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The Resurgence Of American Nativism In The Early-Twentieth Century And Its Effects On Industrial Hemp Production In The United States

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THE RESURGENCE OF AMERICAN NATIVISM IN THE EARLY-TWENTIETH
CENTURY AND ITS EFFECTS ON INDUSTRIAL HEMP PRODUCTION
IN THE UNITED STATES

being

A Thesis Presented to the Graduate Faculty
of the Fort Hays State University in
Partial Fulfillment of the Requirements for
the Degree of Master of Arts

by

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ABSTRACT

Congress passed the Marihuana Tax Act on August 2, 1937, which officially made it illegal to handle any form of *Cannabis sativa* L. without adhering to mandatory taxes and registration forms. The American cultivation of industrial hemp (fibrous, non-psychoactive *C. sativa* L.), became non-existent by 1958 due to the strict penalties associated with the 1937 Tax Act. Industrial hemp served as a staple of American life from the arrival of the first English colonists in North America up until the textile conquest of King Cotton in the early-nineteenth century. Despite the rise of cotton and the importation of cheap foreign fibers like manila, jute, and sisal, American hemp still proved useful, especially in times of war. What ultimately dealt the final blow to the U.S. hemp industry was the resurgence of American nativism in the early-twentieth century.

This thesis examines how powerful bureaucrats and businessmen used nativist rhetoric to alter the American public's perception of cannabis over the first half of the 1900s. Nativists feared that internal foreign threats would cause the collapse of the U.S. by spreading immorality throughout the country and corrupting the values of "native" Americans (typically, white Anglo-Saxon Protestants). Capitalizing on these fears, Harry J. Anslinger and his Federal Bureau of Narcotics emphasized the growing dangers of immigrants and minorities who supposedly became violent after consuming "marihuana." The lack of scientific information on cannabis during the 1930s allowed Anslinger to include hemp in the Marihuana Tax Act, thereby transforming industrial hemp into a casualty of mass hysteria.

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INTRODUCTION

In the first few decades of the twentieth century, newspapers across the United States issued warnings to the American public about a new drug called *marihuana* that was supposedly ravaging Mexican immigrant communities in the American Southwest and finding its way into the homes of white citizens. However, these newspapers neglected to inform their readers of the relationship between *marihuana* and industrial hemp; a once-vital crop in America.¹ The U.S. hemp industry was a shell of its former self at the start of the twentieth century due to the disappearance of its markets over the previous fifty years, with only a select few states like Kentucky remaining steadfast in their hemp cultivation. Kentucky hemp farmers seemed optimistic that future innovations in hemp production would restore the industry to its previous state of prosperity, but the resurgence of American nativism in the early 1900s crushed these hopes by eliciting the state and federal governments to enact anti-cannabis legislation.

Those who embraced the tenets of American nativism saw immigrants as a plague of corruption on American values. Financially and politically influential characters took advantage of these fears by launching an extensive smear campaign against cannabis using the ethnically charged term *marihuana*. They gained public support through their

¹ The terms “hemp” and “marijuana” represent genetically distinct non-psychoactive and psychoactive forms of the species *Cannabis sativa* L., respectively. To avoid any confusion, the non-italicized “cannabis” is a general term used to encompass *C. sativa* L. and all of its subspecies and varieties. Furthermore, this paper will use the modern form of the word “marijuana,” which uses a ‘j’ rather than an ‘h’ or a ‘g’, unless it is directly referencing texts from the early-twentieth century.

anti-marijuana propaganda, playing upon the nativists' animosity toward Mexican immigrants, and to a lesser extent immigrants from India, the Middle East, and East Asia. Therefore, cannabis prohibition became a reality in the United States through the exploitation of the country's growing nativist fears by powerful bureaucrats and businessmen. All the while, these authoritative figures showed a complete disregard for science by intentionally disseminating false information to counter the findings of the few reputable cannabis studies of the time. This explains why industrial hemp fell under the prohibition as well, despite the fact that it barely yields any tetrahydrocannabinol, the primary cannabinoid responsible for marijuana's psychoactivity.

Cannabis has a long and extensive history spanning the entire globe; for that reason, it is necessary to provide quite a bit of background information in order to fully grasp the totality of nativism's influence on U.S. cannabis prohibition. The first chapter of this study explores some of the more pertinent issues in cannabis' history up to the twentieth century that would shape America's prohibitive crusade. These issues include the difference between hemp and marijuana, how the western world developed its understanding of cannabis, and why hemp production fell out of favor in the U.S. before the call for prohibition began. Chapter Two examines the discriminatory convictions held by many Americans in the early-twentieth century and how their ideals became the basis for the anti-marijuana rhetoric that made cannabis prohibition possible. This chapter discusses the evolution of xenophobia in the U.S. and how events like the Mexican Revolution and World War I catapulted American nativism to new extremes, ushering in

a wave of immigration reform and portraying narcotics as an instrument used by immigrants to destroy American values.

Chapter Three analyzes the prejudice that emerged in the individual states, with each one passing legislation to curb the marijuana menace within their borders. Going from state to state, the chapter displays the errors of citizens who associated marijuana with non-cannabis plants like locoweed, and why different levels of nativism prevailed in certain states depending on their location in the country. Lastly, Chapter Four focuses on the rise of the Federal Narcotics Bureau and how its commissioner, Harry J. Anslinger, incorporated the growing bigotry of the states into federal legislation. The passage and effects of the 1937 Marihuana Tax Act are the primary focuses of this chapter, showing how the Act completely blindsided the U.S. hemp industry and how Anslinger secured the Act's passage through the utilization of sensational stories that linked cannabis use to insanity, rape, and murder, usually involving immigrants.

This work relies upon a wealth of primary sources, specifically government documents, hearing transcripts, committee reports, newspaper articles, and the writings of individual authors. Before America's cannabis prohibition, the western world has plenty of references to industrial hemp and the state of America's hemp industry, like Charles F. Grece's *Facts and Observations Respecting Canada, and the United States of America*, John R. Humphrey's *Marketing Hemp*, and the reports of the United States Department

of Agriculture.² References to psychoactive cannabis in the western world, on the other hand, are somewhat limited prior to the twentieth century. The Irish physician William Brooke O’Shaughnessy brought cannabis to the attention of western medical practitioners via his cannabis studies in the 1830s, opening the door for westerners to write valuable works on cannabis in the nineteenth century, such as Jacques-Joseph Moreau’s *Hashish and Mental Illness*, Fitz Hugh Ludlow’s *The Hasheesh Eater*, and Mordecai Cubitt Cooke’s *The Seven Sisters of Sleep*; all of which present the earliest accounts of westerners’ experiences with psychoactive cannabis.³

The 1894 report from the Indian Hemp Drugs Commission produced the first known large-scale study on the effects of cannabis consumption, and with its findings, the committee advised the British government against regulating cannabis by refuting the notion that it caused insanity.⁴ In 1933, an American military committee in Panama

² Charles F. Grece, *Facts and Observations Respecting Canada, and the United States of America: Affording a Comparative View of the Inducements to Emigration Presented in those Countries. To Which is Added an Appendix of Practical Instructions to Emigrant Settlers in the British Colonies*, (London: J. Harding, 1819), <https://babel.hathitrust.org/cgi/pt?id=wu.89067587337> (accessed August 17, 2018); John R. Humphrey, *Marketing Hemp* (Lexington, KY: University of Kentucky Press, 1919), 26, <https://babel.hathitrust.org/cgi/pt?id=uiug.30112019587614> (accessed August 17, 2018).

³ Jacques-Joseph Moreau, *Hashish and Mental Illness* (New York: Raven Press, 1973); Fitz H. Ludlow, *The Hasheesh Eater: Being Passages from the Life of a Pythagorean* (New York: Harper & Brothers Publishers, 1857), <https://babel.hathitrust.org/cgi/pt?id=hvd.32044051117521> (accessed August 20, 2018); M.C. Cooke, *The Seven Sisters of Sleep: Popular History of the Seven Prevailing Narcotics of the World* (London: James Blackwood, Paternoster Row, 1860), <https://babel.hathitrust.org/cgi/pt?id=njp.32101041502129> (accessed May 9, 2018).

⁴ Indian Hemp Drugs Commission, *Report of the Indian Hemp Drugs Commission, 1893-1894* (Simla, India: Government Central Printing Office, 1984), 3:246, <https://digital.nls.uk/indiapapers/browse/archive/74908458> (accessed May 9, 2018).

conducted another cannabis study to examine its effects on soldiers. Much like the Indian Hemp Drugs Commission, the military committee concluded that the U.S. government should not place restrictions on cannabis for public use.⁵ Harry J. Anslinger, the head of the Federal Narcotics Bureau and mastermind behind the Marihuana Tax Act, ignored these findings to advance his goal of outlawing marijuana in the U.S. during the 1930s. Members of the Narcotics Bureau or other close associates defended the passage of the Marihuana Tax Act by releasing studies supporting the prohibition. They would write books or articles for magazines or newspapers, go on network broadcasts, and give lectures to parents, educators, and social and civic leaders.⁶ As a result of the efforts of Anslinger and his associates, both the federal government and every state in the Union had their own prohibitory laws against cannabis by the end of the 1930s, bringing forth an era of mass incarcerations and an expanding criminal justice system.

Ever since the passage of the Marihuana Tax Act, countless academics have produced their own interpretations of how the United States handled the issue of cannabis. The writings of these academics showcase the different ways to historically approach the topic of cannabis prohibition in America. This study's selection of secondary sources includes a wide assortment of compositions from the fields of history,

⁵ Association of Military Surgeons of the United States, "Marijuana Smoking in Panama," *The Military Surgeon* 73 (1933): 269.

⁶ Harry J. Anslinger and Will Oursler, *The Murderers: The Shocking Story of the Narcotic Gangs* (New York: Farrar, Straus and Cudahy, 1961), 38.

botany, political science, sociology, and philosophy, and their combination has allowed for the creation of an original historical approach to the issue at hand. Since this study places nativism at the heart of cannabis prohibition, other factors may simply appear to set the scene, but that does not undermine their significance. Seeing as how this study is historical rather than scientific, it avoids delving into overly biological or chemical content, choosing instead to present the most relevant information in layman's terms. Robert Clarke and Mark Merlin's *Cannabis Evolution and Ethnobotany*, Ernest Small and Arthur Cronquist's 1976 *Taxon* article "A Practical and Natural Taxonomy for Cannabis" supply a scientific basis.⁷

Ernest L. Abel's 1980 book *Marihuana: The First Twelve Thousand Years* serves as an important source of information for its broad history of cannabis dating all the way back to prehistoric times. Abel depicted cannabis as one of nature's greatest examples of "survival of the fittest," and he illustrated this point by geographically divvying up his book into region-specific sections to explore how different cultures affected cannabis' evolution.⁸ Abel could only go back as far as 2000 BCE, often resorting to speculation when he did not have the sources to back up his claims, and he certainly made no

⁷ Robert Clarke and Mark Merlin, *Cannabis Evolution and Ethnobotany* (Berkeley, CA: University of California Press, 2013), <https://ebookcentral.proquest.com/lib/fhsu/reader.action?docID=1249494> (accessed August 16, 2018); Ernest Small and Arthur Cronquist, "A Practical and Natural Taxonomy for Cannabis," *Taxon* 25, no. 4 (August, 1976), <https://www.jstor.org/stable/1220524> (accessed August 16, 2018).

⁸ Ernest L. Abel, *Marihuana: The First Twelve Thousand Years* (New York: Plenum Press, 1980), 4.

attempts to hide his bias on the issue of marijuana legalization, but the amount of research that went into the book is invaluable nonetheless. Unlike Abel's book, this study strives for objectivity; the motive for writing this study is not to impose a set of beliefs upon others, but to simply provide a factual history of the subject. It is common to find cannabis advocates reciting false information to promote their cause, and this is just as harmful to humanity's comprehension of cannabis' history as the propaganda of cannabis opponents.

Isaac Campos' *Home Grown: Marijuana and the Origins of Mexico's War on Drugs* and "Degeneration and the Origins of Mexico's War on Drugs" are both useful for their illuminations of Mexico's rough history with cannabis.⁹ He examined the efforts of the Mexican elites to prohibit marijuana in Mexico long before the U.S. campaign began through their portrayals of the indigenous lower class Mexicans as degenerates from their marijuana use. Campos rarely ventured into the history of cannabis in the U.S., but the information he provided is crucial for an accurate understanding of early-twentieth century cannabis perceptions in the U.S. because of the scant resources detailing the early history of cannabis in Mexico.

Newspapers serve as the main source of information to piece together the independent states in their journeys to enact cannabis legislation, although a few

⁹ Isaac Campos, *Home Grown: Marijuana and the Origins of Mexico's War on Drugs* (Chapel Hill, NC: University of North Carolina Press, 2012); Ibid., "Degeneration and the Origins of Mexico's War on Drugs," *Mexican Studies* 26, no. 2 (2010), <https://www.jstor.org/stable/10.1525/msem.2010.26.2.379> (accessed September 29, 2018).

noteworthy books and articles also prove useful in this matter. Richard J. Bonnie and Charles H. Whitebread's "The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition" provides an in-depth understanding of the legal aspects of cannabis prohibition.¹⁰ The authors set out to decipher whether the American public's opinions on cannabis laws indicate a growing disenchantment with the country's legal system.¹¹ For such a commonly explored subject, Dale H. Gieringer's *The Forgotten Origins of Cannabis Prohibition in California* is arguably the best work available; showing how California became the first state in the Union to adopt laws regulating cannabis.¹² By and large, scholars who write about America's cannabis prohibition have a tendency to devote most of their attention to California because of its significance as the crusade's main instigator, while paying little-to-no attention to the crusades taken by the other forty-seven states in the Union at that time. The most consideration that academics have given to some states is the mere placement of a date next to the state's name to indicate the year it enacted its cannabis legislation; this study takes the time to look at the prevailing attitudes in each state that made their legislation possible.

¹⁰ Richard J. Bonnie and Charles H. Whitebread, "The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition," *Virginia Law Review* 56, no. 6 (October 1970), http://www.law.virginia.edu/pdf/faculty/hein/bonnie/56va_1_rev971_1970_PART1.pdf (accessed May 9, 2018).

¹¹ *Ibid.*, 975.

¹² Dale H. Gieringer, *The Origins of Cannabis Prohibition in California* (New York: Federal Legal Publications, Inc., 1999), 2.

When analyzing the American prohibitionists' knowledge of cannabis, it is important to remember that our modern understanding of cannabis is quite different from the understanding in the early-twentieth century. *Cannabis* is a genus in the Cannabaceae family of flowering plants, a family that also includes genera such as *Humulus* (hops) and *Celtis* (hackberry). Carl Linnaeus created his taxonomic system in the *Species Plantarum* in 1753, in which he classified *Cannabis sativa* L. as the sole species in the *Cannabis* genus.¹³ In 1785, Jean-Baptiste Lamarck classified *Cannabis indica* Lam. as a second species when he came into contact with the shorter and wider plants from India known for their intoxicating effects.¹⁴ Scientists have debated the number of species ever since, but American law has identified *C. sativa* L. as the lone species in the *Cannabis* genus ever since the passage of the Marihuana Tax Act of 1937.¹⁵ Because *C. sativa* L. encompasses both psychoactive and non-psychoactive cannabis, further debates have centered on how to classify these two forms. Small and Cronquist described hemp and marijuana as two genetically distinct subspecies of *C. sativa* L.; hemp as *C. sativa* L. ssp.

¹³ Clarke and Merlin, 815. The word *cannabis* is the Latin word for the hemp plant, which itself came from the Greek word *kannabis*. The abbreviated L. stands for Linnaeus and it is applied to every species that he established.

¹⁴ Small and Cronquist, 412. Botanists have proposed numerous taxonomic designations for different types of cannabis aside from *sativa* and *indica*, such as *ruderalis*, *himalayana*, *gigantea*, *chinensis*, *pedemontana*, *americana*, *afghanica*, or *germanica*. Small and Cronquist placed all of these as varieties of hemp and marijuana.

