5 THE CONSENSUS REFINED

As the 1930s waned, marihuana was a "killer weed"; the Marihuana Tax Act was federal law; and a bureau-engineered consensus dominated public discussion. In the ensuing two decades or so, the "killer weed" image was supplemented, but not wholly displaced, by the claim that marihuana led to harder drugs. Laws against marihuana use got tougher, and the bureau's consensus persisted with important changes.

MODEST RETRENCHMENT AND THE LAGUARDIA DEBATE

Although the public discussion of marihuana in the 1940s was different from that of the 1930s in important ways, it is ultimately the similarities that are more striking. To be sure, marihuana generally was no longer seen as a rampant menace; it was rarely said to be an epidemic among school children; and its addicting, violence-generating, and mind-destroying qualities were sometimes questioned. Nevertheless, marihuana continued to be seen as a dangerous drug. No matter how strenuously the specific deleterious effects of the drug were denied, hardly anyone suggested that the Marihuana Tax Act should be repealed. The FBN's domination of marihuana beliefs and policy, if challenged in theory, remained solid in practice.

The withdrawal of the menace imagery was begun by the bureau itself in the late 1930s. Having procured the Marihuana Tax Act and thus gained ownership of the marihuana problem, the FBN no longer had an interest in portraying marihuana use as an epidemic out of control. Such a characterization, useful in obtaining federal legislation a few years before, now would have suggested that the bureau was failing in its law enforcement efforts. In any case, the FBN quickly dropped the tone of panic from its reports, which from 1937 through 1940 portrayed marihuana use as a serious problem that nonetheless was being brought under control. In its report for 1938, for example, the bureau spoke glowingly of the progress of law enforcement officials on various levels in eradicating marihuana traffic and educating the public about "the extremely pernicious effects of marihuana smoking." It concluded that these efforts had "unquestionably. . . discouraged any attempt to organize the illicit traffic on a large scale."

The bureau also actively discouraged the kind of sensational publicity that it had purveyed just a few years before. It endorsed the following recommendation of the Women's Christian Temperance Union:
That publicity on marihuana be tempered to conform to the factual problem. That the importance of obtaining the cooperation of the public with the authorities in the suppression of the marihuana traffic and in destroying marihuana themselves under the guidance of officials, be stressed in educational campaigns rather than the dissemination of information regarding the effects of the drug which is apt to arouse curiosity or to cause sensational publicity.'

The effort to de-sensationalize marihuana in the 1940s no doubt went much further than the bureau wanted. Of eight periodical articles in the sample from 1941 to 1948 that focused on the deleterious effects of marihuana, six downplayed the dangers of the drug. Robert P. Walton, writing in Science, belatedly pointed out that the findings of each major scientific study of marihuana (those by the Indian Hemp Commission, the Canal Zone Committee, and the LaGuardia Committee) "have tended to minimize the gravity of the marihuana problem." Science Digest cited research concluding that "the behavior of the marihuana smoker is of a friendly, sociable character." Finally, Time opined that "despite its lurid reputation, marihuana seems no more harmful than alcohol." None of the articles, however, challenged the illegality of marihuana or criticized the bureau's enforcement activity.'

What periodical articles said about marihuana during the 1940s was largely a reflection of the debate over the LaGuardia Report, which took place in the pages of the American Journal of Psychiatry and the Journal of the American Medical Association (JAMA). Indeed, four of the eight articles referred to the LaGuardia findings.' To understand what was said about marihuana in the 1940s and the bureau's role therein, we shall review this debate.

Fiorello LaGuardia, mayor of New York City, responded to the 1930s accounts of marihuana menace with some skepticism. From his tenure in Congress, he recalled the conclusions of the Canal Zone Report, which had "emphasized the relative harmlessness of the drug and the fact that it played a very little role, if any, in problems of delinquency and crime in the Canal Zone." LaGuardia, therefore, turned to the New York Academy of Medicine for expert opinion on the drug. The academy reported that a review of the existing literature and conferences with city officials provided no consistent conclusions about the dangers of marihuana or the extent of its use in New York City.

In January 1939 LaGuardia responded by appointing the Mayor's Committee on Marihuana, which consisted of members of the academy and city officials. In the next six years, the committee carried out extensive research on marihuana. A pharmacological study attempted to isolate the psychoactive components of cannabis; a clinical study observed the psychological and physiological effects of a cannabis extract on seventy-seven volunteers (mostly prisoners) in an experimental setting; and a sociological study used participant-observation research by
specially trained police personnel to look at marihuana use in natural settings. A preliminary report, discussing the clinical study, appeared in the American Journal of Psychiatry under the authorship of Samuel Allentuck and Karl Bowman in 1942. The final report was released in January 1945.

