

Book Reviews

Official Views on Marijuana

Marihuana: A Signal of Misunderstanding. First Report of the National Commission on Marihuana and Drug Abuse. Government Printing Office, Washington, D.C., 1972. x, 184 pp., illus. Paper, \$1. Appendix, 2 vols., 1252 pp. Paper, \$10.25.

Cannabis. A Report of the Commission of Inquiry into the Non-Medical Use of Drugs. Information Canada, Ottawa, 1972. xiv, 426 pp., illus. Paper, \$3 Canadian.

Within a space of only a few weeks last spring, two major governmental commissions—one in the United States, the other in Canada—released reports on marijuana. Probably the most remarkable thing about the two reports is that they are so similar. Both examine in detail what we know about marijuana and its physical, mental, and social dangers; they reach the same conclusions; and they agree that the proper social response to the drug is what the U.S. commission calls “partial prohibition”—meaning criminal penalties for commercial trafficking in the drug but none for the individual user.

In both cases, though for different reasons, the conclusions were somewhat surprising. For some time before the Canadian report was published, it was rumored that that commission was preparing to recommend a considerably more radical solution—the licensed, controlled sale of marijuana. On the other hand, few of those familiar with the U.S. commission had expected it to recommend anything so liberal as “partial prohibition.” One need not use such a loaded word as “stacked” for the U.S. commission, but it was quite clear that its membership could hardly be accused of “softness” on marijuana. Indeed, of its three psychiatrist members—all appointed by the President—two, Henry Brill and Dana Farnsworth, would have had to be counted among the 2 percent of American psychiatrists who had written the most negative reports on the effects of marijuana use or the desirability of significantly ameliorating the marijuana laws; and the third, J. Thomas Ungerleider, although revealed fairly early on as a “liberal,” was at the time of his appointment

best known for a widely quoted article exaggerating the dangers of marijuana use (1).

That both commissions went into the subject quite deeply and then recommended the same social response is comforting and certainly lends validity to the recommendation. And, since the recommended response would be a sizable improvement over today's marijuana laws, it seems all the more ungrateful of a reviewer to argue that the commissions did not go nearly far enough. Before turning to that, however, let us examine what the commissions concluded and why they did so.

First, with respect to the effects of the drug—though it turns out on examination that this is by no means the crucial issue—the reports are agreed: Though neither says so in so many words, it appears from both reports that marijuana is not a very dangerous drug. That is not to say that the drug is completely safe. Indeed, if it were, it would be the only drug we know of that does not harm at least some of its users. There are growing indications that some marijuana users do injure themselves by using the drug in too high quantities, too often, for too long periods. Despite this, when one adds together the physical, psychological, and social dangers of the drug for which there is any scientific evidence that has not been refuted by any of the more careful studies made, it is impossible for any reasonable person to conclude that marijuana is more dangerous than alcohol; and, so far as we can tell, over the population as a whole it looks considerably less dangerous, both in terms of the percentage of its users who will suffer ill effects and in terms of the grossness of the harm they suffer.

Moreover, this is not only true under present-day patterns of consumption in North America, where most users do not use the drug very often or in a very potent form. It remains true even in those areas where marijuana products are used in far stronger form and more frequently. Interestingly, the Canadian report deals primarily with hashish, the dominant

form of the drug in that country, yet its conclusions parallel closely those of the U.S. commission considering the much weaker vegetable marijuana more common here.

The foregoing is a highly condensed distillation of what both commissions had to say on the danger of marijuana. It is demonstrably correct, however, and anybody at all familiar with the literature on marijuana could easily have reached the same conclusion without the aid of the commissions. The problem is what to do with this information in shaping a rational drug law. It should be obvious that our legal treatment of tobacco, alcohol, cyclamates, marijuana, barbiturates, solvents, and various other such drugs is responsive to far more than their intrinsic danger. We must, therefore, examine why the major recommendation of each commission was that possession of marijuana by a user for his own use should not be treated as a criminal offense.