¹⁵ United States House Committee on Ways and Means, *Taxation of Marihuana: Hearings Before the Committee on Ways and Means, House of Representatives, Seventy-Fifth Congress, First Session on H.R. 6385* (Washington, D.C.: Government Printing Office, 1937), 64, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015014177037> (accessed May 9, 2018).

sativa and marijuana as *C. sativa* L. ssp. *indica*, with both subspecies consisting of wild and domesticated varieties.¹⁶ Clarke and Merlin, on the other hand, distinguished between cannabis types through the use of biotypes and had three separate species of *C. sativa*, *indica*, and *ruderalis* rather than the single *C. sativa* L.; despite all this, the authors still maintain a genetic distinction between hemp and marijuana.¹⁷ Human manipulation has directly influenced the evolution of cannabis into these genetically distinct psychoactive and non-psychoactive forms, to the point where botanists argue that it is impossible to find a sample of wild cannabis unaffected by human domestication.¹⁸

Xenophobic paranoia gripped the nation in the early-twentieth century, compelling Americans to adopt a strategy of passing legislation first and asking questions later when it came to narcotic-related issues. This permitted American lawmakers to hastily secure the passage of anti-cannabis bills at the state and federal levels without the backing of conclusive scientific evidence. Scientists who supported cannabis prohibition believed that by placing a temporary restriction on cannabis, they could then collect the necessary information to determine the plant's legal status in the future without risking the public's safety in the meantime. Inevitably, the bureaucrats and businessmen who

¹⁶ Small and Cronquist, 405. Taxonomic designations are always liable to change, but the subspecies label shows that hemp and marijuana are two genetically distinct forms of cannabis.

¹⁷ Clarke and Merlin, 22. For example, the authors assign European hemp the biotype of "Narrow-leaf hemp," and classify it as *C. sativa* ssp. *sativa*, whereas East Indian marijuana would be "Narrow-leaf drug" and *C. indica* ssp. *indica*.

¹⁸ Small and Cronquist, 412.

oversaw cannabis' prohibition prevented scientists from having a say in the plant's future legal status. Scientists grew fearful following the passage of the Marihuana Tax Act in 1937 that the Federal Narcotics Bureau would have them blacklisted if they released any findings on cannabis that challenged the views of the Bureau. These intimidation tactics did not end with the Federal Narcotics Bureau's 1968 demise either, for the replacement agencies that took up the mantle of supervising America's war on drugs also made it exceedingly difficult for scientists to release studies that did not agree with the federal anti-cannabis stance. Although the hemp industry officially collapsed in 1958, the final nail in the coffin came with the Comprehensive Drug Abuse Prevention and Control Act and the Controlled Substances Act of 1970, which remain firmly in place to this day.

CHAPTER ONE

COMING TO AMERICA: INDUSTRIAL HEMP'S ROAD TO RUIN

Cannabis acquired countless epithets over the course of its history, but none more recognizable to the English-speaking world than *marijuana*. Despite its current widespread usage, the origin of the word remains unclear. The term appeared in late-nineteenth century North American newspapers to denote a psychotropic plant smoked by Mexicans. The most common spelling variations at the time were either *mariguana* or *marihuana*; Americans typically spelled it with the ‘h’ instead of the ‘g’, and the use of a ‘j’ did not appear until later, which gives weight to the argument that Americans specifically styled the word “marijuana” with the intention of associating it with the Spanish language, and thereby Mexicans. Some of the proposed Mexican or Amerindian origins for “marijuana” include: the Mexican term for psychoactive cannabis, “Rosa María”; the combination of the Nahuatl words *mallin* and *hua*, meaning “prisoner” and “property,” respectively; or Mayaguana Island (one of the only islands in the Bahamas to retain the name given to it by the indigenous Taíno people), since Europeans and Americans used to spell it as “Mariguana Island.”¹ The locals of Panama believed that the word marijuana derived from the provincialism *maraguango*, meaning “the smoking,

¹ Isaac Campos, *Home Grown: Marijuana and the Origins of Mexico's War on Drugs* (Chapel Hill, NC: University of North Carolina Press, 2012), 75.

drinking, or snuffing of any substance that produces the loss of clear mentality, hallucinations, delusions, or disturbed sleep.”²

The American public noticeably began to use the word *marihuana* in the early-twentieth century. Prior to that, most westerners (excluding those who used taxonomic terminology in scientific circles) simply referred to cannabis as hemp, or “Indian hemp” in the case of the psychotropic cannabis from India. American media giants and the Federal Narcotics Bureau pushed the word *marihuana* into the public lexicon without a clear definition, and this resulted in the many misconceptions about hemp and marijuana that still persist in American society. The term *marihuana* was used in America for well over forty years before it finally received its first official definition in the Marihuana Tax Act of 1937, labeling it as every part of *C. sativa* L., excluding the mature stalk, the sterilized seeds, and the derivatives of the two.³ This definition labelled hemp and marijuana as different products of the same plant rather than two distinct types of *C. sativa* L., and this has severely damaged the status of hemp in American society. When talking about hemp, one must realize that there is a difference between hemp fiber and the hemp plant. All cannabis plants contain varying grades of hemp fiber; marijuana’s fiber is typically not fit for use though, and it pales in comparison to the strong fiber of

² Association of Military Surgeons of the United States, “Marijuana Smoking in Panama,” *The Military Surgeon* 73 (1933): 269.

³ United States Senate Committee on Finance, *Taxation of Marihuana: Hearing Before a Subcommittee of the Committee on Finance, United States Senate, Seventy-Fifth Congress, First Session on H.R. 6906* (Washington, D.C.: Government Printing Office, 1937), 1, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112104251246> (accessed May 9, 2018).

the hemp plant. The fiber of cannabis is also sometimes referred to as “common hemp” or “true hemp” because the fibers of other plants have acquired the hemp designation as well, such as the manila hemp from *Musa textilis* or the sisal hemp from *Agave sisalana*, to name a few.⁴

Cannabis originated somewhere in Central Asia before quickly branching out all across the continent, managing to survive in some of Asia’s more humid climates thanks to its ability to seal in moisture through the production of a thick resinous coat.⁵ Upon learning of the resin’s psychoactive properties, the inhabitants of Central and South Asia began the process of generationally enhancing cannabis’ resin production through selective breeding, thus creating the psychotropic cannabis now referred to as marijuana. The cannabis grown for its fiber in Northern climates is also a product of selective breeding, and it contains levels of THC far too low to produce any psychoactive effects; this accounts for the lack of marijuana usage in the western world until its introduction to “Indian hemp” in the nineteenth century.

The most notable differences between hemp and marijuana are in their allotments of cannabinoids. The cannabinoid responsible for cannabis’ psychoactivity is THC, i.e.

⁴ United States Department of Agriculture, *Yearbook of the United States Department of Agriculture, 1913* (Washington, D.C.: Government Printing Office, 1913), 283, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015081556006> (accessed August 20, 2018).

⁵ *Ibid.*, 294. Tiny glands called trichomes are responsible for manufacturing the plant’s resinous defense mechanism. The resin houses cannabinoids, such as THC, which are also manufactured in the trichomes.

tetrahydrocannabinol.⁶ American law distinguishes hemp from marijuana with the arbitrary cutoff point of 0.3 percent THC because hemp is a low-resin plant that barely produces any THC, and instead produces higher levels of another cannabinoid: the non-psychoactive CBD, i.e. cannabidiol.⁷ Scientists first isolated cannabidiol in 1940 and incorrectly labeled it as the plant's psychoactive agent; it would take another twenty-four years for scientists to finally isolate and correctly designate cannabis' primary psychoactive agent delta-9-THC in 1964.⁸

Scientists did not have a clear understanding of THC until after America's campaign to prohibit cannabis had already notched several key victories. Scientists in the early-twentieth century understood that the cannabis grown in Northern climates did not produce the same level of psychoactivity as Indian hemp, but they overemphasized the importance that environmental factors played in determining cannabis' fiber quality and resinous properties. An article in *Blackwood's Edinburgh Magazine* from 1850 stated that "in hot climates the fibre degenerates in quality, while the narcotic ingredients increase in quantity, and in apparent strength... In northern climates the proportion of this substance

⁶ Ernest Small and Arthur Cronquist, "A Practical and Natural Taxonomy for Cannabis," *Taxon* 25, no. 4 (August, 1976), 407, <https://www.jstor.org/stable/1220524> (accessed August 16, 2018). The most prevalent form of tetrahydrocannabinol is Delta-9-THC.

⁷ *Ibid.*, 408.

⁸ Ernest L. Abel, *Marihuana: The First Twelve Thousand Years* (New York: Plenum Press, 1980), 166.

is so small as hitherto to have escaped notice.”⁹ Studies have since proven that while the environment does influence how much resin a cannabis plant produces, genetics dictate the resin’s properties.¹⁰

By virtue of the plant’s ability to grow in a myriad of soil types, climates, and altitudes, humans from all over the globe have progressively contributed new discoveries to the growing list of uses for cannabis. Historically, cannabis’ relationship with mankind stretches all the way back to the earliest civilizations in Central and East Asia. The ancient inhabitants of those areas found wild cannabis useful and, in accordance with their societal wants and needs, they began to enhance specific attributes of the plant through selective breeding. The Chinese grew cannabis for a variety of reasons: they used its fiber to create clothing, rope, and paper, its seeds to feed themselves and their livestock, and its resin for medicine.¹¹ The western world came to associate the Chinese with their strong hemp, but never their psychoactive cannabis use. Nineteenth century American missionaries in China noticed that the variety of Chinese hemp was much stronger than their European variety, and so the missionaries brought the seeds back to the U.S., which soon replaced the European hemp grown in America.¹² Nevertheless, the

⁹ “The Narcotics we indulge in – Part II,” *Blackwood’s Edinburgh Magazine* 74 (1853): 617, <https://books.google.com/books?id=wfxFAAAAcAAJ> (accessed August 14, 2018).

¹⁰ Small and Cronquist, 408.

¹¹ Robert Clarke and Mark Merlin, *Cannabis Evolution and Ethnobotany* (Berkeley, CA: University of California Press, 2013), 358, <https://ebookcentral.proquest.com/lib/fhsu/reader.action?docID=1249494> (accessed August 16, 2018).

¹² U.S. Dept. of Agriculture, *Yearbook*, 302.

Chinese had a huge effect on U.S. cannabis legislation. America's crusade to prohibit narcotics sprouted from nativist fears of Chinese immigrants and their use of opium. Nativists would dub marijuana as "Mexican opium" and associate it with Mexicans much in the same ways that they associated the Chinese with real opium.¹³

Moving away from China, India developed a cannabis-oriented culture unlike any other. The inhabitants of India did not require cannabis for its fiber like the Chinese, seeing as how India already had access to native plants like cotton and jute. Northern India did cultivate small amounts of cannabis for its fiber, but for the most part India grew cannabis for its THC-laden resin.¹⁴ The Irish linguist Sir George Abraham Grierson attempted to locate references to cannabis in ancient Sanskrit and Hindi literature for the Indian Hemp Drugs Commission and claimed to pinpoint a sacred plant called *bhanga* in the fourth and final Vedic text, the *Atharvaveda*, as the oldest known Hindi cannabis reference; other ancient Hindi names for cannabis, as noted by Grierson, included *vijaya*, *Indracana* (Indra's food), and *ganja*.¹⁵

Ganja referred to the entire dried plant without the removal of its resin, and the East Indians called the resin *charas*. They collected the charas either by rubbing it from

¹³ "The Mexican Opium," *El Paso Times*, July 24, 1913, <https://www.newspapers.com/image/432896476> (accessed September 24, 2018).

¹⁴ U.S. Dept. of Agriculture, *Yearbook*, 301.

¹⁵ Indian Hemp Drugs Commission, *Report of the Indian Hemp Drugs Commission, 1893-1894* (Simla, India: Government Central Printing Office, 1984), 3:246, <https://digital.nls.uk/indiapapers/browse/archive/74908458> (accessed May 9, 2018).

the plant with their hands or by accumulating it on the leather aprons they wore while beating the plant with sticks.¹⁶ East Indians had several other methods of using cannabis to achieve inebriation, such as consuming a highly concentrated oil extracted from the plant through the use of alcohol, or preparing food with a mixture of butter and the plant's boiled leaves and flowers.¹⁷ They also created the intoxicating beverage *bhanga* as a combination of ganja, milk, and various other ingredients to drink in social and religious settings, or before a battle to alleviate their nerves and, as such, *bhanga* became one of the most integral parts of everyday Hindu life.¹⁸ When the Indian Hemp Drugs Commission finished their study in 1895, they argued against the regulation of cannabis in India based upon their belief that taking away such a vital part of Indian culture would cause more harm than good.¹⁹

To the immediate west of the Indian subcontinent, the Middle East served as another accommodating host for psychoactive cannabis. Arabs called the resin *hashish*, and the practitioners of Sufism allegedly began consuming hashish by at least the eleventh century CE.²⁰ In *The Seven Sisters of Sleep*, M.C. Cooke described how Middle Easterners, specifically the Hashishins, impacted the western perception of cannabis. He

¹⁶ “The Narcotics we indulge in – Part II,” 617.

¹⁷ *Ibid.*, 618.

¹⁸ Abel, 19.

¹⁹ Indian Hemp Drugs Commission, 1:272.

²⁰ Abel, 41.

provided an account from the explorer Marco Polo of a story he came across in his travels concerning the Nizari Ismailite leader Hassan-ibn-Sabah, also known as the “Old Man in the Mountain.” According to the story, Hassan drugged his followers with hashish and carried them in their stupefied states to a garden that he called Paradise. After letting the followers enjoy themselves in the garden, he would drug them once again and take them out of the garden. After the effects of the hashish had worn off, Hassan would tell his followers that they had experienced only a small taste of the Paradise that awaited them as long as they devoted their lives to his cause.²¹

Members of Hassan’s order referred to themselves as the “devoted ones,” whereas other Arabs called them *Hashishins*, meaning “users of hashish.”²² With their base of operations at Alamut Castle, near the modern-day Iranian capital of Tehran, Hassan and his successors would send their “devoted ones” out on missions to execute prominent Christian leaders during the Crusades. The group’s infamy spread throughout Western Europe after the murder of Conrad of Monteferrat in 1192, leading to a westernization of *Hashishin* into the word *assassin*. Hassan’s devotees, thusly known in the western world as the Assassins, became notorious as the most feared killers in the Middle East due to their fearlessness in the face of death and strict adherence to committing suicide on their

²¹ M.C. Cooke, *The Seven Sisters of Sleep: Popular History of the Seven Prevailing Narcotics of the World* (London: James Blackwood, Paternoster Row, 1860), 220, <https://babel.hathitrust.org/cgi/pt?id=njp.32101041502129> (accessed May 9, 2018).

²² Abel, 53.

leader's orders. The Mongols eventually conquered Alamut in 1257, resulting in the group's complete dissolution by 1273, but despite the Assassins merely operating for less than two hundred years, their notoriety lingered throughout history for centuries.

By the 1800s, cannabis' association with the Assassins had yet to diminish in the minds of many westerners, and it gave them reason to believe that the plant caused its users to become violent and insane. According to Cooke, Europeans had just started to use the plant as a medical agent in the 1800s, but regardless of the efforts in England and France to introduce it into their medical practices, western prejudice against Indians and Middle Easterners prevented cannabis from gaining a foothold in Europe.²³ Associating cannabis use with violence and insanity became the prevailing stereotype in the western world. This way of thinking heavily influenced why the plant never caught on in western medicine, and it would go on to serve as one of the main arguments for the plant's prohibition in the United States.

The British East India Company had gradually gained control of the Indian subcontinent over the course of the eighteenth century, which resulted in the western world's introduction to the medicinal properties of Indian hemp. William Brooke O'Shaughnessy was serving the British East India Company in Calcutta when he became fascinated with the medicinal potential of cannabis in 1833. His studies suggested that the plant was effective in treating everything from tetanus and hydrophobia to cholera and

²³ Cooke, 229.

delirium tremens.²⁴ He returned to England in 1842 with a sample of psychoactive cannabis and gave it to the pharmacist Peter Squire, who produced a cannabis extract that took the western world by storm; physicians prescribed it as a supposed remedy for a wide range of difficulties, including a loss of appetite, insomnia, or migraines.²⁵ When Indian hemp finally made it to America, U.S. citizens readily purchased medicines made from cannabis in pharmacies all across the country. Pharmaceutical companies like Parke, Davis & Co., Eli Lilly, and Squibb Co. marketed their own cannabis medicines like Utroval for menstrual disorders, Dr. Brown Sedative Tablets for insomnia, and Corn Collodium for the removal of corns and warts, and most of these medicines did not even require a prescription to obtain.²⁶

British officials noticed the growing cannabis usage among their constituents, and they therefore decided to have the Government of India put together the Indian Hemp Drugs Commission in 1893 to conduct a formal inquiry into the connection between cannabis use and insanity. The commission travelled around India for two years, compiling thousands of testimonies from both Indians and non-Indians of varying social ranks, such as police officers, doctors, missionaries, and actual cannabis users (especially

²⁴ W.B. O'Shaughnessy, *On the Preparations of the Indian Hemp, or Gunjah, (Cannabis indica): Their Effects on the Animal System in Health, and their Utility in the Treatment of Tetanus and other Convulsive Diseases* (Calcutta, India: Bishop's College Press, 1839), 37, <https://archive.org/stream/b29342648> (accessed August 7, 2018).