The LaGuardia Report challenged most of the claims made against marihuana. Although Allentuck and Bowman noted that marihuana might release antisocial tendencies and could precipitate a psychosis in the mentally unstable, they concluded that marihuana use did not tend to excess, was not addicting, did not seriously disturb mental or physical functioning, and did not lead to violence or to harder drugs. They also suggested that marihuana might be useful in facilitating opiate withdrawal and in treating depression and loss of appetite. They summed up their position as follows:

Prolonged use of the drug does not lead to physical, mental or moral degeneration, nor have we observed any permanent deleterious effects from its continued use. Quite the contrary, marihuana and its derivatives and allied synthetics have potentially valuable therapeutic applications which merit future investigation.'

The response to Allentuck and Bowman in the scientific community was initially positive. In a discussion accompanying their articles, Lawrence Kolb of the Public Health Service praised both the LaGuardia Committee and "Dr. Allentuck's timely paper" for helping the physician wade through the "misinformation and alarm that has gotten abroad about marihuana." He noted with appreciation the Allentuck-Bowman conclusions on the dangers of the drug, though he cited some reservations. For example, on the matter of crime, Kolb agreed that marihuana as then used in the United States did not contribute to crime, but he added that under some circumstances it might:

It can readily be seen that a drug which produces all these effects, if used as widely as alcohol is used in this country, might be like alcohol a very important contributing cause to crimes of various kinds.'

He concluded by warning against the use of marihuana to treat neurosis or drug addiction.

In a December 1942 editorial, JAMA struck an even more positive note. It accepted the
Allentuck-Bowman refutation of prevailing beliefs about the dangers of marihuana and viewed with some enthusiasm the suggested therapeutic applications:

The preliminary clinical experiments by Dr. Allentuck with a group of drug addicts yielded encouraging results. A more exhaustive study of the possibilities of these drugs as a means of relieving withdrawal symptoms in narcotic addicts would seem to be justified.'

Like Kolb, the 1942 JAMA editorial welcomed the AllentuckBowman study as part of an ongoing scientific effort to create a reliable, coherent picture of marihuana use. It did not discuss the political impact of the study at all.

The response of law enforcement officials was quite different. In a January 1943 letter to the editor, Commissioner Anslinger largely condemned the report. While noting that the study confirmed the prevalent beliefs that marihuana precipitated psychosis and lowered inhibitions, thus leading to crime, he clearly voiced his general dissatisfaction.

From that point of view [of law enforcement] we feel that it is very unfortunate that Drs. Allentuck and Bowman should have stated so tm-qualifiedly that use of marihuana does not lead to physical, mental or moral degeneration and that no permanent deleterious effects from its continued use were observed. . . . More undiscriminating readers are perhaps likely to interpret the statement as the final word of the medical profession. Also there may well be some unsavory persons engaged in the illicit marihuana trade who will make use of the statement in pushing their dangerous traffic.'

Anslinger, then, was worried that any nonnegative assertion about marihuana would encourage use and hamper law enforcement. His concern about the consequences of the study led him to question its validity. He noted that the study's conclusions were based on research on a mere seventy-seven subjects, all of them prisoners, and provided a long list of quotations from other sources contradicting the study's findings. Finally, he cited Kolb's warning about therapeutic applications and quoted him as saying "that use of marihuana may be an important contributory cause to crime" without explaining the context of these remarks."

Over a year later, Jules Bouquet, a member of the Narcotics Commission of the League of Nations and an oft-quoted colleague of Anslinger, also condemned Allentuck and Bowman for publicizing conclusions from such a narrow data base and predicted that the public would be lulled into believing that marihuana was not dangerous." He offered a series of methodological criticisms whose common point was that the LaGuardia Committee's experimental setting did not accurately replicate the naturalistic context of marihuana use and thus distorted the "actual" effects of the drug. Bouquet noted, for example, that the structure of the experiment limited the
amount of marihuana used and restrained the user from outlandish or dangerous behavior. In a natural setting, Bouquet contended, the user would not so limit his own intake; on the contrary, he would use to excess. Furthermore, there would be no artificial constraints on his response, and so he would inevitably turn to crime. To demonstrate these points, Bouquet referred to the "inveterate hemp smokers that one meets in India, the Near East, and North Africa." This methodological criticism became the mainstay of the bureau's condemnation of the LaGuardia Report. Excerpts from Bouquet's letter were reprinted in Traffic in Opium.¹²

Bowman replied to Bouquet's letter in June 1944, but he did not deal with the latter's methodological criticisms, noting that the imminent release of the LaGuardia Report itself would present his data in more detail. Instead, he criticized Bouquet's stress upon the consequences rather than the validity of the research.

