

A BRIEF LEGAL HISTORY OF MARIHUANA



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Front Cover: Marijuana use is far from a recent phenomenon, even in the Western world. This scene depicts American visitors smoking Chibouques in the Turkish Bazaar at the 1876 Philadelphia Exposition.

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The legal history of cannabis begins before the dawn of writing, as part of the world's oldest religion for which we still have the scriptures. This shamanistic, sacrificial religion was practiced from Turkestan to Mongolia by fierce nomad tribes including the Aryans who brought it over the Hindu Kush into India during the second millenium Before Christ. Its rituals were preserved orally by chanting mantras forward, backward, skipping every other line, etc., until around 1500 B.C., the ceremonies were written and became the four Vedas, the oldest completely preserved religious texts on earth.

Marihuana is mentioned in the *Atharva-Veda*, compiled between 1400 and 1000 B.C., in a Hymn for Freedom from Distress which addresses the whole pantheon of Vedic gods and includes the verse,

Five kingdoms of plants, with Soma as their chief, we address:
Soma, darbha, bhangas, saha, kusa grass; may they free us from
distress.

Soma is now thought to be *Amanita Muscaria* mushroom; we are not sure exactly which plants are meant by darbha, saha, or kusa; but *bhangas* is clearly marihuana, and hemp has been known as Bhang in India ever since. From this prehistoric invocation we learn that marihuana's earliest use was magical (both medical and religious) in a ceremony "for freedom from distress" or "relief of anxiety," which implies that its psychoactive powers were known to the Vedic worshippers. Its use was not only legally accepted, but a matter of religious law, perhaps even duty. There are still many on this planet who regard the weed as sacred, and in our contemporary furor it would behoove us not to forget that marihuana is not only a drug, but a sacrament.

From the Himalayas, use of cannabis spread in every direction for 35 centuries or more. Ancient Chinese doctors used it, and there is a hint of conflict over its popular use: some called it "Giver of Delight," others condemned it as a "Liberator of Sin." You may have heard that cannabis was first described in the pharmacopeia of the mythical emperor Shen

Nung in 2737 B.C.,² but the Treatise on Medicine (*Pen-ts'ao*) attributed to Shen Nung was actually compiled by Han Dynasty scholars whose references go back no further than the fourth century B.C.³ It is certain, however, that the greatest early Chinese physician, Hua T'o, used hemp during the second century A.D. as an anesthetic. To this doctor is attributed the following amazing dope tale:

A great warrior hero, Kuan Yun Chang, had received a deadly poisoned arrow in his right arm during a battle. Dr. Hua T'o was called in, and he gave the hero a dose of hemp and ordered him to play *Go* while Hua T'o cut into the wounded arm, removed the arrowhead, and applied an ointment. The stoned warrior, distracted from the pain by playing *Go*, was able to return to the field as soon as the arm was stitched, and, with a brilliant strategy conceived during the operation, soon won the day. Such are the results of a little weed when a civilization understands its uses.⁴

The *Rh-Ya* medical text compiled 1200-500 B.C. specifically mentions marihuana under the name *Ma*, the Chinese term for it today.⁵ Taxes to the Celestial Emperor were paid in hemp stalks around 500 B.C.,⁶ and there is archeological evidence that the Chinese cultivated hemp for textiles perhaps as early as 3000 B.C.⁷

Archeological evidence, as well as the testimony of Herodotus, further indicates that the Scythians spread religious marihuana use westward from Siberia to Europe during the 4th and 5th centuries B.C. Kettles containing deep-frozen hemp seeds from that period have been found in both Siberia⁸ and Germany,⁹ and Herodotus says the Scythians built small head tents, crept inside, threw hemp seeds or blooms on red-hot stones, and "howled for joy" at the vapor.¹⁰ The Scythians were such skilled horsemen that Philip of Macedon and Alexander the Great used Scythian cavalry in the forefront of their armies; and the officials of Athens regularly hired Scythian policemen to keep law and order. From an historical point of view, soldiers who turn on and cops who smoke dope are nothing new.

The Greeks and Romans used hemp for sail, cordage, and textiles,¹¹ and it is from them (Greek: *Kannabis*; Latin: *Cannabis*) that we got our present scientific word for the drug. Moreover, Dioscorides in the first century A.D. and Galen in the second century recommended cannabis for its ability to cure earache and assorted pains, extinguish flatus, and as a pleasant relaxing dessert.¹² There was an astonishing amount of trade between China, India, Persia, Egypt, Phoenecia, Greece, and Rome during these centuries, and contemporary scholarship is only now revealing the spread of intoxication cults throughout these areas. The Sumerians, Zealots, Essenes, and early Christians appear to have been mushroom-

eaters,¹³ and hundreds of religious societies including the Dionysiac and Orphic mysteries at Eleusis, Athens, Thebes, and Alexandria evidently preserved magical ceremonies and drug knowledge semi-secretly for ten centuries thereafter. Though contemporary marihuana researchers readily admit that hashish was widely used by the Arab nations at the time of the Crusades, no one has satisfactorily explained how its use arose and spread.