²⁵ Abel, 106.

²⁶ *Ibid.*, 119.

those committed to insane asylums), in an attempt to determine the best possible course of action regarding Indo-British cannabis regulation. The commission ended up refuting the widely-held belief that the plant's usage would lead to insanity. They even surmised that a moderate consumption of cannabis could provide its users with benefits, although they also agreed that an over-consumption could possibly lead to physical, mental, and moral harm.²⁷ Ultimately, they believed that Indian society as a whole did not suffer from any negative effects stemming from the excessive consumption of cannabis by some of its citizens.

Western civilizations were hardly aware of psychoactive cannabis prior to O'Shaughnessy's studies, but they certainly sang the praises of hemp. The oldest known cannabis reference in western civilization comes from the Greek historian Herodotus in the fifth century BCE. His *Histories* show that the ancient Greeks had a knowledge of cannabis' fiber and possibly even its psychoactive properties. He wrote that cannabis grew both wild and domestically in Scythia, which was a large stretch of land occupied by the nomadic Scythian people across modern-day Ukraine, southwestern Russia, and Central Asia. He described a Scythian burial ritual where the mourners would gather in tents to throw cannabis seeds on top of hot stones, which emitted a vapor for bathing purposes and made the mourners "howl with pleasure."²⁸ Herodotus further noted the

²⁷ Indian Hemp Drugs Commission, 1:263.

²⁸ Herodotus, *The Histories* (London: Penguin Books, 1996), 264. Herodotus also made mention of a rumor in Book One (p. 89) concerning islanders on the Araxes River who achieved inebriation from inhaling the smoke of an undisclosed plant, which some scholars have linked to cannabis.

similarities between the fibers of hemp and flax, stating that the Thracians, who bordered northeastern Greece in what is now Bulgaria, made clothes from hemp that were virtually indistinguishable from linen. Throughout history, hemp and flax continued to share a close connection due to their comparable fibers. Hemp generally produced better cordage while flax produced better clothes, but oftentimes both fibers were woven together into one textile.

Hemp use spread throughout Europe during the Middle Ages, primarily providing the Europeans with rigging for their ships. All of the great seafaring nations relied on hemp to maintain their relevance in oceanic commerce and exploration and, as such, these nations were always in need of hemp for the creation of their ships' rope and sails. European nations conducted diplomacy, accessed new trade routes, sailed across the Atlantic, and fought wars on the open seas all with the employment of hemp-rigged ships. Each naval power in the Age of Exploration strategically procured hemp to display their dominance; England, for example, vastly expanded its navy in the sixteenth century through a mandate of King Henry VIII requiring every farmer to set aside land for growing hemp, which subsequently helped the Royal Navy become the strongest fleet in the world.²⁹

Spanish explorers used hemp rigging to reach the New World and then most likely planted the first hempseeds in the western hemisphere. The Spaniards who arrived

²⁹ Clarke and Merlin, 407.

in Mexico in the early-sixteenth century began cultivating hemp in accordance to the Spanish Crown's directive in 1545.³⁰ The crop's production was extremely minor for two centuries before sputtering out in the 1760s, but the Spanish Crown invoked the order of 1545 again in 1777 in an attempt to compete with America's hemp production; the failure of New Spain's hemp industry to stay competitive engendered the Crown to repeat its orders in 1779, 1787, 1792, and 1795, each time calling for an increase in hemp production without receiving satisfactory results.³¹ New Spain's American competitors had grown hemp in the New World for almost as long as they had, and yet the Americans experienced far more success.

The first American cannabis legislation dated all the way back to a 1619 decree from King James I making it mandatory for landowners at Jamestown to grow hemp on their property.³² As a royal colony, Virginia offered enticing deals to its colonists in an effort to encourage hemp production, such as giving the colonists multiple pounds of tobacco in exchange for one pound of hemp or making it possible for farmers to pay off up to one-fourth of their debts by using hemp as legal tender.³³ Virginians like George Washington and Thomas Jefferson grew hemp on their plantations, and Jefferson even

³⁰ Campos, *Home Grown*, 52.

³¹ *Ibid.*, 55.

³² Abel, 50.

³³ *Ibid.*, 51.

wrote the first and second drafts of the Declaration of Independence on hemp paper.³⁴

The American colonies basically built themselves on the fibers of hemp and flax, since both plants composed a large percentage of colonial textiles prior to the nineteenth century.

Although invaluable to western civilization, hemp was by no means an easy crop to produce. Both the British and the early Americans profited from their lucrative hemp industries, but they constantly had to deal with crop shortages and neither of them could keep up with the market's demands. While the hemp plant itself is not difficult to raise, processing its fiber is a different story. Farmers had little motivation to grow hemp unless their government provided them with an incentive, and this was due to the strenuous labor required to process the fiber, especially without the assistance of machinery. On the plus side, hemp destroyed weeds and improved the quality of the soil, making it a useful plant for farmers to rotate with other farm crops or grow on the same land repeatedly.³⁵

The Industrial Revolution advanced the modus operandi of harvesting and processing hemp fiber, but up until the plant's prohibition, hemp farmers mostly stuck to the same antiquarian method of hemp production used by their forefathers. After ploughing their land in the spring, hemp farmers would sow their seeds in close proximity to one another, causing the plants to grow well over six feet tall in a battle for

³⁴ Ibid., 18.

³⁵ U.S. Dept. of Agriculture, *Yearbook*, 312.

sunlight; depending on the variety, they could grow upwards of fourteen feet. Around September, farmers had the choice to either harvest their crop all at once or break the harvest into two phases if they wanted to collect the crop's seeds. The first phase consisted of harvesting the male plants once they started to turn yellow and released their pollen. Farmers would then harvest the female plants in a second phase after they produced their seeds. Harvesters originally cut the stalks by hand using reaping knives or hemp hooks, but the mechanical sweep-rake reapers became popular by the end of the nineteenth century.³⁶

Harvesters used a process called retting, or rotting, to loosen the hemp plant's fibrous rind from its woody interior. To accomplish this, the harvesters would submerge their hemp stalks in water, rotting them to a point where they could easily peel the rind from the central stem. Water-retting polluted rivers and streams, though, so harvesters eventually began to use retting tanks. Harvesters who did not have access to water sources like rivers or streams retted their hemp through an alternative method called dew-retting, where they would leave their hemp stalks on the ground to decay in either the snow or morning dew. Merchants preferred water-retted hemp over dew-retted hemp because the process of water-retting typically produced a higher quality fiber; the U.S. Navy, for instance, had specific regulations to use only water-retted hemp on its ships.³⁷

³⁶ Ibid., 324.

³⁷ United States Department of Agriculture, *A Report on the Culture of Hemp and Jute in the United States* (Washington, D.C.: Government Printing Office, 1896), 15, <https://babel.hathitrust.org/cgi/pt?id=hvd.32044106381999> (accessed August 20, 2018).

Dew-retting was the most common method used by hemp farmers in the U.S., which largely explains why their hemp failed to generate any demand. Russia's water-retted hemp drew comparisons to American hemp, but Russia produced it in such large quantities that they became one of the world's leading hemp exporters. Italians notably water-retted their hemp and carved a niche for themselves as the producers of the highest quality hemp in the world. By the end of the nineteenth century, almost half of America's imported hemp and hemp products came from Italy.³⁸ Hungary developed into a formidable hemp producer by the nineteenth century, basing its scheme of hemp breeding and processing on Italy's. France and Japan also produced top-tier water-retted hemp, with the U.S. Department of Agriculture claiming that Japan produced the best hemp they ever reviewed, but neither country exported their hemp to American markets.³⁹

Once properly retted, the hemp stalks would then move onto the labor-intensive breaking stage to separate the bast fiber from the hurds. Laborers used an instrument called a hand brake for this process, and although machine brakes came into use by the start of the twentieth century, three-fourths of the hemp in America was still broken with hand brakes.⁴⁰ Thomas Jefferson decided to quit growing hemp because his slaves found the breaking process too physically taxing.⁴¹ After breaking, the hemp fibers went

³⁸ Ibid., 6.

³⁹ Ibid., 7.

⁴⁰ U.S. Dept. of Agriculture, *Yearbook*, 330.

⁴¹ Abel, 53.

through a process of scutching and combing until the hair-like strands of fiber were deemed suitable for spinning into twine, which would get turned into the final product of hemp rope or woven cloth.

The time-consuming process of separating cotton's fiber from its seeds initially limited its commercial viability in the U.S., but that changed with Eli Whitney's invention of the cotton gin in 1793. Cotton began to commandeer many of the markets once controlled by flax and hemp, most notably clothing. Despite cotton becoming the new king of American fabrics, hemp producers still controlled a handful of bustling textile fields and its production reached new heights under the cotton industry's growing needs for bagging and bale rope.⁴² Competition from imported hemp threatened the American hemp industry's heightened prosperity providing bagging and bale rope for the cotton industry, which provoked Kentucky Senator Henry Clay to defend his state with the imposition of tariffs. Clay successfully lobbied for heavier tariffs on foreign hemp in the Tariff of 1816, the Tariff of 1824, and the notorious Tariff of Abominations in 1828, but these measures adversely affected the U.S. hemp industry by discouraging shipbuilders from operating in America.⁴³

⁴² John R. Humphrey, *Marketing Hemp* (Lexington, KY: University of Kentucky Press, 1919), 26, <https://babel.hathitrust.org/cgi/pt?id=uiug.30112019587614> (accessed August 17, 2018).

⁴³ *Ibid.*, 27.

The U.S. shipbuilding industry had largely been reliant on the water-retted hemp from Russia for ship rigging because most American hemp farmers dew-retted their crop. Americans who worked in ropewalks and sail-making factories manufactured hemp into the ropes and sails on ships, and their jobs were considered so vital during the Revolutionary War that the employees who worked there for a minimum of six months did not have to fight in the war.⁴⁴ These factories opened all along the East Coast to keep the shipbuilding industry fully supplied with rope and sails, but they would fall into disuse when the shipbuilding industry left the country in retaliation against the tariffs. In the meantime, Robert Fulton had invented the steamboat in 1807, and before long the rise of steam-powered ships made sailing obsolete. The hemp industry took a bit of a hit, but it could still bounce back from losing its sail-making market. The real demoralizing event had yet to come: the Civil War. The American hemp industry reached its peak right before the Civil War erupted, producing nearly seventy-five thousand tons of hemp in 1859, but the years that followed would send the industry crashing back down.⁴⁵

The Civil War devastated the U.S. hemp industry because it caused Northern hemp farmers to lose their primary market: providing bagging and bale rope for Southern cotton. Hemp farmers also could no longer own slaves to perform the rigorous task of breaking hemp. Since the North no longer had access to the South's cotton industry,

⁴⁴ Clarke and Merlin, 482. Ropewalks were long stretches of land, either covered or out in the open, where workers would take different types of fiber and twist them into rope.

⁴⁵ U.S. Dept. of Agriculture, *A Report on the Culture of Hemp*, 8. See Appendix A.

Congress appointed a committee in 1863 to investigate whether flax or hemp could feasibly replace cotton. The committee reported that while it was possible to manufacture extra-fine fabrics from the bast fibers of flax and hemp, the fabrics would never completely lose their tow-cloth properties.⁴⁶ Compared to cotton-cloth, clothing made from bast fibers is heavier and less comfortable to wear, but it is also more durable and better at conducting heat and absorbing moisture. The committee expressed their disappointment that they had to end the study upon reaching their two year time limit even though “the desired end is almost in view.”⁴⁷

The nation’s hemp production considerably diminished after the Civil War, with only 12,746 tons of hemp produced in 1869.⁴⁸ The rising importation of India’s less expensive jute fiber in the 1870s caused the marketability of hemp to decline even further, dropping to five thousand tons in 1879. By the time that other fibers like sisal from Mexico and manila from the Philippines reached the U.S. at the end of the century, hemp’s commercial value had been completely obliterated. Other than Kentucky, only a handful of states continued to produce hemp, but none of them even came close to matching Kentucky’s output. The cheaper alternative fibers of jute and manila became

⁴⁶ United States Department of Agriculture, *Report of the Flax and Hemp Commission* (Washington, D.C.: Government Printing Office, 1865), 73, <https://babel.hathitrust.org/cgi/pt?id=loc.ark:/13960/t16m3qm1h> (accessed August 20, 2018). Good quality hemp is long and soft, whereas the short and scratchy fiber is called tow.

⁴⁷ *Ibid.*, 4.

⁴⁸ *Ibid.*, *A Report on the Culture of Hemp*, 8. See Appendix A.

available in other countries around the world as well, all of whom either considerably downsized their hemp production or stopped producing it altogether.

Just like the Europeans, the Americans initially grew cannabis exclusively for the hemp plant's fiber and seeds, exhibiting no knowledge of the psychoactive plant that would one day infiltrate its borders. An issue of the *Pennsylvania Gazette* from 1729 included a description of the hemp plant from the English writer Ephraim Chambers' *Cyclopædia: or, An Universal Dictionary of Arts and Sciences*. The description briefly mentioned one known method of achieving inebriation via cannabis with the sentence, "The Powder or Flower, mix'd with any ordinary Liquor, is said to turn those who drink thereof, stupid."⁴⁹ The description did not venture any further into the matter, suggesting that the boundaries of western knowledge did not extend past this point on the subject of psychoactive cannabis. It is still up for debate how psychoactive cannabis reached the western hemisphere, but Brazil and the Caribbean islands are two of the most probable western locations for harboring this form of cannabis first, possibly due to the incoming slaves and indentured servants bringing the seeds over with them.⁵⁰

Regardless of how marijuana arrived in the western hemisphere, Mexico's hot and humid climate was the perfect location for it to thrive. The 1842 *Farmacopea mexicana*

⁴⁹ "At the Desire of some of our Country Subscribers, We Insert what we Find in Chamber's Universal Dictionary, Relating to Hemp," *Pennsylvania Gazette*, October 9-16, 1729, <https://www.newspapers.com/image/41027717> (accessed August 14, 2018).

⁵⁰ Clarke and Merlin, 477.

acknowledged the existence of both *C. sativa* and *C. indica* in a list of “The Most Common Elemental Medicines,” and a report from 1846 on the military’s laziness supplied the first written instance of marijuana smoking in Mexico.⁵¹ Slowly but surely, marijuana use established itself in Mexico over the next fifty years, mostly amongst soldiers and prisoners. The plant grew wild all across Mexico by the end of the nineteenth century and its Indian hemp epithet quickly faded into oblivion. It was around this time that the word “marihuana” began to appear in both Mexican and American Southwest newspapers, although not always in reference to cannabis.⁵² These newspapers would resuscitate the six hundred year old stereotype of violence and insanity linked to the Hashishins and pass it onto the Mexicans through the publication of routine stories about deranged Mexicans committing heinous crimes while under the effects of marijuana. It is worth noting that Americans had not associated Mexico with cannabis up to this point. However, the turn of the century would see Americans adopting negative images of Mexicans based upon the infamous vices of Mexico’s lower classes, one of which happened to be smoking marijuana.

⁵¹ Campos, *Home Grown*, 73.

⁵² Chapter Three discusses how locoweed was mistaken for marijuana.

CHAPTER TWO

NATIVISM AND DEGENERATION: THE FEAR OF A FOREIGN PLANT

As is the case in most other countries, the dominant social group in America has always utilized discriminatory tactics to dictate the nation's social, political, and economic framework; by strategically embedding divisive convictions into the American ethos, this group has been able to mold the American identity into its own likeness, all the while writing off subordinate social groups as alien. White Anglo-Saxon Protestants (WASPs) have long served as America's dominant social group, and until the mid-twentieth century, their supremacy remained largely uncontested.¹ Many WASPs believed that their covenant with God bestowed upon them the authority to govern America, the "Eden of the New World."² However, certain immigrant groups posed a test to their divine covenant by threatening the purity of American values. American nativists, therefore, made it their primary mission to defend the U.S. from foreigners by passing legislation that could prevent the spread of alien cultural values in America. By examining the ebb and flow of American nativism throughout U.S. history, it becomes

¹ Over time, WASP inclusion extended to other Northwest Europeans with a Protestant faith and white skin, such as the French, Germans, and Dutch. Mid-twentieth century events like the Civil Rights movement or the presidential election of a Catholic in John F. Kennedy are some of the reasons that contributed to the lessening of WASP control over America.