It is somewhat surprising to find objection to the publication of carefully worked out studies on the ground that it is improper and dangerous rather than to raise the one issue of science—was the study carried out in a proper scientific manner and are the authors justified in drawing the conclusions that they did from the studies made?"

The publication of the final LaGuardia Report, however, merely led to more strident criticism. Although it had previously welcomed the Allentuck-Bowman study, JAMA condemned the final report in an editorial in April 1945.

For many years medical scientists have considered cannabis a dangerous drug. Nevertheless, a book called "Marihuana Problem" by the New York City Mayor's Committee on Marihuana submits an analysis by seventeen doctors of tests on 77 prisoners and, on this narrow and thoroughly unscientific foundation, draws sweeping and inadequate conclusions which minimize the harmfulness of marihuana.

The editorial went on to cite contrary evidence—a case where a bellboy under the influence of marihuana killed a federal guard and a study by Marcovitz and Myers that linked marihuana to various kinds of psychopathology. It argued that the report would hinder law enforcement by encouraging use and gave one example of a youth who cited it as a justification for using the drug.
The editorial, which was reprinted with enthusiastic affirmation by the bureau, brought prompt replies from Walton, who had worked on the pharmacological study, and from Bowman. Both stressed the validity of the data and the moderation of the conclusions. The report, they noted, did acknowledge that marihuana was a problem and did not challenge existing marihuana laws. Bowman weakly noted that critics ignored the pharmacological and sociological studies in favor of the clinical study but did not pursue the implications.

The Walton and Bowman responses, however, did not stop the criticism. Anslinger subsequently wrote a rejoinder that cited studies from India to support his contention that marihuana did lead to crime. Marcovitz joined the debate by arguing that although his own study did not conclude that marihuana caused maladjustment and psychopathology, it did show that marihuana use was an adjunct to these. He criticized the LaGuardia Report again for not looking at use in natural settings, where presumably it would be clearly associated with pathology.

Marcovitz's letter, which appeared in September 1945, was the last installment in the debate over the LaGuardia findings. The whole interchange had been dominated by the bureau. The most obvious indications of this are the lack of challenge to the Marihuana Tax Act or the bureau's enforcement policy and the focus on crime as the major consequence of marihuana use. When we look more closely at the debate, moreover, we find even more striking indications of the bureau's hegemony: the near total neglect of the LaGuardia Committee's sociological study and the fact that JAMA's 1945 editorial probably was written by Anslinger himself.

As we have noted, the bureau's central scientific argument was that the LaGuardia Committee based its conclusions on experimentally observed marihuana use under conditions quite removed from those found in a natural setting. Marihuana users, the bureau maintained, behaved quite differently on the street than they did in experimental settings. No one effectively challenged this argument, despite the fact that its error would have been obvious to anyone who had read the LaGuardia Report. The report's conclusions were not based solely on a clinical study, but on a clinical study and a sociological study. The bureau ignored the latter and so did everyone else.

This lacuna was convenient for the bureau because the results of the sociological study defied the simple objections raised against the clinical study. In sending six investigators into tea pads, dance halls, and schoolyards, the LaGuardia Committee did precisely what all its critics condemned it for not doing: It observed marihuana use in a natural setting. Indeed, it was the first to do so. None of the evidence cited by the bureau included observations of the process of marihuana use. What passed for naturalistic study were in fact post hoc observations of
selected populations of allegedly heavy marihuana users. Since these populations were often in mental hospitals or prisons or just in trouble, it is not surprising that connections between marihuana and pathology were forthcoming.

In contrast, the LaGuardia Committee sent its investigators where everyday marihuana use occurred, and their findings were inconsistent with the dominant marihuana beliefs. In New York City, at least, there was no marihuana traffic in schoolyards and youthful hangouts. The drug was found largely in Harlem and around Broadway. Users were not violent or compulsive: Investigators found that "tea pads" were relaxed, congenial places with virtually no violence or erotic activity. Users generally limited their intake quite carefully, and there was no indication that marihuana use led to hard drug use.'

Not only did the dominant reading of the LaGuardia Report conform to the bureau's interests by ignoring the most unpalatable section but the AMA journal itself appears to have capitulated to the bureau at a pivotal moment. Richard Bonnie and Charles Whitebread II have noted that "judging from subsequent collaboration between Anslinger and this Journal," the 1945 JAMA editorial was probably written by Anslinger himself. '9