I would like to suggest that the most reasonable explanation for the spread of hashish may be found by looking into the writings of the greatest pharmacologists of the time, the Ismaili alchemists. The Arab Empire, with very rapid transcontinental communications, preserved and magnified classical knowledge and provided almost all the scientific bright spots that came into Europe during the "Dark Ages." Within the Empire, which spread eventually from Spain to India, there were two main branches of Muslim belief: the Sunnis, who were orthodox, puritanical, and powerfully established; and the Shi'ites, who claimed direct lineage from Mohammed's daughter Fatima and proclaimed the voice of the prophet in various descendants called Imams. Of the Shi'ites, the Ismailis were the most radical, the most fanatic, and the most scientific. They preserved the Greek alchemical writings (dated 300 to 700 A.D.), gnostic texts, Syriac translations of medical works (dated from 500 A.D. onward), and Persian and Arabic metaphysical, astrological, and alchemical texts from 750 A.D. onward.¹⁴ I think it most likely that these texts, regarded as "occult" and hence "undignified" by conventional scholars today, will provide the clues necessary to understand how hashish use became so widespread in the Muslim Empire by 950 A.D.

Several of the tales in the *Thousand and One Nights* mention common and royal hashish use. Lacroix, translating Arabian manuscripts dated c. 950 A.D., tells the following amusing parable:

A Moslem priest exhorting in the mosque against the use of "beng," a plant of which the principle quality is to intoxicate and induce sleep, was so carried away with the violence of his discourse that a paper containing some of the prohibited drug which often enslaved him fell from his breast into the midst of his audience. The priest without loss of countenance cried immediately, "There is the enemy, this demon of which I have told you; the force of my words has put it to flight, take care that in quitting me it does not hurl itself on one of you and possess him." No one dared to touch it; after the sermon, the zealous sophist recovered his "beng." One sees similar traits in all religions.¹⁵

This tale of a hypocritical orthodox priest leads me to believe that use of cannabis was secret, and spread among religious persons who professed against its use to the outside world, by the well-known Muslim religious

practice of *Taqiyya* — cautious dissimulation in the face of hostile authorities.¹⁶ Because the Ismailis were regarded as heretics by Sunni Muslims, they were usually forced to conceal their beliefs in this manner.

In 1090 A.D. a bold and brilliant revolutionary Ismaili named Hasan-i-Sabbah captured the fortress of Alamut in northern Persia and established the order later known as the Assassins. Ibn Beitar, an orthodox chronicler who died in 1248 A.D., says:

Toward this time there came to Cairo a man of the sect of Molaheds of Ismaeliens of Persia who compounded haschischa mixing it with honey and adding different dry substances, as the roots of mandrake and other drugs of this same nature, they named this composition *okda* and sold it secretly. It spread insensibly for several years, and became of common enough usage that in the year 1413 A.D. (Arab date?), this wretched drug appeared publicly, it was eaten flagrantly and without furtiveness, it triumphed.¹⁷

According to several Crusaders, Marco Polo, and later European travellers, Hasan-i-Sabbah and other Ismaili chiefs (all of whom were called "Old Man of the Mountain") directed initiates into his fabulous mountain gardens and knocked them out with a potion; they awoke in the garden, surrounded by lovely houris, and thought they were in Paradise. Later the Old Man (Sheikh) would tell them they had indeed had a taste of Paradise, and if they joined the Faithful Ones, they would continue to be admitted to Paradise — even if they were killed in following out their orders, which were usually to inveigle their way into the retinue of a prominent Muslim or Christian leader and kill him. Over the centuries, narcotics propagandists grossly re-interpreted this legend to mean that marijuana makes assassins; that the assassins used hashish to nerve themselves up for killing; and that people who turned on were fanatic slaves and wily murderers. In 1809 the French scholar Sylvestre de Sacy theorized that the word "assassin" came from "hashshashin," — hashish-takers — and the myth was henceforth secure.

The legend presents myriad difficulties. First, it is not known exactly what drug the Ismailis of Persia and Syria used. The effects of hashish were widely known at the time, but "use of the drug by the (Assassin) sectaries is attested neither by Ismaili nor by various Sunni authors."¹⁸ Secondly, in regard to the etymology, it was only the enemies of the Assassins — the Sunnis and Christians — who called them Assassins. They called themselves *Fida'i*, Faithful Ones, and so it was rather like establishment officials today calling any young radical a "dope-fiend." Thirdly, and most importantly, the drug employed by the Assassins was used as an aid to a vision of Paradise; it was not used when they went out on their missions, it

did not nerve them up for slaughter, and in no way did it cause crime, murder, or insanity. If anything, religious fanaticism in the hotbeds of Saracen intrigue, rather than hashish, caused Assassination.