² Ira M. Leonard and Robert D. Parmet, *American Nativism, 1830-1860* (New York: Van Nostrand Reinhold Company, 1971), 3.

clear how hemp fell victim to the exaggerated threat of immigrants in the early-twentieth century.

Ira M. Leonard and Robert D. Parmet defined nativism in their book *American Nativism, 1830-1860* as “a deep-seated American antipathy towards internal “foreign” groups of various kinds – cultural, national, religious, racial – which has erupted periodically into intensive efforts to safeguard America from such perceived ‘threats.’”³ This definition is short, simple, and to the point, but it only scratches the surface of the multi-layered concept of nativism. Use of the term “nativism” originated in the U.S. during the mid-nineteenth century as a label for the political crusade of America’s self-identified “natives” (WASPs) who protected the country from foreign threats within its borders. The original nativist movement (1830s-1850s) never really amounted to much; it collapsed in the buildup to the Civil War, and the term has fallen into disuse ever since. However, nativism extends far beyond this brief political movement in the mid-1800s, for the nativist spirit existed in American society long before the 1830s and has continued to exist long after the 1850s.

In his book *Nativism and Immigration: Regulating the American Dream*, Brian N. Fry provided four defining models for the interpretation of nativism: nationalism, resource competition, prejudice, and group position.⁴ Nationalism is evident in the way

³ Ibid., 6.

⁴ Bryan N. Fry, *Nativism and Immigration: Regulating the American Dream* (New York: LFB Scholarly Publishing LLC, 2007), 11.

nativists' identify themselves as "Americans" and everyone else as "un-American" to establish boundaries. The model of resource competition highlights the nativists' territorial behavior when they sense foreign competition for American resources such as capital or jobs. The model of prejudice shows the nativists embracing ethnocentric, racist, and xenophobic outlooks. And lastly, the model of group position explains the nativists' hierarchical placement of their group above others.⁵ Each of the four models stresses the significance of power, for social groups that have no power cannot exhibit nativist behavior, merely nativist attitudes.⁶

The English Reformation planted the seeds for America's tradition of discrimination, for the English Protestants who arrived in the New World incorporated their religious biases into their colonial laws. Albeit from numerous denominations, English Protestants comprised the vast majority of the pre-eighteenth century colonists in America, and although they did not always see eye-to-eye with each other, they could at least agree on their disapproval of the Roman Catholic Church. They feared that the Catholics' loyalties to the Pope outweighed their loyalties to American law, and as a result, most colonies persecuted Catholics and barred them from holding public office.⁷

⁵ Ibid.

⁶ Ibid., 32.

⁷ Leonard and Parment, 19. The colonies of Rhode Island, Maryland, and Pennsylvania were the most religiously tolerant toward Catholics during the colonial era, although not many Catholics lived in Rhode Island. By 1784, at least two-thirds of the nearly thirty-thousand Catholics in America lived in Maryland and Pennsylvania.

America's assistance from the French in the Revolutionary War effectively lessened the newly formed nation's anti-Catholic sentiments, but France's own revolution in 1789 brought about a new nativistic fear in America: foreign radicals. During the French Revolution, the U.S. passed its first series of immigration reforms in the Naturalization Acts of 1790, 1795, and 1798; the Act of 1798, in particular, was a part of the controversial Alien and Sedition Acts, which Congress had enacted as a deterrent to the growing radicalism in the country.⁸

Americans found it increasingly difficult to maintain a singular national identity in the early-nineteenth century as the effects of westward expansion, industrialism, urbanization, mass immigration, and improved transportation all combined to foster a sense of individualism rather than unity in Americans. Nativists blamed the growing discord on the influx of foreigners in the nation, especially those of the Catholic faith, and thus the political American nativist movement began to take shape in the 1830s. Samuel F. B. Morse and Reverend Lyman Beecher, two products of the Second Great Awakening, used their books and speeches to raise awareness of a supposed Catholic conspiracy that threatened America, and soon after, the first two nativist political parties emerged in New York and Louisiana; neither lasted more than two years though.⁹

⁸ John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925*, (New Brunswick, NJ: Rutgers University Press, 1955), 8, <https://www-fulcrum-org.ezproxy.fhsu.edu/epubs/5425k977r?locale=en> (accessed August 25, 2018).

⁹ Leonard and Parmet, 54.

The nativist movement found a national audience in the 1840s after Bishop John Hughes of New York unsuccessfully petitioned to receive parochial school funding from the Public School Society, thereby inspiring Catholics in different locations across the U.S. to call for the removal of Protestant teachings in public schools.¹⁰ Nativists interpreted these events as Morse and Beecher's Catholic conspiracy coming to fruition, and thus an organization called the American Republican Party (also known as the Native American Party) formed in the state of New York in 1843, gaining attention by staging marches and inciting riots in both New York City and Philadelphia.¹¹ Henry Clay, one of the most outspoken advocates of hemp in America, allied himself with the nativists in his 1844 presidential campaign as the Whigs' nominee, for the nativists and Whigs shared their fears that annexing Texas would create dissent in the nation over the issue of slavery.¹² This alliance might have cost Clay the closely contested election since the Whigs' support for nativist congressional and state legislative candidates resulted in both anti-nativist and foreign-born Whigs defecting.¹³ One can merely speculate what would have happened to hemp's status in the U.S. had Clay won the presidential election in 1844.

¹⁰ Ibid., 67.

¹¹ Ibid., 76.

¹² Clay's alliance is ironic in retrospect, but he had no way of knowing the future effects of nativism on the American hemp industry.

¹³ Leonard and Parmet, 78.

The nativists recovered once again in the 1850s as a secret society called the Know-Nothings, which came into power as a result of the complete annihilation of the Whig Party following the Kansas-Nebraska Act. Former Whigs either joined the new Republicans, the Democrats, or the Know-Nothings in their recently established American Party. Know-Nothingism seemed promising at first because about seventy-five nativists were elected to Congress in 1854, but the party faced a major problem in its inability to agree on the slavery issue.¹⁴ The American Party ran in the 1856 presidential election with ex-president Millard Fillmore as their nominee, but Fillmore alienated the party's antislavery members in the North, who decided to abandon the party and join the Republicans. Shortly after Fillmore's defeat, the American Party disbanded, and the nativist movement quickly faded into distant memory during the Civil War and Reconstruction Eras.

Even though America's political parties would no longer base themselves upon strict platforms of nativism, the nativist mentality still appeared from time to time, such as in the anti-Chinese prejudice of the late-nineteenth century. The Burlingame Treaty of 1868 granted China most-favored-nation status and promised Chinese subjects in America the privileges and immunities enjoyed by citizens from a most-favored nation.¹⁵

¹⁴ Ibid., 99.

¹⁵ George M. Stephenson, *A History of American Immigration, 1820-1924* (Boston, MA: Ginn and Company, 1926), 258, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015005063527> (accessed August 25, 2018).

Californians grew to despise the Chinese immigrants in their state, citing reasons such as their socially perplexing non-western culture, penchant for opium use, and prevalence in the job market. Yellow journalism damaged the image of the Chinese in the western world since it portrayed them as a massive horde of racially inferior sub-humans who overpopulated every nation they inhabited. American prejudice came to a head when a riot broke out in Los Angeles in 1871 that ended with the lynching of over fifteen Chinese workers.¹⁶ Acting upon the anti-Chinese prejudice sweeping the country, San Francisco initiated America's crusade against narcotics when they issued a city-wide ordinance outlawing public opium dens in 1875.¹⁷ American animosity towards the Chinese eventually reached the point where Congress decided to pass the Chinese Exclusion Act of 1882. The Act prevented Chinese laborers from immigrating into the U.S. for what was initially supposed to be ten years, but this became much longer.¹⁸

Californian employers and landowners started hiring more Japanese and Mexican immigrants to combat the disappearance of incoming Chinese labor, but American farmers quickly developed problems with the Japanese. Employers found it difficult to exploit Japanese workers, for they displayed more militancy than the Chinese and staged a series of successful strikes to become the highest paid agricultural laborers in California

¹⁶ Ibid., 258.

¹⁷ Dale H. Gieringer, *The Origins of Cannabis Prohibition in California* (New York: Federal Legal Publications, Inc., 1999), 6.

¹⁸ Stephenson, 262. The Chinese Exclusion Act was extended for another ten years in 1892 with the Geary Act, and again in 1902 for an indefinite amount of time, until its repeal with the Magnuson Act of 1943.

by 1907.¹⁹ Nativists called upon the federal government to eliminate the highly competitive Japanese threat that had taken root in American soil, and this culminated in the informal Gentleman's Agreement of 1907, in which Japan promised to stop issuing passports to any of its citizens who sought employment in America.²⁰ Now that the socially distant "yellow" immigrants from China and Japan no longer had access to the country, the comparatively docile Mexican immigrants could rise to the occasion and become the cheap laborers that American employers had always wanted.

After winning its independence in 1821, the fledgling nation of Mexico scrapped New Spain's caste system that socially stratified its inhabitants based on various racial combinations and, instead, Mexico narrowed down the racial combinations into three groups: white, indigenous, and *mestizo*.²¹ Mexico tried to promote the social mobility of the three groups, but for the most part, whites and indigenous people still remained at the top and bottom of the social hierarchy, respectively. The Spanish had served as the

¹⁹ Camille Guerin-Gonzales, *Mexican Workers and American Dreams: Immigration, Repatriation, and California Farm Labor, 1900-1939* (New Brunswick, NJ: Rutgers University Press, 1994), 20. Unlike most of the Chinese or Mexican immigrants, many Japanese immigrants were not poor upon their arrival in the U.S. and had the means to purchase land, which added to the frustrations of poor white Americans.

²⁰ *Ibid.*, 20. The Gentleman's Agreement still allowed Japan to issue passports to the relatives of Japanese workers already living in America.

²¹ Manuel Gamio, *Mexican Immigration to the United States: A Study of Human Migration and Adjustment* (Chicago, IL: University of Chicago Press, 1930), 51. Whites in this sense stood for the light-skinned Mexicans whose ancestors came from Europe (Spain in most cases). The indigenous stood for the dark-skinned Mexicans who descended directly from Amerindians. Mexicans abandoned New Spain's practice of using multiple classifications for multi-ethnic people (i.e. *castizos* or *mulatos*); Mexicans just kept the term "mestizo." Mestizos originally stood for those who had both white and indigenous ancestry, but it later represented all multi-ethnic Mexicans.

dominant social group in Mexico since their arrival in the sixteenth century, but social dynamics radically shifted after the Mexican Revolution, as Mexican nationalists started to propel “mestizo” as the Mexican national identity.²²

Mestizos managed to have a noticeable presence in both the upper and lower classes of Mexican society, largely depending upon whether they appeared more indigenous or white. Mestizos and indigenous Mexicans would often seek out light-skinned partners for the purpose of whitening their offspring, as it would improve their children’s chances of upward mobility if they did not have dark skin. In the eyes of most white Americans, the dark-skinned descendants of mestizos and indigenous Mexicans could never entirely shed their Mexican identities, regardless of their attempts to Americanize themselves over the course of multiple generations.²³ Since their skin color ultimately barred them from becoming full-blooded Americans, a large percentage of Mexican immigrants had no desire to become U.S. citizens.

The late-nineteenth century advancements in mining and agriculture in the American Southwest created a demand for labor that only immigrants could supply. Southwestern employers and landowners preferred hiring Mexican immigrants over anyone else because they worked for unbeatably low wages and long hours; in addition,

²² Lawrence A. Cardoso, *Mexican Emigration to the United States, 1897-1931* (Tucson, AZ: University of Arizona Press, 1980), 57.

²³ Gamio, 51. Although white Mexican immigrants endured discrimination as well, Americans saw them more as Spanish than Mexican.

the Americans who lived in the Southwest had already developed a familiarity with Mexicans due to their close proximity, which made their foreign culture not seem particularly threatening in the region. A majority of Mexican laborers in America had no intentions of permanently staying in the country either, since those who worked in agriculture usually returned to Mexico for the winter after they completed their seasonal migration of sowing and harvesting crops in the U.S.²⁴ The nativist focus on Mexicans, and marijuana as a result, really only went into full force after the start of the Mexican Revolution, as Mexican immigration began to skyrocket in the U.S. and spill into states outside of the Southwest that had perceptions of Mexicans as threatening aliens. The revolution even caused nativist unrest to mount in states that did have a familiarity with Mexicans, such as Texas, which unsurprisingly received the most Mexican immigrants in the twentieth century's first twenty years, jumping from 71,062 in 1900 to 251,827 in 1920.²⁵

American nativists acquired a great deal of their anti-marijuana rhetoric from the stances taken by Mexican elites toward the plant in the late-nineteenth and early-twentieth centuries. First banned in Mexico City in 1869, marijuana would later become illegal in the Mexican states of Oaxaca in 1882, México in 1891, Querétaro in 1896, and

²⁴ Cardoso, 22.

²⁵ Gamio, 25. Other states with the largest increases in Mexican immigration from 1900 to 1920 included: California (8,086 – 88,771), Arizona (14,172 – 61,580), New Mexico (6,649 – 20,272), Kansas (71 – 13,770), and Colorado (274 – 11,037). These numbers come from U.S. census records and only account for legal Mexican immigrants. Many Mexicans entered or left the U.S. without the Bureau of Immigration's knowledge, so it is impossible to know the real numbers. See Appendix B.

the Sinaloan cities Cosalá and Culiacán in 1888 and 1896, respectively.²⁶ The Mexican Federal Penal Code of 1871 contained a provision that allowed criminals to invoke an insanity defense if they had committed their crimes while intoxicated; the resulting insanity pleas in Mexican trials occasionally dealt with marijuana intoxication, although alcohol by far served as the main culprit of this “insanity.”²⁷ The printmaker José Guadalupe Posada propelled the notion of marijuana insanity around this time when he created the popular broadsheet and chapbook character Don Chepito Mariguano, a humorous figure with wild bulging eyes that indicated his madness from marijuana use.²⁸

Mexican newspapers like *El Imparcial*, *El País* and the *Mexican Herald* published hundreds of stories in the late-nineteenth and early-twentieth centuries about Mexican criminals who had committed their crimes in a frenzy of marijuana-induced madness. American newspapers became aware of these sensational Mexican marijuana stories and began to include them in their own publications as well. For instance, the *Los Angeles Times* ran a report from the *Mexican Herald* in 1905 describing the marijuana problem in Mexico. It read, “Marihuana is a weed used only by people of the lower class and sometimes by soldiers; but those who make larger use of it are prisoners sentenced to long terms... People who smoke marihuana finally lose their mind and never recover it,

²⁶ Isaac Campos, “Degeneration and the Origins of Mexico's War on Drugs,” *Mexican Studies* 26, no. 2 (2010): 385, <https://www.jstor.org/stable/10.1525/msem.2010.26.2.379> (accessed September 29, 2018).

²⁷ *Ibid.*, *Home Grown: Marijuana and the Origins of Mexico's War on Drugs* (Chapel Hill, NC: University of North Carolina Press, 2012), 174.

²⁸ *Ibid.*, 156.

but their brains dry up and they die, most of the time suddenly.”²⁹ Indigenous Mexicans had become synonymous with the criminal and lower class marijuana smokers in this excerpt. Mexico’s elites claimed that the indigenous Mexicans’ recently acquired habits and customs had reduced the once-noble indigenous people of Mexico into the degenerate paupers and criminals of their present day.³⁰ The link had solidified by the end of the nineteenth century, in large part because of the traditionally indigenous *herbolarias*, who were the most prominent marijuana dealers in Mexico.³¹

Many Mexicans did not have access to doctors or proper healthcare, so they relied upon *herbolarias* to cure their ailments. The Federal Sanitary Code of 1891 forbade *herbolarias* from selling “poisonous” plants like marijuana directly to citizens, though; instead, they had to sell them to pharmacists and druggists, who could then sell medicines containing cannabis only to citizens with a physician’s prescription.³² Mexican immigrants carried their dependency on traditional medicine into the U.S. by establishing drug stores in Mexican-American communities to import and sell medicinal plants from

²⁹ “Delirium or Death: Terrible Effects Produced by Certain Plants and Weeds Grown in Mexico.” *Los Angeles Times*, March 12, 1905, <https://www.newspapers.com/image/380026266> (accessed August 15, 2018).

³⁰ Campos, “Degeneration and the Origins of Mexico's War on Drugs,” 393.

³¹ *Ibid.*, *Home Grown*, 145. *Herbolarias* were female merchants who sold herbs and medicinal plants in Mexico since at least the eighteenth century. Modern Mexicans respected the *herbolarias* for their botanical knowledge, but also feared their connection with indigenous witchcraft.

