1969: H.C. Deb. 798, c.113w - 17.3.70.

*6. U.S. House Report No. 91-931: 22nd Report by the Committee on Government Operations - "The British Drug Safety System".

*7. White House Press Release 11.3.70: "Drug Abuse Program Fact Sheet".

8. MISSING

*9. World Medicine, 24.3.70: "Habit-Forming Drugs - Human Right or Devil's Advocate".

*10. Proceedings in Standing Committee Lb. on Misuse of Drugs Bill 23.4.70 - S.C.Deb.

*11. Misuse of Drugs Bill [Bill 15 1970/71] - presented by Mr. Maudling 8.7.70.

*12. 2nd Reading: H.C. Deb. 803, cc. 1749-1849 - 16.7.70.

*13. Times, 17.7.70: "Legislating for Drugs".

*14. Cttee. Stage of Bill, 3.11.70 - 17.11.70 in Standing Cttee. A.

*15. Misuse of Drugs Bill, as amended by Standing Cttee A. [Bill 33, 1970/71].

*16. Sunday Times, 29.11.70: "The gentle moves to legal pot" (in US)

*17. Remaining Stages of Misuse of Drugs Bill: H.C. Deb. 808, cc. 549-626 - 9.12.70.

*18. Minutes of Proceedings in Standing Cttee A. H.C. Paper 166 - 17.11.70.

*19. Advisory Cttee on Drug Dependence: "Powers of Arrest and Search" (Deedes Cttee Report), 19.4.70.

*20. N.C.C.L., "Misuse of Drugs Bill: Policy Statement and Proposed Amendments", November 1970.

*21. 2R of Misuse of Drugs Bill in Lords - H.L. Deb. 314, cc. 221-283: 14.1.91.

*22. Committee Stage in Lords: 4.2.71: H.L. Deb. 314, c. 1361 (1st Day).

*23. Committee Stage in Lords: 9.2.71: H.L. Deb. 315, c. 60.

*24. Committee Stage in Lords (3rd Day): H.L. Deb. 315, c.249 - 11.2.71.

*25. Third Reading in Lords: H.L. Deb. 316, c.993 - 25.3.71.

*26. Commons Consid. of Lords amends. 26.5.71: H.C. Deb. 818, c.516.

APPENDIX VII

AN ACCOUNT OF THE RESEARCH EMBODIED IN THIS THESIS

Since the subject of this thesis is the passage of legislation that was enacted just prior to, or during, my course of study, much of my research has consisted of interviewing and questioning the participants in the two legislative processes, reading and analysing verbatim transcripts of the Congressional and Parliamentary debates, and studying contemporary press accounts of the passage of the two laws. Articles and books about cannabis, and about the legislatures of the United States and Britain have also been important to the study. And, discussions of the thesis topic with academics, journalists, and government workers have contributed significantly to my understanding of the subject.

It has been possible to gain access to the files of the principal Congressional committee responsible for the passage of the 1970 drug law, and to talk with staff members directly involved with the legislation. In addition, lawyers in the Bureau of Narcotics and Dangerous Drugs, analysts in the Congressional Research Service of the Library of Congress, and staff members from

the Senate and House have offered me much valuable advice and background information. Also, working as a journalist in Washington D.C. in 1969 and 1970 I had reported on the passage of the 1970 law, and had written about the specific subject of marijuana.

Regrettably, such sources were not available to me in London, despite the fact that I was living here through much of the passage of the 1971 drug law. The principal barrier was the shroud of secrecy that hangs over Whitehall, and the reluctance of many participants to discuss even the most general subjects relating to the preparation and passage of the Misuse of Drugs Bill. I am especially grateful to those persons with knowledge of the Bill who offered their advice anonymously. Special co-operation from the staff members in the House of Commons Library, and clerks in the House of Commons was also invaluable.

With the exception of a few specific surveys, this thesis embodies the results of my own observations and research. To the best of my knowledge, no similar study of the use of information in either legislature, and no comparison of the two houses with this point of view, have ever been made. A general survey of the information available to MPs was published just prior

to my study (Barker and Rush) and a general comparison of information resources appeared in Crick's The Reform of Parliament (Hamilton, Appendix B). Barker and Rush urged that a detailed account and analysis of information use in Parliament be conducted, and I hope that my efforts in this thesis are a contribution to this important, and previously neglected, field of political study.

Having made the first such effort in this regard, it is difficult for me to assess the extent to which this thesis advances the study of this subject. Many questions of methodology remain, especially if such studies are to be conducted at some distance from the subject: either separated by geography or by time. It became apparent to me that if I had relied solely on published material I would have been misled in several conclusions. Questioning participants and observers afforded the sort of perspective that no amount of conjecture from historical and theoretical sources could have given. There are also some serious questions of comparability. The two laws compared in this thesis, and the importance of cannabis in the two situations, offered striking similarities. How well my research techniques, and the conception of this study, could be applied to legisla-

tive situations that are more dissimilar remains to be seen.

It is my belief that this study will make a significant contribution to the understanding of the ways that Members in Parliament and Congress are able to acquire and use information about the subjects of their legislation. From it has emerged a clearer indication of the similarities and differences in the roles of MPs and MCs. Based on the results of my investigation, I believe that similar studies should be conducted. A comparison of the recent Concorde and SST supersonic aircraft legislation in Britain and America, or of the financial support given recently to the Rolls-Royce and Lockheed aircraft companies by the two legislatures, are but two topics that come to mind. There are many more. And many more are needed before it will be clear whether or not political scientists can better understand the role of the legislator by using the measure of the availability and use of his information. It is my tentative conclusion that they can, and that similar studies will significantly enhance the understanding of the legislative process.

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Misuse of Drugs Act 1971

CHAPTER 38

LONDON
HER MAJESTY'S STATIONERY OFFICE
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Misuse of Drugs Act 1971

CHAPTER 38

ARRANGEMENT OF SECTIONS

Miscellaneous offences and powers

Law enforcement and punishment of offences

Miscellaneous and supplementary provisions

SCHEDULES:

ELIZABETH II

1971 CHAPTER 38

An Act to make new provision with respect to dangerous or otherwise harmful drugs and related matters, and for purposes connected therewith. [27th May 1971]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The Advisory Council on the Misuse of Drugs

The Advisory Council on the Misuse of Drugs.

1.—(1) There shall be constituted in accordance with Schedule 1 to this Act an Advisory Council on the Misuse of Drugs (in this Act referred to as "the Advisory Council"); and the supplementary provisions contained in that Schedule shall have effect in relation to the Council.

(2) It shall be the duty of the Advisory Council to keep under review the situation in the United Kingdom with respect to drugs which are being or appear to them likely to be misused and of which the misuse is having or appears to them capable of having harmful effects sufficient to constitute a social problem, and to give to any one or more of the Ministers, where either the Council consider it expedient to do so or they are consulted by the Minister or Ministers in question, advice on measures (whether or not involving alteration of the law) which in the opinion of the Council ought to be taken for preventing the misuse of such drugs or dealing with social problems connected with their misuse, and in particular on measures which in the opinion of the Council, ought to be taken—

(*a*) for restricting the availability of such drugs or supervising the arrangements for their supply;

(*b*) for enabling persons affected by the misuse of such drugs to obtain proper advice, and for securing the provision of proper facilities and services for the treatment, rehabilitation and after-care of such persons;

(*c*) for promoting co-operation between the various professional and community services which in the opinion of the Council have a part to play in dealing with social problems connected with the misuse of such drugs;

(*d*) for educating the public (and in particular the young) in the dangers of misusing such drugs, and for giving publicity to those dangers; and

(*e*) for promoting research into, or otherwise obtaining information about, any matter which in the opinion of the Council is of relevance for the purpose of preventing the misuse of such drugs or dealing with any social problem connected with their misuse.

(3) It shall also be the duty of the Advisory Council to consider any matter relating to drug dependence or the misuse of drugs which may be referred to them by any one or more of the Ministers and to advise the Minister or Ministers in question thereon, and in particular to consider and advise the Secretary of State with respect to any communication referred by him to the Council, being a communication relating to the control of any dangerous or otherwise harmful drug made to Her Majesty's Government in the United Kingdom by any organisation or authority established by or under any treaty, convention or other agreement or arrangement to which that Government is for the time being a party.

(4) In this section "the Ministers" means the Secretary of State for the Home Department, the Secretaries of State respectively concerned with health in England, Wales and Scotland, the Secretaries of State respectively concerned with education in England, Wales and Scotland, the Minister of Home Affairs for Northern Ireland, the Minister of Health and Social Services for Northern Ireland and the Minister of Education for Northern Ireland.

Controlled drugs and their classification

Controlled drugs and their classification for purposes of this Act.

2.—(1) In this Act—

(*a*) the expression "controlled drug" means any substance or product for the time being specified in Part I, II, or III of Schedule 2 to this Act; and

(*b*) the expressions "Class A drug", "Class B drug" and "Class C drug" mean any of the substances and products for the time being specified respectively in Part I, Part II and Part III of that Schedule;

and the provisions of Part IV of that Schedule shall have effect with respect to the meanings of expressions used in that Schedule.

(2) Her Majesty may by Order in Council make such amendments in Schedule 2 to this Act as may be requisite for the purpose of adding any substance or product to, or removing any substance or product from, any of Parts I to III of that Schedule, including amendments for securing that no substance or product is for the time being specified in a particular one of those Parts or for inserting any substance or product into any of those Parts in which no substance or product is for the time being specified.

(3) An Order in Council under this section may amend Part IV of Schedule 2 to this Act, and may do so whether or not it amends any other Part of that Schedule.

(4) An Order in Council under this section may be varied or revoked by a subsequent Order in Council thereunder.

(5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament; and the Secretary of State shall not lay a draft of such an Order before Parliament except after consultation with or on the recommendation of the Advisory Council.

Restrictions relating to controlled drugs etc.

Restriction of importation and exportation of controlled drugs.

3.—(1) Subject to subsection (2) below—

(*a*) the importation of a controlled drug; and

(*b*) the exportation of a controlled drug,

are hereby prohibited.

(2) Subsection (1) above does not apply—

(*a*) to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (*a*) or, as the case may be, paragraph (*b*) of subsection (1) above by regulations under section 7 of this Act; or

(*b*) to the importation or exportation of a controlled drug under and in accordance with the terms of a licence issued by the Secretary of State and in compliance with any conditions attached thereto.

Restriction of production and supply of controlled drugs.

4.—(1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person—

(*a*) to produce a controlled drug; or

(*b*) to supply or offer to supply a controlled drug to another.

(2) Subject to section 28 of this Act, it is an offence for a person—

(*a*) to produce a controlled drug in contravention of subsection (1) above; or

(*b*) to be concerned in the production of such a drug in contravention of that subsection by another.

(3) Subject to section 28 of this Act, it is an offence for a person—

(*a*) to supply or offer to supply a controlled drug to another in contravention of subsection (1) above; or

(*b*) to be concerned in the supplying of such a drug to another in contravention of that subsection; or

(*c*) to be concerned in the making to another in contravention of that subsection of an offer to supply such a drug.

Restriction of possession of controlled drugs.

5.—(1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to have a controlled drug in his possession.

(2) Subject to section 28 of this Act and to subsection (4) below, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1) above.

(3) Subject to section 28 of this Act, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, with intent to supply it to another in contravention of section 4(1) of this Act.

(4) In any proceedings for an offence under subsection (2) above in which it is proved that the accused had a controlled drug in his possession, it shall be a defence for him to prove—

(*a*) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to destroy the drug or to deliver it into the custody of a person lawfully entitled to take custody of it; or

(*b*) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering

it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to deliver it into the custody of such a person.

(5) Subsection (4) above shall apply in the case of proceedings for an offence under section 19(1) of this Act consisting of an attempt to commit an offence under subsection (2) above as it applies in the case of proceedings for an offence under subsection (2), subject to the following modifications, that is to say—

(*a*) for the references to the accused having in his possession, and to his taking possession of, a controlled drug there shall be substituted respectively references to his attempting to get, and to his attempting to take, possession of such a drug; and

(*b*) in paragraphs (*a*) and (*b*) the words from "and that as soon as possible" onwards shall be omitted.

(6) Nothing in subsection (4) or (5) above shall prejudice any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

Restriction of cultivation of cannabis plant.

6.—(1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to cultivate any plant of the genus *Cannabis*.

(2) Subject to section 28 of this Act, it is an offence to cultivate any such plant in contravention of subsection (1) above.

Authorisation of activities otherwise unlawful under foregoing provisions.

7.—(1) The Secretary of State may by regulations—

(*a*) except from section 3(1)(*a*) or (*b*), 4(1)(*a*) or (*b*) or 5(1) of this Act such controlled drugs as may be specified in the regulations; and

(*b*) make such other provision as he thinks fit for the purpose of making it lawful for persons to do things which under any of the following provisions of this Act, that is to say sections 4(1), 5(1) and 6(1), it would otherwise be unlawful for them to do.

(2) Without prejudice to the generality of paragraph (*b*) of subsection (1) above, regulations under that subsection authorising the doing of any such thing as is mentioned in that paragraph may in particular provide for the doing of that thing to be lawful—

(*a*) if it is done under and in accordance with the terms of a licence or other authority issued by the Secretary

of State and in compliance with any conditions attached thereto; or

(*b*) if it is done in compliance with such conditions as may be prescribed.

(3) Subject to subsection (4) below, the Secretary of State shall so exercise his power to make regulations under subsection (1) above as to secure—

(*a*) that it is not unlawful under section 4(1) of this Act for a doctor, dentist, veterinary practitioner or veterinary surgeon, acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a pharmacist or a person lawfully conducting a retail pharmacy business, acting in either case in his capacity as such, to manufacture, compound or supply a controlled drug; and

(*b*) that it is not unlawful under section 5(1) of this Act for a doctor, dentist, veterinary practitioner, veterinary surgeon, pharmacist or person lawfully conducting a retail pharmacy business to have a controlled drug in his possession for the purpose of acting in his capacity as such.

(4) If in the case of any controlled drug the Secretary of State is of the opinion that it is in the public interest—

(*a*) for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or

(*b*) for it to be unlawful for practitioners, pharmacists and persons lawfully conducting retail pharmacy businesses to do in relation to that drug any of the things mentioned in subsection (3) above except under a licence or other authority issued by the Secretary of State,

he may by order designate that drug as a drug to which this subsection applies; and while there is in force an order under this subsection designating a controlled drug as one to which this subsection applies, subsection (3) above shall not apply as regards that drug.

(5) Any order under subsection (4) above may be varied or revoked by a subsequent order thereunder.

(6) The power to make orders under subsection (4) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The Secretary of State shall not make any order under subsection (4) above except after consultation with or on the recommendation of the Advisory Council.

(8) References in this section to a person's "doing" things include references to his having things in his possession.

(9) In its application to Northern Ireland this section shall have effect as if for references to the Secretary of State there were substituted references to the Ministry of Home Affairs for Northern Ireland and as if for subsection (6) there were substituted—

"(6) Any order made under subsection (4) above by the Ministry of Home Affairs for Northern Ireland shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act." 1954 c. 33 (N.I.).

Miscellaneous offences involving controlled drugs etc.

Occupiers etc. of premises to be punishable for permitting certain activities to take place there.

8. A person commits an offence if, being the occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises, that is to say—

(*a*) producing or attempting to produce a controlled drug in contravention of section 4(1) of this Act;

(*b*) supplying or attempting to supply a controlled drug to another in contravention of section 4(1) of this Act, or offering to supply a controlled drug to another in contravention of section 4(1);

(*c*) preparing opium for smoking;

(*d*) smoking cannabis, cannabis resin or prepared opium.

Prohibition of certain activities etc. relating to opium.

9. Subject to section 28 of this Act, it is an offence for a person—

(*a*) to smoke or otherwise use prepared opium; or

(*b*) to frequent a place used for the purpose of opium smoking; or

(*c*) to have in his possession—

(i) any pipes or other utensils made or adapted for use in connection with the smoking of opium, being pipes or utensils which have been used by him or with his knowledge and permission in that connection or which he intends to use or permit others to use in that connection; or

(ii) any utensils which have been used by him or with his knowledge and permission in connection with the preparation of opium for smoking.

Powers of Secretary of State for preventing misuse of controlled drugs

Power to make regulations for preventing misuse of controlled drugs.

10.—(1) Subject to the provisions of this Act, the Secretary of State may by regulations make such provision as appears to him necessary or expedient for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may in particular make provision—

(*a*) for requiring precautions to be taken for the safe custody of controlled drugs;

(*b*) for imposing requirements as to the documentation of transactions involving controlled drugs, and for requiring copies of documents relating to such transactions to be furnished to the prescribed authority;

(*c*) for requiring the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as may be prescribed;

(*d*) for the inspection of any precautions taken or records kept in pursuance of regulations under this section;

(*e*) as to the packaging and labelling of controlled drugs;

(*f*) for regulating the transport of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;

(*g*) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed;

(*h*) for requiring any doctor who attends a person who he considers, or has reasonable grounds to suspect, is addicted (within the meaning of the regulations) to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be prescribed;

(*i*) for prohibiting any doctor from administering, supplying and authorising the administration and supply to persons so addicted, and from prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Secretary of State in pursuance of the regulations.

Power to direct special precautions for safe custody of controlled drugs to be taken at certain premises.

11.—(1) Without prejudice to any requirement imposed by regulations made in pursuance of section 10(2)(*a*) of this Act, the Secretary of State may by notice in writing served on the occupier of any premises on which controlled drugs are or are proposed to be kept give directions as to the taking of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are kept on those premises.

(2) It is an offence to contravene any directions given under subsection (1) above.

Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners etc. convicted of certain offences. 1965 c. 15. 1952 c. 44.

12.—(1) Where a person who is a practitioner or pharmacist has after the coming into operation of this subsection been convicted—

(*a*) of an offence under this Act or under the Dangerous Drugs Act 1965 or any enactment repealed by that Act; or

(*b*) of an offence under section 45, 56 or 304 of the Customs and Excise Act 1952 in connection with a prohibition of or restriction on importation or exportation of a controlled drug having effect by virtue of section 3 of this Act or which had effect by virtue of any provision contained in or repealed by the Dangerous Drugs Act 1965,

the Secretary of State may give a direction under subsection (2) below in respect of that person.

(2) A direction under this subsection in respect of a person shall—

(*a*) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;

(*b*) if that person is a pharmacist, be a direction prohibiting him from having in his possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

(3) The Secretary of State may at any time give a direction cancelling or suspending any direction given by him under subsection (2) above, or cancelling any direction of his under this subsection by which a direction so given is suspended.

(4) The Secretary of State shall cause a copy of any direction given by him under this section to be served on the person to

whom it applies, and shall cause notice of any such direction to be published in the London, Edinburgh and Belfast Gazettes.

(5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

(6) It is an offence to contravene a direction given under subsection (2) above.

1968 c. 67.

(7) In section 80 of the Medicines Act 1968 (under which a body corporate carrying on a retail pharmacy business may be disqualified for the purposes of Part IV of that Act and have its premises removed from the register kept under section 75 of that Act, where that body or any member of the board of that body or any officer or any employee of that body is convicted of an offence under any of the relevant Acts as defined in subsection (5)), for the words "and this Act" in subsection (5) there shall be substituted the words "this Act and the Misuse of Drugs Act 1971".

Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners in other cases.

13.—(1) In the event of a contravention by a doctor of regulations made in pursuance of paragraph (*h*) or (*i*) of section 10(2) of this Act, or of the terms of a licence issued under regulations made in pursuance of the said paragraph (*i*), the Secretary of State may, subject to and in accordance with section 14 of this Act, give a direction in respect of the doctor concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Secretary of State is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Secretary of State may, subject to and in accordance with section 14 or 15 of this Act, give a direction in respect of the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(3) A contravention such as is mentioned in subsection (1) above does not as such constitute an offence, but it is an offence to contravene a direction given under subsection (1) or (2) above.

Investigation where grounds for a direction under s. 13 are considered to exist.

14.—(1) If the Secretary of State considers that there are grounds for giving a direction under subsection (1) of section 13 of this Act on account of such a contravention by a doctor as is there mentioned, or for giving a direction under subsection

(2) of that section on account of such conduct by a practitioner as is mentioned in the said subsection (2), he may refer the case to a tribunal constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the tribunal to consider the case and report on it to the Secretary of State.

(2) In this Act "the respondent", in relation to a reference under this section, means the doctor or other practitioner in respect of whom the reference is made.

(3) Where—

(*a*) in the case of a reference relating to the giving of a direction under the said subsection (1), the tribunal finds that there has been no such contravention as aforesaid by the respondent or finds that there has been such a contravention but does not recommend the giving of a direction under that subsection in respect of the respondent; or

(*b*) in the case of a reference relating to the giving of a direction under the said subsection (2), the tribunal finds that there has been no such conduct as aforesaid by the respondent or finds that there has been such conduct by the respondent but does not recommend the giving of a direction under the said subsection (2) in respect of him,

the Secretary of State shall cause notice to that effect to be served on the respondent.

(4) Where the tribunal finds—

(*a*) in the case of a reference relating to the giving of a direction under the said subsection (1), that there has been such a contravention as aforesaid by the respondent; or

(*b*) in the case of a reference relating to the giving of a direction under the said subsection (2), that there has been such conduct as aforesaid by the respondent,

and considers that a direction under the subsection in question should be given in respect of him, the tribunal shall include in its report a recommendation to that effect indicating the controlled drugs which it considers should be specified in the direction or indicating that the direction should specify all controlled drugs.

(5) Where the tribunal makes such a recommendation as aforesaid, the Secretary of State shall cause a notice to be served on the respondent stating whether or not he proposes to give a direction pursuant thereto, and where he does so propose the notice shall—

(*a*) set out the terms of the proposed direction; and

(*b*) inform the respondent that consideration will be given to any representations relating to the case which are made by him in writing to the Secretary of State within the period of twenty-eight days beginning with the date of service of the notice.

(6) If any such representations are received by the Secretary of State within the period aforesaid, he shall refer the case to an advisory body constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the advisory body to consider the case and to advise the Secretary of State as to the exercise of his powers under subsection (7) below.

(7) After the expiration of the said period of twenty-eight days and, in the case of a reference to an advisory body under subsection (6) above, after considering the advice of that body, the Secretary of State may either—

(*a*) give in respect of the respondent a direction under subsection (1) or, as the case may be, subsection (2) of section 13 of this Act specifying all or any of the controlled drugs indicated in the recommendation of the tribunal; or

(*b*) order that the case be referred back to the tribunal, or referred to another tribunal constituted as aforesaid; or

(*c*) order that no further proceedings under this section shall be taken in the case.

(8) Where a case is referred or referred back to a tribunal in pursuance of subsection (7) above, the provisions of subsections (2) to (7) above shall apply as if the case had been referred to the tribunal in pursuance of subsection (1) above, and any finding, recommendation or advice previously made or given in respect of the case in pursuance of those provisions shall be disregarded.

Temporary directions under s. 13(2).

15.—(1) If the Secretary of State considers that there are grounds for giving a direction under subsection (2) of section 13 of this Act in respect of a practitioner on account of such conduct by him as is mentioned in that subsection and that the circumstances of the case require such a direction to be given with the minimum of delay, he may, subject to the following provisions of this section, give such a direction in respect of him by virtue of this section; and a direction under section 13(2) given by virtue of this section may specify such controlled drugs as the Secretary of State thinks fit.

(2) Where the Secretary of State proposes to give such a direction as aforesaid by virtue of this section, he shall refer the case to a professional panel constituted for the purpose in accordance with the following provisions of this Act; and

(*a*) it shall be the duty of the panel, after affording the respondent an opportunity of appearing before and being heard by the panel, to consider the circumstances of the case, so far as known to it, and to report to the Secretary of State whether the information before the panel appears to it to afford reasonable grounds for thinking that there has been such conduct by the respondent as is mentioned in section 13(2) of this Act; and

(*b*) the Secretary of State shall not by virtue of this section give such a direction as aforesaid in respect of the respondent unless the panel reports that the information before it appears to it to afford reasonable grounds for so thinking.

(3) In this Act "the respondent", in relation to a reference under subsection (2) above, means the practitioner in respect of whom the reference is made.

(4) Where the Secretary of State gives such a direction as aforesaid by virtue of this section he shall, if he has not already done so, forthwith refer the case to a tribunal in accordance with section 14(1) of this Act.

(5) Subject to subsection (6) below, the period of operation of a direction under section 13(2) of this Act given by virtue of this section shall be a period of six weeks beginning with the date on which the direction takes effect.

(6) Where a direction under section 13(2) of this Act has been given in respect of a person by virtue of this section and the case has been referred to a tribunal in accordance with section 14(1), the Secretary of State may from time to time, by notice in writing served on the person to whom the direction applies, extend or further extend the period of operation of the direction for a further twenty-eight days from the time when that period would otherwise expire, but shall not so extend or further extend that period without the consent of that tribunal, or, if the case has been referred to another tribunal in pursuance of section 14(7) of this Act, of that other tribunal.

(7) A direction under section 13(2) of this Act given in respect of a person by virtue of this section shall (unless previously cancelled under section 16(3) of this Act) cease to have effect on the occurrence of any of the following events, that is to say—

(*a*) the service on that person of a notice under section 14(3) of this Act relating to his case;

(*b*) the service on that person of a notice under section 14(5) of this Act relating to his case stating that the Secretary of State does not propose to give a direction under section 13(2) of this Act pursuant to a recommendation of the tribunal that such a direction should be given;

(*c*) the service on that person of a copy of such a direction given in respect of him in pursuance of section 14(7) of this Act;

(*d*) the making of an order by the Secretary of State in pursuance of section 14(7) that no further proceedings under section 14 shall be taken in the case;

(*e*) the expiration of the period of operation of the direction under section 13(2) given by virtue of this section.

Provisions supplementary to ss. 14 and 15.

16.—(1) The provisions of Schedule 3 to this Act shall have effect with respect to the constitution and procedure of any tribunal, advisory body or professional panel appointed for the purposes of section 14 or 15 of this Act, and with respect to the other matters there mentioned.

(2) The Secretary of State shall cause a copy of any order or direction made or given by him in pursuance of section 14(7) of this Act or any direction given by him by virtue of the said section 15 to be served on the person to whom it applies and shall cause notice of any such direction, and a copy of any notice served under section 15(6) of this Act, to be published in the London, Edinburgh and Belfast Gazettes.

(3) The Secretary of State may at any time give a direction—

(*a*) cancelling or suspending any direction given by him in pursuance of section 14(7) of this Act or cancelling any direction of his under this subsection by which a direction so given is suspended; or

(*b*) cancelling any direction given by him by virtue of section 15 of this Act,

and shall cause a copy of any direction of his under this subsection to be served on the person to whom it applies and notice of it to be published as aforesaid.

(4) A direction given under section 13(1) or (2) of this Act or under subsection (3) above shall take effect when a copy of it is served on the person to whom it applies.

Power to obtain information from doctors, pharmacists etc. in certain circumstances. 1968 c. 67.

17.—(1) If it appears to the Secretary of State that there exists in any area in Great Britain a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs in that area, he may by notice in writing served on any doctor or pharmacist practising in or in the vicinity of that area, or on any person carrying on a retail pharmacy business within the meaning of the Medicines Act 1968 at any premises situated in or in the vicinity of that area, require him to furnish to the Secretary of State, with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs—

(*a*) in the case of a doctor, were prescribed, administered or supplied by him;

(*b*) in the case of a pharmacist, were supplied by him; or

(*c*) in the case of a person carrying on a retail pharmacy business, were supplied in the course of that business at any premises so situated which may be specified in the notice.

(2) A notice under this section may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a pharmacist or person carrying on a retail pharmacy business, may require him to furnish the names and addresses of doctors on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any such drug has been prescribed, administered or supplied.

(3) A person commits an offence if without reasonable excuse (proof of which shall lie on him) he fails to comply with any requirement to which he is subject by virtue of subsection (1) above.

(4) A person commits an offence if in purported compliance with a requirement imposed under this section he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

(5) In its application to Northern Ireland this section shall have effect as if for the references to Great Britain and the Secretary of State there were substituted respectively references to Northern Ireland and the Ministry of Home Affairs for Northern Ireland.

Miscellaneous offences and powers

Miscellaneous offences.

18.—(1) It is an offence for a person to contravene any regulations made under this Act other than regulations made in pursuance of section 10(2)(*h*) or (*i*).

(2) It is an offence for a person to contravene a condition or other term of a licence issued under section 3 of this Act or of a licence or other authority issued under regulations made under this Act, not being a licence issued under regulations made in pursuance of section 10(2)(*i*).

(3) A person commits an offence if, in purported compliance with any obligation to give information to which he is subject under or by virtue of regulations made under this Act, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

(4) A person commits an offence if, for the purpose of obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Act or under any regulations made under this Act, he—

(*a*) makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or

(*b*) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

Attempts etc. to commit offences.

19. It is an offence for a person to attempt to commit an offence under any other provision of this Act or to incite or attempt to incite another to commit such an offence.

Assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law.

20. A person commits an offence if in the United Kingdom he assists in or induces the commission in any place outside the United Kingdom of an offence punishable under the provisions of a corresponding law in force in that place.

Offences by corporations.

21. Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against accordingly.

22. The Secretary of State may by regulations make provision— Further powers to make regulations.

(*a*) for excluding in such cases as may be prescribed—

(i) the application of any provision of this Act which creates an offence; or

(ii) the application of any of the following provisions of the Customs and Excise Act 1952, that is to say sections 45(1), 56(2) and 304, in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of section 3 of this Act; 1952 c. 44.

(*b*) for applying any of the provisions of sections 14 to 16 of this Act and Schedule 3 thereto, with such modifications (if any) as may be prescribed—

(i) in relation to any proposal by the Secretary of State to give a direction under section 12(2) of this Act; or

(ii) for such purposes of regulations under this Act as may be prescribed;

(*c*) for the application of any of the provisions of this Act or regulations or orders thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

Law enforcement and punishment of offences

23.—(1) A constable or other person authorised in that behalf by a general or special order of the Secretary of State (or in Northern Ireland either of the Secretary of State or the Ministry of Home Affairs for Northern Ireland) shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs. Powers to search and obtain evidence.

(2) If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations made thereunder, the constable may—

(*a*) search that person, and detain him for the purpose of searching him;

(*b*) search any vehicle or vessel in which the constable suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;

(*c*) seize and detain, for the purposes of proceedings under this Act, anything found in the course of the search which appears to the constable to be evidence of an offence under this Act.

In this subsection "vessel" includes a hovercraft within the meaning of the Hovercraft Act 1968; and nothing in this subsection shall prejudice any power of search or any power to seize or detain property which is exercisable by a constable apart from this subsection.

1968 c. 59.

(3) If a justice of the peace (or in Scotland a justice of the peace, a magistrate or a sheriff) is satisfied by information on oath that there is reasonable ground for suspecting—

(*a*) that any controlled drugs are, in contravention of this Act or of any regulations made thereunder, in the possession of a person on any premises; or

(*b*) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside the United Kingdom, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any constable acting for the police area in which the premises are situated at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein and, if there is reasonable ground for suspecting that an offence under this Act has been committed in relation to any controlled drugs found on the premises or in the possession of any such persons, or that a document so found is such a document as is mentioned in paragraph (*b*) above, to seize and detain those drugs or that document, as the case may be.

(4) A person commits an offence if he—

(*a*) intentionally obstructs a person in the exercise of his powers under this section; or

(*b*) conceals from a person acting in the exercise of his powers under subsection (1) above any such books, documents, stocks or drugs as are mentioned in that subsection; or

(*c*) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that subsection.

(5) In its application to Northern Ireland subsection (3) above shall have effect as if the words " acting for the police area in which the premises are situated " were omitted.

Power of arrest.

24.—(1) A constable may arrest without warrant a person who has committed, or whom the constable, with reasonable cause, suspects to have committed, an offence under this Act, if—

(*a*) he, with reasonable cause, believes that that person will abscond unless arrested ; or

(*b*) the name and address of that person are unknown to, and cannot be ascertained by, him ; or

(*c*) he is not satisfied that a name and address furnished by that person as his name and address are true.

(2) This section shall not prejudice any power of arrest conferred by law apart from this section.

Prosecution and punishment of offences.

25.—(1) Schedule 4 to this Act shall have effect, in accordance with subsection (2) below, with respect to the way in which offences under this Act are punishable on conviction.

(2) In relation to an offence under a provision of this Act specified in the first column of the Schedule (the general nature of the offence being described in the second column)—

(*a*) the third column shows whether the offence is punishable on summary conviction or on indictment or in either way ;

(*b*) the fourth, fifth and sixth columns show respectively the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment) according to whether the controlled drug in relation to which the offence was committed was a Class A drug, a Class B drug or a Class C drug ; and

(*c*) the seventh column shows the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment), whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug ;

and in the fourth, fifth, sixth and seventh columns a reference to a period gives the maximum term of imprisonment and a reference to a sum of money the maximum fine.

(3) An offence under section 19 of this Act shall be punishable on summary conviction, on indictment or in either way according to whether, under Schedule 4 to this Act, the substantive offence is punishable on summary conviction, on indictment or in either way; and the punishments which may be imposed on a person convicted of an offence under that section are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

In this subsection " the substantive offence " means the offence under this Act to which the attempt or, as the case may be, the incitement or attempted incitement mentioned in section 19 was directed.

1952 c. 55.

(4) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, a magistrates' court in England and Wales may try an information for an offence under this Act if the information was laid at any time within twelve months from the commission of the offence.

1954 c. 48.

(5) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for proceedings in statutory offences) summary proceedings in Scotland for an offence under this Act may be commenced at any time within twelve months from the time when the offence was committed, and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.

1964 c. 21 (N.I.)

(6) Notwithstanding anything in section 34 of the Magistrates' Courts Act (Northern Ireland) 1964, a magistrates' court in Northern Ireland may hear and determine a complaint for an offence under this Act if the complaint was made at any time within twelve months from the commission of the offence.

Increase of penalties for certain offences under Customs and Excise Act 1952.

26.—(1) In relation to an offence in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of this Act, the following provisions of the Customs and Excise Act 1952, that is to say section 45(1) (improper importation), section 56(2) (improper exportation) and section 304 (fraudulent evasion of prohibition or restriction affecting goods) shall have effect subject to the modifications specified in whichever of subsections (2) and (3) below is applicable in the case of that offence.

1952 c. 44.

(2) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class A drug or a Class B drug, the said section 45(1), 56(2) or 304, as the case may be, shall have effect as if for the words from " shall be liable " to " or to both " there were substituted the following words, that is to say—

" shall be liable—

(*a*) on summary conviction, to a penalty of three times the value of the goods or £400, whichever is the greater, or to imprisonment for a term not exceeding 12 months, or to both;

(*b*) on conviction on indictment, to a pecuniary penalty of such amount as the court may determine, or to imprisonment for a term not exceeding 14 years, or to both ",

so however that nothing in this subsection shall be taken to affect the liability of any person to detention under the said subsection 45(1), 56(2) or 304.

(3) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class C drug, the said section 45(1), 56(2) or 304, as the case may be, shall have effect as if for the words " imprisonment for a term not exceeding two years " there were substituted the words " imprisonment for a term not exceeding five years ".

(4) Section 283(2)(*a*) of the Customs and Excise Act 1952 (mode of trial of offences punishable with imprisonment for two years) shall have effect as if after the words " two years " there were inserted the words " or more ". 1952 c. 44.

(5) Without prejudice to the powers of any court on an appeal, section 286(2) of the Customs and Excise Act 1952 (power of court to mitigate pecuniary penalty) shall not apply in the case of a pecuniary penalty imposed on conviction on indictment by virtue of subsection (2) above.

(6) In its application to Scotland subsection (5) above shall have effect as if for the reference to section 286(2) of the Customs and Excise Act 1952 there were substituted a reference to paragraph (5) of section 43 of the Summary Jurisdiction (Scotland) Act 1908 as applied by section 77(4) of the said Act of 1908. 1908 c. 65.

Forfeiture.

27.—(1) Subject to subsection (2) below, the court by or before which a person is convicted of an offence under this Act may order anything shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(2) The court shall not order anything to be forfeited under this section, where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

Miscellaneous and supplementary provisions

Proof of lack of knowledge etc. to be a defence in proceedings for certain offences.

28.—(1) This section applies to offences under any of the following provisions of this Act, that is to say section 4(2) and (3), section 5(2) and (3), section 6(2) and section 9.

(2) Subject to subsection (3) below, in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where in any proceedings for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the accused—

(*a*) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but

(*b*) shall be acquitted thereof—

(i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or

(ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that, if it had in fact been that controlled drug or a controlled

drug of that description, he would not at the material time have been committing any offence to which this section applies.

(4) Nothing in this section shall prejudice any defence which it is open to a person charged with an offence to which this section applies to raise apart from this section.

Service of documents.

29.—(1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.

(2) Any notice or other document so required or authorised to be served on a body corporate shall be duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of this section, and of section 26 of the Interpretation Act 1889 in its application to this section, the proper address of any person shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last address of the person to be served which is known to the Secretary of State. 1889 c. 63.

(4) Where any of the following documents, that is to say—

(*a*) a notice under section 11(1) or section 15(6) of this Act; or

(*b*) a copy of a direction given under section 12(2), section 13(1) or (2) or section 16(3) of this Act,

is served by sending it by registered post or by the recorded delivery service, service thereof shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and so much of section 26 of the Interpretation Act 1889 as relates to the time when service by post is deemed to have been effected shall not apply to such a document if it is served by so sending it.

Licences and authorities.

30. A licence or other authority issued by the Secretary of State for purposes of this Act or of regulations made under this Act may be, to any degree, general or specific, may be issued on such terms and subject to such conditions (including, in the case of a licence, the payment of a prescribed fee) as the Secretary of State thinks proper, and may be modified or revoked by him at any time.

General provisions as to regulations.