In support of this conclusion, both commissions, after examining the operation of the law in their respective countries, concluded, first, that the present high penalties for possession of marijuana by users were of little effect in cutting down use. This should be carefully distinguished from the effect of the law in reducing importation or sale of the drug; after all, it is the legal threat that is responsible for the fact that, though its cost of production is less, an ounce of vegetable marijuana retails for more than 10 times the price of an ounce of tobacco (which, by the way, includes a substantial tax), and for the fact that every year or so—usually during the summer—marijuana is not readily available to many of its users for a few weeks. So far as criminalization of the user is concerned, however, the situation is quite different. The great majority of users say that the only effect of the law is to make them more discreet, and the great majority of nonusers give other reasons than fear of the law for not using the drug. In neither the United States nor Canada can the law catch enough of the users to make punishment a significant threat to the rest.

The second major point is the other side of the coin. Although in neither country do we arrest enough users to deter use, we arrest far too many for all other purposes. In Canada there were over 8000 marijuana convictions last year; and though the U.S. statistics, despite the commission's efforts, are

woefully fragmentary, the number is, even in proportion to the much larger population, even greater. In the state of California, which does keep adequate statistics, there were some 70,000 marijuana arrests in 1971 (as compared to about 100,000 arrests for all crimes of violence—homicide, robbery, aggravated assault, and rape). In both Canada and the United States, moreover, almost all those arrested for marijuana offenses are charged with possession of small amounts of the drug and have had no previous involvement with the law. Both commissions recognized the serious effects of this situation. Without any corresponding benefit, the criminalizing of the marijuana user is clogging an already overburdened legal system (less so in Canada than in the United States; in Los Angeles, for instance, about a third of the felony prosecutions are marijuana cases).

More important than the drain on law enforcement resources is the injury inflicted upon those dragged into the criminal process. Not only may their arrest result in incarceration—at least until bail is made—in a jail where marijuana is considered “kid stuff” and far more dangerous drugs are often freely available, but the stigma of arrest, whether or not followed by conviction, inflicts an injury upon a marijuana user that is out of proportion to the harm of drug use from which we are trying to save him. Indeed, punishment for marijuana use involves a classic conundrum. If we insist upon punishing a user who at worst has injured only himself, it must be because we regard the drug as so dangerous that we must frighten others away from it. But if marijuana is indeed so dangerous, and the others use it anyway, it is unlikely that the extra threat of criminal prosecution will deter them. On the other hand, if the drug is not so dangerous (as is the case with marijuana) the threat of the law might be an appreciable deterrent (if we could catch a high enough percentage of the users), but we are going through all the trouble, expense, and harm of arrests and prosecutions for a much lesser purpose.

Finally, both commissions point out other costs of turning users into criminals, such as the harmful educational effect of classifying marijuana with far more dangerous drugs, the resentment toward the police built up among the large numbers of otherwise noncriminal users, and the encouragement of police

invasions of privacy in an effort to prevent a widespread, but essentially private, activity.

One of the most common objections to eliminating criminal penalties for the marijuana user has been that such a step would be somehow inconsistent with continuing to treat the supplier of marijuana as criminal. Such a legal regulation, however, is merely a recognition that the users of a forbidden product are, in general, far more numerous and less antisocial than those who traffic in it. It may make perfect sense to inhibit the supply of the drug as much as we can by concentrating upon the traffickers, while at the same time, in view of the relative ineffectuality and high cost of attempting to influence consumption by punishing users, not setting our net *that* finely. This is, indeed, a very common method of regulating what are often called “consensual crimes”; and two nations, Denmark and the Netherlands, apply precisely this type of control to marijuana.

There are, however, two basic questions one may ask about this recommendation of the commissions. First, why, considering what we know about marijuana, did they not also recommend doing away with the prohibition of sale of the drug? And, second, considering how basically modest their actual recommendations were, why has there not yet been a ground swell to implement them?

The first of these questions is perhaps the easier one. The fact is that, for at least a few years to come, such a course will simply not be politically feasible either in Canada or in the United States. That is not to deny that a very powerful argument can be made for licensing the sale of marijuana as we do the sale of alcohol. First of all, it would be educationally valuable to get across the message that both marijuana and alcohol (and alcohol users are a vastly greater public health problem) are drugs. Second, a prohibition of sale, which is unenforceable, prevents all of the many controls that are enforceable under a licensing scheme from being put to work. Thus, a licensing scheme could provide for control of potency (so that users would not risk inadvertent overdose), control of quality (so that no harmful adulterant would be mixed in with the marijuana), dissemination directly to users of information about the known hazards (as is now done on cigarette packages), and taxation (which would enable the bulk of the present profits on mari-

juana trading to be used by the government for combating the casualties of drug abuse and for educational purposes).