³² Campos, “Degeneration and the Origins of Mexico's War on Drugs,” 383.

Mexico.³³ Mexican agricultural workers made frequent use of these stores because they rarely received any health care benefits from their employers, whereas railroad companies would at least provide their Mexican workers with minimal health benefits.³⁴

Unskilled Mexican laborers in America could make a monthly wage of up to six times what they would make in Mexico, and while this higher wage hardly supplied a decent standard of living in the U.S., it nevertheless helped those who went back to Mexico; some of the more financially frugal workers in America could save their money to purchase luxuries like personal property or education for their children.³⁵ The American Southwest developed an excess of Mexican labor as more of them fled to the U.S. to escape Mexico's progressively deteriorating living conditions in the early-1900s. The incoming laborers had to regularly underbid each other just to find work, with Mexicans making dismal wages as a result. Mexican immigrants, therefore, came to find that extremely poor living conditions awaited them in the U.S. as well, and their resultant hopelessness or increased risk of sickness explains why some of them would turn to marijuana use.

Before the Mexican Revolution began in 1910, a few key events in both America and Mexico helped set the stage for the resurgence of American nativism in the early-

³³ Gamio, 79. Gamio made note of the secrecy exhibited by both the clerks and patients of these drug stores when interrogated on their use of medicinal plants. This secrecy would only strengthen American suspicions of Mexican medicines.

³⁴ Guerin-Gonzales, 60.

³⁵ Gamio, 37.

twentieth century. American newspapers spread anti-Spanish propaganda owing to the escalations of the Spanish-American War of 1898, and the assassination of President William McKinley in 1901 by the Polish-American anarchist Leon Czolgosz further amplified Americans' fear of foreign radicals. Mexico went through a thirty-four-year period of recovery known as the Porfiriato. General Porfirio Díaz initiated the Porfiriato when he assumed the Mexican presidency by force in 1876, and went on to rule almost continuously until 1911. Díaz did not tolerate marijuana use in the military, which was relayed by Augustine Alba, a Topeka, Kansas, detective who immigrated to the U.S. after serving for several years as an officer in Díaz's notorious rural police force, the *Rurales*; he stated that the most common offense in the Mexican army during this time was the use of marijuana, or locoweed.³⁶ Even though Díaz promised peace and economic stability, the working class in Mexico struggled immeasurably under the Porfiriato, partly because the nation's lowered death rates created a surge in population, which in turn adversely affected food prices and wage growth.³⁷

One of the biggest struggles for lower class Mexicans came from Díaz's plan to modernize Mexico through private land reform, in hopes that wealthy investors would jumpstart the Mexican economy. This plan allowed privately owned *haciendas* to replace

³⁶ "Topekans Smoke Loco Weed; Two Declared Insane," *The Topeka Daily Capital*, April 25, 1916, <https://www.newspapers.com/image/64461585> (accessed October 2, 2018). The article uses "locoweed," so it is not clear whether it was truly marijuana. This is discussed further in Chapter Three.

³⁷ Cardoso, 10.

almost all of the communal land holdings in Mexico, forcing the peasantry to either live and work on the haciendas or become migratory laborers.³⁸ Díaz's policy toward the Mexican economy yielded a miserable situation for the peasants in central Mexico, prompting them to migrate into the northern states of Mexico or across the U.S. border, which explains why most Mexican immigrants in the U.S. during early-1900s came from the central states of Michoacán, Guanajuato, and Jalisco.³⁹ Whereas the working class criticized the Porfirian government for not protecting them from the private land reform, the wealthy hacienda owners, or *hacendados*, also directed criticisms at the government for not preventing the mass emigration out of the central states that caused them to experience labor shortages.⁴⁰

The wealthy hacendado Francisco I. Madero set the Mexican Revolution in motion after he ran against Díaz in the rigged presidential election of 1910. The ensuing violence lasted for the next decade, during which inflation, widespread starvation, and military rule all became the norm. Mexican refugees fled to the U.S. in the hundreds of thousands to escape the revolution's carnage, but not all of these refugees came from Mexico's lower classes; many hacendados who profited under the Porfirian government fled to the U.S. as well because the revolution put an end to their economic prosperity.⁴¹

³⁸ Ibid., 6. Private companies owned one-fifth of Mexico's land by 1892.

³⁹ Gamio, 21.

⁴⁰ Cardoso, 30.

⁴¹ Cardoso, 41.

With the support of revolutionaries like Francisco “Pancho” Villa, Emiliano Zapata, and Pascual Orozco, Madero overthrew Díaz in 1911 and became Mexico’s new president upon winning the subsequent election.

Madero quickly realized that he could not balance the demands of his revolutionary allies, who consequently revolted against him. In the ensuing chaos, Madero’s military general Victoriano Huerta claimed the presidency for himself and had Madero executed in 1913. The governor of Coahuila, Venustiano Carranza, rejected Huerta’s presidential claim and formed the Constitutionalist Army with the help of figures like Villa, Zapata, and Álvaro Obregón. Members of Villa’s guerilla army also enjoyed smoking cannabis during their long marches and victory celebrations, and Huerta’s affinity for both cannabis and alcohol brought him much public derision.⁴² The revolutionary-era lyrics to the folk song “La Cucaracha” reflected the marijuana consumption during this time, for the eponymous cockroach who could not walk before smoking marijuana likely stood for Huerta, seeing as Villa’s soldiers called Huerta “the cockroach.”⁴³

The U.S. seized the port of Veracruz in 1914 in opposition to Huerta, but doing so damaged its relations with Mexico.⁴⁴ The U.S. left the port in the hands of Carranza after

⁴² Campos, *Home Grown*, 162.

⁴³ *Ibid.*

⁴⁴ Cardoso, 127.

the Constitutionalist Army ousted Huerta the same year. Villa and Zapata once again rebelled against the new president, and Carranza eventually had Zapata assassinated in 1919. One of Carranza's most notable achievements as president was the passing of Mexico's Constitution in 1917, which is still in effect today. One provision of the Constitution increased the power of the Department of Public Sanitation, which officially banned marijuana nationwide in 1920 with a law titled "Dispositions on the Cultivation and Commerce of Substances that Degenerate the Race."⁴⁵ In the aftermath of Carranza's 1920 assassination, Villa retired from hostilities and Obregón stepped into power, which officially brought an end to the military phase of the Mexican Revolution.

Relations between the U.S. and Mexico almost reached a boiling point in 1917 when the U.S. intercepted the Zimmerman telegram, in which Germany offered an alliance to Mexico with promises of helping the nation regain its lost territory in the American Southwest in an attempt to turn Mexico against America. The U.S. used this threat as a justification for entering World War I. Nevertheless, America relied on its Mexican immigrants to fill the labor gap left by the Americans now serving in the war. The Secretary of Labor waived the Immigration Act of 1917's literacy test and head tax for Mexican immigrants, allowing them to stay in the country under a temporary-worker program.⁴⁶ Americans returning from the war turned hostile to the increased immigrants

⁴⁵ Campos, "Degeneration and the Origins of Mexico's War on Drugs," 380.

⁴⁶ Guerin-Gonzales, 44.

in the job market, and so the Immigration Act of 1921 and the National Origins Act of 1924 gave the returning Americans some elbow room by instituting a quota for immigrants from non-western countries.⁴⁷ The Act of 1924 had a provision that prohibited immigrants who had over fifty percent Amerindian blood from entering the U.S., but Americans along the Mexican border knew that they could not accurately distinguish mestizos from indigenous Mexicans, since Mexico had made the two into social groups more than racial ones; to alleviate this problem, immigration authorities just labelled all Mexicans as white.⁴⁸

Mexico still had a long way to go before it could stabilize itself after the end of the Mexican Revolution in 1920. Both Obregón and his successor Plutarco Elías Calles believed Catholicism negatively influenced Mexican society. Calles enforced the anticlerical articles of the 1917 Constitution in an effort to weaken Catholicism's grasp on Mexican society, which sparked the Cristero Rebellion from 1926 to 1929.⁴⁹ American nativists and Protestant missionaries supported the Mexican government's attack on Catholicism, but unlike the nativists, the missionaries depicted Americans and Mexicans as having more similarities than differences, and tried to make the case that Mexicans could fully assimilate to American life.⁵⁰

⁴⁷ Cardoso, 128.

⁴⁸ Ibid.

⁴⁹ Guerin-Gonzales, 43.

⁵⁰ Cardoso, 122.

The second wave of the Ku Klux Klan, which originated in Atlanta, Georgia, under the leadership of Colonel William Joseph Simmons, also showed their support for the attack on Catholicism in Mexico.⁵¹ Inspired by the 1915 film *Birth of a Nation*, this incarnation of the Klan essentially picked up the nativist torch that the Know-Nothings dropped in the mid-1800s by advocating Protestantism, racial purity, and the upholding of American law. Due to the alcohol consumption and recreational drug use of immigrants and minorities, the Klan pushed for the prohibition of both alcohol and drugs at the state and federal level.⁵² The Klan exhausted all of its resources in 1928 to fund a smear campaign against Al Smith, the first Catholic nominee for president and, as such, the group's influence significantly declined in the 1930s.⁵³

Sensationalist marijuana stories in American newspapers continued throughout the 1920s and into the 1930s; as a 1927 article in *The New York Times* entitled "Mexican Family Go Insane" read, "A widow and her four children have been driven insane by eating the marihuana plant, according to doctors, who say that there is no hope of saving the children's lives and that the mother will be insane for the rest of her life."⁵⁴ Stories like these made it seem like the intoxicated state acquired from marijuana ingestion could

⁵¹ Arnold S. Rice, *The Ku Klux Klan in American Politics* (Washington, D.C.: Public Affairs Press, 1962), 1, <https://babel.hathitrust.org/cgi/pt?id=uiuo.ark:/13960/t88g8rn7b> (accessed September 21, 2018).

⁵² Rice, 91.

⁵³ *Ibid.*

⁵⁴ "Mexican Family Go Insane," *The New York Times*, July 6, 1927. <https://timesmachine.nytimes.com/timesmachine/1927/07/06/issue.html> (accessed May 9, 2018).

become permanent, and the over-the-top conclusion that “there is no hope of saving the children’s lives” would have likely terrified people without any knowledge of marijuana. As the clock ticked down to the Great Depression, America’s unemployment rate grew to new extremes, and the paranoia of the country’s citizens over Mexicans and their deadly marijuana ran rampant. Anti-Mexican prejudice exploded after the stock market crashed on October 29, 1929. The Great Depression amplified the call to send immigrants back to their homelands, and the resulting repatriation programs deported more than three-hundred sixty-five thousand Mexicans from 1929 to 1932.⁵⁵

Early-twentieth century newspapers blamed America’s rise in crime on the incoming Mexicans by portraying them as lazy and violent marijuana smokers, much in the same way that late-nineteenth century newspapers used to vilify the Chinese through the use of yellow journalism. Besides the issue of crime, nativists blamed Mexican immigrants for a number of other problems, ranging anywhere from the increase in job competition and welfare costs to the decline in public health and literacy. Nativists believed that the U.S. endured economic losses from both the welfare given to Mexicans and the money that Mexicans sent back to Mexico; counterarguments asserted that the money generated by Mexican labor far outweighed the losses, though.⁵⁶ Samuel

⁵⁵ Guerin-Gonzales, 80. The programs did not distinguish between Mexican immigrants and U.S.-born Mexican-Americans. Therefore, the programs deported many U.S. citizens out of their homes and into Mexico.

⁵⁶ Gamio, 31.

Gompers, the president of the American Federation of Labor, did not hide his contempt for Mexican immigrants, for their acceptance of unreasonably low wages stifled the wages for everyone else in America.⁵⁷

Many early-twentieth century WASPs exhibited the same fears of internal Catholic, foreign, and radical threats as the original nativists of the mid-nineteenth century, and Mexicans coincidentally checked all three boxes. The depiction of Mexicans as degenerates did not originate with the Americans, though, for they drew their inspiration directly from the degenerative image of indigenous Mexicans that Mexican elites had pushed in the preceding decades. Despite all of the antipathy that emanated from Mexico in the late-nineteenth century concerning the degeneracy of marijuana users, Americans remained unconvinced that this mysterious Mexican drug would make much of an impact in their country. The Mexican Revolution finally alerted Americans to the internal threat that marijuana posed to their white citizens, which prompted every state in the Union to pass marijuana legislation in the coming years.

⁵⁷ Ibid., 135.

CHAPTER THREE

INDIAN HEMP, LOCOWEED, AND MARIHUANA: AN ISSUE FOR THE STATES

Up until the creation of the Federal Bureau of Narcotics in 1930, each American state had complete control over the regulation of cannabis within their borders. The state laws on cannabis from 1911 to 1930 reveal that different levels of nativism emanated from specific regions of the country regarding the cannabis issue, which heavily influenced the strategy of Harry J. Anslinger for his crusade against marijuana in the 1930s. States in the Southwest clearly drew their inspirations for cannabis prohibition from nativist ideology, since their anti-cannabis laws always used the terms “Indian hemp” or “marihuana”. These states experienced firsthand the effects of the Mexican Revolution or the influx of “culturally alien” immigrants from Asia, provoking these states to pass their cannabis legislation in an attempt to keep the foreign threats at bay. Northeastern states, on the other hand, prohibited cannabis strictly under the accepted taxonomic terminology of the time: “*Cannabis sativa*” and “*Cannabis indica*.” Most Americans who lived in the Northeast had never even heard of marijuana up to this point, due to their distance from the situation along the Mexican border; the word “marihuana” would only start to inflict fear in Northeasterners in the 1930s, when Anslinger aggressively used it to coax the states into adopting the Uniform Narcotic Act.

When states began to enact their first substance regulations at the end of the nineteenth century, their laws took three forms: laws for the sale of narcotics, laws for the

use of narcotics, and laws for the treatment of narcotic addictions.¹ The federal government eventually stepped in and determined that the states could not adequately handle the enforcement of their narcotic laws. Although this chapter focuses on the state legislation, one federal act does play a large role: the Uniform State Narcotic Drug Act of 1932. This act made narcotic laws uniform in the states that agreed to enact it. A committee formed in 1925 to draft the Uniform Narcotic Drug Act, but they could never make a final decision on the legislation. After consulting with the newly formed Federal Bureau of Narcotics in 1930, the committee went through two more drafting processes before releasing their final draft in 1932.² The Federal Bureau of Narcotics set out to convince every state to adopt the legislation, and by the Marihuana Tax Act's passage in 1937, thirty-five states had adopted the Uniform Narcotic Act.³

Prior to the 1930s, the Federal Narcotics Bureau only had two large-scale marijuana studies to base their marijuana regulations upon: the Indian Hemp Drugs Commission and the Panama Canal Report. The Panama Canal Zone made significant

¹ United States Department of the Treasury, *State Laws Relating to the Control of Narcotic Drugs and the Treatment of Drug Addiction* (Washington, D.C.: Government Printing Press, 1931), 3, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015007721841> (accessed October 17, 2018).

² Bonnie and Whitebread, 1033. The final draft defined cannabis as a “narcotic drug.” In a medical sense, the term “narcotic” stands for drugs that induce sleep, such as opium and its derivatives; a stimulant like cocaine, for instance, does not fall under the term medically. Legally, however, “narcotic” became a general term used to classify any drug prohibited by the government. The government started separating drug classifications over the course of the early-twentieth century.

³ United States House Committee on Ways and Means, *Taxation of Marihuana: Hearings Before the Committee on Ways and Means, House of Representatives, Seventy-Fifth Congress, First Session on H.R. 6385* (Washington, D.C.: Government Printing Office, 1937), 25, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015014177037> (accessed May 9, 2018).

contributions to the narrative of U.S. cannabis legislation with its military-funded studies on the effects of smoking marijuana from 1925 to 1933. The only federally-funded scientific study on the effects of marijuana up until that point had come from Britain's Indian Hemp Drugs Commission in the 1890s. The small number of residents in the Panama Canal Zone consisted primarily of American civilian employees, foreign laborers, and military and naval personnel, while the Governor of the Canal Zone, who was under the supervision of the Secretary of War, oversaw all of the territory's operations with a budget provided by the Department of War.⁴

Governmental records from the Panama Canal Zone never mentioned marijuana in the territory until 1916, when the police reported some rumors they heard about soldiers in the Puerto Rican Regiment smoking an unknown weed; their investigations into the matter turned up nothing. Another six years passed until the next mention of marijuana in 1922. Both the Provost Marshall and the Chief of Police sent letters to the Board of Health Laboratory in Ancón asking whether the 1922 Narcotic Drugs Import and Export Act defined marijuana as a narcotic. Marijuana use increased among American soldiers stationed in Panama over the years, causing military authorities to prohibit the drug in 1923.⁵

⁴ Association of Military Surgeons of the United States, "Marijuana Smoking in Panama," *The Military Surgeon* 73 (1933): 269.