31.—(1) Regulations made by the Secretary of State under any provision of this Act—

(*a*) may make different provision in relation to different controlled drugs, different classes of persons, different provisions of this Act or other different cases or circumstances; and

(*b*) may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and

(*c*) may contain such supplementary, incidental and transitional provisions as appear expedient to the Secretary of State.

(2) Any power of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The Secretary of State shall not make any regulations under this Act except after consultation with the Advisory Council.

(4) In its application to Northern Ireland this section shall have effect as if for references to the Secretary of State there were substituted references to the Ministry of Home Affairs for Northern Ireland and as if for subsection (2) there were substituted—

" (2) Any regulations made under this Act by the Ministry of Home Affairs for Northern Ireland shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act."

1954 c. 33 (N.I.).

Research.

32. The Secretary of State may conduct or assist in conducting research into any matter relating to the misuse of dangerous or otherwise harmful drugs.

Amendment of Extradition Act 1870. 1870 c. 52.

33. The Extradition Act 1870 shall have effect as if conspiring to commit any offence against any enactment for the time being in force relating to dangerous drugs were included in the list of crimes in Schedule 1 to that Act.

Amendment of Matrimonial Proceedings (Magistrates' Courts) Act 1960. 1960 c. 48.

34. In the definition of " drug addict " contained in section 16(1) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960, for the words from " any drug " to " applies " there shall be substituted the words " any controlled drug within the meaning of the Misuse of Drugs Act 1971 ".

Financial provisions.

35. There shall be defrayed out of moneys provided by Parliament—

(*a*) any expenses incurred by the Secretary of State under or in consequence of the provisions of this Act other than section 32; and

(*b*) any expenses incurred by the Secretary of State with the consent of the Treasury for the purposes of his functions under that section.

Meaning of "corresponding law", and evidence of certain matters by certificate.

36.—(1) In this Act the expression "corresponding law" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the United Kingdom to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and Her Majesty's Government in the United Kingdom are for the time being parties.

(2) A statement in any such certificate as aforesaid to the effect that any facts constitute an offence against the law mentioned in the certificate shall be evidence, and in Scotland sufficient evidence, of the matters stated.

Interpretation.

37.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"the Advisory Council" means the Advisory Council on the Misuse of Drugs established under this Act;

"cannabis" (except in the expression "cannabis resin") means the flowering or fruiting tops of any plant of the genus *Cannabis* from which the resin has not been extracted, by whatever name they may be designated;

"cannabis resin" means the separated resin, whether crude or purified, obtained from any plant of the genus *Cannabis*;

"contravention" includes failure to comply, and "contravene" has a corresponding meaning;

"controlled drug" has the meaning assigned by section 2 of this Act;

"corresponding law" has the meaning assigned by section 36(1) of this Act;

"dentist" means a person registered in the dentists register under the Dentists Act 1957; 1957 c. 28.

"doctor" means a fully registered person within the meaning of the Medical Acts 1956 to 1969;

"enactment" includes an enactment of the Parliament of Northern Ireland;

"person lawfully conducting a retail pharmacy business", subject to subsection (5) below, means a person lawfully conducting such a business in accordance with section 69 of the Medicines Act 1968; 1968 c. 67.

"pharmacist" has the same meaning as in the Medicines Act 1968;

"practitioner" (except in the expression "veterinary practitioner") means a doctor, dentist, veterinary practitioner or veterinary surgeon;

"prepared opium" means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

"prescribed" means prescribed by regulations made by the Secretary of State under this Act;

"produce", where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method, and "production" has a corresponding meaning;

"supplying" includes distributing;

"veterinary practitioner" means a person registered in the supplementary veterinary register kept under section 8 of the Veterinary Surgeons Act 1966; 1966 c. 36.

"veterinary surgeon" means a person registered in the register of veterinary surgeons kept under section 2 of the Veterinary Surgeons Act 1966.

(2) References in this Act to misusing a drug are references to misusing it by taking it; and the reference in the foregoing provision to the taking of a drug is a reference to the taking of it by a human being by way of any form of self-administration, whether or not involving assistance by another.

(3) For the purposes of this Act the things which a person has in his possession shall be taken to include any thing subject to his control which is in the custody of another.

(4) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

(5) So long as sections 8 to 10 of the Pharmacy and Poisons Act 1933 remain in force, this Act in its application to Great Britain shall have effect as if for the definition of "person lawfully conducting a retail pharmacy business" in subsection (1) above there were substituted— 1933 c. 25.

"'person lawfully conducting a retail pharmacy business' means an authorised seller of poisons within the meaning of the Pharmacy and Poisons Act 1933;"

and so long as sections 16 to 18 of the Medicines, Pharmacy and Poisons Act (Northern Ireland) 1945 remain in force, this Act in its application to Northern Ireland shall have effect as if for the definition of "person lawfully conducting a retail pharmacy business" in subsection (1) above there were substituted— 1945 c. 9 (N.I.).

"'person lawfully conducting a retail pharmacy business' means an authorised seller of poisons within the meaning of the Medicines, Pharmacy and Poisons Act (Northern Ireland) 1945;"

Special provisions as to Northern Ireland.

38.—(1) In the application of this Act to Northern Ireland, for any reference to the Secretary of State (except in sections 1, 2, 7, 17, 23(1), 31, 35, 39(3) and 40(3) and Schedules 1 and 3) there shall be substituted a reference to the Ministry of Home Affairs for Northern Ireland.

(2) Nothing in this Act shall authorise any department of the Government of Northern Ireland to incur any expenses attributable to the provisions of this Act until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament; and no expenditure shall be incurred by the Ministry of Home Affairs for Northern Ireland for the purposes of its functions under section 32 of this Act except with the consent of the Ministry of Finance for Northern Ireland.

(3) This Act shall be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have been passed before the day appointed for the purposes of that section. 1920 c. 67.

(4) Without prejudice to section 37(4) of this Act, any reference in this Act to an enactment of the Parliament of Northern Ireland includes a reference to any enactment re-enacting it with or without modifications.

Savings and transitional provisions, repeals, and power to amend local enactments.

39.—(1) The savings and transitional provisions contained in Schedule 5 to this Act shall have effect.

(2) The enactments mentioned in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament repeal or amend any provision in any local Act, including an Act confirming a provisional order, or in any instrument in the nature of a local enactment under any Act, where it appears to him that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, any provision of this Act.

Short title, extent and commencement.

40.—(1) This Act may be cited as the Misuse of Drugs Act 1971.

(2) This Act extends to Northern Ireland.

(3) This Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different dates may be appointed under this subsection for different purposes.

SCHEDULES

SCHEDULE 1

Section 1.

CONSTITUTION ETC. OF ADVISORY COUNCIL ON THE MISUSE OF DRUGS

1.—(1) The members of the Advisory Council, of whom there shall be not less than twenty, shall be appointed by the Secretary of State after consultation with such organisations as he considers appropriate, and shall include—

(*a*) in relation to each of the activities specified in sub-paragraph (2) below, at least one person appearing to the Secretary of State to have wide and recent experience of that activity; and

(*b*) persons appearing to the Secretary of State to have wide and recent experience of social problems connected with the misuse of drugs.

(2) The activities referred to in sub-paragraph (1)(*a*) above are—

(*a*) the practice of medicine (other than veterinary medicine);

(*b*) the practice of dentistry;

(*c*) the practice of veterinary medicine;

(*d*) the practice of pharmacy;

(*e*) the pharmaceutical industry;

(*f*) chemistry other than pharmaceutical chemistry.

(3) The Secretary of State shall appoint one of the members of the Advisory Council to be chairman of the Council.

2. The Advisory Council may appoint committees, which may consist in part of persons who are not members of the Council, to consider and report to the Council on any matter referred to them by the Council.

3. At meetings of the Advisory Council the quorum shall be seven, and subject to that the Council may determine their own procedure.

4. The Secretary of State may pay to the members of the Advisory Council such remuneration (if any) and such travelling and other allowances as may be determined by him with the consent of the Minister for the Civil Service.

5. Any expenses incurred by the Advisory Council with the approval of the Secretary of State shall be defrayed by the Secretary of State.

Section 2.

SCHEDULE 2

CONTROLLED DRUGS

PART I

CLASS A DRUGS

1. The following substances and products, namely :—

Acetorphine.
Allylprodine.
Alphacetylmethadol.
Alphameprodine.
Alphamethadol.
Alphaprodine.
Anileridine.
Benzethidine.
Benzylmorphine (3-benzylmorphine).
Betacetylmethadol.
Betameprodine.
Betamethadol.
Betaprodine.
Bezitramide.
Bufotenine.
Cannabinol, except where contained in cannabis or cannabis resin.
Cannabinol derivatives.
Clonitazene.
Coca leaf.
Cocaine.
Desomorphine.
Dextromoramide.
Diamorphine.
Diampromide.
Diethylthiambutene.
Dihydrocodeinone *O*-carboxymethyloxime.
Dihydromorphine.
Dimenoxadole.
Dimepheptanol.
Dimethylthiambutene.
Dioxaphetyl butyrate.
Diphenoxylate.
Dipipanone.
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine.
Ethylmethylthiambutene.
Etonitazene.
Etorphine.
Etoxeridine.
Fentanyl.
Furethidine.
Hydrocodone.
Hydromorphinol.
Hydromorphone.
Hydroxypethidine.
Isomethadone.
Ketobemidone.
Levomethorphan.
Levomoramide.
Levophenacylmorphan.
Levorphanol.
Lysergamide.
Lysergide and other *N*-alkyl derivatives of lysergamide.
Mescaline.
Metazocine.
Methadone.
Methadyl acetate.
Methyldesorphine.
Methyldihydromorphine (6-methyldihydromorphine).
Metopon.
Morpheridine.
Morphine.
Morphine methobromide, morphine *N*-oxide and other pentavalent nitrogen morphine derivatives.
Myrophine.
Nicodicodine (6-nicotinoyldihydrocodeine).
Nicomorphine (3,6-dinicotinoylmorphine).
Noracymethadol.
Norlevorphanol.
Normethadone.
Normorphine.
Norpipanone.
Opium, whether raw, prepared or medicinal.
Oxycodone.
Oxymorphone.

Pethidine.
Phenadoxone.
Phenampromide.
Phenazocine.
Phenomorphan.
Phenoperidine.
Piminodine.
Piritramide.
Poppy-straw and concentrate of poppy-straw.
Proheptazine.
Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester).
Psilocin.
Racemethorphan.
Racemoramide.
Racemorphan.
Thebacon.
Thebaine.
Trimeperidine.
4-Cyano-2-dimethylamino-4, 4-diphenylbutane.
4-Cyano-1-methyl-4-phenylpiperidine.
N,*N*-Diethyltryptamine.
N,*N*-Dimethyltryptamine.
2,5-Dimethoxy-α,4-dimethylphenethylamine.
1-Methyl-4-phenylpiperidine-4-carboxylic acid.
2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid.
4-Phenylpiperidine-4-carboxylic acid ethyl ester.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrorphan.

3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 above.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3 above.

5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 above.

6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part II of this Schedule.

PART II

CLASS B DRUGS

1. The following substances and products, namely:—

Acetyldihydrocodeine.
Amphetamine.
Cannabis and cannabis resin.
Codeine.
Dexamphetamine.
Dihydrocodeine.
Ethylmorphine (3-ethylmorphine).
Methylamphetamine.
Methylphenidate.
Nicocodine.
Norcodeine.
Phenmetrazine.
Pholcodine.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.

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4. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part I of this Schedule.

PART III

CLASS C DRUGS

1. The following substances, namely:—

Benzphetamine.	Pemoline.
Chlorphentermine.	Phendimetrazine.
Fencamfamin.	Phentermine.
Mephentermine.	Pipradrol.
Methaqualone.	Prolintane.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.

4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule.

PART IV

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions (which are not among those defined in section 37(1) of this Act) have the meanings hereby assigned to them respectively, that is to say—

"cannabinol derivatives" means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

"coca leaf" means the leaf of any plant of the genus *Erythroxylon* from whose leaves cocaine can be extracted either directly or by chemical transformation;

"concentrate of poppy-straw" means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

"medicinal opium" means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

"opium poppy" means the plant of the species *Papaver somniferum* L;

"poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

"raw opium" includes powdered or granulated opium but does not include medicinal opium.

SCHEDULE 3

Section 16.

TRIBUNALS, ADVISORY BODIES AND PROFESSIONAL PANELS

PART I

TRIBUNALS

Membership

1.—(1) A tribunal shall consist of five persons of whom—

(*a*) one shall be a barrister, advocate or solicitor of not less than seven years' standing appointed by the Lord Chancellor to be the chairman of the tribunal; and

(*b*) the other four shall be persons appointed by the Secretary of State from among members of the respondent's profession nominated for the purposes of this Schedule by any of the relevant bodies mentioned in sub-paragraph (2) below.

(2) The relevant bodies aforesaid are—

(*a*) where the respondent is a doctor, the General Medical Council, the Royal Colleges of Physicians of London and Edinburgh, the Royal Colleges of Surgeons of England and Edinburgh, the Royal College of Physicians and Surgeons (Glasgow), the Royal College of Obstetricians and Gynaecologists, the Royal College of General Practitioners, the Royal Medico-Psychological Association and the British Medical Association;

(*b*) where the respondent is a dentist, the General Dental Council and the British Dental Association;

(*c*) where the respondent is a veterinary practitioner or veterinary surgeon, the Royal College of Veterinary Surgeons and the British Veterinary Association.

(3) Sub-paragraph (1) above shall have effect in relation to a tribunal in Scotland as if for the reference to the Lord Chancellor there were substituted a reference to the Lord President of the Court of Session.

Procedure

2. The quorum of a tribunal shall be the chairman and two other members of the tribunal.

3. Proceedings before a tribunal shall be held in private unless the respondent requests otherwise and the tribunal accedes to the request.

4.—(1) Subject to paragraph 5 below, the Lord Chancellor may make rules as to the procedure to be followed, and the rules of evidence to be observed, in proceedings before tribunals, and in particular—

(*a*) for securing that notice that the proceedings are to be brought shall be given to the respondent at such time and in such manner as may be specified by the rules;

(*b*) for determining who, in addition to the respondent, shall be a party to the proceedings;

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(*c*) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the tribunal;

(*d*) for enabling any party to the proceedings to be represented by counsel or solicitor.

(2) Sub-paragraph (1) above shall have effect in relation to a tribunal in Scotland as if for the reference to the Lord Chancellor there were substituted a reference to the Secretary of State.

(3) The power to make rules under this paragraph shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

5.—(1) For the purpose of any proceedings before a tribunal in England or Wales or Northern Ireland the tribunal may administer oaths and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to give any evidence or produce any document which he could not be compelled to give or produce on the trial of an action.

1925 c. 49.
1854 c. 34.

(2) The provisions of section 49 of the Supreme Court of Judicature (Consolidation) Act 1925, or of the Attendance of Witnesses Act 1854 (which provide special procedures for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to any proceedings before a tribunal in England or Wales or, as the case may be, in Northern Ireland as those provisions apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.

(3) For the purpose of any proceedings before a tribunal in Scotland, the tribunal may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the tribunal.

6. Subject to the foregoing provisions of this Schedule, a tribunal may regulate its own procedure.

7. The validity of the proceedings of a tribunal shall not be affected by any defect in the appointment of a member of the tribunal or by reason of the fact that a person not entitled to do so took part in the proceedings.

Financial provisions

8. The Secretary of State may pay to any member of a tribunal fees and travelling and other allowances in respect of his services in accordance with such scales and subject to such conditions as the Secretary of State may determine with the approval of the Treasury.

9. The Secretary of State may pay to any person who attends as a witness before the tribunal sums by way of compensation for the

loss of his time and travelling and other allowances in accordance with such scales and subject to such conditions as may be determined as aforesaid.

10. If a tribunal recommends to the Secretary of State that the whole or part of the expenses properly incurred by the respondent for the purposes of proceedings before the tribunal should be defrayed out of public funds, the Secretary of State may if he thinks fit make to the respondent such payments in respect of those expenses as the Secretary of State considers appropriate.

11. Any expenses incurred by a tribunal with the approval of the Secretary of State shall be defrayed by the Secretary of State.

Supplemental

12. The Secretary of State shall make available to a tribunal such accommodation, the services of such officers and such other facilities as he considers appropriate for the purpose of enabling the tribunal to perform its functions.

PART II

ADVISORY BODIES

Membership

13.—(1) An advisory body shall consist of three persons of whom—

(*a*) one shall be a person who is of counsel to Her Majesty and is appointed by the Lord Chancellor to be the chairman of the advisory body; and

(*b*) another shall be a person appointed by the Secretary of State, being a member of the respondent's profession who is an officer of a department of the Government of the United Kingdom; and

(*c*) the other shall be a person appointed by the Secretary of State from among the members of the respondent's profession nominated as mentioned in paragraph 1 above.

(2) Sub-paragraph (1) above shall have effect in relation to an advisory body in Scotland as if for the reference to the Lord Chancellor there were substituted a reference to the Lord President of the Court of Session.

Procedure

14. The respondent shall be entitled to appear before and be heard by the advisory body either in person or by counsel or solicitor.

15. Subject to the provisions of this Part of this Schedule, an advisory body may regulate its own procedure.

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Application of provisions of Part I

16. Paragraphs 3, 7, 8 and 10 to 12 of this Schedule shall apply in relation to an advisory body as they apply in relation to a tribunal.

PART III

PROFESSIONAL PANELS

Membership

17. A professional panel shall consist of a chairman and two other persons appointed by the Secretary of State from among the members of the respondent's profession after consultation with such one or more of the relevant bodies mentioned in paragraph 1(2) above as the Secretary of State considers appropriate.

Procedure

18. The respondent shall be entitled to appear before, and be heard by, the professional panel either in person or by counsel or solicitor.

19. Subject to the provisions of this Part of this Schedule, a professional panel may regulate its own procedure.

Application of provisions of Part I

20. Paragraphs 3, 7 and 8 of this Schedule shall apply in relation to a professional panel as they apply in relation to a tribunal.

PART IV

APPLICATION OF PARTS I TO III TO NORTHERN IRELAND

21. In the application of Parts I to III of this Schedule to Northern Ireland the provisions specified in the first column of the following Table shall have effect subject to the modifications specified in relation thereto in the second column of that Table.

TABLE

Provision of this Schedule	*Modification*
Paragraph 1	In sub-paragraph (1), for the references to the Lord Chancellor and the Secretary of State there shall be substituted respectively references to the Lord Chief Justice of Northern Ireland and the Minister of Home Affairs for Northern Ireland.
Paragraph 4	In sub-paragraph (1), for the reference to the Lord Chancellor there shall be substituted a reference to the Ministry of Home Affairs for Northern Ireland.
	For sub-paragraph (3) there shall be substituted—
	"(3) Any rules made under this paragraph by the Ministry of Home Affairs for Northern Ireland shall be

Provision of this Schedule	*Modification*	SCH. 3
	subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act."	1954 c. 33 (N.I.).
Paragraphs 8 to 12 ...	For the references to the Secretary of State and the Treasury there shall be substituted respectively references to the Ministry of Home Affairs for Northern Ireland and the Ministry of Finance for Northern Ireland.	
Paragraph 13	In sub-paragraph (1)— (*a*) for the references to the Lord Chancellor and Secretary of State there shall be substituted respectively references to the Lord Chief Justice of Northern Ireland and the Minister of Home Affairs for Northern Ireland; and (*b*) for the reference to a department of the Government of the United Kingdom there shall be substituted a reference to a department of the Government of Northern Ireland.	
Paragraph 16	The references to paragraphs 8 and 10 to 12 shall be construed as references to those paragraphs as modified by this Part of this Schedule.	
Paragraph 17	For the reference to the Secretary of State there shall be substituted a reference to the Minister of Home Affairs for Northern Ireland.	
Paragraph 20	The reference to paragraph 8 shall be construed as a reference to that paragraph as modified by this Part of this Schedule.	