Probably most important, the licensed sale of marijuana would attenuate the link between marijuana and more dangerous drugs. For many years a major (at various times *the* major) argument for making all involvement with marijuana illegal has been that marijuana is “a stepping stone” to the use of harder drugs. It is now admitted even by the U.S. Bureau of Narcotics and Dangerous Drugs that there is no pharmacological reason why marijuana should cause a user to go on to other drugs, any more than alcohol does. It is true that most heroin addicts have used marijuana prior to heroin, but they tend to have sniffed gasoline, smoked compulsively, and gotten drunk on alcohol, even earlier. If marijuana use is more closely related than this to heavier drug use, it is because by making the sale of marijuana illegal we have given a monopoly of a very popular product to drug pushers. Because they will be severely punished if they are caught selling marijuana, they have little to lose by selling more dangerous drugs as well; and with marijuana they have acquired a clientele who have become accustomed to using an illegal drug and who rely upon their suppliers for advice and information about drugs. Thus, the marijuana dealer can readily become a conduit for more dangerous drugs.

In view of the relatively moderate dangerousness of marijuana and its already widespread use, one would think the balance is tipped heavily in favor of a licensing system. An examination of the commission's reasons for not recommending it is quite interesting.

The U.S. commission gives four major reasons in its report (pp. 147–48):

Adoption of a regulatory scheme at this time would inevitably signify approval of use. . . . Adoption of a regulatory scheme might generate a significant public health problem. . . . Adoption of a regulatory scheme would exacerbate social conflict and frustrate a de-emphasis policy. . . . Not enough is known about regulatory models in this area.

The Canadian report (p. 301) basically decided against the licensing system on the grounds that

a policy of making cannabis available to adults would have the effect of making it more available to minors. . . . It would also make cannabis appear to be

relatively harmless. [And] there is no reason to believe that we could effectively control potency and encourage moderate use by a system of administrative regulation or licensing.

None of these reasons is without weight, yet we can imagine that in 1932 such reasoning would have applied even better to the repeal of alcohol prohibition. One difference is the possibility, which is given more emphasis in the U.S. report than in the Canadian, that marijuana is "a transient phenomenon"; if so, the high costs of marijuana prohibition might disappear without our having risked the expansion of the supply that might come with licensed sale. The problem is that marijuana use looks nothing like a transient phenomenon. To be sure, its rate of increase among the young seems to have slowed markedly and its novelty has worn off. Nonetheless, it seems firmly entrenched in the youth culture; and use among those over 30, though not great, seems to be expanding rapidly. Moreover, most of its more-than-experimental users consider it a good product. If no other statistic is helpful on this issue, it should be enough that around half the users of marijuana believe it enhances their enjoyment of sex.

The concern expressed in both reports that licensing would be seen as an approval of marijuana use is a hint as to the real issue. At first glance it might be thought that the commissions feared potential users would see licensing as approval, and hence use more of the drug. To this one might reply that the licensing of tobacco hardly signifies governmental approval of its use—especially now that government requires a warning to be printed on the package and prohibits television advertising of the drug. That there is, however, a different aspect to the "approval" argument is made clear by a comment in the U.S. report (p. 148):

A significant segment of the public on both sides of the issue use marihuana and its legislation in a highly symbolic way. . . . The collision of values resulting from such a dramatic shift of policy would maintain the debate at a highly emotional level and would perpetuate the tendency to perceive marihuana use as a symbol of the struggle between two conflicting philosophies.

The argument, in short, is that the licensing of marijuana use would upset too much the large majority of our adult population which does not, and will not, use marijuana anyway.