⁵ *Ibid.*, 273.

In 1925, the Governor of the Panama Canal Zone, Meriweather Lewis Walker, appointed a committee to investigate the effects of marijuana and make recommendations on how to prevent its usage. The committee observed marijuana's effects on four physicians and two members of the police department, as well as visiting the Corozal Hospital for the Insane to observe soldiers smoking marijuana. According to their conclusion, "There is no evidence that marihuana as grown here is a "habit-forming" drug in the same sense in which the term is applied to alcohol, opium, cocaine, etc., or that it has any appreciably deleterious influence on the individual using it."⁶

Panama's prohibition against marijuana ended in 1928 and a second study of the drug commenced almost immediately. This time, any American soldiers suspected of marijuana addiction would have to visit the military surgeon for inspection, who eventually surmised that marijuana negatively affected military efficiency and discipline.⁷ The second study advised against reinstating the prohibition of marijuana for the public, but rather to prohibit its use amongst soldiers. The soldiers did not cease their marijuana smoking, though, and so a third and final study commenced in 1931. This committee hospitalized and examined marijuana smokers at Gorgas Hospital for two years, although their findings did not differ much from the second study. The final report in 1933 drew three conclusions: that marijuana did not constitute a habit-forming drug in the same way

⁶ Ibid., 274.

⁷ Ibid., 275.

as drugs like opium or cocaine, that no mental or physical deterioration could be observed from smoking marijuana, and that the final committee's investigations did not provide any valid reason to change their previous stance on allowing civilians to use marijuana, but not soldiers.⁸

When Anslinger proposed the Marihuana Tax Act in 1937, the Panama Canal Zone stuck by the conclusions of the Panama Report and respectfully requested for the Canal Zone's omission from the bill, which the Narcotics Bureau allowed. Anslinger made it clear that he had complete authority to regulate narcotics in the Canal Zone if he wanted, but he called the regulation of the unincorporated territory unwise. He reasoned that the Canal Zone's marijuana production did not yield quantities large enough to worry about, and that monitoring both the canal and the neighboring borders of Costa Rica and Colombia for smuggling would have proven costly and ineffective.⁹

Despite California's reputation as the perceived leader of the anti-marijuana movement, Massachusetts technically became the first state to regulate the sale of "*Cannabis sativa*" and "*Cannabis indica*" with two separate acts in 1911 and 1912, which forbade its citizens from purchasing "hypnotic drugs" without a physician's

⁸ Ibid., 279.

⁹ Federal Bureau of Narcotics, *Traffic in Opium and other Dangerous Drugs for the Year Ended December 31, 1933* (Washington, D.C.: Government Printing Office, 1934) 63, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112103489441> (accessed May 9, 2018). Anslinger did admit that "colored West Indian farmers" cultivated and sold the drug to American military personnel in small amounts, but he still found it too minor of an issue to involve the Canal Zone in the Marihuana Tax Act.

prescription.¹⁰ Following the federal government's passage of the Harrison Narcotics Tax Act in 1914, the Massachusetts state legislature decided to revise its pharmacy law yet again, this time requiring its citizens to procure a new prescription for every purchase of the drugs in question.¹¹ The New England states that regulated pharmaceutical cannabis in the 1910s (Massachusetts, Maine, Vermont, and Rhode Island) might not appear nativist at first glance, but their obsession with the nativist model of group position influenced them to ban narcotics in an effort to maintain the New England status quo of Victorian morality. Members of the New England Watch and Ward Society made it their life's mission to remove corrupting temptations from society, and they viewed "habit-forming drugs" as the worst temptation of all.¹² The Watch and Ward Society argued that the use of narcotics would lead to the degeneracy of their social group; thus, they raised their grievances all across Massachusetts, calling for tougher legislation on cocaine, morphine, opium, and cannabis.¹³

¹⁰ Dale H. Gieringer, *The Origins of Cannabis Prohibition in California* (New York: Federal Legal Publications, Inc., 1999), 27.

¹¹ "Drug Law of the Strictest Type: New Prescription for Every Purpose. Massachusetts Legislation Brings Changes for 1915," *The Boston Globe*, December 14, 1914, <https://www.newspapers.com/image/430920176> (accessed August 7, 2018). The 1914 passage of the Harrison Narcotics Act, in conjunction with the yellow journalism of the media and the eventual message of the Federal Bureau of Narcotics, influenced the states to adopt their own narcotic laws one by one. By the time that Congress passed the Marihuana Tax Act in 1937, every state had at least some form of narcotic legislation. Chapter Four will discuss federal acts and agencies in greater detail.

¹² New England Watch and Ward Society, *Thirty-Eighth Annual Report* (Boston, MA: Office of the Society, 1916) 6, <https://books.google.com/books?id=xEgxAQAAMAAJ> (accessed October 27, 2018).

¹³ *Ibid.*, 21.

Two years after the first cannabis legislation in Massachusetts, four states passed their own cannabis regulations in 1913: Wyoming, Indiana, Maine, and California. On February 16 of that year, Wyoming made it a felony to sell “Indian hemp” to anyone considered a habitual user or lacking a prescription, with violators facing at least a five hundred dollar fine and/or up to three years in the state penitentiary.¹⁴ Wyoming updated its views on cannabis sixteen years later, on February 15, 1929; the state now referred to the plant as “*Cannabis indica*, commonly known as marihuana,” and completely prohibited its sale and possession under any circumstance.¹⁵ On March 6, 1913, Indiana included “*Cannabis indica*” in its list of drugs requiring a prescription, although fourteen years later, on March 10, 1927, the state removed the plant from its restricted narcotics list.¹⁶ Lastly, on April 12, 1913, Maine limited the sale and possession of pharmaceutical “*Cannabis sativa*” and “*Cannabis indica*” only to citizens with prescriptions, following in the preventative footsteps of Massachusetts.¹⁷

California arguably did more than any other state to foster the war on drugs in America. When the federal government passed the Pure Food and Drug Act of 1906, California responded in 1907 by passing food and drug legislation of its own, deemed the

¹⁴ U.S. Dept. of Treasury, 328.

¹⁵ *Ibid.*, 329.

¹⁶ *Ibid.*, 109. Cannabis remained unrestricted in Indiana from 1927 until the state adopted the Uniform Narcotic Act in 1935.

¹⁷ *Ibid.*, 137.

Poison Law.¹⁸ The legislation effectively tightened the state's control over narcotics, barring the sale of pharmaceutical narcotics like opium, morphine, and cocaine to anyone without a physician's prescription, and an amendment in 1909 officially prohibited the possession of these drugs unless authorized.¹⁹

By the start of the twentieth century, white Californians had grown suspicious of the increased population of East Indian immigrants in their state who cultivated and consumed marijuana. A 1910 newspaper article entitled "Evils of Ganjah Smoking: Use of the Indian Hemp Follows the Hindu and is Now Not Uncommon in California" perfectly captures the suspicions that Californians had for Hindus and their Indian hemp:

Wherever ganjah is smoked murder is a comparatively common crime. Most Hindus are physical cowards, but on the other hand they do not regard death with horror. Some of them believe in the transmigration of souls, while the more ignorant think that their disembodied spirits are permitted to return to India... Therefore when they have a grouch against anyone they use ganjah to key themselves up to the point of killing and do not worry about the consequences.²⁰

As with most other prohibition movements in America, California's call for cannabis prohibition gained momentum only after nativists became aware of the drug's effect on white citizens; nativists did not care if foreigners used drugs as long as the foreigners

¹⁸ Gieringer, 2. Chapter Four discusses the Pure Food and Drug Act in more detail.

¹⁹ U.S. Dept. of Treasury, 48. The 1909 amendatory act also criminalized the act of prescribing drugs to habitual users, unless for actual medical treatment, refilling prescriptions for restricted narcotics, and adding chloral hydrate to the restriction list.

²⁰ "Evils of Ganjah Smoking: Use of the Indian Hemp Follows the Hindu and is Now Not Uncommon in California," *The Boston Globe*, March 27, 1910, <https://www.newspapers.com/image/430890606> (accessed August 7, 2018).

contained the problem to themselves. In the words of California State Board of Pharmacy member Henry J. Finger, “we in California have been getting a large influx of Hindoos and they have started quite the demand for *cannabis indica*; they are a very undesirable lot and the habit is growing in California very fast; the fear is now that it is not being confined to the Hindoos alone but that they are initiating our whites into this habit.”²¹ Just as Californian lawmakers began drafting an amendment to the Poison Law for the inclusion of cannabis, a different plant came to their attention; one that some people were calling “marihuana.”

Out of the numerous cannabis misconceptions that Mexicans and Americans propagated in the early-twentieth century, their confusion of locoweed with marijuana is arguably one of the most fascinating. Plants that fall into the locoweed category are those that produce an alkaloid called swainsonine, such as the many varieties of the North American *Astragalus* and *Oxytropis* genera.²² Ranchers in the nineteenth century learned to fear locoweed because their livestock would occasionally consume the toxic plants, which often resulted in either their derangement or death. A description of locoweed from an 1890 newspaper stated that “the primary property of the loco is to produce insanity in men or animals who partake of it,” and “many gruesome tales are furnished of cruel

²¹ Gieringer, 18.

²² Daniel Cook, Michael H. Ralphs, Kevin D. Welch, and Bryan L. Stegelmeier, “Locoweed Poisoning in Livestock,” *Society for Range Management* (February, 2009): 16, <https://journals.uair.arizona.edu/index.php/rangelands/article/viewFile/18880/18648> (accessed October 28, 2018).

Spanish and Mexican ladies who, in a jealous fit, have locoed their American admirers through the medium of loco tea.”²³

An issue of the *Oakland Tribune* from 1921 dedicated an entire page to the dangers of locoweed, and therefore provides a great example of the confusion surrounding marijuana’s correct identification. The author of the piece specifically used the terms “marihuana” and “California opium” when referring to *Astragalus* and *Oxytropis*, and he even included side-by-side pictures of cannabis and locoweed, saying that “marihuana” (locoweed, not actual marijuana) is Indian hemp’s “twin sister of this continent.”²⁴ Locoweed intoxication closely resembles the degenerative and violent behavior exhibited by the supposed marijuana users of this era, so perhaps there is some correlation between locoweed and the insanity attributed to marijuana use; sadly, the prevalence of locoweed consumption during this time period will remain a mystery due to a lack of accurate sources.

Californian lawmakers included “narcotic preparations of hemp, or loco weed” in their amendment to the Poison Law on June 11, 1913, trying to kill two birds with one stone, but the amendment’s odd placement in Section 8a of the law (concerning opium paraphernalia) made California’s first attempt at cannabis prohibition unnecessarily

²³ “The Loco Weed,” *Feather River Bulletin (Quincy, CA)*, November 1, 1890, <https://www.newspapers.com/image/153913865> (accessed October 4, 2018).

²⁴ George C. Henderson, “Things the People Do Not Know About the Deadly New Poison, Marihuana, “California Opium,” Crazy Weed,” *Oakland Tribune*, October 2, 1921, <https://www.newspapers.com/image/82320063>. (accessed August 7, 2018). See Appendix B.

complicated.²⁵ Due to its strange sectional assignment, the amendment appeared to target recreational users who smoked “narcotic preparations of hemp, or locoweed,” but the failure to make any mention of using physician’s prescription to purchase cannabis medicines meant that no one could technically possess cannabis in the state. It took two years before Californian legislators fixed the law on June 1, 1915; this time they correctly implemented the prescription rule for purchasing “narcotic preparations of hemp, or loco weed (*Cannabis sativa*), Indian hemp,” while still leaving the recreational ban in place.²⁶ California’s narcotics penalties grew stricter over the course of the 1920s, and despite the fact that the state never adopted the Uniform Narcotic Act, Anslinger nevertheless heaped an exorbitant amount of praise upon California for the manner in which it enforced its narcotic laws.²⁷

California’s stiffer narcotics penalties began to impede on the state’s hemp production, since Californians feared that the hemp plant produced a maddening narcotic that would lure in the susceptible Mexican laborers and cause safety hazards.²⁸ A

²⁵ Gieringer, 22. After the amendment to the Poison and Pharmacy Act in 1913, Section 8a read, “The possession of a pipe or pipes used for smoking opium (commonly known as opium pipes) or the usual attachment or attachments thereto, or extracts, tinctures, or other narcotic preparations of hemp, or loco-weed, their preparations or compounds (except corn remedies containing not more than fifteen grains of the extract or fluid extract of hemp to the ounce, mixed with not less than five times its weight of salicylic acid combined with collodion), is hereby made a misdemeanor.” It is unclear whether the meaning of locoweed in any of the state narcotic acts refers to the actual locoweed or marijuana.

²⁶ *Ibid.*, 24.

²⁷ Federal Bureau of Narcotics, *Traffic in Opium and other Dangerous Drugs for the Year Ended December 31, 1933* (Washington, D.C.: Government Printing Office, 1934) 8, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112103489441> (accessed May 9, 2018).

²⁸ Gieringer, 29.

February 5, 1928, article in the *Los Angeles Times* included coverage of a hearing on whether the Imperial Linen Product Company could cultivate hemp in Imperial Valley. Opponents argued that “hemp produces marijuana, often used by dope addicts and especially by Mexicans,” while on the other side, a representative of the U.S. Department of Agriculture, Dr. L.T. Pierce, assured the commission that hemp plants contained such a small percentage of the psychoactive property that it would never become an issue for law enforcement.²⁹ The state eventually outlawed cannabis cultivation entirely in 1937, bringing an end to the brief hemp production in California.

Two states passed cannabis legislation in 1915: Vermont and Utah. Enacting yet another homogenous New England cannabis law, the Vermont state legislature approved a bill on March 12, 1915, blocking the sale of “*Cannabis indica*” and “*Cannabis sativa*” to those without a prescription.³⁰ Five days later, Utah enacted cannabis legislation in their state as well, but, unlike Vermont, Utah’s prohibition conveyed the nativist objectives of the Southwestern states. The U.S. government had relentlessly prosecuted the polygamous lifestyles of Mormons in the mid-to-late-nineteenth century, pushing the leaders of the Church of Jesus Christ of Latter-day Saints to abandon the practice of

²⁹ “Valley Folk Seek to Block Hemp Raising,” *Los Angeles Times*, February 5, 1928, <https://www.newspapers.com/image/380580276> (accessed August 7, 2018). The Imperial Linen Products Co. won the case, but only under the condition that it tell the county sheriff exactly where it was growing hemp and allow the police to inspect the crop.

³⁰ U.S. Dept. of Treasury, 296.

plural marriages with their 1890 and 1904 manifestos.³¹ Some Mormons left the U.S. entirely during these years and resettled in Northwest Mexico, but their stay did not last long, for the Mexican Revolution drove them right back to the U.S.; some scholars have theorized that they brought marijuana back with them, or at least a knowledge of it, because Utah pursued narcotics prohibition not long after their return.³² The Utah Board of Pharmacy asked California to send them a copy of the latest Poison Law draft, for they intended to enact California's narcotic law in Utah.³³ On March of 1915, Utah approved a bill containing California's legislation with only minor alterations; it even defined cannabis just as California did in their 1915 law.³⁴ Later that year, a Utah newspaper released an article applauding the cannabis prohibition down in El Paso, Texas, warning that when "a Mexican is under the influence of marihuana he imagines that he can, single-handed, whip the entire regular United States army...and with each cigarette the desire to take the United States and annex it to Mexico seems to become stronger."³⁵ The

³¹ Gieringer, 27.

³² Ibid.

³³ Ibid.

³⁴ U.S. Dept. of Treasury, 292. That definition being: "narcotic preparations of hemp or loco weed (cannabis sativa, Indian hemp)". Also, California had not yet passed the draft they gave to Utah, which allowed Utah to pass their law consisting of California's proposed legislation before California.

³⁵ "Is the Mexican Nation 'Locoed' by a Peculiar Weed?" *The Ogden Standard*, September 25, 1915, <https://www.newspapers.com/image/80797990>. (accessed May 9, 2018).

tone of this piece relays some of the prejudice held by Utah residents toward Mexicans, which possibly had a connection to their failed community in Northwest Mexico.