SCHEDULE 4

Section 25.

PROSECUTION AND PUNISHMENT OF OFFENCES

Section Creating Offence	General Nature of Offence	Mode of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 4(2)...	Production, or being concerned in the production, of a controlled drug.	(*a*) Summary ...	12 months or £400, or both.	12 months or £400, or both.	6 months or £200, or both.	
		(*b*) On indictment	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Section 4(3)...	Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another.	(*a*) Summary ...	12 months or £400, or both.	12 months or £400, or both.	6 months or £200, or both.	
		(*b*) On indictment	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Section 5(2)...	Having possession of a controlled drug.	(*a*) Summary ...	12 months or £400, or both.	6 months or £400, or both.	6 months or £200, or both.	
		(*b*) On indictment	7 years or a fine, or both.	5 years or a fine, or both.	2 years or a fine, or both.	
Section 5(3)...	Having possession of a controlled drug with intent to supply it to another.	(*a*) Summary ...	12 months or £400, or both.	12 months or £400, or both.	6 months or £200, or both.	
		(*b*) On indictment	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Section 6(2)...	Cultivation of cannabis plant ...	(*a*) Summary ...	—	—	—	12 months or £400, or both.
		(*b*) On indictment	—	—	—	14 years or a fine, or both.

Section 8 ...	Being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there.	(*a*) Summary ...	12 months or £400, or both.	12 months or £400, or both.	6 months or £200, or both.	
		(*b*) On indictment	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Section 9 ...	Offences relating to opium ...	(*a*) Summary ...	—	—	—	12 months or £400, or both.
		(*b*) On indictment	—	—	—	14 years or a fine, or both.
Section 11(2)	Contravention of directions relating to safe custody of controlled drugs.	(*a*) Summary ...	—	—	—	6 months or £400, or both.
		(*b*) On indictment	—	—	—	2 years or a fine, or both.
Section 12(6)	Contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs.	(*a*) Summary ...	12 months or £400, or both.	12 months or £400, or both.	6 months or £200, or both.	
		(*b*) On indictment	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Section 13(3)	Contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs.	(*a*) Summary ...	12 months or £400, or both.	12 months or £400, or both.	6 months or £200, or both.	
		(*b*) On indictment	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Section 17(3)	Failure to comply with notice requiring information relating to prescribing, supply etc. of drugs.	Summary ...	—	—	—	£100.
Section 17(4)	Giving false information in purported compliance with notice requiring information relating to prescribing, supply etc. of drugs.	(*a*) Summary ...	—	—	—	6 months or £400, or both.
		(*b*) On indictment	—	—	—	2 years or a fine, or both.

Section Creating Offence	General Nature of Offence	Mode of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 18(1)	Contravention of regulations (other than regulations relating to addicts).	(*a*) Summary ...	—	—	—	6 months or £400, or both.
		(*b*) On indictment	—	—	—	2 years or a fine, or both.
Section 18(2)	Contravention of terms of licence or other authority (other than licence issued under regulations relating to addicts).	(*a*) Summary ...	—	—	—	6 months or £400, or both.
		(*b*) On indictment	—	—	—	2 years or a fine, or both.
Section 18(3)	Giving false information in purported compliance with obligation to give information imposed under or by virtue of regulations.	(*a*) Summary ...	—	—	—	6 months or £400, or both.
		(*b*) On indictment	—	—	—	2 years or a fine, or both.
Section 18(4)	Giving false information, or producing document etc. containing false statement etc., for purposes of obtaining issue or renewal of a licence or other authority.	(*a*) Summary ...	—	—	—	6 months or £400, or both.
		(*b*) On indictment	—	—	—	2 years or a fine, or both.
Section 20	Assisting in or inducing commission outside United Kingdom of an offence punishable under a corresponding law.	(*a*) Summary ...	—	—	—	12 months or £400, or both.
		(*b*) On indictment	—	—	—	14 years or a fine, or both.
Section 23(4)	Obstructing exercise of powers of search etc. or concealing books, drugs etc.	(*a*) Summary ...	—	—	—	6 months or £400, or both.
		(*b*) On indictment	—	—	—	2 years or a fine, or both.

SCHEDULE 5

Section 39.

SAVINGS AND TRANSITIONAL PROVISIONS

1.—(1) Any addiction regulations which could have been made under this Act shall not be invalidated by any repeal effected by this Act but shall have effect as if made under the provisions of this Act which correspond to the provisions under which the regulations were made; and the validity of any licence issued under any such addiction regulations shall not be affected by any such repeal.

(2) Any order, rule or other instrument or document whatsoever made or issued, any direction given, and any other thing done, under or by virtue of any of the following provisions of the Dangerous Drugs Act 1967, that is to say section 1(2), 2 or 3 or the Schedule, shall be deemed for the purposes of this Act to have been made, issued or done, as the case may be, under the corresponding provision of this Act; and anything begun under any of the said provisions of that Act may be continued under this Act as if begun under this Act. 1967 c. 82.

(3) In this paragraph "addiction regulations" means any regulations made under section 11 of the Dangerous Drugs Act 1965 which include provision for any of the matters for which regulations may be so made by virtue of section 1(1) of the Dangerous Drugs Act 1967. 1965 c. 15.

2. As from the coming into operation of section 3 of this Act any licence granted for the purpose of section 5 of the Drugs (Prevention of Misuse) Act 1964 or sections 2, 3 or 10 of the Dangerous Drugs Act 1965 shall have effect as if granted for the purposes of section 3(2) of this Act. 1964 c. 64.

3.—(1) The Secretary of State may at any time before the coming into operation of section 12 of this Act give a direction under subsection (2) of that section in respect of any practitioner or pharmacist whose general authority under the Dangerous Drugs Regulations is for the time being withdrawn; but a direction given by virtue of this sub-paragraph shall not take effect until section 12 comes into operation, and shall not take effect at all if the general authority of the person concerned is restored before that section comes into operation.

(2) No direction under section 12(2) of this Act shall be given by virtue of sub-paragraph (1) above in respect of a person while the withdrawal of his general authority under the Dangerous Drugs Regulations is suspended; but where, in the case of any practitioner or pharmacist whose general authority has been withdrawn, the withdrawal is suspended at the time when section 12 comes into operation, the Secretary of State may at any time give a direction under section 12(2) in respect of him by virtue of this sub-paragraph unless the Secretary of State has previously caused to be served on him a notice stating that he is no longer liable to have such a direction given in respect of him by virtue of this sub-paragraph.

(3) In this paragraph "the Dangerous Drugs Regulations" means, as regards Great Britain, the Dangerous Drugs (No. 2) Regulations 1964 or, as regards Northern Ireland, the Dangerous Drugs Regulations (Northern Ireland) 1965.

SCH. 5

4. Subject to paragraphs 1 to 3 above, and without prejudice to the generality of section 31(1)(*c*) of this Act, regulations made by the Secretary of State under any provision of this Act may include such provision as the Secretary of State thinks fit for effecting the transition from any provision made by or by virtue of any of the enactments repealed by this Act to any provision made by or by virtue of this Act, and in particular may provide for the continuation in force, with or without modifications, of any licence or other authority issued or having effect as if issued under or by virtue of any of those enactments.

5. For purposes of the enforcement of the enactments repealed by this Act as regards anything done or omitted before their repeal, any powers of search, entry, inspection, seizure or detention conferred by those enactments shall continue to be exercisable as if those enactments were still in force.

1889 c. 63.

6. The mention of particular matters in this Schedule shall not prejudice the general application of section 38(2) of the Interpretation Act 1889 with regard to the effect of repeals.

Section 39.

SCHEDULE 6

REPEALS

Chapter	Short Title	Extent of Repeal
1964 c. 64.	The Drugs (Prevention of Misuse) Act 1964.	The whole Act.
1965 c. 15.	The Dangerous Drugs Act 1965.	The whole Act.
1967 c. 82.	The Dangerous Drugs Act 1967.	The whole Act.
1968 c. 59.	The Hovercraft Act 1968.	Paragraph 6 of the Schedule.
1968 c. 67.	The Medicines Act 1968.	In Schedule 5, paragraphs 14 and 15.

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Public Law 91-513
91st Congress, H. R. 18583
October 27, 1970

An Act

84 STAT. 1236

To amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Drug Abuse Prevention and Control Act of 1970".

Comprehensive Drug Abuse Prevention and Control Act of 1970.

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TITLE I—REHABILITATION PROGRAMS RELATING TO DRUG ABUSE

PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE

SECTION 1. (a) Part D of the Community Mental Health Centers Act is amended as follows:

(1) Sections 251, 252, and 253 of such part (42 U.S.C. 2688k, 2688l, and 2688m) are each amended by inserting "and other persons with drug abuse and drug dependence problems" immediately after "narcotic addicts" each place those words appear in those sections. 82 Stat. 1009.

(2) Clauses (A) and (C) of section 252 of such part are each amended by inserting ", drug abuse, and drug dependence" immediately after "narcotic addiction".

(3) The heading for such part is amended to read as follows:

"PART D—NARCOTIC ADDICTION, DRUG ABUSE, AND DRUG DEPENDENCE PREVENTION AND REHABILITATION".

(b) Part E of such Act is amended as follows:

(1) Section 261(a) of such part (42 U.S.C. 2688o) is amended by striking out "$30,000,000 for the fiscal year ending June 30, 1971, $35,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973" and inserting in lieu thereof "$40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, and $80,000,000 for the fiscal year ending June 30, 1973". 82 Stat. 1010; Ante, p. 57.

(2) Section 261(a) of such part is further amended by inserting ", drug abuse, and drug dependence" immediately after "narcotic addiction".

(3) Sections 261(c) and 264 are each amended by inserting "and other persons with drug abuse and drug dependence problems" immediately after "narcotic addicts". Ante, pp. 58, 61.

(4) The section headings for sections 261 and 263 are each amended by striking out "AND NARCOTIC ADDICTS" and inserting in lieu thereof ", NARCOTIC ADDICTS, AND OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS".

(c) Part D of such Act is further amended by redesignating sections 253 and 254 as sections 254 and 255, respectively, and by adding after section 252 the following new section: 42 USC 2688n.

"DRUG ABUSE EDUCATION

"SEC. 253. (a) The Secretary is authorized to make grants to States and political subdivisions thereof and to public or nonprofit private agencies and organizations, and to enter into contracts with other private agencies and organizations, for— Grants. Contract authority.

"(1) the collection, preparation, and dissemination of educational materials dealing with the use and abuse of drugs and the prevention of drug abuse, and

"(2) the development and evaluation of programs of drug abuse education directed at the general public, school-age children, and special high-risk groups.

"(b) The Secretary, acting through the National Institute of Mental Health, shall (1) serve as a focal point for the collection and dissemination of information related to drug abuse; (2) collect, prepare, and disseminate materials (including films and other educational devices) dealing with the abuse of drugs and the prevention of drug

abuse; (3) provide for the preparation, production, and conduct of programs of public education (including those using films and other educational devices); (4) train professional and other persons to organize and participate in programs of public education in relation to drug abuse; (5) coordinate activities carried on by such departments, agencies, and instrumentalities of the Federal Government as he shall designate with respect to health education aspects of drug abuse; (6) provide technical assistance to State and local health and educational agencies with respect to the establishment and implementation of programs and procedures for public education on drug abuse; and (7) undertake other activities essential to a national program for drug abuse education.

Personnel training.

"(c) The Secretary, acting through the National Institute of Mental Health, is authorized to develop and conduct workshops, institutes, and other activities for the training of professional and other personnel to work in the area of drug abuse education.

Appropriation.

"(d) To carry out the purposes of this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, and $14,000,000 for the fiscal year ending June 30, 1973."

82 Stat. 1009; Ante, p.1238. 42 USC 2688k.

(d) Such part D is further amended by adding at the end thereof the following new section:

"SPECIAL PROJECTS FOR NARCOTIC ADDICTS AND DRUG DEPENDENT PERSONS

Grants, treatment and rehabilitation.

"SEC. 256. (a) The Secretary is authorized to make grants to public or nonprofit private agencies and organizations to cover a portion of the costs of programs for treatment and rehabilitation of narcotic addicts or drug dependent persons which include one or more of the following: (1) Detoxification services or (2) institutional services (including medical, psychological, educational, or counseling services) or (3) community-based aftercare services.

Conditions.

"(b) Grants under this section for the costs of any treatment and rehabilitation program—

"(1) may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and

Limitation.

"(2) (A) except as provided in subparagraph (B), may not exceed 80 per centum of such costs for each of the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for each of the next three years after such first day; and

"(B) in the case of any such program providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

"(c) No application for a grant authorized by this section shall be approved by the Secretary unless such application is forwarded through the State agency responsible for administering the plan submitted pursuant to section 204 of this Act or, if there be a separate State agency, designated by the Governor as responsible for planning, coordinating, and executing the State's efforts in the treatment and

77 Stat. 291; 81 Stat. 79. 42 USC 2684.

rehabilitation of narcotic addicts and drug dependent persons, through such latter agency, which shall submit to the Secretary such comments as it deems appropriate. No application for a grant under this section for a program to provide services for persons in an area in which is located a facility constructed as a new facility after the date of enactment of this section with funds provided under a grant under part A or this part shall be approved unless such application contains satisfactory assurance that, to the extent feasible, such program will be included as part of the programs conducted in or through such facility.

"(d) The Secretary shall make grants under this section for projects within the States in accordance with criteria determined by him designed to provide priority for grant applications in States, and in areas within the States, having the higher percentages of population who are narcotic addicts or drug dependent persons. Criteria.

"(e) There are authorized to be appropriated to carry out this section not to exceed $20,000,000 for the fiscal year ending June 30, 1971; $30,000,000 for the fiscal year ending June 30, 1972; and $35,000,000 for the fiscal year ending June 30, 1973." Appropriation.

BROADER TREATMENT AUTHORITY IN PUBLIC HEALTH SERVICE HOSPITALS FOR PERSONS WITH DRUG ABUSE AND OTHER DRUG DEPENDENCE PROBLEMS

SEC. 2. (a) Part E of title III of the Public Health Service Act is amended as follows:

(1) Section 341(a) of such part is amended by adding immediately after "addicts" the second time it appears the following: "and other persons with drug abuse and drug dependence problems". 80 Stat. 1449. 42 USC 257.

(2)(A) Sections 342, 343, 344, and 346 of such part are each amended by inserting "or other persons with drug abuse and drug dependence problems" immediately after "addicts" each place it appears in those sections. 58 Stat. 699; 68 Stat. 79. 42 USC 258-260, 261.

(B) The section heading of section 342 of such part is amended by inserting "OR OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS" after "ADDICTS".

(3) Sections 343 and 344 of such part are each amended by inserting "or other person with a drug abuse or other drug dependence problem" immediately after "addict" each place it appears in those sections.

(4) Sections 343, 344, and 347 of such part are each amended by inserting ", drug abuse, or drug dependence" immediately after "addiction" each place it appears in those sections. 42 USC 261a.

(5) Section 346 of such part is amended by inserting "or substance controlled under the Controlled Substances Act" immediately after "habit-forming narcotic drug". Post, p. 1242.

(6) The heading for such part is amended to read as follows:

"PART E—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS".

(b) Section 2 of the Public Health Service Act (42 U.S.C. 201) is amended by adding after paragraph (p) the following new paragraph: 58 Stat. 682; 74 Stat. 34.

"(q) The term 'drug dependent person' means a person who is using a controlled substance (as defined in section 102 of the Controlled Substances Act) and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence." Post, p. 1243.

RESEARCH UNDER THE PUBLIC HEALTH SERVICE ACT IN DRUG USE, ABUSE, AND ADDICTION

Research populations, protection of identity.
70 Stat. 929.

SEC. 3. (a) Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) is amended by adding after and below paragraph (2) the following:

"The Secretary may authorize persons engaged in research on the use and effect of drugs to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals."

80 Stat. 1184.
42 USC 246.

(b) Section 314(d)(2) of the Public Health Service Act is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (J) the following new subparagraph:

"(K) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem."

81 Stat. 79.

(c) Section 507 of the Public Health Service Act (42 U.S.C. 225a) is amended—

(1) by striking out "available for research, training, or demonstration project grants pursuant to this Act" and inserting in lieu thereof "available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities", and

77 Stat. 190.
42 USC 2681 note.

(2) by inserting immediately before the period at the end thereof the following: ", except that grants to such Federal institutions may be funded at 100 per centum of the costs".

MEDICAL TREATMENT OF NARCOTIC ADDICTION

SEC. 4. The Secretary of Health, Education, and Welfare, after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress.

Report to Congress.

TITLE II—CONTROL AND ENFORCEMENT

PART A—SHORT TITLE; FINDINGS AND DECLARATION; DEFINITIONS

SHORT TITLE

SEC. 100. This title may be cited as the "Controlled Substances Act". Citation of title.

FINDINGS AND DECLARATIONS

SEC. 101. The Congress makes the following findings and declarations:

(1) Many of the drugs included within this title have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because—

(A) after manufacture, many controlled substances are transported in interstate commerce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances. 18 UST 1407.

DEFINITIONS

SEC. 102. As used in this title:

(1) The term "addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term "administer" refers to the direct application of a controlled substance to the body of a patient or research subject by—

(A) a practitioner (or, in his presence, by his authorized agent), or

(B) the patient or research subject at the direction and in the presence of the practitioner,

whether such application be by injection, inhalation, ingestion, or any other means.

(3) The term "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business.

(4) The term "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs in the Department of Justice.

(5) The term "control" means to add a drug or other substance, or immediate precursor, to a schedule under part B of this title, whether by transfer from another schedule or otherwise.

Post, p. 1247.

(6) The term "controlled substance" means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this title. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1954.

68A Stat. 595, 26 USC 5001.

(7) The term "counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(8) The terms "deliver" or "delivery" mean the actual, constructive, or attempted transfer of a controlled substance, whether or not there exists an agency relationship.

(9) The term "depressant or stimulant substance" means—

(A) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid; or (ii) any derivative of barbituric acid which has been designated by the Secretary as habit forming under section 502(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(d)); or

52 Stat. 1050.

(B) a drug which contains any quantity of (i) amphetamine or any of its optical isomers; (ii) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

(C) lysergic acid diethylamide; or

(D) any drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(10) The term "dispense" means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling, or compounding necessary to prepare the substance for such delivery. The term "dispenser" means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(11) The term "distribute" means to deliver (other than by administering or dispensing) a controlled substance. The term "distributor" means a person who so delivers a controlled substance.