At any rate, for the next few hundred years, hashish penetrated every Muslim kingdom. Naturally, given its association with religious revolutionaries, orthodox officials tried to ban it. This is a movie we've gone through countless times in history: a "new" and "dangerous" drug is introduced from some foreign land, often by persons of unconventional lifestyles; it is adopted by small cults of heretic users, then almost imperceptibly taken up by thousands of people. As soon as established officials realize it's not just a fad, they try to ban it on grounds that no research has been done, criminals use it, and it is alien to civilized society. Many are persecuted, many jailed, exiled, even killed; but the drug turns out to be acceptable to a certain number, and eventually officials must bow to the will of the people or be overthrown. That's the movie of Dionysus and wine, of King James and tobacco, of the Spanish nuns and hot chocolate; and it's the movie we're in right now. Let Lewis Lewin, the famed 19th-century psychopharmacologist, tell it:

It is recorded that in the year 1378 the Emir Soudon Sheikhouni tried to end the abuse of Indian hemp consumption among the poorer classes by having all plants of this description in Joneima destroyed and imprisoning all the hemp-eaters. He ordered, moreover, that all those who were convicted of eating the plant should have their teeth pulled out, and many were subjected to this punishment. But by 1393 the use of this substance in Arabian territory had increased.¹⁹

Such is the way it always seems to go. Prohibition increases crime, and criminal punishment of drug use always makes the forbidden substance more attractive.

Meanwhile, in India, Hinduism had replaced the Vedic religion, and Shiva had assumed many of the attributes and myths previously associated with intoxication gods. Shiva, god of destruction, rebirth, meditation, and dope, was often worshipped by pouring Bhang over a lingam, the phallic pillar which symbolized his heavy masculine energy; and Kali, Shiva's great black skull-garlanded tongue-drooling female-power aspect, was placated by offerings of Bhang in huge bowls drunk by the worshippers themselves. Then as now, 90 per cent of India's wandering saddhus daily consumed large quantities of bhang and smoked ganja in fat chillums; and then as now, no marriage feast, holiday celebration, or religious festival would be complete without cannabis milkshakes, sweetmeats, and smoke.

The *Dhurtasamagama*, or "Rogues' Congress," is the name of an amusing if coarsely written farce of about the year 1500 A.D., the author of which was one Jyotirica. In the second act two Caiva mendicants came before an unjust judge, and demand a decision on a quarrel which they have about a nymph of the bazar. The judge demands payment of a deposit before he will give any opinion. One of the litigants says —

"Here is my ganja bag; let it be accepted as a deposit."

The Judge (taking it pompously, and then smelling it greedily): —
"Let me try what it is like (takes a pinch). Ah! I have just now got by the merest chance some ganja which is soporific and corrects derangements of the humours, which produces a healthy appetite, sharpens the wits, and acts as an aphrodisiac!"²⁰

At this time the Muslims ruled northern India, while Hindu rajas controlled the kingdoms to the south, the empire of Vijayanagar. This is interesting because "Vijaya," which means "victorious," was a common epithet for marihuana. Dozens of religious rituals for using cannabis were developed, from the Tantric Buddhist kingdoms of Tibet to the Shivaite "Empire of Vijaya" in the south. Then the Moghuls took over from the Muslims, consolidated much of the subcontinent, and made drug use, especially of marihuana, an official part of court life, bringing it out of the temples into wide secular use. According to legend the great Mongol lord Tamerlane sowed hemp around his splendid capitol of Samarcand in Russia,²¹ and his descendant, Babur the Great, first Moghul Emperor of India, described how he would sometimes mix tincture of hemp and opium, too (c. 1505 A.D.). Babur also "ate hemp sweetmeats and, when taking hemp, abjured alcohol. He reports no ill or violent effects from either hemp or opium, but was sorely distressed by wine — his 'death-in-life'."²² Although this is interesting because grass had become so officially accepted that the Emperor of half of Asia preferred it to wine, it is more important that this information may provide a clue as to the exact drugs used by the Assassins. Since the Assassins' potion was narcotic, put the initiates to sleep, and mildly psychedelic, giving them a vision of Paradise, I suspect that the Ismaili alchemists concocted a precisely measured dose of cannabis mixed with opium and perhaps mandrake, datura, or some other slight stimulant which, like our time-release capsules, would bring on the various required effects in proper order. The Ismailis knew how to make tinctures (it is from their texts, presumably, that Paracelsus learned to make tincture of opium, laudanum) so it is possible that these drugs were mixed in alcohol. This would explain both the narcotic and mildly psychedelic and stimulant effects of the potion, and would clarify some of the modern confusion over the drug. But perhaps we will never know.