There is a wealth of internal evidence to support this claim. To put it simply, the 1945 editorial condemnation of the LaGuardia Report sounds very different from other JAMA writing on marihuana at the time and very similar to the letters from Anslinger and Bouquet. Much of this involves subtle questions of tone and style, but there are a number of straightforward similarities and differences as well. First, the 1945 LaGuardia editorial flatly contradicted the 1942 Allentuck-Bowman editorial, though both reviewed the same clinical study. The earlier piece praised the scientific achievement of the study that the later piece condemned. Second, the 1945 editorial addressed neither the AMA's general concern with the lack of quality data on marihuana nor its interest in furthering research. It did not treat marihuana as an object of scientific knowledge as both the 1942 editorial and Herman ICretschmer's 1945 AMA presidential address did.2° Third, the 1945 editorial did stress themes found in the Anslinger and Bouquet letters. It emphasized the threat of the LaGuardia Report to law enforcement, and it gave examples of marihuana crimes. Moreover, it sounded threatened. The LaGuardia Report, however, did not threaten the interests of the AMA, since it was consistent with the AMA's primary goal of furthering research on marihuana. In contrast, it did threaten the FBN, since it questioned central tenets of the bureau's case against marihuana. The editorial, in short, was written from a law enforcement, not a medical, perspective. Fourth, the 1945 editorial misquoted Kolb's response in the same way as Bouquet had in his 1944 letter. Both pieces cite Kolb as saying, "one may say of such a drug that, if it were abused as alcohol is abused, it might be an important cause of crimes and other misdemeanors." In fact, as noted earlier, Kolb said, "if used as widely as alcohol is used in this country"—quite a different qualification. The assertion, furthermore, was taken out of context in the same way by both Bouquet and the
JAMA editorial. Taking these bits of evidence together leads to the conclusion that the 1945 editorial bears the unmistakable mark of Anslinger and the bureau.21

STEPPING-STONE

In the early 1950s, marihuana continued to be seen as a dangerous drug requiring strict legal controls, but the established claim that marihuana led to violence shared the stage with the stepping-stone hypothesis that marihuana use led to the use of harder drugs, particularly heroin. The introduction of the Stepping-stone Hypothesis was a response to the particular needs of the bureau in the 1950s, perceived changes in use patterns, and the continuing undercurrent of skepticism regarding the dangers of marihuana.

The notion of progression to harder drugs had never been wholly absent from earlier discussions of marihuana. Lewis had mentioned it in his 1913 Cosmopolitan short story, and there had been short discussions of it in several articles in the 1930s.22 Anslinger, however, had explicitly denied such a connection in the 1937 Marihuana Tax Act hearings, and it had never received the attention given to the link between marihuana and violent crime.

The bureau's first reference to the Stepping-stone Hypothesis came in its report for 1949:

The Bureau has noticed during the past few years an alarming increase in the number of young persons . . . arrested for violation of the Federal marihuana and narcotic laws in New York, Chicago, and San Francisco. . . . There also has been an increasing number of these young narcotic offenders who admit starting the use of narcotics with marihuana, then after a short while changing to the more powerful narcotics such as heroin, morphine, and cocaine."

This new claim against marihuana gained commonsense status quickly. Less than two years later, the progression from marihuana to heroin was already regarded as a "tragically familiar story."24 Periodical articles made it the mainstay of their arguments against marihuana. Four of the six Readers' Guide articles between 1949 and 1954 stressed the Stepping-stone Hypothesis, while only three of forty articles in the sample prior to 1949 did so. The articles were often defensive in theme. They stressed that even occasional marihuana use was harmful, despite claims to the contrary. These contrary claims were not identified, but clearly the repercussions of the LaGuardia Report were still being felt: Anslinger made a pointed condemnation of the report at the 1950 congressional hearings on organized crime.”
"Bodies and minds can be wrecked by even one 'adventure' taken 'just for the thrill of it'," warned columnist Earl Wilson, who cited both progression and violence as the possible results of experimentation with marihuana. Marihuana may not be addicting, counseled Science Digest, but it is still dangerous because "it leads thrill-seekers on to more dangerous drugs." Marihuana is more dangerous than alcohol, because "it makes the switch to heroin easy," noted Newsweek in 1954 in conclusion to a report on the airing of a promarihuana program on radio station KPFA in Berkeley, California. 27

The Stepping-stone Hypothesis was no less prevalent during the numerous organized crime, drug control, and juvenile delinquency hearings of the 1950s and early 1960s when marihuana was discussed." Violent crime received markedly less attention. Two passages are particularly important because they shed light on the function performed by the Stepping-stone Hypothesis in the wider discussion of drug control policy. The first comes from the 1951 House of Representatives hearings on drug control in a discussion of barbiturates. Anslinger had argued that barbiturates ought not to be made illegal, and Congressman Boggs was trying to ascertain his reasons. The question arose as to whether or not barbiturates were as dangerous as some currently illegal drugs, particularly marihuana.