(12) The term "drug" has the meaning given that term by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act. 52 Stat. 1041; 79 Stat. 234. 21 USC 321.

(13) The term "felony" means any Federal or State offense classified by applicable Federal or State law as a felony.

(14) The term "manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of a drug or other substance in conformity with applicable State or local law by a practitioner as an incident to his administration or dispensing of such drug or substance in the course of his professional practice. The term "manufacturer" means a person who manufactures a drug or other substance.

(15) The term "marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(16) The term "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium, coca leaves, and opiates.

(B) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates.

(C) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clause (A) or (B).

Such term does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

(17) The term "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

(18) The term "opium poppy" means the plant of the species Papaver somniferum L., except the seed thereof.

(19) The term "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(21) The term "production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(22) The term "immediate precursor" means a substance—

(A) which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(B) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(C) the control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

(23) The term "Secretary", unless the context otherwise indicates, means the Secretary of Health, Education, and Welfare.

(24) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone.

(25) The term "ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household.

(26) The term "United States", when used in a geographic sense, means all places and waters, continental or insular, subject to the jurisdiction of the United States.

INCREASED NUMBERS OF ENFORCEMENT PERSONNEL

SEC. 103. (a) During the fiscal year 1971, the Bureau of Narcotics and Dangerous Drugs is authorized to add at least 300 agents, together with necessary supporting personnel, to the number of enforcement personnel currently available to it.

Appropriation.

(b) There are authorized to be appropriated not to exceed $6,000,000 for the fiscal year 1971 and for each fiscal year thereafter to carry out the provisions of subsection (a).

PART B—AUTHORITY TO CONTROL; STANDARDS AND SCHEDULES

AUTHORITY AND CRITERIA FOR CLASSIFICATION OF SUBSTANCES

SEC. 201. (a) The Attorney General shall apply the provisions of this title to the controlled substances listed in the schedules established by section 202 of this title and to any other drug or other substance added to such schedules under this title. Except as provided in subsections (d) and (e), the Attorney General may by rule—

(1) add to such a schedule or transfer between such schedules any drug or other substance if he—

(A) finds that such drug or other substance has a potential for abuse, and

(B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 202 for the schedule in which such drug is to be placed; or

(2) remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule.

Hearing opportunity. Rules. 80 Stat. 381. 5 USC 551.

Rules of the Attorney General under this subsection shall be made on the record after opportunity for a hearing pursuant to the rulemaking procedures prescribed by subchapter II of chapter 5 of title 5 of the United States Code. Proceedings for the issuance, amendment, or

repeal of such rules may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary, or (3) on the petition of any interested party.

(b) The Attorney General shall, before initiating proceedings under subsection (a) to control a drug or other substance or to remove a drug or other substance entirely from the schedules, and after gathering the necessary data, request from the Secretary a scientific and medical evaluation, and his recommendations, as to whether such drug or other substance should be so controlled or removed as a controlled substance. In making such evaluation and recommendations, the Secretary shall consider the factors listed in paragraphs (2), (3), (6), (7), and (8) of subsection (c) and any scientific or medical considerations involved in paragraphs (1), (4), and (5) of such subsection. The recommendations of the Secretary shall include recommendations with respect to the appropriate schedule, if any, under which such drug or other substance should be listed. The evaluation and the recommendations of the Secretary shall be made in writing and submitted to the Attorney General within a reasonable time. The recommendations of the Secretary to the Attorney General shall be binding on the Attorney General as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug or other substance. If the Attorney General determines that these facts and all other relevant data constitute substantial evidence of potential for abuse such as to warrant control or substantial evidence that the drug or other substance should be removed entirely from the schedules, he shall initiate proceedings for control or removal, as the case may be, under subsection (a). Evaluation.

(c) In making any finding under subsection (a) of this section or under subsection (b) of section 202, the Attorney General shall consider the following factors with respect to each drug or other substance proposed to be controlled or removed from the schedules:

(1) Its actual or relative potential for abuse.
(2) Scientific evidence of its pharmacological effect, if known.
(3) The state of current scientific knowledge regarding the drug or other substance.
(4) Its history and current pattern of abuse.
(5) The scope, duration, and significance of abuse.
(6) What, if any, risk there is to the public health.
(7) Its psychic or physiological dependence liability.
(8) Whether the substance is an immediate precursor of a substance already controlled under this title.

(d) If control is required by United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part, the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by subsection (a) of this section or section 202(b) and without regard to the procedures prescribed by subsections (a) and (b) of this section. Order.

(e) The Attorney General may, without regard to the findings required by subsection (a) of this section or section 202(b) and without regard to the procedures prescribed by subsections (a) and (b) of this section, place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule with a higher numerical designation. If the Attorney General designates a substance as an immediate precursor and places it in a schedule, other substances shall not be placed in a schedule solely because they are its precursors.

(f) If, at the time a new-drug application is submitted to the Secretary for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Secretary to the Attorney General.

(g)(1) The Attorney General shall by regulation exclude any nonnarcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.

52 Stat. 1040. 21 USC 321.

Dextromethorphan, exception.

(2) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this title unless controlled after the date of such enactment pursuant to the foregoing provisions of this section.

SCHEDULES OF CONTROLLED SUBSTANCES

Establishment.

SEC. 202. (a) There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after the date of enactment of this title and shall be updated and republished on an annual basis thereafter.

Placement on schedules, findings required.

(b) Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on the effective date of this part, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

(c) Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 201, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

Opiates.

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmathadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.

(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Racemoramide.
(42) Trimeperidine.

Opium derivatives.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methylhydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-Oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Pholcodine.
(22) Thebacon.

Hallucinogenic substances.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxyamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marihuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.

SCHEDULE II

Substances, vegetable origin or chemical synthesis.

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

Opiates.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Dihydrocodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphan.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone-Intermediate, 4-cyano - 2 - dimethylamino-4,4-diphenyl butane.
(13) Moramide-Intermediate, 2 - methyl - 3 - morpholino-1, 1-diphenylpropane-carboxylic acid.
(14) Pethidine.
(15) Pethidine-Intermediate-A, 4 - cyano-1-methyl-4-phenylpiperidine.
(16) Pethidine-Intermediate-B, ethyl - 4-phenylpiperidine-4-carboxylate.
(17) Pethidine-Intermediate-C, 1-methyl - 4 - phenylpiperidine-4-carboxylic acid.
(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

Methamphetamine.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

SCHEDULE III

Stimulants. (a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Phenmetrazine and its salts.

(3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(4) Methylphenidate.

Depressants. (b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.

(2) Chorhexadol.

(3) Glutethimide.

(4) Lysergic acid.

(5) Lysergic acid amide.

(6) Methyprylon.

(7) Phencyclidine.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

Nalorphine. (c) Nalorphine.

Narcotic drugs. (d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SCHEDULE IV

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.
(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.

SCHEDULE V

Narcotic drugs containing nonnarcotic active medicinal ingredients.

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

Stimulants or depressants containing active medicinal ingredients, exception.

(d) The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance in paragraph (a) or (b) of schedule III or in schedule IV or V from the application of all or any part of this title if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

PART C—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

RULES AND REGULATIONS

Rules and regulations.

SEC. 301. The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances.

PERSONS REQUIRED TO REGISTER

Annual registration.

SEC. 302. (a) Every person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

(b) Persons registered by the Attorney General under this title to manufacture, distribute, or dispense controlled substances are authorized to possess, manufacture, distribute, or dispense such substances (including any such activity in the conduct of research) to the extent authorized by their registration and in conformity with the other provisions of this title.

Registration, exceptions.

(c) The following persons shall not be required to register and may lawfully possess any controlled substance under this title:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if such agent or employee is acting in the usual course of his business or employment.

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of the controlled substance is in the usual course of his business or employment.

Ante, p. 1245.

(3) An ultimate user who possesses such substance for a purpose specified in section 102(25).

Waiver.

(d) The Attorney General may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

Separate registration.

(e) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

Inspection.

(f) The Attorney General is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

REGISTRATION REQUIREMENTS

Factors consistent with public interest.

SEC. 303. (a) The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

Controls. Importation and bulk manufacture, limitation.

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately com-

petitive conditions for legitimate medical, scientific, research, and industrial purposes;

(2) compliance with applicable State and local law; Compliance.

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances; Technology.

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances; Applicants, prior conviction record.

(5) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and Experience.

(6) such other factors as may be relevant to and consistent with the public health and safety.

(b) The Attorney General shall register an applicant to distribute a controlled substance in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered: Factors consistent to public interest.

(1) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

(c) Registration granted under subsections (a) and (b) of this section shall not entitle a registrant to (1) manufacture or distribute controlled substances in schedule I or II other than those specified in the registration, or (2) manufacture any quantity of those controlled substances in excess of the quota assigned pursuant to section 306. Prohibition. Post, p. 1257.

(d) The Attorney General shall register an applicant to manufacture controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule III, IV, or V compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled substances, and the existence in the establishment of effective controls against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(e) The Attorney General shall register an applicant to distribute controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

Research.

(f) Practitioners shall be registered to dispense or conduct research with controlled substances in schedule II, III, IV, or V if they are authorized to dispense or conduct research under the law of the State in which they practice. Separate registration under this part for practitioners engaging in research with nonnarcotic controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Pharmacies (as distinguished from pharmacists) when engaged in commercial activities, shall be registered to dispense controlled substances in schedule II, III, IV, or V if they are authorized to dispense under the law of the State in which they regularly conduct business. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 304(a).

Pharmacies.

Research applications.

DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION

SEC. 304. (a) A registration pursuant to section 303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this title or title III;

Post, p. 1285.

(2) has been convicted of a felony under this title or title III or any other law of the United States, or of any State, relating to any substance defined in this title as a controlled substance; or

(3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances.

(b) The Attorney General may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) Before taking action pursuant to this section, or pursuant to a denial of registration under section 303, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney

Service of order.

General at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5 of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this title or any other law of the United States. 80 Stat. 381. 5 USC 551.

(d) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction. Registration, suspension.

(e) The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 306.

(f) In the event the Attorney General suspends or revokes a registration granted under section 303, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any controlled substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded except that a court, upon application therefor, may at any time order the sale of perishable controlled substances. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances (or proceeds of sale deposited in court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 511(e). Post, p. 1277.

LABELING AND PACKAGING REQUIREMENTS

SEC. 305. (a) It shall be unlawful to distribute a controlled substance in a commercial container unless such container, when and as required by regulations of the Attorney General, bears a label (as defined in section 201(k) of the Federal Food, Drug, and Cosmetic Act) containing an identifying symbol for such substance in accordance with such regulations. A different symbol shall be required for each schedule of controlled substances. Symbol. 52 Stat. 1041. 21 USC 321.

(b) It shall be unlawful for the manufacturer of any controlled substance to distribute such substance unless the labeling (as defined in section 201(m) of the Federal Food, Drug, and Cosmetic Act) of such substance contains, when and as required by regulations of the Attorney General, the identifying symbol required under subsection (a).

(c) The Secretary shall prescribe regulations under section 503(b) of the Federal Food, Drug, and Cosmetic Act which shall provide that the label of a drug listed in schedule II, III, or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a crime to transfer the drug to any person other than the patient. 65 Stat. 648. 21 USC 353.

(d) It shall be unlawful to distribute controlled substances in schedule I or II, and narcotic drugs in schedule III or IV, unless the bottle or other container, stopper, covering, or wrapper thereof is securely sealed as required by regulations of the Attorney General. Unlawful distribution.

QUOTAS APPLICABLE TO CERTAIN SUBSTANCES

Production quota.

SEC. 306. (a) The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Production quotas shall be established in terms of quantities of each basic class of controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.

(b) The Attorney General shall limit or reduce individual production quotas to the extent necessary to prevent the aggregate of individual quotas from exceeding the amount determined necessary each year by the Attorney General under subsection (a). The quota of each registered manufacturer for each basic class of controlled substance in schedule I or II shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. However, if any registrant, before the issuance of a limitation or reduction in quota, has manufactured in excess of his revised quota, the amount of the excess shall be subtracted from his quota for the following year.

Manufacturing quota.

(c) On or before July 1 of each year, upon application therefor by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the basic classes of controlled substances in schedules I and II that the manufacturer seeks to produce. The quota shall be subject to the provisions of subsections (a) and (b) of this section. In fixing such quotas, the Attorney General shall determine the manufacturer's estimated disposal, inventory, and other requirements for the calendar year; and, in making his determination, the Attorney General shall consider the manufacturer's current rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors.

(d) The Attorney General shall, upon application and subject to the provisions of subsections (a) and (b) of this section, fix a quota for a basic class of controlled substance in schedule I or II for any registrant who has not manufactured that basic class of controlled substance during one or more preceding calendar years. In fixing such quota, the Attorney General shall take into account the registrant's reasonably anticipated requirements for the current year; and, in making his determination of such requirements, he shall consider such factors specified in subsection (c) of this section as may be relevant.

Quota, increase.

(e) At any time during the year any registrant who has applied for or received a manufacturing quota for a basic class of controlled substance in schedule I or II may apply for an increase in that quota to meet his estimated disposal, inventory, and other requirements during the remainder of that year. In passing upon the application the Attorney General shall take into consideration any occurrences since the filing of the registrant's initial quota application that may require an increased manufacturing rate by the registrant during the balance of the year. In passing upon the application the Attorney General may also take into account the amount, if any, by which the determination of the Attorney General under subsection (a) of this section exceeds the aggregate of the quotas of all registrants under this section.

Controlled substances, incidental production, exception.

(f) Notwithstanding any other provisions of this title, no registration or quota may be required for the manufacture of such quantities of controlled substances in schedules I and II as incidentally and

necessarily result from the manufacturing process used for the manufacture of a controlled substance with respect to which its manufacturer is duly registered under this title. The Attorney General may, by regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances. Restrictions.

RECORDS AND REPORTS OF REGISTRANTS

SEC. 307. (a) Except as provided in subsection (c)— Inventory.

(1) every registrant under this title shall, on the effective date of this section, or as soon thereafter as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances, and every second year thereafter, make a complete and accurate record of all stocks thereof on hand, except that the regulations prescribed under this section shall permit each such biennial inventory (following the initial inventory required by this paragraph) to be prepared on such registrant's regular general physical inventory date (if any) which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply;

(2) on the effective date of each regulation of the Attorney General controlling a substance that immediately prior to such date was not a controlled substance, each registrant under this title manufacturing, distributing, or dispensing such substance shall make a complete and accurate record of all stocks thereof on hand; and

(3) on and after the effective date of this section, every registrant under this title manufacturing, distributing, or dispensing a controlled substance or substances shall maintain, on a current basis, a complete and accurate record of each such substance manufactured, received, sold, delivered, or otherwise disposed of by him, except that this paragraph shall not require the maintenance of a perpetual inventory.

(b) Every inventory or other record required under this section (1) shall be in accordance with, and contain such relevant information as may be required by, regulations of the Attorney General, (2) shall (A) be maintained separately from all other records of the registrant, or (B) alternatively, in the case of nonnarcotic controlled substances, be in such form that information required by the Attorney General is readily retrievable from the ordinary business records of the registrant, and (3) shall be kept and be available, for at least two years, for inspection and copying by officers or employees of the United States authorized by the Attorney General. Availability.

(c) The foregoing provisions of this section shall not apply— Nonapplicability.

(1) (A) with respect to narcotic controlled substances in schedule II, III, IV, or V, to the prescribing or administering of such substances by a practitioner in the lawful course of his professional practice; or

(B) with respect to nonnarcotic controlled substances in schedule II, III, IV, or V, to any practitioner who dispenses such substances to his patients, unless the practitioner is regularly engaged in charging his patients, either separately or together with charges for other professional services, for substances so dispensed;

(2) (A) to the use of controlled substances, at establishments registered under this title which keep records with respect to such substances, in research conducted in conformity with an exemption granted under section 505(i) or 512(j) of the Federal Food, Drug, and Cosmetic Act; 52 Stat. 1052; 76 Stat. 783. 82 Stat. 343. 21 USC 355, 360b.

(B) to the use of controlled substances, at establishments registered under this title which keep records with respect to such substances, in preclinical research or in teaching; or

(3) to the extent of any exemption granted to any person, with respect to all or part of such provisions, by the Attorney General by or pursuant to regulation on the basis of a finding that the application of such provisions (or part thereof) to such person is not necessary for carrying out the purposes of this title.

(d) Every manufacturer registered under section 303 shall, at such time or times and in such form as the Attorney General may require, make periodic reports to the Attorney General of every sale, delivery, or other disposal by him of any controlled substance, and each distributor shall make such reports with respect to narcotic controlled substances, identifying by the registration number assigned under this title the person or establishment (unless exempt from registration under section 302(d)) to whom such sale, delivery, or other disposal was made.

52 Stat. 1052; 76 Stat. 783. 82 Stat. 343. 21 USC 355, 360b.

(e) Regulations under sections 505(i) and 512(j) of the Federal Food, Drug, and Cosmetic Act, relating to investigational use of drugs, shall include such procedures as the Secretary, after consultation with the Attorney General, determines are necessary to insure the security and accountability of controlled substances used in research to which such regulations apply.

ORDER FORMS

Unlawful distribution.

SEC. 308. (a) It shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section.

Nonapplicability.

(b) Nothing in subsection (a) shall apply to—

(1) the exportation of such substances from the United States in conformity with title III;

Post, p. 1285.

(2) the delivery of such a substance to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution by the owner of the substance to a third person, this paragraph shall not relieve the distributor from compliance with subsection (a).

Preservation and availability.

(c)(1) Every person who in pursuance of an order required under subsection (a) distributes a controlled substance shall preserve such order for a period of two years, and shall make such order available for inspection and copying by officers and employees of the United States duly authorized for that purpose by the Attorney General, and by officers or employees of States or their political subdivisions who are charged with the enforcement of State or local laws regulating the production, or regulating the distribution or dispensing, of controlled substances and who are authorized under such laws to inspect such orders.

Duplicate, preservation and availability.

(2) Every person who gives an order required under subsection (a) shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section, and shall, if such order is accepted, preserve such duplicate for a period of two years and make it available for inspection and copying by the officers and employees mentioned in paragraph (1) of this subsection.

(d)(1) The Attorney General shall issue forms pursuant to subsections (a) and (c)(2) only to persons validly registered under section 303 (or exempted from registration under section 302(d)). Whenever any such form is issued to a person, the Attorney General shall, before delivery thereof, insert therein the name of such person, and it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances. Forms, issuance.

(2) The Attorney General may charge reasonable fees for the issuance of such forms in such amounts as he may prescribe for the purpose of covering the cost to the United States of issuing such forms, and other necessary activities in connection therewith. Fees.

(e) It shall be unlawful for any person to obtain by means of order forms issued under this section controlled substances for any purpose other than their use, distribution, dispensing, or administration in the conduct of a lawful business in such substances or in the course of his professional practice or research. Unlawful act.