For the next four centuries, knowledge of cannabis spread from India and the Middle East into Europe and Africa. Rabelais about 1550 described it imaginatively though accurately enough to be identifiable, as the "Herb Pantagrueion," ransacking classical sources (especially Pliny) and medieval herbals for information.²³ The Latin herbal of Rufinus (c. 1287 A.D.) had mentioned it as *canape*;²⁴ Boccaccio in the *Decameron* alluded to the "powder of marvellous virtue" used by the Old Man of the Mountain;²⁵ the first major English herbal, that of William Turner, identifies it correctly in 1548 as "Hemp" in English, "Hanffe" in Dutch, and "Chanvre" in French;²⁶ Nicholas Culpeper's complete herbal (c. 1645) recommends it for a variety of ailments including jaundice, coughing, worms, gout, and rheumatism;²⁷ J. Ray's *Methodus Plantarum* in 1682 accurately describes the digitate, lined leaves of "Cannabis,"²⁸ and a popular quarto in London the same year even mentions "bangué" used by Persians.²⁹ Thus long before Linnaeus classified it botanically as "*Cannabis sativa* . . . *Habitat in India*" in 1753, the plant was known by all its common names throughout Europe,³⁰ was widely recommended in folk medicine, and was therefore probably available, either imported from the East or cultivated locally for its medicinal drugs as well as for cloth.

Emmissaries from Europe to Africa, the Mid East, and especially India began sending back reports of its use as a psychoactive drug. Leo Africanus, a Moroccan converted to Christianity, described its use by Tunisians around 1510 A.D.³¹ Garcia da Orta, a brilliant Portuguese physician who practiced in Goa for a quarter century and grew his own dope, left a clear and scientific account of "Bangué" in 1563.³² The French journalist traveller Bernier described an unusual form of drug torture and execution practiced by the Moghul sovereigns of India. "Post" is the Persian word for a poppy-head, and a slow-acting poison of the same name, made from crushed opium-poppies soaked overnight in water and mixed with Bhang and Deadly Nightshade was used on courtiers too important to be summarily executed; those

... whose heads the Monarch is deterred by prudential reasons from taking off. A large cup of this beverage is brought to them early in the morning, and they are not given anything to eat until it be swallowed; they would sooner let the victim die of hunger. This drink emancipates the wretched victims, who lose their strength and intellect by slow degrees, become torpid and senseless, and at length die.³³

Other writers mistakenly asserted that *Post* was made primarily of Bhang, which should be kept in mind: it meant that many Europeans thought marihuana was a lethal poison.

Most of the accounts of marihuana use in India by Portuguese, Dutch, French, and British missionaries, traders, pirates, and bureaucrats are disdainful, regarding cannabis as the drug of Hindu heathens and Muslim fakery, therefore beneath the contempt of Europeans. As a result, most accounts are distorted and superficial. Moreover, more was known about opium than about cannabis, and the reports almost uniformly confused the effects of the two quite different drugs. The context created by imperialism and racism and lack of scientific investigation led to marijuana being considered addictive and a narcotic used only by pagan slaves, criminals, and subhumans. Even Thomas Bowrey, a British privateer who had the blessed temerity to try marihuana before he described its effects, sent his Muslim guide outside before he turned on.³⁴ In sum, most of the information sent back to Europe about use of grass as a psychoactive drug, was garbled by being filtered through the supercilious perceptions of colonists, explorers, and white master-race bureaucrats. Later on, the cumulative effect of this misinformation would be the prohibition of marihuana in every western nation.

In a slow blink of Shiva's third eye, the British took control of India from the Moghuls and looted the subcontinent of every precious resource for centuries — which is why India is so poverty-stricken today. The French, meanwhile, were expanding into North Africa to compete with the British. In 1798 the young Napoleon Bonaparte led an army of Frenchmen, including a vast medical and scientific attachment, into Egypt and Syria to capture those nations as a springboard for an attack on India. The expedition was disastrous, resulting in Napoleon's being trounced in the Battle of the Nile a year later, but it advanced science immeasurably in two ways: archeologists brought back the Rosetta Stone, and the French soldiers discovered the pleasures of hashish and brought the habit back to France. For the first time a whole army of Europeans turned on (despite their officers' unsuccessful attempt to prohibit it) and French interest in the exotic and Oriental was aroused. In this context Sylvestre de Sacy elaborated his Haschashin etymology and the Assassins quickly became part of Romantic legend. English writers like De Quincey and Coleridge not only became addicted to laudanum but also tried cannabis — which had the inevitable effect of cementing the confusion between the two into popular literature.