In 1917, cannabis prohibition went into effect in the states of Colorado and Nevada. It might come as a surprise that Colorado was one of the leading advocates for marijuana prohibition in the early-twentieth century, owing to the fact that the state became one of the first in America, alongside Washington, to legalize the use of recreational marijuana in 2012. Anslinger would make extensive use of the propaganda coming out of Colorado to solidify his defense in the 1937 Marihuana Tax Act hearings.³⁶ Coloradans blamed their recent spike in crime on the Mexican immigrants who poured into Colorado during World War I to fill the labor shortage; some of the immigrants were able to attain non-agricultural jobs that would provide them with a decent enough wage to settle in the state. Andres Lucero, a representative from Las Animas County, introduced House Bill No. 263 at the beginning of 1917, successfully making the cultivation of “*cannabis sativa* (also known as *cannabis indica*, Indian hemp, and mariguana)” into a misdemeanor.³⁷ One possible explanation for why Lucero, who was Hispanic, proposed this bill could have been that the Mexican-American inhabitants of Las Animas wanted to ward away the degeneracy associated with the incoming

³⁶ United States House Committee on Ways and Means, *Taxation of Marihuana: Hearings Before the Committee on Ways and Means, House of Representatives, Seventy-Fifth Congress, First Session on H.R. 6385* (Washington, D.C.: Government Printing Office, 1937) 32, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015014177037> (accessed May 9, 2018).

³⁷ U.S. Dept. of Treasury, 73.

Mexican immigrants, or perhaps the inhabitants of Las Animas were trying to appear less Mexican and more patriotic amidst the Mexican Revolution and World War I. Whatever the case, the bill passed on March 30, 1917, making Colorado the third state to ban the growth of cannabis altogether.³⁸ Ten years later, Colorado replaced the act with a new one on March 21, 1927, which prohibited the un-prescribed sale and use of “*Cannabis indica*, or *Cannabis sativa*, commonly known as Indian hemp, hasheesh, or marijuana,” while reinstating the right to grow cannabis again, but only with the Colorado State Board of Health’s permission.³⁹ In 1917, Nevada added “*Cannabis sativa* (Indian hemp or loco weed)” to the list of drugs requiring a prescription.⁴⁰

Before the end of the decade, two more states prohibited cannabis: Rhode Island in 1918 and Texas in 1919. Rounding out the list of New England states that banned cannabis in the 1910s, Rhode Island prohibited the non-prescribed sale of “*Cannabis indica* and *Cannabis sativa*” on April 19, 1918.⁴¹ Down in Texas, the city of El Paso passed its own cannabis prohibition in 1915, four years prior to the state legislation that regulated cannabis in 1919. The reason for El Paso’s cannabis ban stemmed from the large number of Mexican refugees that flooded into the city as revolutionary violence worsened south of the border. With such a large group of people, it should come as no

³⁸ Ibid.

³⁹ Ibid., 73.

⁴⁰ Ibid., 202.

⁴¹ Ibid., 265.

surprise that a few of these Mexican refugees committed violent crimes, some of whom happened to use marijuana. One particular incident, which occurred in Ciudad Juárez, the Mexican border-city lying south of the Rio Grande across from El Paso, received the following report in an El Paso newspaper:

Marihuana, that native Mexican herb which causes the smoker to crave murder, is held accountable for two deaths and a bloody affray on the streets of Juarez Wednesday afternoon. Crazed by continual use of the drug, an unidentified Mexican killed a policeman, wounded another, stabbed two horses and pursued an El Paso woman and her escort, brandishing a huge knife in the air. The man finally was shot and pounded into insensibility. He died early Thursday morning.⁴²

Inspired by this deadly affair, El Paso's Chief Deputy Stanley Good pressed the issue of enacting marijuana legislation in the city, which El Paso did in 1915.⁴³ The Texas state legislature finally restricted the use of cannabis as well, on March 31, 1919, when it made the prescription-less sale of "*Cannabis indica*, *Cannabis sativa*...or any drug or preparation from any Cannabis variety, or any preparation known and sold under the Spanish name of 'marihuana'" into a misdemeanor; Texas would ramp up its cannabis penalties in 1931 by making it a felony.⁴⁴

Cannabis legislation in the 1920s commenced with Iowa passing a narcotics act on April 15, 1921, including the usual prescription-based restrictions for selling "Indian

⁴² "Crazed by a Weed, Man Murders," *El Paso Herald*, January 2, 1913, <https://www.newspapers.com/image/80831564> (accessed August 18).

⁴³ Gieringer, 28.

⁴⁴ U.S. Dept. of Treasury, 288.

hemp (*Cannabis indica* or *Cannabis americana*).⁴⁵ In 1923, four more states enacted cannabis legislation: Washington, New Mexico, Oregon, and Arkansas. Washington labelled the sale of “*Cannabis americana* and *Cannabis indica*” to those without a prescription as a felony on March 3, 1923.⁴⁶ New Mexico enacted legislation on March 7, 1923, making “*Cannabis indica*, also known as hashish or marihuana” illegal to import, grow, possess, sell, or give away, except for medicinal purposes and to those with prescriptions.⁴⁷ Oregon amended its previous 1913 narcotics law on February 8, 1923, by adding “*Cannabis indica*, sometimes known as Indian hemp” to the state’s list of narcotics requiring a prescription for purchase; any violations of the law constituted a felony.⁴⁸ Arkansas also went the route of requiring a prescription for the acquisition and use of “*Cannabis indica*” in the state’s February 27, 1923 narcotics act.⁴⁹

Louisiana prohibited the possession, sale, and transportation of “marajuana” on July 3, 1924.⁵⁰ Members of the Louisiana State Medical Society became the main advocates for stricter cannabis laws due to the growing usage of marijuana amongst white Louisianans, which they blamed on the state’s large black population. For example, New

⁴⁵ Ibid., 114.

⁴⁶ Ibid., 309.

⁴⁷ Ibid., 213.

⁴⁸ Ibid., 252.

⁴⁹ Ibid., 44.

⁵⁰ Ibid., 135.

Orleans physician A.E. Fossier linked race and nationality to a person's predisposition for using marijuana, claiming that the "dominant race and most enlightened countries are alcoholic, whilst the races and nations addicted to hemp and opium...have deteriorated both mentally and physically."⁵¹ Dr. Frank R. Gomila, New Orleans' public safety commissioner, believed that "practically every negro in the city can give a recognizable description of the drug's effects," and to eliminate the drug from New Orleans, he suggested a heightened police presence in black neighborhoods.⁵² The arrest records from 1928 showed white males constituting seventy-five percent of all marijuana arrests in the city, but rather than holding whites accountable for their actions, those in the medical profession pushed the image of black males smoking or selling marijuana in the city's jazz clubs as the primary source of the marijuana problem in New Orleans, which resulted in frequent raids of the city's jazz clubs by the police.⁵³

The association between jazz and marijuana spread throughout the country, and some scholars have singled out the anti-marijuana propaganda and legislative measures in Louisiana as the principal guide for Anslinger in his federal crusade.⁵⁴ An article in the

⁵¹ A.E. Fossier, "The Marihuana Menace," *New Orleans Medical and Surgical Journal* 84 (1932): 249, <https://archive.org/details/neworleansmedica84unse>. (accessed October 20, 2018).

⁵² Ernest L. Abel, *Marihuana: The First Twelve Thousand Years* (New York: Plenum Press, 1980), 217.

⁵³ *Ibid.*, 218.

⁵⁴ *Ibid.*

Daily East Oregonian entitled, “‘Jazz Weed’ Source of Crime in Southwest” quoted the Californian Board of Pharmacy Inspector Fred C. Boden as saying:

Marihuana, a weird “Jazz weed” frequently used by Mexican drug addicts is the source of much crime in the Southwest...Eliminate marihuana and crime among the laboring class of Mexicans will be appreciably reduced...a bit of marihuana placed in a drink of brandy causes the optimistic indulged to fancy that he witnesses jelly-like pulsations and Oriental wiggles in every object in his view...If a little marihuana is sprinkled on a tortilla as it bakes, the lowly delicacy vibrates and...sends forth weird tunes not unlike those seeping over the walls of a sultan’s harem rendezvous.⁵⁵

Inspector Boden’s stereotypes of Mexicans, Orientals, and Middle Easterners did not even have anything to do with jazz, so either Boden had a poor understanding of jazz music, or he intentionally associated jazz with “the laboring class of Mexicans,” “Oriental wiggles,” and “a sultan’s harem” in an attempt to push a nativist anti-marijuana agenda. Regardless, the article provides a great example of how jazz became synonymous with marijuana use in states outside of Louisiana.

Many members of the jazz scene did in fact openly embrace marijuana, as evidenced by some of the explicitly marijuana-themed hits of the time, such as Louis Armstrong’s “Muggles” or Cab Calloway’s “Reefer Man.” Armstrong gave an interview shortly before his 1971 death in which he reminisced about the marijuana use in the jazz scene of his early-1900s. Armstrong relayed how jazz musicians used the word “gage” for marijuana and “vipers” for marijuana smokers, and how he spent nine days in a Los

⁵⁵ “‘Jazz Weed’ Source of Crime in Southwest,” *Daily East Oregonian*, October 18, 1921, <https://oregonnews.uoregon.edu/lccn/sn88086023/1921-10-18/ed-1/seq-2/>. (accessed May 9, 2018).

Angeles jail after police caught him smoking a “joint of gage” outside during a night club intermission in 1931; luckily for him, his celebrity status saved him from six months of imprisonment.⁵⁶ Armstrong admitted that many vipers, including himself, had to eventually give up their marijuana habits because “the price got a little too high to pay (law wise). At first you was a ‘misdomeanor’. But as the years rolled on you lost your misdo and got meanor and meanor (jailhouse speaking).”⁵⁷

Whites had long accused the black population of causing the degeneracy of American society, so when the marijuana craze went into full swing, it came as no surprise to white Americans when they read stories of black men using marijuana. Affluent members of society were quick to blame the problems of lower-class whites on the cannabis consumption of immigrants and minorities. These dejected groups of people, however, viewed cannabis consumption as a way to escape their problems. They would turn to marijuana, or any other drug, in an attempt to relieve themselves of the everyday hardships that they endured at the bottom of the societal food-chain.

In the last three years of the decade, seven states added cannabis to their narcotic codes: Idaho, Montana, Kansas, New York, Nebraska, and Ohio, all in 1927, and Michigan in 1929. The large population of Chinese immigrants in Idaho at the end of the nineteenth century fostered an undeniable nativism in the state’s white inhabitants, which

⁵⁶ Max Jones and John Chilton, *Louis: The Louis Armstrong Story, 1900-1970* (London: November Books Limited, 1971), 116.

⁵⁷ *Ibid.*

eventually presented itself in Idaho's first narcotic act on February 10, 1887. The 1887 act sought to prevent white Idahoans from falling victim to the foreign poison of Chinese opium; thus, the legislation preventing the purchase, possession, and use of opium only applied to the state's white citizens.⁵⁸ Nativistic paranoia in Idaho spread to more than just the Chinese too, as seen in the August 29, 1907, issue of *The Idaho Recorder*, which published an article focusing on Mexican degeneracy and their prevalence on the railroads.⁵⁹ Idaho's act on March 1, 1927, incorporated "*Cannabis sativa*, otherwise known as *Cannabis indica*, Indian hemp, American hemp, or marihuana" into the state's narcotics laws, disallowing its use, possession, distribution, growth, cultivation, or sale.⁶⁰

On March 8, 1927, Montana amended its narcotic act from 1921 to prohibit the prescription-less sale of "marihuana (*Cannabis indica*)."⁶¹ Within the next two years, Montanans proposed raising the cannabis restrictions even further. The *Montana Standard* from January 27, 1929, described the bill's quick consideration at the state legislature:

There was fun in the House Health Committee during the week when the Mariahauna bill came up for consideration. Mariahauna is Montana opium, a plant used by Mexicans and one cultivated for sale by Indians. "When some beet field peon takes a few rares of this stuff," explained Dr. Fred Fulsher of Mineral County, "he thinks he has just been elected president of Mexico so he starts out to

⁵⁸ U.S. Dept. of Treasury, 96. The 1883 Act was repealed in 1893.

⁵⁹ "Mexican Government Has Trouble with Railroads," *The Idaho Recorder*, August 29, 1907, <https://www.newspapers.com/image/375435863> (accessed October 27, 2018).

⁶⁰ U.S. Dept. of Treasury, 98.

⁶¹ *Ibid.*, 188.

execute all his political enemies. I understand that over in Butte where the Mexicans often go for the winter, they stage imaginary bullfights in the “Bower of Roses” or put on tournaments for the favor of “Spanish Rose” after a couple of whiffs of Mariahuana. The Silver Bow and Yellowstone delegations both deplore these international complications.” Everybody laughed and the bill was recommended for passage.⁶²

The “fun” that legislators had while considering the bill shows that enacting state legislation on marijuana during that time required no meaningful discussion or debate.

The bill passed on February 12, 1929, prohibiting the growth, use, and possession of “marihuana (also known as *Cannabis sativa*, *Cannabis indica* and Indian hemp).”⁶³

Some of the country’s most diehard prohibitionists came from Kansas, and not just the ones who despised alcohol, but those who fought against value-threatening substances in general. Kansans amended the state’s constitution in 1880 to prohibit the manufacture and sale of intoxicating liquors, but up until a further amendment in 1909, the law permitted pharmacists to sell alcohol for medicinal purposes. One particular tincture that drug stores carried, known as “Kansas Booze,” consisted of cannabis, quillaia, guinea pepper, acetic ether, pellitory, sulphuric acid, and opium.⁶⁴ After the 1909 amendment took alcoholic medicines off the shelves of drug stores, Kansas pharmacists started selling packages of “Indian cannabis,” but there is reason to believe that these

⁶² “Legislative Ground Sluice from Last Chance Gulch,” *Montana Standard*, January 27, 1929, <https://www.newspapers.com/image/354360864> (accessed October 20, 2018).

⁶³ U.S. Dept. of Treasury, 192.

⁶⁴ “Whiskeyless Whiskey Now: That’s the Latest Kind of Kansas Booze. Is Only 50 Per Cent Poison,” *The National Field (Salina)*, November 23, 1908, <https://www.newspapers.com/image/485144741> (accessed October 19, 2018).

packages may have contained locoweed rather than cannabis.⁶⁵ A Topeka newspaper reported that during the early-1910s, the Mexican immigrants in Topeka popularized the habit of smoking locoweed, a plant that “grows wild in western Kansas, the southwest, and Mexico, and which for years has been known to cause horses to go crazy and remain in that condition.”⁶⁶ The article explicitly acknowledged that cannabis and locoweed were different plants in the following paragraph:

Strictly speaking, Indian Cannabis is a plant different from the loco weed. It is a hemp growing in India four to eight feet high, but the packages sold under that name in Topeka are identified by [Topeka detective Augustine Alba] and others who know loco weed when they see it, as loco weed, but apparently it has all the drug properties of the genuine article. Seed from herbs in these packages has been planted in Topeka and has produced loco.⁶⁷

Chas H. Almond, a special agent for the Atchison, Topeka, and Santa Fe Railway, sponsored and lobbied for the 1927 law against marijuana in Kansas; he credited all of the time he spent around Mexican railroad workers for giving him an extensive knowledge of marijuana.⁶⁸ Almond spread fallacious information throughout the state, such as “nine out of ten Mexicans who go crazy are the victims of marihuana smoking,”

⁶⁵ “Topekans Smoke Loco Weed; Two Declared Insane,” *The Topeka Daily Capital*, April 25, 1916, <https://www.newspapers.com/image/64461585> (accessed October 2, 2018). The article claimed that with just twenty-five cents, Kansans could purchase enough Indian cannabis “for 300 cigarets.”

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ M.H. Hayes and L.E. Bowery, “Marihuana,” *Journal of Criminal Law and Criminology* 23, no. 6 (Spring 1933): 1091, <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=2365&context=jclc> (accessed August 22, 2018).

as well as pointing out the problems that Kansas law enforcement had with Mexicans who grew marijuana in their yards, lamenting that “because of the present law, nothing can be done.”⁶⁹ The Kansas legislature listened to Almond’s accusation and enacted House Bill No. 41 on March 17, 1927, which made the cultivation, sale, possession, and use of “*Cannabis indica* or *Cannabis sativa*, commonly called Indian hemp (marihuana)” a misdemeanor with a maximum penalty of a five-hundred dollar fine and/or six months in county jail.⁷⁰

M. H. Hayes of Friends University in Wichita and L. E. Bowery of the Wichita Police Department published an article in 1933 petitioning the Kansas state legislature to turn the misdemeanor penalty for marijuana into a felony. They admitted that marijuana use, “so long as it was confined to Mexicans themselves, was not generally noticed. As an issue of importance, it was first called to public attention about 1925, when it spread to native whites.”⁷¹ They referenced a newspaper article from 1926 describing a man who went mad from hashish consumption; officers found him “strolling along a road, a few miles out of Topeka. He was naked, his clothing strewn along the highway for a mile. He

⁶⁹ “Make Mexican Dope Unlawful: Marihuana Smoking is Just as Dangerous as Opium or other Drugs,” *Hutchinson News*, July 8, 1926, <https://www.newspapers.com/image/420296759> (accessed October 8, 2018).