Mr. Boggs. Are not [barbiturates] . . . as dangerous as marihuana is? Mr. Anslinger. I do not think so.
Mr. Boggs. From just what little I saw in that demonstration, I have forgotten the figure Dr. Isbell gave, but my recollection is that only a small percentage of those marihuana cases was anything more than a temporary degree of exhilaration, but those barbiturates pictures indicated to me there is something much worse than that produced by barbiturates.
Mr. Anslinger. The danger is this: Over 50 per cent of those young addicts started on marijuana smoking. They started there and graduated to heroin; they took the needle when the thrill of marijuana was gone. You do not find those young people taking barbiturates and graduating to heroin."

The second passage is found in the 1955 Senate hearings on the illicit narcotics traffic. Anslinger had argued that the bureau's addict census had shown a precipitous drop in the rate of heroin addiction since the 1920s, thus implying that the bureau had done a good job. He then discussed how the census was constructed, particularly what kinds of addicts were included.

Now we are trying to confirm this, however, to the nonmedical drug addicts, the addict who buys his drugs in the underworld or obtains drugs by other unlawful means, such as robbing
drugstores or forging prescriptions, and we are trying to keep away from the marihuana addict [emphasis added], because he is not the true addict. The true addict is the addict to opium derivatives or synthetic narcotic drugs."

Anslinger, in other words, attempted to de-emphasize the dangers of marihuana per se to justify not including marihuana "addicts" in the bureau's census. The reference to marihuana was meant as an aside, but Senator Price Daniel did not let it pass.

Senator Daniel. Now, do I understand it from you that, while we are discussing marihuana, the real danger there is that the use of marihuana leads many people eventually to the use of heroin, and the drugs that do cause them complete addiction; is that true? Mr. Anslinger. That is the great problem and our great concern about the use of marihuana, that eventually if used over a long period, it does lead to heroin addiction. The marihuana habit, it is a habit-forming drug as distinguished from an addiction-forming drug, is relatively easy to break.

Anslinger not only denied that marihuana was addicting but also omitted any reference to violent crime or any other danger tied directly to marihuana. Senators Daniel and Herman Welker, no doubt recalling earlier assertions about marihuana crime, asked Anslinger whether or not marihuana caused the user to "commit crimes and do many heinous things." Anslinger answered yes but seemed unwilling to elaborate. He gave no rendition of marihuana crimes and even de-emphasized the importance of the crime connection: "There have been many brutal crimes traced to marihuana, but I would not say that it is the controlling factor in the commission of crimes."

Why did the Stepping-stone Hypothesis become central to discussions of marihuana control policy in the 1950s? The discussion so far gives some clues, and there are others. Its rise reflects both a perceived shift in heroin users and a change in the bureau's structural needs.

In the late 1940s, the average age of the heroin user seemed to be declining. At the 1937 Senate hearings on the Marihuana Tax Act, Anslinger had assured the assembled senators that the marihuana user was quite different from the opiate user: The former was generally in his teens or twenties, while the latter was about thirty-five or forty. In 1949, however, the median age of those admitted to the federal narcotics hospitals for heroin addiction showed a significant drop; the marihuana user and heroin user suddenly appeared to be drawn from the same age group. This data made it plausible that marihuana use was somehow connected to heroin use, a notion corroborated by the testimony of heroin users themselves, at least some of whom
claimed to have started with marihuana.

Whatever we make of the Stepping-stone Hypothesis, the underlying notion of confluence seems plausible. Indeed, it may have been an unintended consequence of the bureau's own enforcement activity and of World War II. In the 1930s, marihuana and heroin were used by different groups and distributed separately. Most marihuana was grown domestically and sold in an unorganized fashion, while most heroin was illegally imported by an organized smuggling network. With passage of the Marihuana Tax Act, the bureau began to supervise large-scale eradication of the illicit domestic hemp crop. In the early 1940s, the war obstructed the international heroin trade. With the supply of heroin cut off and with an unfulfilled demand for marihuana, organized smugglers began importing the latter on a large scale. This is reflected in the FBN reports for 1944, which noted an upsurge in the organized illicit traffic, and for 1945, which reported for the first time that border seizures of marihuana exceeded domestic seizures. When the heroin trade resumed after the war, marihuana and heroin became available from the same sources. This may have increased the probability that persons who used one drug would also use the other.

The rise of the Stepping-stone Hypothesis, in short, was consistent with demographic changes in drug use as these were perceived by the bureau and other policymakers. This is probably not the whole story, however. The Stepping-stone Hypothesis also may have served the interests of the bureau by allowing it to justify continued controls over marihuana despite skepticism about the drug's dangers, to oppose controls over barbiturates, and to exclude marihuana "addicts" from the bureau's census. We can look at each of these possibilities in turn.