PRESCRIPTIONS

SEC. 309. (a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug may be dispensed upon oral prescription in accordance with section 503(b) of that Act. Prescriptions shall be retained in conformity with the requirements of section 307 of this title. No prescription for a controlled substance in schedule II may be refilled. 52 Stat. 1040. 21 USC 301. 65 Stat. 648. 21 USC 353.

(b) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act. Such prescriptions may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(c) No controlled substance in schedule V which is a drug may be distributed or dispensed other than for a medical purpose.

(d) Whenever it appears to the Attorney General that a drug not considered to be a prescription drug under the Federal Food, Drug, and Cosmetic Act should be so considered because of its abuse potential, he shall so advise the Secretary and furnish to him all available data relevant thereto.

PART D—OFFENSES AND PENALTIES

PROHIBITED ACTS A—PENALTIES

SEC. 401. (a) Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

Post, p. 1265.

(b) Except as otherwise provided in section 405, any person who violates subsection (a) of this section shall be sentenced as follows:

Penalties.

(1)(A) In the case of a controlled substance in schedule I or II which is a narcotic drug, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.

Post, p. 1265.

Special parole term.

(B) In the case of a controlled substance in schedule I or II which is not a narcotic drug or in the case of any controlled substance in schedule III, such person shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than $15,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment.

(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 3 years, a fine of not more than $10,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 6 years, a fine of not more than $20,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment.

(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $5,000, or both. If any person commits such a violation after one or more convictions of him for an offense punishable under this paragraph, or for a crime under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than $10,000, or both.

(4) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in subsections (a) and (b) of section 404. Marihuana, simple possession.

(c) A special parole term imposed under this section or section 405 may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in this section or section 405 shall be in addition to, and not in lieu of, any other parole provided for by law. Special parole term.

PROHIBITED ACTS B—PENALTIES

SEC. 402. (a) It shall be unlawful for any person—

(1) who is subject to the requirements of part C to distribute or dispense a controlled substance in violation of section 309;

(2) who is a registrant to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person or to manufacture a controlled substance not authorized by his registration;

(3) who is a registrant to distribute a controlled substance in violation of section 305 of this title;

(4) to remove, alter, or obliterate a symbol or label required by section 305 of this title;

(5) to refuse or fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under this title or title III; Post, p. 1285.

(6) to refuse any entry into any premises or inspection authorized by this title or title III;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 304(f) or 511 or to remove or dispose of substances so placed under seal; or Ante, p. 1256. Post, p. 1276.

(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this title or title III, any information acquired in the course of an inspection authorized by this title concerning any method or process which as a trade secret is entitled to protection.

(b) It shall be unlawful for any person who is a registrant to manufacture a controlled substance in schedule I or II which is—

(1) not expressly authorized by his registration and by a quota assigned to him pursuant to section 306; or

(2) in excess of a quota assigned to him pursuant to section 306.

(c)(1) Except as provided in paragraph (2), any person who violates this section shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce this paragraph. Penalty. Jurisdiction of courts. 62 Stat. 934.

(2)(A) If a violation of this section is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (B) of this paragraph, be sentenced to imprisonment of not more than one year or a fine of not more than $25,000, or both.

Penalty.

(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under this paragraph (2), or for a crime under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of $50,000, or both.

Post, p. 1285.

Penalty.

(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of this section does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

Exception.

PROHIBITED ACTS C—PENALTIES

SEC. 403. (a) It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order or an order form as required by section 308 of this title;

Ante, p. 1259.

(2) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this title or title III; or

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance.

(b) It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this title or title III. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

"Communication facility."

Penalty.

(c) Any person who violates this section shall be sentenced to a term of imprisonment of not more than 4 years, a fine of not more than $30,000, or both; except that if any person commits such a violation after one or more prior convictions of him for violation of this section, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs,

marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 8 years, a fine of not more than $60,000, or both. Penalty.

PENALTY FOR SIMPLE POSSESSION; CONDITIONAL DISCHARGE AND EXPUNGING OF RECORDS FOR FIRST OFFENSE

SEC. 404. (a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III. Post, p. 1285. Any person who violates this subsection shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $5,000, or both, except that if he commits such offense after a prior conviction or convictions under this subsection have become final, he shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than $10,000, or both.

(b)(1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this title or title III, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person. Nonpublic record, retention.

(2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter such order. First offense, expunging of records, order.

The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE

SEC. 405. (a) Any person at least eighteen years of age who violates section 401(a)(1) by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b)) punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b), and (2) at least twice any special parole term authorized by section 401(b), for a first offense involving the same controlled substance and schedule.

(b) Any person at least eighteen years of age who violates section 401(a)(1) by distributing a controlled substance to a person under twenty-one years of age after a prior conviction or convictions under subsection (a) of this section (or under section 303(b)(2) of the Federal Food, Drug, and Cosmetic Act as in effect prior to the effective date of section 701(b) of this Act) have become final, is punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b), and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule.

82 Stat. 1361.
21 USC 333.

ATTEMPT AND CONSPIRACY

SEC. 406. Any person who attempts or conspires to commit any offense defined in this title is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

ADDITIONAL PENALTIES

SEC. 407. Any penalty imposed for violation of this title shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

CONTINUING CRIMINAL ENTERPRISE

SEC. 408. (a)(1) Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 10 years and which may be up to life imprisonment, to a fine of not more than $100,000, and to the forfeiture prescribed in paragraph (2); except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine of not more than $200,000, and to the forfeiture prescribed in paragraph (2).

Penalty.

(2) Any person who is convicted under paragraph (1) of engaging in a continuing criminal enterprise shall forfeit to the United States—

Forfeiture.

(A) the profits obtained by him in such enterprise, and

(B) any of his interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

(b) For purposes of subsection (a), a person is engaged in a continuing criminal enterprise if—

(1) he violates any provision of this title or title III the punishment for which is a felony, and Post, p. 1285.

(2) such violation is a part of a continuing series of violations of this title or title III—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

(c) In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and section 4202 of title 18 of the United States Code and the Act of July 15, 1932 (D.C. Code, secs. 24-203—24-207), shall not apply. 65 Stat. 150; 47 Stat. 697; 61 Stat. 378; 67 Stat. 91; 79 Stat. 113.

(d) The district courts of the United States (including courts in the territories or possessions of the United States having jurisdiction under subsection (a)) shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as they shall deem proper. Jurisdiction of courts.

DANGEROUS SPECIAL DRUG OFFENDER SENTENCING

SEC. 409. (a) Whenever a United States attorney charged with the prosecution of a defendant in a court of the United States for an alleged felonious violation of any provision of this title or title III committed when the defendant was over the age of twenty-one years has reasons to believe that the defendant is a dangerous special drug offender such United States attorney, a reasonable time before trial or acceptance by the court of a plea of guilty or nolo contendere, may sign and file with the court, and may amend, a notice (1) specifying that the defendant is a dangerous special drug offender who upon conviction for such felonious violation is subject to the imposition of a sentence under subsection (b) of this section, and (2) setting out with particularity the reasons why such attorney believes the defendant to be a dangerous special drug offender. In no case shall the fact that the defendant is alleged to be a dangerous special drug offender be an issue upon the trial of such felonious violation, be disclosed to the jury, or be disclosed before any plea of guilty or nolo contendere or verdict or finding of guilty to the presiding judge without the consent of the parties. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, it may order the notice sealed and the notice shall not be subject to subpena or public inspection during the pendency of such criminal matter, except on order of the court, but shall be subject to inspection by the defendant alleged to be a dangerous special drug offender and his counsel. Notice. Prohibition.

(b) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of the defendant of such felonious violation, a hearing shall be held, before sentence is imposed, by the court sitting without a jury. Hearing without jury.

Notice.

Presentence report, inspection.

Penalty.

Sentence.

The court shall fix a time for the hearing, and notice thereof shall be given to the defendant and the United States at least ten days prior thereto. The court shall permit the United States and counsel for the defendant, or the defendant if he is not represented by counsel, to inspect the presentence report sufficiently prior to the hearing as to afford a reasonable opportunity for verification. In extraordinary cases, the court may withhold material not relevant to a proper sentence, diagnostic opinion which might seriously disrupt a program of rehabilitation, any source of information obtained on a promise of confidentiality, and material previously disclosed in open court. A court withholding all or part of a presentence report shall inform the parties of its action and place in the record the reasons therefor. The court may require parties inspecting all or part of a presentence report to give notice of any part thereof intended to be controverted. In connection with the hearing, the defendant and the United States shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment shall be prima facie evidence of such former judgment or commitment. If it appears by a preponderance of the information, including information submitted during the trial of such felonious violation and the sentencing hearing and so much of the presentence report as the court relies upon, that the defendant is a dangerous special drug offender, the court shall sentence the defendant to imprisonment for an appropriate term not to exceed twenty-five years and not disproportionate in severity to the maximum term otherwise authorized by law for such felonious violation. Otherwise it shall sentence the defendant in accordance with the law prescribing penalties for such felonious violation. The court shall place in the record its findings, including an identification of the information relied upon in making such findings, and its reasons for the sentence imposed.

(c) This section shall not prevent the imposition and execution of a sentence of imprisonment for life or for a term exceeding twenty-five years upon any person convicted of an offense so punishable.

(d) Notwithstanding any other provision of this section, the court shall not sentence a dangerous special drug offender to less than any mandatory minimum penalty prescribed by law for such felonious violation. This section shall not be construed as creating any mandatory minimum penalty.

Conditions.

(e) A defendant is a special drug offender for purposes of this section if—

(1) the defendant has previously been convicted in courts of the United States or a State or any political subdivision thereof for two or more offenses involving dealing in controlled substances, committed on occasions different from one another and different from such felonious violation, and punishable in such courts by death or imprisonment in excess of one year, for one or more of such convictions the defendant has been imprisoned prior to the commission of such felonious violation, and less than five years have elapsed between the commission of such felonious violation and either the defendant's release, or parole or otherwise, from imprisonment for one such conviction or his commission of the last such previous offense or another offense involving dealing in controlled substances and punishable by death or imprisonment in excess of one year under applicable laws of the United States or a State or any political subdivision thereof; or

(2) the defendant committed such felonious violation as part of a pattern of dealing in controlled substances which was crimi-

nal under applicable laws of any jurisdiction, which constituted a substantial source of his income, and in which he manifested special skill or expertise; or

(3) such felonious violation was, or the defendant committed such felonious violation in furtherance of, a conspiracy with three or more other persons to engage in a pattern of dealing in controlled substances which was criminal under applicable laws of any jurisdiction, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or dealing, or give or receive a bribe or use force in connection with such dealing.

A conviction shown on direct or collateral review or at the hearing to be invalid or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of paragraph (1) of this subsection. In support of findings under paragraph (2) of this subsection, it may be shown that the defendant has had in his own name or under his control income or property not explained as derived from a source other than such dealing. For purposes of paragraph (2) of this subsection, a substantial source of income means a source of income which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and fifty-week year, without reference to exceptions, under section 6(a)(1) of the Fair Labor Standards Act of 1938 for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the defendant's declared adjusted gross income under section 62 of the Internal Revenue Code of 1954. For purposes of paragraph (2) of this subsection, special skill or expertise in such dealing includes unusual knowledge, judgment or ability, including manual dexterity, facilitating the initiation, organizing, planning, financing, direction, management, supervision, execution or concealment of such dealing, the enlistment of accomplices in such dealing, the escape from detection or apprehension for such dealing, or the disposition of the fruits or proceeds of such dealing. For purposes of paragraphs (2) and (3) of this subsection, such dealing forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.

Substantial source of income.

80 Stat. 838.
29 USC 206.

68A Stat. 17; 83 Stat. 655.
26 USC 62.

Dealing.

(f) A defendant is dangerous for purposes of this section if a period of confinement longer than that provided for such felonious violation is required for the protection of the public from further criminal conduct by the defendant.

Defendant, dangerous.

(g) The time for taking an appeal from a conviction for which sentence is imposed after proceedings under this section shall be measured from imposition of the original sentence.

Appeal.

(h) With respect to the imposition, correction, or reduction of a sentence after proceedings under this section, a review of the sentence on the record of the sentencing court may be taken by the defendant or the United States to a court of appeals. Any review of the sentence taken by the United States shall be taken at least five days before expiration of the time for taking a review of the sentence or appeal of the conviction by the defendant and shall be diligently prosecuted. The sentencing court may, with or without motion and notice, extend the time for taking a review of the sentence for a period not to exceed thirty days from the expiration of the time otherwise prescribed by law. The court shall not extend the time for taking a review of the sentence by the United States after the time has expired. A court

Sentence, review.

extending the time for taking a review of the sentence by the United States shall extend the time for taking a review of the sentence or appeal of the conviction by the defendant for the same period. The taking of a review of the sentence by the United States shall be deemed the taking of a review of the sentence and an appeal of the conviction by the defendant. Review of the sentence shall include review of whether the procedure employed was lawful, the findings made were clearly erroneous, or the sentencing court's discretion was abused. The court of appeals on review of the sentence may, after considering the record, including the entire presentence report, information submitted during the trial of such felonious violation and the sentencing hearing, and the findings and reasons of the sentencing court, affirm the sentence, impose or direct the imposition of any sentence which the sentencing court could originally have imposed, or remand for further sentencing proceedings and imposition of sentence, except that a sentence may be made more severe only on review of the sentence taken by the United States and after hearing. Failure of the United States to take a review of the imposition of the sentence shall, upon review taken by the United States of the correction or reduction of the sentence, foreclose imposition of a sentence more severe than that previously imposed. Any withdrawal or dismissal of review of the sentence taken by the United States shall foreclose imposition of a sentence more severe than that reviewed but shall not otherwise foreclose the review of the sentence or the appeal of the conviction. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence. Any review of the sentence taken by the United States may be dismissed on a showing of the abuse of the right of the United States to take such review.

INFORMATION FOR SENTENCING

SEC. 410. Except as otherwise provided in this title or section 303(a) of the Public Health Service Act, no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence under this title or title III.

70 Stat. 929.
42 USC 242a.

Post, p. 1285.

PROCEEDINGS TO ESTABLISH PRIOR CONVICTIONS

SEC. 411. (a)(1) No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

Prohibition.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

(b) If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence. Previous conviction, affirmation or denial.

(c)(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1). The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law. Denial, written response. Hearing. Court without jury. Evidence, introduction.

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge. Constitution of U.S., violation.

(d)(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part. Sentence, imposition.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the United States attorney, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by this part. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

(e) No person who stands convicted of an offense under this part may challenge the validity of any prior conviction alleged under this section which occurred more than five years before the date of the information alleging such prior conviction. Statute of limitations.

Part E—Administrative and Enforcement Provisions

PROCEDURES

Sec. 501. (a) The Attorney General may delegate any of his functions under this title to any officer or employee of the Department of Justice. Attorney General, functions, delegation.

Regulations.

(b) The Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this title.

Gifts, etc., acceptance.

(c) The Attorney General may accept in the name of the Department of Justice any form of devise, bequest, gift, or donation where the donor intends to donate property for the purpose of preventing or controlling the abuse of controlled substances. He may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey any such property other than moneys.

EDUCATION AND RESEARCH PROGRAMS OF THE ATTORNEY GENERAL

SEC. 502. (a) The Attorney General is authorized to carry out educational and research programs directly related to enforcement of the laws under his jurisdiction concerning drugs or other substances which are or may be subject to control under this title. Such programs may include—

(1) educational and training programs on drug abuse and controlled substances law enforcement for local, State, and Federal personnel;

(2) studies or special projects designed to compare the deterrent effects of various enforcement strategies on drug use and abuse;

(3) studies or special projects designed to assess and detect accurately the presence in the human body of drugs or other substances which are or may be subject to control under this title, including the development of rapid field identification methods which would enable agents to detect microquantities of such drugs or other substances;

(4) studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country;

(5) studies or special projects to develop more effective methods to prevent diversion of controlled substances into illegal channels; and

(6) studies or special projects to develop information necessary to carry out his functions under section 201 of this title.

Ante, p. 1245.

(b) The Attorney General may enter into contracts for such educational and research activities without performance bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

Research populations, identification, prohibition.

(c) The Attorney General may authorize persons engaged in research to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

Controlled substances, exception.

(d) The Attorney General, on his own motion or at the request of the Secretary, may authorize the possession, distribution, and dispensing of controlled substances by persons engaged in research. Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Attorney General.

COOPERATIVE ARRANGEMENTS

SEC. 503. (a) The Attorney General shall cooperate with local, State, and Federal agencies concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he is authorized to—

(1) arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

(2) cooperate in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(3) conduct training programs on controlled substance law enforcement for local, State, and Federal personnel;

(4) maintain in the Department of Justice a unit which will accept, catalog, file, and otherwise utilize all information and statistics, including records of controlled substance abusers and other controlled substance law offenders, which may be received from Federal, State, and local agencies, and make such information available for Federal, State, and local law enforcement purposes; and

(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) When requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance, including technical advice, to him for carrying out his functions under this title; except that no such agency or instrumentality shall be required to furnish the name of, or other identifying information about, a patient or research subject whose identity it has undertaken to keep confidential. Assistance. Prohibition.

ADVISORY COMMITTEES

SEC. 504. The Attorney General may from time to time appoint committees to advise him with respect to preventing and controlling the abuse of controlled substances. Members of the committees may be entitled to receive compensation at the rate of $100 for each day (including traveltime) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the committees, members of the committees shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code. Appointment. Compensation. Travel expenses, etc. 80 Stat. 498; 83 Stat. 190. 5 USC 5701.

ADMINISTRATIVE HEARINGS

SEC. 505. (a) In carrying out his functions under this title, the Attorney General may hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States.

(b) Except as otherwise provided in this title, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5, title 5, United States Code. 80 Stat. 381. 5 USC 551.

SUBPENAS

SEC. 506. (a) In any investigation relating to his functions under this title with respect to controlled substances, the Attorney General may subpena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory

or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Exception.

Fees.

Service.

(b) A subpena issued under this section may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

Refusal to obey subpena.

(c) In the case of contumacy by or refusal to obey a subpena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpena. The court may issue an order requiring the subpenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

Order.

Failure to obey order, penalty. Jurisdiction.

JUDICIAL REVIEW

SEC. 507. All final determinations, findings, and conclusions of the Attorney General under this title shall be final and conclusive decisions of the matters involved, except that any person aggrieved by a final decision of the Attorney General may obtain review of the decision in the United States Court of Appeals for the District of Columbia or for the circuit in which his principal place of business is located upon petition filed with the court and delivered to the Attorney General within thirty days after notice of the decision. Findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive.

POWERS OF ENFORCEMENT PERSONNEL

SEC. 508. Any officer or employee of the Bureau of Narcotics and Dangerous Drug designated by the Attorney General may—

(1) carry firearms;

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpenas, and summonses issued under the authority of the United States;

(3) make arrests without warrant (A) for any offense against the United States committed in his presence, or (B) for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony;

(4) make seizures of property pursuant to the provisions of this title; and

(5) perform such other law enforcement duties as the Attorney General may designate.