It is for this reason, too, that the

issue of "partial prohibition" versus a licensing system is a hypothetical one in both Canada and the United States. The far lesser step the commissions have recommended will politically give us such trouble in the next few years that neither commission needed to put its credibility on the line and perhaps jeopardize the first step merely for the sake of being right about the ultimate goal. Indeed, although both commissions concluded that it does society more harm than good to make a user's possession of marijuana criminal, it will be no small job to convince the public of this. Probably the most dramatic indication of the degree of public resistance is the fate of the initiative measure on the California ballot this past election. Although it essentially followed the commissions' recommendation (2), it was defeated two to one. Perhaps even more remarkable, none of the major news media in the state endorsed it.

The extent of the misinformation on the subject of marijuana is enormous, as the U.S. commission notes in the very title of its report. It is documented by a detailed opinion survey conducted for the U.S. commission and reproduced in one of its two fascinating 600-page appendices. In this survey, 70 percent of adults (including 52 percent of 18- to 25-year-olds) agreed with the statement "Marihuana makes people want to try stronger things like heroin." A more disturbing example is that 33.8 percent of criminal court judges (though only 1.7 percent of the court clinicians, who presumably are in a far better position to know) believe that "use of marihuana causes or leads to anti-social behavior in the sense that it leads one to commit other criminal or delinquent acts."

But simple factual misinformation is only part of the problem. The other part is that, entirely apart from their use of marijuana, the kinds of people who use it are not popular in our society. Only 23 percent of the public at large (compared with 86 percent of users) think that "most people who use marijuana lead a normal life." Users are, to be sure, a minority; and they are seen (correctly) as on the average more rebellious, less religious, and more interested in sensual pleasure, and (probably not correctly) as less hard working. The scientific community can do its part to lessen misinformation by promoting reasonably rigorous standards in the literature on the dangers of the drug. It is a scandal

that the shabbiest type of research, uncontrolled and primarily based upon clinical impressions, is published and given the widest publicity today, so long only as it points to "possible dangers" in the drug, while at the same time better designed studies which place the issue in perspective tend to be ignored (3). For the most part, however, science will make little difference so long as it is the image of the marijuana user that retards legal change and the issue is seen by so many as a moral one (4).

The situation, however, is not beyond hope. It is the elder citizens who are most adamant on the marijuana issue and have the strongest stereotypical notions about the users; and the voters are being added in the younger, not the older, brackets. Moreover, as more and more citizens find their own children using the drug and see, after a while, that their children do not in fact ruin their lives thereby, opinions on the marijuana issue will change. Time, education, and the changing composition of the electorate are all working toward first "partial prohibition" and then the adoption of a licensing system. It is such a shame that the harm done by our present laws has to be borne in the meantime.

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References and Notes

1. J. T. Ungerleider, D. D. Fischer, R. S. Goldsmith, M. Fuller, E. Forgy, "A statistical survey of adverse reactions to LSD in Los Angeles County," *Amer. J. Psychiat.* **125**, 352 (1968). The authors report the answers of physicians to a question concerning the number of adverse reactions to marijuana they had seen. "Adverse reactions" was not, however, defined for the respondents, and as a result the number they reported was far higher than subsequent studies indicate. See G. D. Lundberg, J. Adelson, E. H. Prosnutz, "Marijuana induced hospitalization," *J. Amer. Med. Ass.* **215**, 121 (1971).
2. Actually, the California initiative measure more exactly followed the Canadian recommendation, which differed from the U.S. one in allowing cultivation of marijuana for personal use.
3. Compare the publicity given to H. Kolansky and W. T. Moore, "The effects of marijuana on adolescents and young adults," *J. Amer. Med. Ass.* **216**, 486 (1971), a report of clinical impressions based upon 38 marijuana users who had psychiatric complaints, with that given to V. Rubin and L. Comitas, "Effects of chronic smoking of cannabis in Jamaica," a report by the Research Institute for the Study of Man to the Center for the Study of Narcotics and Drug Abuse, National Institute of Mental Health. In the latter work a comparison is reported, in some 500 pages, between tests of two matched samples of Jamaican men, one consisting of long-term heavy users of marijuana, the other of nonusers. No significant differences were found.
4. The U.S. survey found that 64 percent regard marijuana use as morally offensive, and 40 percent feel the same way about alcohol use. Apparently we are (i) still a very moralistic nation and (ii) able to override our moral feelings when their cost is too high.