The British East India Company, using clipper ships from the U.S. and other countries, embroiled England and America in the Opium Wars by growing opium in India and trading it unscrupulously in China for tea and money. About the same time, in 1839, Dr. William B. O'Shaughnessy introduced the therapeutic values of cannabis into Western medicine.³⁵

Aubert-Roche in France similarly recommended it as medicine, which encouraged the first great psychopharmacologist in Europe, J.J. Moreau de Tours, to begin his research on hashish and mental illness. Moreau turned on the young poet Gautier, who turned on his friend the painter Boissard, in whose suite at the swanky Hotel Pimodan they founded the *Club des Haschishin*, which was attended over the next few years by Baudelaire, Balzac, Flaubert, Dumas, and most the other famous writers of the time; all of whom spread the word.³⁶ In brief, hashish quickly invaded the cream of French scientific and artistic society, and the world has been a little weird ever since. Perhaps one little tale about a judge, from Baudelaire, can stand as a metaphor for the whole French involvement:

I once saw a respectable magistrate, an honorable man (as society folk say of themselves), one of those people whose artificial decorum is always awe-inspiring; at the moment that hashish took possession of him, he suddenly began to jump about in the most indecent can-can imaginable. The true inner monster was revealing himself. This man who judged the actions of his peers, this *Togatus*, had secretly learned the can-can.³⁷

Though ignored by contemporary researchers, the same thing was happening in the United States – in fact, surprisingly, the U.S. seems to have used cannabis as an intoxicant before Mexico did. Hemp had been grown for cloth since the Spaniards brought it to Chile around 1545,³⁸ and had been cultivated in the U.S. colonies since 1611 when it was planted by express command of the King, in Jamestown.³⁹ Ironically, considering the later war against grass, marihuana was associated with the first truly representative legislature in America, the Virginia General Assembly in 1619. “For hempe also both English and Indian,” the colonists decreed to themselves, “we do require and enjoin all householders of this Colony that have any of those seeds to make tryal thereof the nexte season.”⁴⁰

For the next chapter in American pot, we have to go back to Africa. As mentioned before, the Ismailis brought hashish into Egypt as early as the 10th century, but initiation into this practice was regarded by the Persian adepts (including the followers of Skeikh Heidar, who died 1051 A.D.) as a secret to be kept from ordinary mortals.⁴¹ Nevertheless, it spread in Egypt from the 13th century onward, which is also about the time many central African tribes discovered it.⁴² In addition, “West Coast Africans who had first traded slaves among themselves, then with the Arabs, and finally ironically were themselves traded, appear to have introduced it into Brazil and possibly into the West Indies.”⁴³ Thus Brazilians still call cannabis (*maconha*) by the African words “Diamba” and “Riamba”⁴⁴ –

and thus apart from its cultivation for hemp fibre, marihuana's use as a drug was known in the New World, inextricably associated with the African slave trade.

George Washington and many other colonial farmers grew hemp for cloth, but several factors indicate the likelihood that they knew of its use as a drug. First, Washington separated male from female plants, which is done only when potent resin is desired.⁴⁵ Second, it seems likely that colonial masters were shown the use of marihuana as a drug by their Africans; this was certainly done in Jamaica and the West Indies, at the same time (late 18th century), following the introduction of ganja from India.⁴⁶ Thirdly, laudanum was commonly used for aches and pains – Benjamin Franklin died addicted to opium which he took for gout – and this use of cannabis as a home remedy, accompanied by psychoactive effects, would not have been shocking. Before the Civil War, hemp was the South's second most important cash crop, after cotton;⁴⁷ and this ready availability of the plant, coupled with slaves' knowledge of its use as a drug, makes it improbable that pot was not used for psychoactive effects.

Around 1850 for sure, following O'Shaughnessy's recommendations, American doctors began using cannabis tincture and extract openly, and the habit was picked up by nonmedical users to a far greater degree than most contemporary researchers suspect. Frederick Hollick, a very popular medical lecturer from Philadelphia, experimented with both Cannabis Indica and a variety he grew himself in America; found resin from both to be active; prepared "a combination of the cannabis with other articles which (he) found to possess extraordinary powers" – the recipe for which he refused to disclose; and heartily recommended it as an aphrodisiac in a *Marriage Guide* (1850) sold all over the continent.⁴⁸ Bayard Taylor published his "Visions of Hashish" and several anonymous Americans including Fitz Hugh Ludlow attempted to rival De Quincey in depicting the pleasures and horrors of gobbling huge overdoses of hashish and Tilden's famous cannabis extract which sold at the corner drugstore for six cents a shot. Ludlow appended to his book *The Hasheesh Eater* (1857) an article in the New York Tribune written by his physician, Dr. J.W. Palmer, which described in detail the use of churrus, bhang, and gunjah in India and commended O'Shaughnessy's work to American doctors and writers.⁴⁹ By 1860 even the square doctors of the Ohio State Medical Society were hip to hemp,⁵⁰ and an entire younger generation was starting to turn on, as a London alarmist, Mordecai Cubitt Cooke, pointed out:

Young America is beginning to use the "Bang", so popular among the Hindoos, though in rather a different manner, for young Jonathan must in some sort be an original. It is not a "drink", but a

mixture of bruised hemp tops and the powder of the betel, rolled up like a quid of tobacco. It turns the lips and gums of a deep red, and if indulged in largely, produces violent intoxication. Lager beer and schnaps will give way for "bang", and red lips, instead of red noses, become the "style."⁵¹