To justify its continued jurisdiction over marihuana, the bureau had to demonstrate that the drug was indeed dangerous. Questions about the immediate dangers of use, however, had not been quieted by the bureau's condemnation of the LaGuardia Report in the mid-1940s. There remained an undercurrent of dissent, which surfaced just enough to make the bureau wary. In the organized crime hearings in 1950, for example, Harris Isbell, the director of the Lexington narcotics hospital, testified that "marijuana users generally are mildly intoxicated, giggle, laugh, bother no one, and have a good time." He questioned the links between marihuana and violent crime, sexual immorality, and addiction, conceding only that marihuana might precipitate a temporary psychosis in "predisposed individuals" and could lead to the use of harder drugs.

The Stepping-stone Hypothesis spared the bureau the unseemly task of continually responding to critics by allowing it to argue that although marihuana use might be innocuous enough in itself, it led to heroin use, which was unquestionably dangerous. Once the hypothesis had become accepted, moreover, the very harmlessness of marihuana became an argument
against its use. For example, Victor Vogel of Lexington testified that young persons who had used marihuana readily took up heroin because their marihuana experience convinced them that narcotics in general were nonaddicting.”35

The bureau’s need to provide an unquestionable picture of the dangers of marihuana use was made particularly urgent by pressure for barbiturate control. On three separate occasions, congressmen, responding to considerable popular pressure, suggested making barbiturates illegal.36 In return, the resolute reticence of the bureau asserted itself again: Anslinger passionately rejected the proposal each time, arguing that barbiturate prohibition would be widely unpopular, would antagonize powerful medical and pharmaceutical interests, would ultimately be unenforceable, and would drag his small bureau into disrepute. He would have none of it. To justify his refusal, Anslinger had to argue that barbiturates were less dangerous than illegal drugs. The Stepping-stone Hypothesis allowed him to do so unambiguously with marihuana by linking it with heroin, which was unanimously believed to be worse than barbiturates.

At the same time that the bureau refused jurisdiction over barbiturates, it buttressed its request for extended powers over narcotics by using the low addict census count to prove that it was using its existing powers successfully. To maintain as low a count as possible, it needed a reason for excluding marihuana users from the census. The Stepping-stone Hypothesis allowed the bureau to argue that although marihuana was dangerous and thus properly illegal (since it led to heroin use), marihuana users in themselves were not a problem (since they became a problem only when they became heroin users) and hence did not have to be included in an addict count.

DEMISE OF THE CONSENSUS

The bureau’s consensus on the dangers of marihuana and the propriety of harsh penalties remained intact until the late 1950s and early 1960s. At that time, public health officials and others began to make their dissent heard. Not only did they express their doubts about the dangers of marihuana more loudly but they also challenged the penalties themselves. The dissenters ultimately found a forum in the various official inquiries into drug abuse sponsored by President John F. Kennedy.

The immediate cause of the upsurge in dissent may well have been the bureau’s success in securing the harsh drug controls that it had wanted. At its behest, Congress had passed the
Boggs Act of 1951 and the Narcotic Control Act of 1956, which greatly increased the penalties for drug offenses. By 1957 possession of marihuana carried a minimum sentence of two years for the first offense, five for the second, and ten for the third. First and second trafficking offenses entailed minimum sentences of five and ten years respectively. With the exception of a first possession offense, all convictions carried a mandatory sentence with no chance of parole or probation. The penalty schedule for marihuana was made exactly the same as that for opiates and cocaine.

For those who regarded marihuana as relatively innocuous, the increased penalties appeared absurd, and the absurdity made them speak up. Some of the first cries of dissent were heard at the 1958 symposium on the history of narcotic drug addiction problems, sponsored by the National Institute of Mental Health. Dr. Harris Isbell conceded the potential danger of marihuana but still questioned the penalties:

Marihuana is undoubtedly a potentially harmful intoxicant, but there is no sense in sending a person to the penitentiary for 10 years for having one marihuana cigarette in his pocket, a cigarette that would surely have no more effect on him than one drink of whiskey. Such treatment is ridiculous, fantastic, and a disgrace to our civilization.

Judge Edward J. Dimock expressed similar sentiments:

I don't think that I am entirely unreasonable in objecting to the necessity of having to send a hare-brained saxophone player away for 10 years for having a pack of marihuana cigarettes in his pocket.

The notions that marihuana was less dangerous than commonly believed and that marihuana controls were much too harsh—both anathema to the bureau—received considerable legitimacy from President Kennedy's drug abuse committees. Both the Ad Hoc Panel on Drug Abuse in 1962 and the Advisory Commission on Narcotic and Drug Abuse in 1963 tersely questioned the existing penalties.

