

DRUGS AND THE LAW

Among the morass of problems facing Americans today is the problem of drug usage and the Law. The use of marijuana, effectively prohibited by Federal law since 1937, has spread rapidly to the point where more than 40 million Americans are reported to have tried marijuana at one time or another. Legalization of *cannabis sativa* appears to be a question that will be answered by the politics of the Eighties.

The harder drugs . . . amphetamines, barbiturates, hallucinogenics such as LSD and STP, and heroin . . . are condemned by people who realize the damage these drugs cause to the body and mind. Most people accept the legal bans on these drugs without question. In reality, however, the question of across-the-board drug prohibition needs both a philosophical and pragmatic re-evaluation.

Most people don't realize that until the twentieth century there were no restrictions on drug usage in the U.S. Indeed, opium smoking was viewed as a habit slightly better to maintain than the vice of tobacco smoking. Sir Arthur Conan Doyle's famous character, Sherlock Holmes, was often chided by Doctor Watson for smoking opium. Tritated of cannabis often was prescribed by the local pharmacist as a cure for sinus congestion and the relief of pain.

Perhaps because of this unschooled disregard for the very real dangers of narcotics, the Harrison Act was passed in 1914 requiring registration of persons possessing what the Act defined as dangerous drugs and prohibiting their possession except for legitimate medical prescriptions and research.

Another theory has it that narcotics controls represented the "progressive" spirit of the times away from free trade, since the earliest U.S. agreement on drugs dated from 1909 when the importation of smoking opium was prohibited. Indeed, since China and Turkey were the major producers of the opium poppy, it can only be speculated that the first controls were statist economic retaliations for the Boxer uprising. At any rate, the noose of regulation grew tighter.

A 1919 Supreme Court decision prohibited physicians from prescribing drugs for addicts. This was a significant event, for it turned a class of people from law-abiding citizens into hard core criminals who were forced to resort to petty theft and occasionally violent crime to maintain what was now a costly habit. The law, in this case, served the dual purpose of forcing the addict to associate with a criminal class to maintain his supply since the risk of

punishment prohibited reputable suppliers, and of inciting crime by indirectly subsidizing a criminal cartel monopoly on the one hand, and by virtue of the high drug prices, making thieves of addicts.

Marijuana entered the scene as a relative late-comer. Pot was not placed under the provisions of the Harrison Act until 1937. The man behind the sensationalist campaign to prohibit pot was Harry Anslinger, head of the Federal Narcotics Bureau. The main reason behind marijuana prohibition was not even a typical case of government paternalism. It was rather a simple application of Parkinson's law. Anslinger had formerly headed the Treasury Dept. bureau charged with enforcing the Volstead Act. When alcohol prohibition was ended in 1933, Anslinger had to look for a new gremlin to keep him in business. Thus he went on the lecture circuit through the Bible Belt decrying the evils of the "weed from Hell."

In the past few years, the sentiment on marijuana has been changing—possibly because so many people have tried it and found that it was relatively harmless. Reputable research, dating back as far as the 1898 report of the British Indian Hemp Commission, through the LaGuardia Commission report of thirty years ago, to present investigations, has indicated that marijuana may be as harmless as alcohol is to moderate social drinkers. Thus most people, acting from pragmatic premises, argue that marijuana penalties should be lessened and that when all the research is in, it should be legalized.

The problem with this type of thinking is that it assumes as a basic premise that the state should be able to prohibit trade and usage of substances dangerous to the individual. They believe in the enforcement of "objective" norms of behavior, even when an individual's behavior neither hurts nor helps anyone but himself. This same person, were he to attend a meeting of obese people trying to lose weight, would notice that they all ate ice cream and thus put on pounds. Since being overweight is unhealthy, he would rule that for the good of society ice cream should be prohibited, since it ruins the health of some people. He believes in legislated morality.

In his 1964 Presidential campaign, Sen. Barry Goldwater said, "You can't legislate morality" when discussing the attempt by the liberal establishment to banish racism by civil rights legislation. But what the conservative establishment has failed to realize is that the same axiom applies to any man's exercise of his freedom, keeping in mind what

Auberon Herbert noted about "similar freedoms" . . . that no man may initiate force on another since he would not be exercising his freedom, his range of choices, but denying the other man the similar freedom to make his own choices.

The libertarian view of the legal prohibition of narcotics, while sharing the concern of those who see so many people wasting their lives in a shell-like dream world, is based upon a philosophy of freedom, with its necessary pillars of the right to life and private property.

The libertarian holds that everyone has a right to life and to private property as a result of the use of his life. Each individual's life is his own, to use or waste as he sees fit. Just as he has the right to select foods, the self-owning individual has the right to select what drugs he will put in his body, be they tobacco, coffee, alcohol, aspirin or marijuana. He has a right, whether fully understanding consciousness is involved in his decision or not, to alter his consciousness and metabolism.

Mind you, he does *not* have a right, even in a drugged state of mind, to deprive others of their freedom. Thus, the libertarian supports the right of a person to use drugs as he pleases, but not to interfere with others rights not to be controlled by the coercive acts of some.

The position that there should be no prohibitions on narcotics does not mean that the sale or use of drugs should be controlled, taxed, or regulated by the state. It means simply that there should be laissez faire, hands off, no controls. This stance, though it may appear radical to some, is merely the same as being opposed to a law that sentences one to hanging for attempting suicide.

The major reaction to the libertarian position is a visceral, gut reaction. One immediately conjures up visions of a world of drug addicts wandering around with glazed eyes. Crime would supposedly run rampant and no real production would take place, they assume.

It has already been mentioned that the reason most people turn to theft to support a drug habit is that the law prohibits cheaper commercial dispensation. A lift on the ban of such drugs would also assure that dangerous and impure bootleg drugs would not reach the hands of customers.

A theory first arrived at by Dennis Turner indicates a possible cause, other than the commonly discussed "drug oriented" society theory for the widespread use of drugs. Since practically all drugs

either reduce stress or provide present sensual or mental pleasure in lieu of possible future achievement, they are used primarily in situations when great stress is placed upon the individual and his future, being uncertain, holds no great promise. A person has a greater tendency towards being a now-oriented hedonist when he has little indication that a wise investment of his time now will bring him a bright and secure future.

Certainly the vast amount of government control over an individual's life makes him uncertain of the future. It is interesting to note that drug use on campus receded when the threat of the Draft and being forced to fight in the Vietnam War were lifted from the heads of young people. People in all stations of life are undergoing great stress these days caused largely by economic conditions fostered by the government's interferences.

The conclusion reached by libertarians is that controls by the government over the whys and wherefores of the individual's life may actually be a major cause of many people withdrawing into the self-limiting underworld of drugs.

But whatever the cause, the philosophically committed individualist realizes that the present drug laws, selectively enforced, criminal molding, and poorly written, are a chain upon the right of each person to exercise his free will, and thus should be totally abolished.

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