The importance of this fascination with hemp and India among the Transcendentalists must not be underestimated. Whitman, Thoreau, Emerson, and even Whittier alluded to India extensively and referred to Vedic Soma in glowing terms; and Melville late in life is said to have received a trunkful of goodies from Cairo, the contents of which he would not disclose to anyone. Within a single generation many adventurous writers, doctors, and artists had turned on, and semi-secret hashish clubs could be found in every major city from New York to New Orleans to San Francisco between 1876, when the Turkish display at the Philadelphia Exposition featured hash-smoking, and 1883, when H.H. Kane described New York's most luxurious hashish-house, which would be the envy of any psychedelic freek today.⁵²

All this hashish use, and suspected marihuana use, in North America came before the first positive description of marihuana grown in Mexico, dated 1886.⁵³ It was only after extensive acquaintance with hashish, bhang, extract, and tincture that Yankees learned about marihuana, from the Mexican-Spanish word *mariguana* (intoxicant), or pot, which according to a new theory by British author Michael Schofield, came from Mexican-Spanish *potaguaya*.⁵⁴

Thus, within a century after Napoleon's army introduced the practice in Europe, most of the world had turned on; art inspired by dope and Orientalism was the *fin de siecle* rage; exotic cultists, writers, and medical authorities glorified the herb; and only a few nations — orthodox, police-state Egypt, for example — had laws prohibiting it. Beneath the splendors of cannabis culture, however, lurked several malevolent demons: imperialism, racism, elitism, puritanism, and growing opiate addiction. In every country, the white wealthy master elite depended on nonwhite slaves and servants for drug supply and service in the clubs; missionaries decried its use by heathen natives; and police ignored its use by the bourgeoisie, which left them free to move against its use by natives, emigrants, and the poorer classes.

In 1893, partly as a backlash of guilt over the opium wars, questions were raised in the British House of Commons about cannabis use in India, particularly in Bengal. The Indian Hemp Drugs Commission convened to study the problem for over a year; gathered evidence from 1,193 witnesses in 86-testimony-hearings, made field trips to 30 cities, and — almost

exactly 77 years ago today, on August 6, 1894 — finished their report in seven massive volumes, with a couple more unpublished. This, the most exhaustive and thorough scientific study ever done on cannabis, concluded that small doses of hemp were beneficial; moderate use of cannabis, even if regular, had no significant injurious mental, physical, or moral effect; and although excessive use was harmful because it made the user more susceptible to disease, even abuse was less harmful than abuse of other toxic drugs such as alcohol. When doctors today claim that "no research has been done into the long-term effects of marihuana," they conveniently forget the evidence compiled by the Indian Hemp Commission after studying centuries of cannabis consumption and smoking in India. Moreover, the Commission took pains to investigate carefully the horror stories which some witnesses told them, and said:

It has been the most striking feature of this inquiry to find how little the effects of hemp drugs have obtruded themselves on observation. The large number of witnesses of all classes who professed never to have seen these effects, the vague statements made by many who professed to have observed them, the very few witnesses who could so recall a case as to give any definite account of it, and the manner in which a large proportion of these cases broke down on the first attempt to examine them, are facts which combine to show most clearly how little injury society has hitherto sustained from hemp drugs.⁵⁵

Therefore, the Commission concluded:

Total prohibition of the cultivation of the hemp plant for narcotics, and of the manufacture, sale, or use of the drugs derived from it, is neither necessary nor expedient in consideration of their ascertained effects . . .⁵⁶

Members of the Commission several times emphatically repeated that they unhesitatingly gave their verdict "against such a violent measure as total prohibition in respect to any of the hemp drugs."⁵⁷ They then recommended a system which they hoped would lessen abuse of the drugs and "prevent the consumers, as far as may be possible, from doing harm to themselves and to lessen the inducements to the formation of the habit which might lead to such harm:"⁵⁸ a system of licensing and revenue-taxation supervised by the (British) Government of India overseeing local and provincial regulation. In a policy statement remarkably relevant to contemporary questions of proper marihuana regulation, the Commission expressed the opinion "that there is a legitimate use of the hemp drugs," and warned that "if the restrictions lead to the use of more deleterious

substances, or even drive the people from a habit the evil of which is known to another of which the evil may be greater, they are no longer justifiable."⁵⁹ Thus the IHDC was worried that overly restrictive marihuana legislation would drive people to more dangerous drugs, such as alcohol, datura, or narcotics, and specifically proposed that marihuana be legalized and regulated freely enough that this would not happen. One can only wish that contemporary governments would understand the dire results of prohibiting marihuana while speed, smack, and downers are readily available.

Unfortunately, the IHDC Report was almost the last sensible policy statement made by any Western government about marihuana. The 20th-century legal history of grass is one of racism, imperialism, bad science, and worldwide irrational dictatorial policy promulgated by American racist politicians and self-aggrandizing narcotics police. The illegalization of marihuana came about because of *who was using it* – Filipino tribes conquered by the U.S. in 1898, the Black Cavalry units operating along the Mexican border at the turn of the century, the "wetback" Mexican laborers who worked in the Southern United States, and above all the "niggers" who spread the practice northward from New Orleans during the 1920's.