SEARCH WARRANTS

SEC. 509. (a) A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or United States magistrate issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

Authority to break and enter under certain conditions.

(b) Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States magistrate issuing the warrant (1) is satisfied that there is probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person, and (2) has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

"Controlled premises."

SEC. 510. (a) As used in this section, the term "controlled premises" means—

(1) places where original or other records or documents required under this title are kept or required to be kept, and

(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 303 (or exempted from registration under section 302(d)) may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of controlled substances.

(b)(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this title and otherwise facilitating the carrying out of his functions under this title, the Attorney General is authorized, in accordance with this section, to enter controlled premises and to conduct administrative inspections thereof, and of the things specified in this section, relevant to those functions.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Attorney General. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) a written notice of his inspection authority (which notice in the case of an inspection requiring, or in fact supported by, an administrative inspection warrant shall consist of such warrant), shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right—

(A) to inspect and copy records, reports, and other documents required to be kept or made under this title;

(B) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished drugs and other substances or materials, containers, and labeling found therein, and, except as provided in para-

graph (5) of this subsection, all other things therein (including records, files, papers, processes, controls, and facilities) appropriate for verification of the records, reports, and documents referred to in clause (A) or otherwise bearing on the provisions of this title; and

(C) to inventory any stock of any controlled substance therein and obtain samples of any such substance.

(4) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data; or

(C) pricing data.

(c) A warrant under this section shall not be required for the inspection of books and records pursuant to an administrative subpena issued in accordance with section 506, nor for entries and administrative inspections (including seizures of property)—

(1) with the consent of the owner, operator, or agent in charge of the controlled premises;

(2) in situations presenting imminent danger to health or safety;

(3) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(5) in any other situations where a warrant is not constitutionally required.

Administrative inspection warrants, issuance and execution.

(d) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant.

"Probable cause."

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (b) (2) to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made. Warrants, filing.

FORFEITURES

SEC. 511. (a) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this title.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this title.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2), except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this title or title III; and

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

Post, p. 1285.

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this title.

(b) Any property subject to forfeiture to the United States under this title may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this title;

(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Attorney General has probable cause to believe that the property has been used or is intended to be used in violation of this title.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

Property, custody of Attorney General.

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under the provisions of this title, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(d) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this title by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Whenever property is forfeited under this title the Attorney General may—

(1) retain the property for official use;

(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, but the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising and court costs;

(3) require that the General Services Administration take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General).

Controlled substances, forfeiture.

(f) All controlled substances in schedule I that are possessed, transferred, sold, or offered for sale in violation of the provisions of this title shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

(g) (1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this title, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

INJUNCTIONS

Jurisdiction of courts.

SEC. 512. (a) The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this title.

(b) In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

28 USC app.

ENFORCEMENT PROCEEDINGS

Notice.

SEC. 513. Before any violation of this title is reported by the Director of the Bureau of Narcotics and Dangerous Drugs to any United States attorney for institution of a criminal proceeding, the Director may require that the person against whom such proceeding is contemplated be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

IMMUNITY AND PRIVILEGE

Refusal to testify, prohibition.

SEC. 514. (a) Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before a court or grand jury of the United States, involving a violation of this title, and the person presiding over the proceeding communicates to the witness an order issued under this section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. But no testimony or other information compelled under the order issued under subsection (b) of this section or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, including any criminal case brought in a court of a State, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

Order.

(b) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, upon the request of the United States attorney for such district, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

(c) A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, or any Assistant Attorney General designated by the Attorney General, request an order under subsection (b) when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

BURDEN OF PROOF; LIABILITIES

SEC. 515. (a)(1) It shall not be necessary for the United States to negative any exemption or exception set forth in this title in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this title, and the burden of going forward with the evidence with respect to any such exemption or exception shall be upon the person claiming its benefit.

Ante, p. 1264.

(2) In the case of a person charged under section 404(a) with the possession of a controlled substance, any label identifying such substance for purposes of section 503(b)(2) of the Federal Food, Drug, and Cosmetic Act shall be admissible in evidence and shall be prima facie evidence that such substance was obtained pursuant to a valid prescription from a practitioner while acting in the course of his professional practice.

65 Stat. 648.
21 USC 353.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this title, he shall be presumed not to be the holder of such registration or form, and the burden of going forward with the evidence with respect to such registration or form shall be upon him.

(c) The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule I was used in accordance with the provisions of this title shall be on the persons engaged in such use.

Criminal liability, prohibition, exception.
62 Stat. 803.

(d) Except as provided in sections 2234 and 2235 of title 18, United States Code, no civil or criminal liability shall be imposed by virtue of this title upon any duly authorized Federal officer lawfully engaged in the enforcement of this title, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

PAYMENTS AND ADVANCES

Informers, payment.

SEC. 516. (a) The Attorney General is authorized to pay any person, from funds appropriated for the Bureau of Narcotics and Dangerous Drugs, for information concerning a violation of this title, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

(b) Moneys expended from appropriations of the Bureau of Narcotics and Dangerous Drugs for purchase of controlled substances and subsequently recovered shall be reimbursed to the current appropriation for the Bureau.

(c) The Attorney General is authorized to direct the advance of funds by the Treasury Department in connection with the enforcement of this title. Funds, advancement, authority of Attorney General.

PART F—ADVISORY COMMISSION

ESTABLISHMENT OF COMMISSION ON MARIHUANA AND DRUG ABUSE

SEC. 601. (a) There is established a commission to be known as the Commission on Marihuana and Drug Abuse (hereafter in this section referred to as the "Commission"). The Commission shall be composed of— Membership.

(1) two Members of the Senate appointed by the President of the Senate;

(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) nine members appointed by the President of the United States.

At no time shall more than one of the members appointed under paragraph (1), or more than one of the members appointed under paragraph (2), or more than five of the members appointed under paragraph (3) be members of the same political party.

(b)(1) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Seven members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Quorum.

(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Members of the Commission from private life shall receive $100 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties. Travel expenses, etc. Compensation.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof. Meetings.

(c)(1) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. Personnel. 80 Stat. 443, 467. 5 USC 5101, 5331.

(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $75 per diem, including traveltime. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently. 35 F. R. 6247. Experts and consultants. 80 Stat. 416. Travel expenses, etc. 80 Stat. 499; 83 Stat. 190.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to Information, availability.

carry out its duties under this section. Upon request of the Chairman of the Commission, such department or agency shall furnish such information to the Commission.

Marihuana, study.

(d)(1) The Commission shall conduct a study of marihuana including, but not limited to, the following areas:

(A) the extent of use of marihuana in the United States to include its various sources, the number of users, number of arrests, number of convictions, amount of marihuana seized, type of user, nature of use;

(B) an evaluation of the efficacy of existing marihuana laws;

(C) a study of the pharmacology of marihuana and its immediate and long-term effects, both physiological and psychological;

(D) the relationship of marihuana use to aggressive behavior and crime;

(E) the relationship between marihuana and the use of other drugs; and

(F) the international control of marihuana.

Report to President and Congress.

(2) Within one year after the date on which funds first become available to carry out this section, the Commission shall submit to the President and the Congress a comprehensive report on its study and investigation under this subsection which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

Drug abuse, study and investigation.

(e) The Commission shall conduct a comprehensive study and investigation of the causes of drug abuse and their relative significance. The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

Interim reports.
Final report to President and Congress.
Termination.

Expenditures, limitation.

(f) Total expenditures of the Commission shall not exceed $1,000,000.

PART G—CONFORMING, TRANSITIONAL AND EFFECTIVE DATE, AND GENERAL PROVISIONS

REPEALS AND CONFORMING AMENDMENTS

Repeals.
79 Stat. 227, 232, 228;
82 Stat. 1361.

SEC. 701. (a) Sections 201(v), 301(q), and 511 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(v), 331(q), 360(a) are repealed.

Penalties.
82 Stat. 1361.

(b) Subsections (a) and (b) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) are amended to read as follows:

"SEC. 303. (a) Any person who violates a provision of section 301 shall be imprisoned for not more than one year or fined not more than $1,000, or both.

"(b) Notwithstanding the provisions of subsection (a) of this section, if any person commits such a violation after a conviction of him under this section has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $10,000 or both."

79 Stat. 233.

(c) Section 304(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(a)(2)) is amended (1) by striking out clauses (A) and (D), (2) by striking out "of such depressant or stimulant

drug or" in clause (C), (3) by adding "and" after the comma at the end of clause (C), and (4) by redesignating clauses (B), (C), and (E) as clauses (A), (B), and (C), respectively.

(d) Section 304(d)(3)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(d)(3)(iii)) is amended by striking out "depressant or stimulant drugs or". 79 Stat. 233.

(e) Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended (1) in subsection (a) by striking out paragraph (2), by inserting "and" at the end of paragraph (1), and by redesignating paragraph (3) as paragraph (2); (2) by striking out "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug" in the first sentence of subsection (b); (3) by striking out the last sentence of subsection (b); (4) by striking out "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug" in the first sentence of subsection (c); (5) by striking out the last sentence of subsection (c); (6) by striking out "(1)" in subsection (d) and by inserting a period after "drug or drugs" in that subsection and deleting the remainder of that subsection; and (7) by striking out "AND CERTAIN WHOLESALERS" in the section heading. 76 Stat. 794; 79 Stat. 231.

(f) Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) is amended by striking out "to depressant or stimulant drugs or" in subsection (e). 79 Stat. 234.

(g) Section 201(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(a)(2)) is amended by inserting a period after "Canal Zone" the first time these words appear and deleting all thereafter in such section 201(a)(2). 76 Stat. 796; 82 Stat. 1362.

(h) The last sentence of section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) is amended (1) by striking out "This paragraph" and inserting in lieu thereof "Clause (2) of the third sentence of this paragraph,", and (2) by striking out "section 2 of the Act of May 26, 1922, as amended (U.S.C. 1934, edition, title 21, sec. 173)" and inserting in lieu thereof "the Controlled Substances Import and Export Act". 52 Stat. 1058.

(i)(1) Section 1114 of title 18, United States Code, is amended by striking out "the Bureau of Narcotics" and inserting in lieu thereof "the Bureau of Narcotics and Dangerous Drugs". 65 Stat. 721.

(2) Section 1952 of such title is amended— 75 Stat. 498.

(A) by inserting in subsection (b)(1) "or controlled substances (as defined in section 102(6) of the Controlled Substances Act)" immediately following "narcotics"; and 18 USC 1952.

(B) by striking out "or narcotics" in subsection (c).

(j) Subsection (a) of section 302 of the Public Health Service Act (42 U.S.C. 242(a)) is amended to read as follows: Drugs, study. 58 Stat. 692.

"SEC. 302. (a) In carrying out the purposes of section 301 with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act and Controlled Substances Import and Export Act, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be

Ante, p. 1242. Post, p. 1285.

Report to Attorney General.

reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts."

PENDING PROCEEDINGS

SEC. 702. (a) Prosecutions for any violation of law occurring prior to the effective date of section 701 shall not be affected by the repeals or amendments made by such section, or abated by reason thereof.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of section 701 shall not be affected by the repeals or amendments made by such section, or abated by reason thereof.

(c) All administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on the date of enactment of this Act shall be continued and brought to final determination in accord with laws and regulations in effect prior to such date of enactment. Where a drug is finally determined under such proceedings to be a depressant or stimulant drug, as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act, such drug shall automatically be controlled under this title by the Attorney General without further proceedings and listed in the appropriate schedule after he has obtained the recommendation of the Secretary. Any drug with respect to which such a final determination has been made prior to the date of enactment of this Act which is not listed in section 202 within schedules I through V shall automatically be controlled under this title by the Attorney General without further proceedings, and be listed in the appropriate schedule, after he has obtained the recommendations of the Secretary.

Ante, p. 1281.

Ante, p. 1247.

PROVISIONAL REGISTRATION

SEC. 703. (a) (1) Any person who—

(A) is engaged in manufacturing, distributing, or dispensing any controlled substance on the day before the effective date of section 302, and

(B) is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act or under section 4722 of the Internal Revenue Code of 1954,

Ante, p. 1282.

68A Stat. 555.

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 303 for the manufacture, distribution, or dispensing (as the case may be) of controlled substances.

(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 or under such section 4722 (as the case may be) shall be his registration number for purposes of section 303 of this title.

(b) The provisions of section 304, relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

(1) the date on which such person has registered with the Attorney General under section 303 or has had his registration denied under such section, or

(2) such date as may be prescribed by the Attorney General for registration of manufacturers, distributors, or dispensers, as the case may be,

whichever occurs first.

EFFECTIVE DATES AND OTHER TRANSITIONAL PROVISIONS

SEC. 704. (a) Except as otherwise provided in this section, this title shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment.

(b) Parts A, B, E, and F of this title, section 702, this section, and sections 705 through 709, shall become effective upon enactment.

(c) Sections 305 (relating to labels and labeling), and 306 (relating to manufacturing quotas) shall become effective on the date specified in subsection (a) of this section, except that the Attorney General may by order published in the Federal Register postpone the effective date of either or both of these sections for such period as he may determine to be necessary for the efficient administration of this title.

Ante, p. 1256.

Publication in Federal Register.

CONTINUATION OF REGULATIONS

SEC. 705. Any orders, rules, and regulations which have been promulgated under any law affected by this title and which are in effect on the day preceding enactment of this title shall continue in effect until modified, superseded, or repealed.

SEVERABILITY

SEC. 706. If a provision of this Act is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

SAVING PROVISION

SEC. 707. Nothing in this Act, except this part and, to the extent of any inconsistency, sections 307(e) and 309 of this title, shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act.

52 Stat. 1040. 21 USC 301.

APPLICATION OF STATE LAW

SEC. 708. No provision of this title shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this title and that State law so that the two cannot consistently stand together.

APPROPRIATIONS AUTHORIZATIONS

SEC. 709. There are authorized to be appropriated for expenses of the Department of Justice in carrying out its functions under this title (except section 103) not to exceed $60,000,000 for the fiscal year ending June 30, 1972, $70,000,000 for the fiscal year ending June 30, 1973, and $90,000,000 for the fiscal year ending June 30, 1974.

Ante, p. 1245.

TITLE III—IMPORTATION AND EXPORTATION; AMENDMENTS AND REPEALS OF REVENUE LAWS

SHORT TITLE

Citation of title.

SEC. 1000. This title may be cited as the "Controlled Substances Import and Export Act".

PART A—IMPORTATION AND EXPORTATION

DEFINITIONS

SEC. 1001. (a) For purposes of this part—

(1) The term "import" means, with respect to any article, any bringing in or introduction of such article into any area (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(2) The term "customs territory of the United States" has the meaning assigned to such term by general headnote 2 to the Tariff Schedules of the United States (19 U.S.C. 1202).

77A Stat. 11.

(b) Each term defined in section 102 of title II shall have the same meaning for purposes of this title as such term has for purposes of title II.

Ante, p. 1242.

IMPORTATION OF CONTROLLED SUBSTANCES

Unlawful acts.

SEC. 1002. (a) It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of title II, or any narcotic drug in schedule III, IV, or V of title II, except that—

Exceptions.

(1) such amounts of crude opium and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and

(2) such amounts of any controlled substance in schedule I or II or any narcotic drug in schedule III, IV, or V that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States—

(A) during an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate, or

(B) in any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303,

Ante, p. 1253.

may be so imported under such regulations as the Attorney General shall prescribe. No crude opium may be so imported for the purpose of manufacturing heroin or smoking opium.

(b) It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any nonnarcotic controlled substance in schedule III, IV, or V, unless such nonnarcotic controlled substance—

(1) is imported for medical, scientific, or other legitimate uses, and

(2) is imported pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

(c) In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a), the Attorney General may permit the importation of additional amounts of coca leaves. All cocaine and ecgonine (and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made) contained in such additional amounts of coca leaves imported under this subsection shall be destroyed under the supervision of an authorized representative of the Attorney General.

EXPORTATION OF CONTROLLED SUBSTANCES

SEC. 1003. (a) It shall be unlawful to export from the United States any narcotic drug in schedule I, II, III, or IV unless— Unlawful acts.

(1) it is exported to a country which is a party to—

(A) the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or 38 Stat. 1912. 61 Stat. 2230.

(B) the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948; or 48 Stat. 1543. 62 Stat. 1796. 2 UST 1629.

(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961; 18 UST 1407.

(2) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

(3) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import, and a permit or license to import such drug has been issued by the country of import;

(4) substantial evidence is furnished to the Attorney General by the exporter that (A) the narcotic drug is to be applied exclusively to medical or scientific uses within the country of import, and (B) there is an actual need for the narcotic drug for medical or scientific uses within such country; and

(5) a permit to export the narcotic drug in each instance has been issued by the Attorney General.

(b) Notwithstanding subsection (a), the Attorney General may authorize any narcotic drug (including crude opium and coca leaves) in schedule I, II, III, or IV to be exported from the United States to a country which is a party to any of the international instruments mentioned in subsection (a) if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose. Ante, p. 1248.

(c) It shall be unlawful to export from the United States any non-narcotic controlled substance in schedule I or II unless—

(1) it is exported to a country which has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances;

(2) the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

(3) substantial evidence is furnished to the Attorney General that (A) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, (B) it will not be exported from such country, and (C) there is an actual need for the controlled substance for medical, scientific, or other legitimate uses within the country; and

(4) a permit to export the controlled substance in each instance has been issued by the Attorney General.

(d) Notwithstanding subsection (c), the Attorney General may authorize any nonnarcotic controlled substance in schedule I or II to be exported from the United States if the particular substance is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

Ante, p. 1248.

(e) It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substance in schedule V unless—

(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination;

(2) a special controlled substance invoice, in triplicate, accompanies the shipment setting forth such information as the Attorney General may prescribe to identify the parties to the shipment and the means of shipping, and

(3) two additional copies of the invoice are forwarded to the Attorney General before the controlled substance is exported from the United States.

TRANSSHIPMENT AND IN-TRANSIT SHIPMENT OF CONTROLLED SUBSTANCES

SEC. 1004. Notwithstanding sections 1002, 1003, and 1007—

(1) A controlled substance in schedule I may—

(A) be imported into the United States for transshipment to another country, or

(B) be transferred or transshipped from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation,

if and only if it is so imported, transferred, or transshipped (i) for scientific, medical, or other legitimate purposes in the country of destination, and (ii) with the prior written approval of the Attorney General (which shall be granted or denied within 21 days of the request).

(2) A controlled substance in schedule II, III, or IV may be so imported, transferred, or transshipped if and only if advance notice is given to the Attorney General in accordance with regulations of the Attorney General.

POSSESSION ON BOARD VESSELS, ETC., ARRIVING IN OR DEPARTING FROM UNITED STATES

SEC. 1005. It shall be unlawful for any person to bring or possess on board any vessel or aircraft, or on board any vehicle of a carrier,

arriving in or departing from the United States or the customs territory of the United States, a controlled substance in schedule I or II or a narcotic drug in schedule III or IV, unless such substance or drug is a part of the cargo entered in the manifest or part of the official supplies of the vessel, aircraft, or vehicle. Ante, p. 1248.