It is the opinion of the Panel that the hazards of marihuana per se have been exaggerated and that long criminal sentences imposed on an occasional user or possessor of the drug are in poor social perspective.
The present federal narcotics and marihuana laws equate the two drugs. . . . In most cases [however] the marihuana reefer is less harmful than any opiate. For one thing, while marihuana may provoke lawless behavior, it does not create physical dependence. This Commission makes a flat distinction between the two drugs and believes that the unlawful sale or possession of marihuana is a less serious offense than the unlawful sale or possession of an opiate.'

Here, then, were the first major challenges to the bureau's marihuana consensus since it was established in the 1930s. To be sure, the effect was largely symbolic. There was no rush to reduce marihuana penalties and no sense of urgency. Only after there was an increase in middle-class marihuana use did the issue of penalty reduction become an urgent one. Nevertheless, the reports of the panel and the commission marked the end of the simple days during which the FBN with its image of marihuana as a "killer weed" and a stepping-stone to heroin had totally dominated the formation of marihuana policy." At the same time, they opened the way for a new set of marihuana beliefs that would be shaped by the events of the 1960s.

MARIHUANA BEFORE THE SIXTIES: A SUMMARY

The Bureau and Marihuana

Once it decided to take up the marihuana issue, the Federal Bureau of Narcotics decisively shaped public discussion and the law for over two-and-a-half decades. It dominated the marihuana hearings of 1937 and created the marihuana consensus of the late 1930s. The bureau was able to discredit the LaGuardia Report in the 1940s by making the American Medical Association withdraw its editorial approval and by defining how the report was discussed. Finally, when it introduced the Stepping-stone Hypothesis in the early 1950s, the claim, which appears to have reflected the bureau's own interests, quickly came to dominate discussions of marihuana.

The bureau, however, did not spontaneously seek jurisdiction over marihuana. Contrary to the popular view, it did not consistently attempt to legislate morality or to expand its purview. Chastened by the failure of Prohibition, the court challenges to the Harrison Act, and the budgetary restrictions of the Depression, it explicitly downplayed the marihuana issue in the early 1930s and attempted to have the states deal with the drug. The bureau's main effort thus went into procuring adoption and state passage of the Uniform Narcotic Drugs Act. Its decision
to seek a national marihuana law arose in a round-about way from its propaganda campaign on behalf of the Uniform Narcotic Drug Act and paradoxically was an unintended consequence of its attempt to avoid immediate national legislation.

The bureau, in short, developed a strategy of resolute reticence to survive in an unsupportive environment. It sought to protect itself by avoiding additional enforcement responsibilities where it could. This strategy was manifest not only in its treatment of marihuana in the early 1930s but also in its categorical refusal to accept barbiturate control in the early 1950s. To understand the bureau, then, we must see both its faces—the aggressive way it fought to maintain the authority it could not avoid and its aversion to extending that authority.

The bureau’s success in dominating public discussion of marihuana, moreover, rested on specific social conditions. The bureau succeeded because marihuana use prior to the 1960s was an insignificant issue, because no other organized groups had an interest in the fate of the drug, and because its users were socially marginal and few in number. Hardly anyone knew about marihuana or had an interest in it. The populace at large hardly knew its name; there were few sources of information other than the bureau; and the declining medical use of the drug by the 1930s gave manufacturers, physicians, and pharmacists only a token interest in opposing the bureau’s propaganda. In such circumstances, the bureau could shape the image of marihuana with minimal effort and with little likelihood of opposition or rebuttal. The paucity and marginality of the users, moreover, made it unlikely that otherwise reputable citizens would be arrested, that nonusers would have any firsthand experience with users, or that the users themselves would effectively organize. The bureau’s hegemony thus was not disturbed by other interest groups, organized users, or a concerned general public. In the late 1960s, all this would change.

Mexicans and Marihuana

Political pressure motivated by anti-Mexican sentiment in the Southwest does not appear to have played an important role in the passage of the Marihuana Tax Act. The bureau had no trouble resisting the local political pressure that it felt in the early 1930s—whatever its source. More importantly, references to Mexican users virtually disappeared from discussions of marihuana in the mid-1930s, and the bureau’s propaganda for the Marihuana Tax Act stressed the peril to youth. Had the act been primarily an effort to placate the Southwest’s concern about Mexicans, one would have expected the bureau to play up the evils of that group’s use.
The association of marihuana with Mexican laborers and other lower-class groups, however, affected beliefs and policy in a more subtle, though no less significant, way. The image of marihuana that became dominant in the mid-1930s was shaped indirectly by stereotypes of these groups. Because Mexican laborers and the others were socially marginal and disreputable, marihuana was perceived as alien to the mainstream of society, and its alleged spread to youth was seen as "infection." More importantly, because these groups were typified as violent, marihuana became seen as a "killer weed." The images of "infection" and "killer weed" in turn were used to justify antimarihuana legislation. In short, the mediating link between Mexicans and the Marihuana Tax Act was a particular conception of marihuana.