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example, with its huge pot-smoking chicano population and opium-smoking Chinatowns, labeled marihuana "poison" in 1907, prohibited its possession unless prescribed by a physician in 1915, and included it among the "hard" narcotics heroin, morphine, and cocaine in 1929.⁶³ Texas and Colorado enacted prohibition laws in 1929; and as pot went up the River from New Orleans with jazz, quickly adopted by ghetto Blacks and Puerto Ricans and a few white musicians, Illinois and New York followed suit in 1931 and 1933.

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On Flag Day, 1930, the Federal Bureau of Narcotics was created in the Treasury Department; and the new Bureau's first actions were to push for establishment of two federal "narcotics farms for the confinement and treatment of persons addicted" to opiates and "Indian hemp."⁶⁷ The Bureau immediately took up the arguments that marihuana caused crime and insanity, spread them across the country by newspaper, magazine, and radio, and pressed for a Uniform Narcotics Code to be adopted by all states, which included a marihuana prohibition. Though the new Bureau, headed by Commissioner Harry Anslinger, was too sophisticated to couch its arguments in overtly racist terms, their first report on pot, for the year 1929, pointed out that:

mixture of bruised hemp tops and the powder of the betel, rolled up like a quid of tobacco. It turns the lips and gums of a deep red, and if indulged in largely, produces violent intoxication. Lager beer and schnaps will give way for "bang", and red lips, instead of red noses, become the "style."⁵¹

The importance of this fascination with hemp and India among the Transcendentalists must not be underestimated. Whitman, Thoreau, Emerson, and even Whittier alluded to India extensively and referred to Vedic Soma in glowing terms; and Melville late in life is said to have received a trunkful of goodies from Cairo, the contents of which he would not disclose to anyone. Within a single generation many adventurous writers, doctors, and artists had turned on, and semi-secret hashish clubs could be found in every major city from New York to New Orleans to San Francisco between 1876, when the Turkish display at the Philadelphia Exposition featured hash-smoking, and 1883, when H.H. Kane described New York's most luxurious hashish-house, which would be the envy of any psychedelic freek today.⁵²

All this hashish use, and suspected marihuana use, in North America came before the first positive description of marihuana grown in Mexico, dated 1886.⁵³ It was only after extensive acquaintance with hashish, bhang, extract, and tincture that Yankees learned about marihuana, from the Mexican-Spanish word *mariguana* (intoxicant), or pot, which according to a new theory by British author Michael Schofield, came from Mexican-Spanish *potaguaya*.⁵⁴

Thus, within a century after Napoleon's army introduced the practice in Europe, most of the world had turned on; art inspired by dope and Orientalism was the *fin de siècle* rage; exotic cultists, writers, and medical authorities glorified the herb; and only a few nations — orthodox, police-state Egypt, for example — had laws prohibiting it. Beneath the splendors of cannabis culture, however, lurked several malevolent demons: imperialism, racism, elitism, puritanism, and growing opiate addiction. In every country, the white wealthy master elite depended on nonwhite slaves and servants for drug supply and service in the clubs; missionaries decried its use by heathen natives; and police ignored its use by the bourgeoisie, which left them free to move against its use by natives, emigrants, and the poorer classes.

In 1893, partly as a backlash of guilt over the opium wars, questions were raised in the British House of Commons about cannabis use in India, particularly in Bengal. The Indian Hemp Drugs Commission convened to study the problem for over a year; gathered evidence from 1,193 witnesses in 86-testimony-hearings, made field trips to 30 cities, and — almost

exactly 77 years ago today, on August 6, 1894 – finished their report in seven massive volumes, with a couple more unpublished. This, the most exhaustive and thorough scientific study ever done on cannabis, concluded that small doses of hemp were beneficial; moderate use of cannabis, even if regular, had no significant injurious mental, physical, or moral effect; and although excessive use was harmful because it made the user more susceptible to disease, even abuse was less harmful than abuse of other toxic drugs such as alcohol. When doctors today claim that “no research has been done into the long-term effects of marihuana,” they conveniently forget the evidence compiled by the Indian Hemp Commission after studying centuries of cannabis consumption and smoking in India. Moreover, the Commission took pains to investigate carefully the horror stories which some witnesses told them, and said:

It has been the most striking feature of this inquiry to find how little the effects of hemp drugs have obtruded themselves on observation. The large number of witnesses of all classes who professed never to have seen these effects, the vague statements made by many who professed to have observed them, the very few witnesses who could so recall a case as to give any definite account of it, and the manner in which a large proportion of these cases broke down on the first attempt to examine them, are facts which combine to show most clearly how little injury society has hitherto sustained from hemp drugs.⁵⁵

Therefore, the Commission concluded:

Total prohibition of the cultivation of the hemp plant for narcotics, and of the manufacture, sale, or use of the drugs derived from it, is neither necessary nor expedient in consideration of their ascertained effects . . .⁵⁶

Members of the Commission several times emphatically repeated that they unhesitatingly gave their verdict “against such a violent measure as total prohibition in respect to any of the hemp drugs.”⁵⁷ They then recommended a system which they hoped would lessen abuse of the drugs and “prevent the consumers, as far as may be possible, from doing harm to themselves and to lessen the inducements to the formation of the habit which might lead to such harm.”⁵⁸ a system of licensing and revenue-taxation supervised by the (British) Government of India overseeing local and provincial regulation. In a policy statement remarkably relevant to contemporary questions of proper marihuana regulation, the Commission expressed the opinion “that there is a legitimate use of the hemp drugs,” and warned that “if the restrictions lead to the use of more deleterious

substances, or even drive the people from a habit the evil of which is known to another of which the evil may be greater, they are no longer justifiable."⁵⁹ Thus the IHDC was worried that overly restrictive marihuana legislation would drive people to more dangerous drugs, such as alcohol, datura, or narcotics, and specifically proposed that marihuana be legalized and regulated freely enough that this would not happen. One can only wish that contemporary governments would understand the dire results of prohibiting marihuana while speed, smack, and downers are readily available.

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The abuse of this drug consists principally in the smoking thereof, in the form of cigarettes for the narcotic effect. This abuse of the drug is noted particularly among the Latin-American or Spanish-speaking population. The sale of cannabis cigarettes occurs . . . wherever there are settlements of Latin-Americans.⁶⁸

There were no Chicano or Puerto Rican advocacy groups such as we have today, to defend their people against this racist government policy; and the Black movement was still in its Back-to-Africa stage. White professional doctors and lawyers quickly got the message and stopped prescribing cannabis preparations, and the field was left clear for the 1937 national legislation which the self-serving Federal Bureau claimed was necessary to stop the "marihuana menace." When the Marihuana Tax Act bill came before Congress, no researchers, physicians, or pro-marihuana persons were called to testify, and the police were able to get their legislation through without a fight. In all the history of American law there is hardly a better example of police manufacturing an issue, creating a grossly fabricated set of myths about marihuana's dangers, and then railroading a national law through Congress designed to create jobs for the Bureau on the basis of almost no scientific evidence against the drug.

As soon as the Tax Act went into effect, its racist origins became clear as it was applied primarily against blacks, chicanos, Puerto Ricans, and immigrants. A March 1938 issue of *New Yorker* says by then there were hundreds of "tea pads" in Harlem — "many more of them than there were speakeasies during prohibition."⁶⁹ The LaGuardia Report (1938-1944) discovered more than 500 "tea pads" in Spanish Harlem alone. *Who* was turning on and getting busted for grass? Not the people who legalized booze!

The medical professional associations continued to support this racist suppression of the social drug preferred by non-white Americans. When the LaGuardia Report was issued in 1944, the A.M.A. immediately issued a statement condemning the Report as "unscientific," which was then displayed by the F.B.N. who proffered instead of the LaGuardia studies, a racist report of "colored marihuana addicts" in the Army.⁷⁰ Meanwhile, because marihuana was now associated with opiates in the illegal market, the law had created the context in which marihuana could be blamed for heroin use. Anslinger at first denied that pot led to heroin, but later said it did, after the Rowell brothers in their 1939 book *On the Trail of Marihuana: The Weed of Madness*, quoted the "head of a dope ring of five states" saying:

"The missing link that we have been seeking for a generation has now been found: tobacco to marijuana, marijuana to 'snow,' 'snow' to the needle. That makes a customer for life, who will give body and soul for the stuff. Marihuana is a natural."⁷¹

Thus the basic arguments against marihuana had been fabricated and laid out by the Federal Bureau before 1940. They claimed that marihuana caused ghetto crimes of violence; caused insanity; and led to heroin, for decades thereafter. The American public, with little real experience with marihuana, had no other facts to counter the Bureau's fabrications until in the late 1950's the group of writers popularly called the "Beatniks" learned about the practice from their Black musician friends and started the rage for marihuana which is just now beginning to peak in the more sophisticated cities and states and college campuses.⁷²

It is fitting, somehow, to conclude this legal history of marihuana by predicting that grass will be legal again in the U.S. before 1980, if AMORPHIA's campaign to repeal pot prohibition, funded by the proceeds from "Acapulco Gold" rolling papers, is successful.⁷³ As a Hindu saddhu might say, *Jaya Jaya Vijaya* — MARIHUANA BE VICTORIOUS!

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72. The author wishes to thank Allen Ginsberg, Tod H. Mikuriya, M.D., and the Fitz Hugh Ludlow Memorial Library for their generous assistance in helping discover some of the material used in preparing this paper. Copyright (c) Michael R. Aldrich, 1971.

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