EXEMPTION AUTHORITY

SEC. 1006. (a) The Attorney General may by regulation exempt from sections 1002 (a) and (b), 1003, 1004, and 1005 any individual who has a controlled substance (except a substance in schedule I) in his possession for his personal medical use, or for administration to an animal accompanying him, if he lawfully obtained such substance and he makes such declaration (or gives such other notification) as the Attorney General may by regulation require.

(b) The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance listed in paragraph (a) or (b) of schedule III or in schedule IV or V from the applicaton of all or any part of this title if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

PERSONS REQUIRED TO REGISTER

SEC. 1007. (a) No person may—

(1) import into the customs territory of the United States from any place outside thereof (but within the United States), or import into the United States from any place outside thereof, any controlled substance, or

(2) export from the United States any controlled substance in schedule I, II, III, or IV,

unless there is in effect with respect to such person a registration issued by the Attorney General under section 1008, or unless such person is exempt from registration under subsection (b).

(b) (1) The following persons shall not be required to register under the provisions of this section and may lawfully possess a controlled substance:

(A) An agent or an employee of any importer or exporter registered under section 1008 if such agent or employee is acting in the usual course of his business or employment.

(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment.

(C) An ultimate user who possesses such substance for a purpose specified in section 102(25) and in conformity with an exemption granted under section 1006(a). Ante, p. 1245.

(2) The Attorney General may, by regulation, waive the requirement for registration of certain importers and exporters if he finds it consistent with the public health and safety; and may authorize any such importer or exporter to possess controlled substances for purposes of importation and exportation.

REGISTRATION REQUIREMENTS

SEC. 1008. (a) The Attorney General shall register an applicant to import or export a controlled substance in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this section. In determining the public interest, the factors enumerated in paragraph (1) through (6) of section 303(a) shall be considered.

Ante, p. 1253.

(b) Registration granted under subsection (a) of this section shall not entitle a registrant to import or export controlled substances in schedule I or II other than those specified in the registration.

(c) The Attorney General shall register an applicant to import a controlled substance in schedule III, IV, or V or to export a controlled substance in schedule III or IV, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (6) of section 303(d) shall be considered.

(d) No registration shall be issued under this part for a period in excess of one year. Unless the regulations of the Attorney General otherwise provide, section 302(f), 304, 305, and 307 shall apply to persons registered under this section to the same extent such sections apply to persons registered under section 303.

Ante, pp. 1253-1258.

Rules and regulations.

(e) The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration of importers and exporters of controlled substances under this section.

(f) Persons registered by the Attorney General under this section to import or export controlled substances may import or export (and, for the purpose of so importing or exporting, may possess) such substances to the extent authorized by their registration and in conformity with the other provisions of this title and title II.

(g) A separate registration shall be required at each principal place of business where the applicant imports or exports controlled substances.

(h) Except in emergency situations as described in section 1002(a)(2)(A), prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, the Attorney General shall give manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

MANUFACTURE OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION

SEC. 1009. It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II—

(1) intending that such substance be unlawfully imported into the United States; or

(2) knowing that such substance will be unlawfully imported into the United States.

This section is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

PROHIBITED ACTS A—PENALTIES

SEC. 1010. (a) Any person who—

(1) contrary to section 1002, 1003, or 1007, knowingly or intentionally imports or exports a controlled substance,

(2) contrary to section 1005, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or

(3) contrary to section 1009, manufactures or distributes a controlled substance,

shall be punished as provided in subsection (b).

(b)(1) In the case of a violation under subsection (a) with respect to a narcotic drug in schedule I or II, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $25,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less than three years in addition to such term of imprisonment. Ante, p. 1248.

(2) In the case of a violation under subsection (a) with respect to a controlled substance other than a narcotic drug in schedule I or II, the person committing such violation shall be imprisoned not more than five years, or be fined not more than $15,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall, in in addition to such term of imprisonment, include (A) a special parole term of not less than two years if such controlled substance is in schedule I, II, III, or (B) a special parole term of not less than one year if such controlled substance is in schedule IV.

(c) A special parole term imposed under this section or section 1012 may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. The special term provided for in this section and in section 1012 is in addition to, and not in lieu of, any other parole provided for by law.

PROHIBITED ACTS B—PENALTIES

SEC. 1011. Any person who violates section 1004 shall be subject to the following penalties:

(1) Except as provided in paragraph (2), any such person shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. Sections 402 (c)(1) and (c)(3) shall apply to any civil penalty assessed under this paragraph. Ante, p. 1262.

(2) If such a violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally and the trier of fact specifically finds that the violation was so committed, such person shall be sentenced to imprisonment for not more than one year or a fine of not more than $25,000 or both.

SECOND OR SUBSEQUENT OFFENSES

SEC. 1012. (a) Any person convicted of any offense under this part is, if the offense is a second or subsequent offense, punishable by a term of imprisonment twice that otherwise authorized, by twice the fine otherwise authorized, or by both. If the conviction is for an offense

punishable under section 1010(b), and if it is the offender's second or subsequent offense, the court shall impose, in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.

(b) For purposes of this section, a person shall be considered convicted of a second or subsequent offense if, prior to the commission of such offense, one or more prior convictions of him for a felony under any provision of this title or title II or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final.

Ante, p. 1242.

(c) Section 411 shall apply with respect to any proceeding to sentence a person under this section.

Ante, p. 1269.

ATTEMPT AND CONSPIRACY

SEC. 1013. Any person who attempts or conspires to commit any offense defined in this title is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

ADDITIONAL PENALTIES

SEC. 1014. Any penalty imposed for violation of this title shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

APPLICABILITY OF PART E OF TITLE II

SEC. 1015. Part E of title II shall apply with respect to functions of the Attorney General (and of officers and employees of the Bureau of Narcotics and Dangerous Drugs) under this title, to administrative and judicial proceedings under this title, and to violations of this title, to the same extent that such part applies to functions of the Attorney General (and such officers and employees) under title II, to such proceedings under title II, and to violations of title II. For purposes of the application of this section to section 510, any reference in such section 510 to "this title" shall be deemed to be a reference to title III, any reference to section 303 shall be deemed to be a reference to section 1008, and any reference to section 302(d) shall be deemed to be a reference to section 1007(b)(2).

Ante, p. 1270.
Ante, p. 1274.
Ante, p. 1285.
Ante, p. 1253.

AUTHORITY OF SECRETARY OF TREASURY

SEC. 1016. Nothing in this Act shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

PART B—AMENDMENTS AND REPEALS, TRANSITIONAL AND EFFECTIVE DATE PROVISIONS

REPEALS

SEC. 1101. (a) The following provisions of law are repealed:

(1) The Act of February 23, 1887 (21 U.S.C. 191–193).

24 Stat. 409.

(2) The Narcotic Drugs Import and Export Act (21 U.S.C. 171, 173, 174–184, 185).

38 Stat. 275.

(3) The Act of March 28, 1928 (31 U.S.C. 529a).

53 Stat. 1262.

(4) Sections 2(b), 6, 7, and 8 of the Act of June 14, 1930 (21 U.S.C. 162(b), 173a, 197, 198).

46 Stat. 585; 70 Stat. 575.

(5) The Act of July 3, 1930 (21 U.S.C. 199). 46 Stat. 850.
(6) Section 6 of the Act of March 28, 1928 (31 U.S.C. 529g). 53 Stat. 1263.
(7) The Opium Poppy Control Act of 1942 (21 U.S.C. 188–188n). 56 Stat. 1045.
(8) Section 15 of the Act of August 1, 1956 (48 U.S.C. 1421m). 70 Stat. 910.
(9) The Act of July 11, 1941 (21 U.S.C. 184a). 55 Stat. 584.
(10) The Narcotics Manufacturing Act of 1960 (21 U.S.C. 501–517). 74 Stat. 55.

(b)(1)(A) Chapter 68 of title 18 of the United States Code (relating to narcotics) is repealed. 70 Stat. 572. 18 USC 1401-1405.

(B) The item relating to such chapter 68 in the analysis of part I of such title 18 is repealed.

(2)(A) Section 3616 of title 18 of the United States Code (relating to use of confiscated motor vehicles) is repealed. 62 Stat. 840.

(B) The item relating to such section 3616 in the analysis of chapter 229 of such title 18 is repealed. 68A Stat. 549.

(3)(A) Subchapter A of chapter 39 of the Internal Revenue Code of 1954 (relating to narcotic drugs and marihuana) is repealed. 26 USC 4701-4776.

(B) The table of subchapters of such chapter 39 is amended by striking out

"SUBCHAPTER A. Narcotic drugs and marihuana."

(4)(A) Sections 7237 (relating to violation of laws relating to narcotic drugs and to marihuana) and 7238 (relating to violation of laws relating to opium for smoking) of the Internal Revenue Code of 1954 are repealed. 70 Stat. 568;

(B) The table of sections of part II of subchapter A of chapter 75 of the Internal Revenue Code of 1954 is amended by striking out the items relating to such sections 7237 and 7238. 80 Stat. 1449. 26 USC 7237, 7238.

(5)(A) Section 7491 of the Internal Revenue Code of 1954 (relating to burden of proof of exemptions in case of marihuana offenses) is repealed. 26 USC 7491.

(B) The table of sections for subchapter E of chapter 76 of the Internal Revenue Code of 1954 is amended by striking out the item relating to such section 7491.

CONFORMING AMENDMENTS

SEC. 1102. (a) Section 4901(a) of the Internal Revenue Code of 1954 is amended by striking out the comma immediately before "4461" and inserting in lieu thereof "or", and by striking out ", 4721 (narcotic drugs), or 4751 (marihuana)". 79 Stat. 149.

(b) Section 4905(b)(1) of the Internal Revenue Code of 1954 (relating to registration) is amended by striking out ", narcotics, marihuana," and ", 4722, 4753,".

(c) Section 6808 of the Internal Revenue Code of 1954 (relating to special provisions relating to stamps) is amended by striking out paragraph (8).

(d) Section 7012 of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out subsections (a) and (b).

(e) Section 7103(d)(3) of the Internal Revenue Code of 1954 (relating to bonds required with respect to certain products) is amended by striking out subparagraph (D).

(f) Section 7326 of the Internal Revenue Code of 1954 (relating to disposal of forfeited or abandoned property in special cases) is amended by striking out subsection (b). 72 Stat. 1429.

(g)(1) Section 7607 of the Internal Revenue Code of 1954 (relating to additional authority for Bureau of Narcotics and Bureau of Customs) is amended— 70 Stat. 570.

(A) by striking out "The Commissioner, Deputy Commissioner, Assistant to the Commissioner, and agents of the Bureau of Narcotics of the Department of the Treasury, and officers" and inserting in lieu thereof "Officers";

(B) by striking out in paragraph (2) "narcotic drugs (as defined in section 4731) or marihuana (as defined in section 4761)" and inserting in lieu thereof "narcotic drugs (as defined in section 102(16) of the Controlled Substances Act) or marihuana (as defined in section 102(15) of the Controlled Substances Act)"; and

(C) by striking out "BUREAU OF NARCOTICS AND" in the section heading.

(2) The item relating to section 7607 in the table of contents of subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out "Bureau of Narcotics and".

70 Stat. 570.

(h) Section 7609(a) of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out paragraphs (3) and (4).

72 Stat. 1430.

(i) Section 7641 of the Internal Revenue Code of 1954 (relating to supervision of operations of certain manufacturers) is amended by striking out "opium suitable for smoking purposes,".

68A Stat. 905.
26 USC 7641.

(j) Section 7651 of the Internal Revenue Code of 1954 (relating to administration and collection of taxes in possessions) is amended by striking out "and in sections 4705(b), 4735, and 4762 (relating to taxes on narcotic drugs and marihuana)".

(k) Section 7655(a) of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out paragraphs (3) and (4).

(l) Section 2901(a) of title 28 of the United States Code is amended by striking out "as defined by section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined by section 102(16) of the Controlled Substances Act".

80 Stat. 1438.

(m) The last sentence of the second paragraph of section 584 of the Act of June 17, 1930 (19 U.S.C. 1584), is amended to read as follows: "As used in this paragraph, the terms 'opiate' and 'marihuana' shall have the same meaning given those terms by sections 102(17) and 102(15), respectively, of the Controlled Substances Act."

58 Stat. 722;
60 Stat. 39.

(n) (1) The first section of the Act of August 7, 1939 (31 U.S.C. 529a), is repealed.

Repeal.
53 Stat. 1262.

(2) Section 3 of such Act (31 U.S.C. 529d) is amended by striking out "or the Commissioner of Narcotics, as the case may be,".

(3) Section 4 of such Act (31 U.S.C. 529e) is amended by striking out "or narcotics" each place it appears.

(4) Section 5 of such Act (31 U.S.C. 529f) is amended by striking out "or narcotics" in the first sentence.

(o) Section 308(c)(2) of the Act of August 27, 1935 (40 U.S.C. 304m) is amended by striking out "Narcotic Drug Import and Export Act" and inserting in lieu thereof "Controlled Substances Act".

49 Stat. 880.

(p) Paragraph (a) of section 301 of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. 3411) is amended by striking out "as defined in section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined in section 102(16) of the Controlled Substances Act".

80 Stat. 1444.

(q) Paragraph (a) of the first section of the Act of July 15, 1954 (46 U.S.C. 239a) is amended to read as follows:

68 Stat. 484.

"(a) The term 'narcotic drug' shall have the meaning given that term by section 102(16) of the Controlled Substances Act and shall also include marihuana as defined by section 102(15) of such Act."

(r) Paragraph (d) of section 7 of the Act of August 9, 1939 (49 U.S.C. 787) is amended to read as follows: 53 Stat. 1292.

"(d) The term 'narcotic drug' shall have the meaning given that term by section 102(16) of the Controlled Substances Act and shall also include marihuana as defined by section 102(15) of such Act;" "Narcotic drug."

(s) Paragraph (a) of section 4251 of title 18, United States Code, is amended by striking out "as defined in section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined in section 102(16) of the Controlled Substances Act". 80 Stat. 1442.

(t) The first section of the Act of August 11, 1955 (21 U.S.C. 198a), is amended to read as follows: "That for the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of section 545 of title 18 of the United States Code (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 102 of the Controlled Substances Act), the Secretary of the Treasury may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States." Investigations, subpoena power. 69 Stat. 684. 62 Stat. 716. Witnesses, travel expenses.

PENDING PROCEEDINGS

SEC. 1103. (a) Prosecutions for any violation of law occurring prior to the effective date of section 1101 shall not be affected by the repeals or amendments made by such section or section 1102, or abated by reason thereof.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of section 1101 shall not be affected by the repeals or amendments made by such section or section 1102, or abated by reason thereof.

PROVISIONAL REGISTRATION

SEC. 1104. (a) (1) Any person—

(A) who is engaged in importing or exporting any controlled substance on the day before the effective date of section 1007,

(B) who notifies the Attorney General that he is so engaged, and

(C) who is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act or under section 4722 of the Internal Revenue Code of 1954, 76 Stat. 794; 79 Stat. 231. 21 USC 360. 68A Stat. 555. 26 USC 4722.

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 1008 for the import or export (as the case may be) of controlled substances.

(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 or under such section 4722 (as the case may be) shall be his registration number for purposes of part A of this title. Ante, p. 1285.

Ante, p. 1255.

(b) The provisions of section 304, relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

(1) the date on which such person has registered with the Attorney General under section 1008 or has had his registration denied under such section, or

(2) such date as may be prescribed by the Attorney General for registration of importers or exporters, as the case may be,

whichever occurs first.

EFFECTIVE DATES AND OTHER TRANSITIONAL PROVISIONS

SEC. 1105. (a) Except as otherwise provided in this section, this title shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment.

(b) Sections 1000, 1001, 1006, 1015, 1016, 1103, 1104, and this section shall become effective upon enactment.

Ante, pp. 1284, 1257.

(c)(1) If the Attorney General, pursuant to the authority of section 704(c) of title II, postpones the effective date of section 306 (relating to manufacturing quotas) for any period beyond the date specified in section 704(a) and such postponement applies to narcotic drugs, the repeal of the Narcotics Manufacturing Act of 1960 by paragraph (10) of section 1101(a) of this title is hereby postponed for the same period, except that the postponement made by this paragraph shall not apply to the repeal of sections 4, 5, 13, 15, and 16 of that Act.

(2) Effective for any period of postponement, by paragraph (1) of this subsection, of the repeal of provisions of the Narcotics Manufacturing Act of 1960, that Act shall be applied subject to the following modifications:

"Narcotic drug." Ante, p. 1244.

(A) The term "narcotic drug" shall mean a narcotic drug as defined in section 102(16) of title II, and all references, in the Narcotics Manufacturing Act of 1960, to a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 are amended to refer to a narcotic drug as defined by such section 102(16).

(B) On and after the date prescribed by the Attorney General pursuant to clause (2) of section 703(c) of title II, the requirements of a manufacturer's license with respect to a basic class of narcotic drug under the Narcotics Manufacturing Act of 1960, and of a registration under section 4722 of the Internal Revenue Code of 1954 as a prerequisite to issuance of such a license, shall be superseded by a requirement of actual registration (as distinguished from provisional registration) as a manufacturer of that class of drug under section 303(a) of title II.

Ante, p. 1253.

(C) On and after the effective date of the repeal of such section 4722 by section 1101(b)(3) of this title, but prior to the date specified in subparagraph (B) of this paragraph, the requirement of registration under such section 4722 as a prerequisite of a manufacturer's license under the Narcotics Manufacturing Act of 1960 shall be superseded by a requirement of either (i) actual registration as a manufacturer under section 303 of title II or (ii) provisional registration (by virtue of a preexisting registration under such section 4722) under section 703 of title II.

(d) Any orders, rules, and regulations which have been promulgated under any law affected by this title and which are in effect on the day preceding enactment of this title shall continue in effect until modified, superseded, or repealed.

TITLE IV—REPORT ON ADVISORY COUNCILS

REPORT ON ADVISORY COUNCILS

Reports to Congress.

SEC. 1200. (a) Not later than March 31 of each calendar year after 1970, the Secretary of the Department of Health, Education, and Welfare shall submit a report on the activities of advisory councils (established or organized pursuant to any applicable statute of the Public Health Service Act, Public Law 410, Seventy-eighth Congress, as amended, or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Public Law 88-164, as amended) to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and occupations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each advisory council.

58 Stat. 682. 42 USC 201 note. 77 Stat. 282. 42 USC 2661 note.

(b) If the Secretary determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined.

"Statutory advisory council."

(c) As used in this section, the term "statutory advisory council" means any committee, board, commission, council, or other similar group established or organized pursuant to any applicable statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter.

Approved October 27, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-1444 (pts. 1 and 2) (Comm. on Interstate and Foreign Commerce) and No. 91-1603 (Comm. of Conference).
SENATE REPORT No. 91-613 accompanying S. 3246 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 116 (1970):
Jan. 23, 24, 26-28, S. 3246 considered and passed Senate.
Sept. 23, 24, considered and passed House.
Oct. 6, 7, considered and passed Senate, amended.
Oct. 8, 14, House agreed to conference report.
Oct. 14, Senate agreed to conference report.