**The Killer Weed**

Marihuana thus became known as a "killer weed" for two reasons. The first was the initial social locus of drug use: Marihuana became known as a drug that produced violence because initially it was associated with Mexicans and other lower-class groups. This image of marihuana developed in the Southwest and New Orleans in the 1910s and 1920s and was transmitted by local officials and narcotics agents to the relevant authorities in the federal government. The second reason was the entrepreneurship of the Federal Bureau of Narcotics, which popularized the "killer weed" image in the process of securing state and federal drug control legislation in the 1930s.

Once established, the image persisted partly because of continued FBN publicity, partly because of inertia: The more the claim was repeated, the more it was likely to be repeated, until significant social changes rendered the old image obsolete and created a new image to replace it.

The violence claim was joined in the 1950s by the assertion that marihuana was a stepping-stone to heroin, but it would not be supplanted until the 1960s when the kind of danger imputed to the drug would change dramatically.

**NOTES**

5 THE CONSENSUS REFINED

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reports are identified by the year they cover, not the year of publication. See also ibid., 1937, pp. 53-54; 1939, pp. 54-55, 59; 1940, p. 49. The lack of large-scale illicit trafficking in marihuana was used in the early 1930s to justify federal nonintervention on the grounds that the problem was outside federal jurisdiction (ibid., 1931, pp. 51-52). By the late 1930s, the same condition was claimed to be the result of timely federal intervention and thus used to justify that intervention.

2. Ibid., 1939, p. 15.

3. Robert P. Walton, "The Marihuana Problem," Science, 25 May 1945, pp. 538-539; "Menace of Marihuana," Science Digest, July 1945, pp. 49-50; "The Weed," Time, 19 July 1943, pp. 54-56. There were eleven articles in all in the Readers' Guide sample between 1941 and 1948, but three did not address the issue of danger. Although none of the eleven articles challenged the illegality of marihuana, two other sources did. In 1943, J. M. Phalen, editor of the Military Surgeon, argued that marihuana was no more dangerous than tobacco and that antimarihuana laws were ill-advised. Phalen's comments and the findings of the 1894 Indian Hemp Commission were cited in 1949 by Norman Taylor to make a similar case against marihuana laws. See Norman Taylor, Flight from Reality (New York: Duell, Sloan, and Pearce, 1949), pp. 21-43.


10. Anslinger's handling of data was also interesting in other ways. First, his ambivalence toward prisoner studies, originally noted in the differential treatment of Stanley and Bromberg, continued. The AllentuckBowman study was methodologically sound when it supported the bureau but unsound when it did not. Second, in his long list of citations, he quoted the Indian Hemp Commission as saying that marihuana use causes insanity—an assertion that is hardly representative of the commission's conclusions.


17. JAMA 129 (1945):378. Marcovitz and Myers studied thirty-five confirmed marihuana users in the U.S. Army and found them to be generally maladjusted, alienated, rebellious against authority, unwilling to work, and so forth. They showed histories of crime and adverse family and economic conditions.


21. How the Bureau was able to control so decisively the AMA's official stance on marihuana is unclear. I merely wish to show that it did.


25. The four articles were Earl Wilson, "Crazy Dreamers," Collier's, 4 June 1949, pp. 27-32; "Saw-toothed," New Yorker, 11 August 1951, pp. 18-19; "Wicked Weed," Science Digest, April 1952, p. 48; and "Reefers on KPFA," Newsweek, 10 May 1954, p. 92. The other two articles—one a report of marihuana cultivation in window boxes ("Marihuana may lurk in window boxes," Science News Letter, 28 July 1951, p. 60) and the other a story on use by Marines at Camp Pendleton ("Marines and marihuana," Newsweek, 31 December 1951, p. 17)—did not discuss the effects of marihuana. Only one article (Wilson, "Crazy Dreamers") paid attention to violence.


31. Bureau of Narcotics, Traffic, 1949, pp. 6-7; House of Representatives, Control of Narcotics, p. 44.


34. Senate, Organized Crime, pp. 119-120.
35. Ibid., p. 244.

36. Ibid., pp. 429-432; House of Representatives, Control of Narcotics, pp. 73, 204-206; House of Representatives, Traffic in, and Control of, Narcotics, pp. 191-196.


39. Ibid., p. 144.


42. The advisory commission challenged the dominance of the bureau in other ways as well. First, its very existence indicated growing White House concern with drug control policy and thus a preemption of the bureau’s monopoly of the area. Second, the commission recommended both the repeal of major sections of the Boggs and Narcotic Control acts and a major reorganization of federal drug control.