⁷⁰ U.S. Dept. of Treasury, 121. The law allowed for the possession and sale of the bast fibers, cloth, cordage, rope, or other materials made from the bast fibers.

⁷¹ Hayes and Bowery, 1091.

was not violently insane, but crazy – said he was an elephant and acted as much like one as his limited physique would let him. Marihuana did it.”⁷²

New York’s state legislature passed the Boylan Bill in January of 1914 to regulate the sale and usage of habit-forming drugs; the bill did not include marijuana, though, which caused New York City to amend its Sanitary Laws by placing a ban on “*Cannabis indica*” distribution to those who lacked a prescription.⁷³ After New York passed its first narcotics act on May 9, 1893, the state went on to have sixteen more acts relating to narcotics before the first one to include cannabis passed on April 5, 1927.⁷⁴ The 1927 Act classified “*Cannabis indica* or *Cannabis sativa*” as a habit-forming drug, joining the ranks of opium and coca leaves, under which the un-prescribed sale would result in a felony.⁷⁵

Nebraska amended its 1915 narcotics act on April 13, 1927, to include the unlicensed importation, un-prescribed sale, and growing of “*Cannabis*, also known as hashish or marihuana” as misdemeanor offenses.⁷⁶ Also in 1927, Ohio added “*Can[n]abis indica*, *Can[n]abis sativa*, or marijuana” to their narcotics code from 1923,

⁷² Ibid., 1089.

⁷³ Bonnie and Whitebread, 1016.

⁷⁴ U.S. Dept. of Treasury, 216.

⁷⁵ Ibid.

⁷⁶ Ibid., 197.

making it a felony to sell, purchase, or possess without a prescription.⁷⁷ Finally, the narcotics code in Michigan concerned itself only with “habit-forming narcotic drugs,” and an amendment on May 24, 1929, to the state’s 1925 narcotics code placed “*Cannabis indica*, or *Cannabis sativa*” under the label of a habit-forming drug; violations of the Michigan narcotics law constituted a felony with fines up to four thousand dollars and/or imprisonment for up to four years.⁷⁸

Right after the founding of the Federal Narcotics Bureau in 1930, but just prior to the passing of the Uniform Narcotic Act in 1932, Mississippi, Illinois, Arizona, Alabama, and South Dakota all enacted cannabis legislation of their own.⁷⁹ The Uniform Narcotic Act did not initially receive a warm reception from the states, with only Florida, Nevada, New Jersey, and New York adopting the Act in 1933.⁸⁰ Coincidentally, one of the most infamous cases of “marijuana insanity” took place in Florida in 1933. Victor Licata, a twenty-year-old Italian-American from Tampa, allegedly went mad from smoking too much marijuana and murdered his father, mother, sister, and two brothers in their sleep with an axe, thereby turning Licata into the posterchild for “reefer madness.”⁸¹ Licata’s

⁷⁷ Ibid., 242.

⁷⁸ Ibid., 163.

⁷⁹ Gieringer, 35. Although the limitations on this study do not extend to post-1930s state narcotic laws, they are certainly deserving of a future study.

⁸⁰ Federal Bureau of Narcotics, *Traffic in Opium 1933*, 8.

⁸¹ “Dream Slayer Talks in Cell,” *The Tampa Times*, October 18, 1933, <https://www.newspapers.com/image/333513651> (accessed October 22, 2018). “Reefer madness” refers to a 1936 propagandic film of the same name; the name became synonymous with marijuana insanity.

case provided Anslinger with one of his most oft-quoted anecdotes in the coming years and, as such, he wielded it as a vital tool in the struggle to persuade the states to enact the Uniform Narcotic Act and Congress to pass the Marihuana Tax Act.⁸²

Five more states adopted the Uniform Narcotic Act in 1934: Rhode Island, Louisiana, Virginia, South Carolina, and Kentucky; for the latter three states, the Uniform Narcotic Act would provide them with their first cannabis legislation.⁸³ Upon realizing that the states would not readily adopt the Uniform Narcotic Act without some convincing, Anslinger ramped up his crusade against marijuana with a heavy use of propaganda. Playing upon the public's nativistic fears proved overwhelmingly successful, as eighteen states adopted the act in 1935: Alabama, Arizona, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Maryland, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Dakota, Utah, and West Virginia.⁸⁴ Missouri also adopted its own cannabis legislation in 1935, as Congressman Joseph Falzone introduced a bill that would ban the un-prescribed sale of "marijuana (commonly known as weed or

⁸² United States House Committee on Ways and Means, *Taxation of Marihuana: Hearings Before the Committee on Ways and Means, House of Representatives, Seventy-Fifth Congress, First Session on H.R. 6385* (Washington, D.C.: Government Printing Office, 1937), 34, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015014177037> (accessed May 9, 2018).

⁸³ Federal Bureau of Narcotics, *Traffic in Opium and other Dangerous Drugs for the Year Ended December 31, 1934* (Washington, D.C.: Government Printing Office, 1935) 2, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112103489466> (accessed May 9, 2018).

⁸⁴ Federal Bureau of Narcotics, *Traffic in Opium and other Dangerous Drugs for the Year Ended December 31, 1935-1941* (Washington, D.C.: Government Printing Office, 1942) 1:2, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112103489474>. (accessed May 9, 2018).

hay or muggles)” due to the “large amount of marijuana that is now being sold to minors and school children.”⁸⁵

The “reefer madness” propaganda appeared to have hit its peak in 1935, due to only two states adopting the Uniform Narcotic Act in 1936: Mississippi and Wisconsin.⁸⁶ However, this lull in activity had an explanation, for Anslinger spent a great deal of 1936 secretly preparing his magnum opus, the Marihuana Tax Act. Anslinger won major victories in 1937 by securing passage of the Marihuana Tax Act and convincing ten states to adopt the Uniform Narcotic Act: Arkansas, Idaho, Iowa, Michigan, Minnesota, Missouri, Montana, Tennessee, Texas, and Wyoming.⁸⁷ After 1937, the time intervals in which the remaining states entered into the Uniform Narcotic Act became progressively wider. Anslinger no longer had to run his propaganda campaign at maximum efficiency; he had already won the battle with the Marihuana Tax Act. How Anslinger and the Federal Narcotics Bureau attained such high levels of power is the final topic of analysis and the catalyst for industrial hemp’s demise in the 1950s.

⁸⁵ Jules Klein, “Large Quantity of Poisonous Weed Which Yields Deadly Marijuana Cultivated in and Near St. Louis,” *The St. Louis Star and Times*, January 21, 1935, <https://www.newspapers.com/image/205410900> (accessed October 2, 2013).

⁸⁶ Federal Bureau of Narcotics, *Traffic in Opium 1935-1941*, 2:2.

⁸⁷ *Ibid.*, 3:3. The only states to never pass the Uniform Narcotic Act were California, Pennsylvania, and Washington.

CHAPTER FOUR

“HEMP FOR VICTORY”: THE CONQUEST OF FEDERAL NARCOTICS LEGISLATION

The nativistic dogma that state legislatures evoked in their individual crusades for social reform ultimately encouraged the United States federal government to enact its own prohibitive substance laws in the early-twentieth century for the preservation of American values. Congress at this time could regulate substances through imports, exports, and interstate commerce, but it had no authority to regulate substances within the states themselves; thus, Congress began exploiting a loophole in the Constitution’s Commerce Clause, allowing it to use taxation for substance regulation within the states.¹ Prior to the 1900s, the U.S. government passed only a handful of federal laws concerned with the regulations of inebriating substances. In stark contrast, the passage of several federal substance laws occurred in just the first thirty years of the twentieth century alone.² The manner in which the federal government dealt with the problems of alcohol and narcotics in the early-twentieth century directly influenced the Federal Narcotics Bureau’s suppression of cannabis in the 1930s. With Harry J. Anslinger at the helm of the

¹ Richard J. Bonnie and Charles H. Whitebread, “The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition,” *Virginia Law Review* 56, no. 6 (October 1970): 991, http://www.law.virginia.edu/pdf/faculty/hein/bonnie/56va_1_rev971_1970_PART1.pdf (accessed May 9, 2018).

² Relevant pre-1930 federal acts in this chapter include: the Pure Food and Drugs Act of 1906, the Smoking Opium Exclusion Act of 1909, the Webb-Kenyon Act of 1913, the Harrison Narcotics Act of 1914, the Volstead Act of 1919, the Narcotic Drugs Import and Export Act of 1922, the Heroin Act of 1924, the Narcotic Farms Act of 1929, and the Increased Penalties Act of 1929.

organization, the Narcotics Bureau would harness the nativist fears of white Americans and use them to dismantle the U.S. hemp industry.

The American government's first foray into the regulation of medical substances came with the Drug Importation Act of 1848. The poor quality of adulterated patent medicines during the Mexican-American War (1846-1848) contributed to the large number of casualties in the conflict; therefore, the Act of 1848 required all imported medicines to meet the *United States Pharmacopeia*'s drug standards, as inspected by the U.S. Customs Service.³ The U.S. had issues with patent medicines for the rest of the century, but the Pure Food and Drug Act of 1906 helped put an end to the patent medicine industry by making it mandatory for food, drink, and drug manufacturers to list the active ingredients of their products on the labels. The Act of 1906 became the first national legislation ever to mention cannabis by name, as labels on cannabis-containing products now had to warn consumers about the intoxicating properties of the plant.⁴ The U.S. Customs Service also began to refuse the importation of cannabis flowers through the Act of 1906 unless it went into the preparation of a medicine.⁵

³ Lisa N. Sacco, "Drug Enforcement in the United States: History, Policy, and Trends," *Congressional Research Service* (October 2, 2014): 2, <https://fas.org/sgp/crs/misc/R43749.pdf> (accessed October 21, 2018).

⁴ Bonnie and Whitebread, 985.

⁵ Federal Bureau of Narcotics, *Traffic in Opium and other Dangerous Drugs for the Year Ended December 31, 1935-1941* (Washington, D.C.: Government Printing Office, 1941), 1:33, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112103489474> (accessed May 9, 2018).

Many Americans in the nineteenth century thought of alcohol as one of the greatest plagues in their society. Unlike the eventual crusade against narcotics, the temperance movement sought to stamp out a longtime corruptor of American values, while also generating a great deal of public debate.⁶ Teetotaler associations that originated in the nineteenth century like the Woman's Christian Temperance Union, the National Prohibition Party, and the Anti-Saloon League all became instrumental in pushing a number of states toward alcohol prohibition, although just Kansas, Maine, and North Dakota remained completely dry by 1903.⁷ The federal government even got involved in 1890 when it passed the Wilson Act, which basically acknowledged that dry states had the right to penalize alcohol distributors in their borders.⁸

As the temperance movement grew stronger in the early-twentieth century, the federal government continued to enact favorable legislation for the cause; for example, the Webb-Kenyon Act passed in 1913 to federally prohibit the shipment of alcohol from wet states into dry ones.⁹ The ratification of the Eighteenth Amendment on January 16, 1919, finally established federal alcohol prohibition nationwide, with the Volstead Act

⁶ The crusade against narcotics was more preventative in nature, trying to stop narcotics from becoming as engrained into American society as alcohol. The crusade largely went under the public's radar as well, because compared to alcohol, not as many people used narcotics.

⁷ Bonnie and Whitebread, 977. Vermont had just repealed its prohibition of alcohol in 1902.

⁸ *Ibid.*, 978.

⁹ *Ibid.*

following later that year to set the rules of enforcement.¹⁰ Respect for the law plummeted as organized crime linked to the trafficking of alcohol grew stronger over the course of the 1920s, and this rise in crime convinced legislators to propose harsher punishments for anyone who violated the Volstead Act. The enactment of the Increased Penalties Act in 1929 only increased public dissent by turning most of the Volstead Act's misdemeanors into felonies.

Besides alcohol and adulterated patent medicines, raw opium was the only other inebriant that really drew the ire of Americans in the nineteenth century. U.S. merchants actively engaged with the Far East in the opium trade throughout the nineteenth century, despite the American government trying multiple times to distance itself from the narcotic following the events of the First (1839-1842) and Second (1856-1860) Opium Wars in the form of treaties with China.¹¹ The call for federal opium legislation grew louder after the U.S. acquired the Philippines from Spain in 1898 at the end of the Spanish-American War. Spain had implemented a system of restrictions in the Philippines that allowed Chinese inhabitants of the islands to buy and consume opium, but not Filipinos. After the U.S. came into power, American missionaries noticed a significant increase in the importation of opium to the islands and the number of Filipino

¹⁰ Ibid. The Eighteenth Amendment did not prohibit the purchase or consumption of alcohol, just the manufacture, sale, and transportation. It also used the term "intoxicating liquors" rather than alcohol and failed to describe any sort of punishment for breaking the law. Passage of the National Prohibition Act (also known as the Volstead Act) attempted to clear up all of the confusion.

¹¹ Arnold H. Taylor, "American Confrontation with Opium Traffic in the Philippines," *Pacific Historical Review* 36, no. 3 (August, 1967): 307, <https://www.jstor.org/stable/3637153> (accessed October 10, 2018).

opium addicts, both resulting from the discontinuation of Spain's opium regulation system.¹² The U.S. government eventually passed legislation in 1905 to ease the Philippines into a state of complete opium prohibition by 1908, but the heavy traffic of opium in the surrounding Far East countries prevented the U.S. from reasonably enforcing their opium ban.¹³ This obstacle in the Philippines inadvertently sparked the movement for international narcotics prohibition, since it inspired the U.S. to assemble the International Opium Commission in Shanghai in 1909.¹⁴

Motivated by the International Opium Commission, President Theodore Roosevelt signed into effect the Smoking Opium Exclusion Act of 1909, thirty-four years after the city of San Francisco had enacted America's first opium ban in 1875. The Act of 1909 prohibited the importation of raw opium into the U.S., although it did not extend to derivatives of opium like morphine or heroin.¹⁵ A second international conference convened in The Hague in 1912, with the attendees signing a treaty to crack down on narcotics in their respective nations. Hamilton Wright, who served as a U.S. delegate at

¹² *Ibid.*, 310.

¹³ *Ibid.*, 323.

¹⁴ Thomas M. Quinn and Gerald T. McLaughlin, "The Evolution of Federal Drug Control Legislation," *Catholic University Law Review* 22, no. 3 (Spring 1973), 592, <https://scholarship.law.edu/cgi/viewcontent.cgi?article=2622&context=lawreview> (accessed October 14, 2018). The International Opium Convention was a conference in Shanghai where thirteen nations discussed matters pertaining to narcotics and offered suggestions for future action. It essentially laid the groundwork for the subsequent conventions and treaties for international drug prohibition in 1912, 1925, 1931, and 1961.

¹⁵ *Ibid.*

both the 1909 and 1912 international conventions, began writing a federal anti-narcotics bill that would regulate the importation, production, and distribution of narcotics in America in accordance with the Commerce Clause and the International Opium Convention. Wright initially labelled cannabis as a narcotic in the first draft of his bill because he believed that outlawing other narcotics would simply drive addicts to use cannabis instead; however, the negative response he received from pharmaceutical manufacturers regarding the bill's inclusion of cannabis forced Wright to drop the plant from the final version in 1914.¹⁶

Wright's bill passed as the Harrison Narcotics Tax Act of 1914 (named after its congressional sponsor, New York Congressman Francis Burton Harrison), which became the foundation for all subsequent federal legislation concerned with the prohibition of dangerous substances.¹⁷ Designed with taxation in mind (to stay within the confines of the Commerce Clause), the act required importers, producers, and sellers of opium, cocaine, or any of their derivatives, to register with the federal government, pay a tax, and use special order forms if they wished to continue handling the narcotics in question; those who failed to comply with the act's stipulations would receive fines of up to two thousand dollars, five years of imprisonment, or both.¹⁸ Much like the federal prohibition

¹⁶ Dale H. Gieringer, *The Origins of Cannabis Prohibition in California* (New York: Federal Legal Publications, Inc., 1999), 16.

¹⁷ *Ibid.*

¹⁸ Bonnie and Whitebread, 987.

of alcohol, the Harrison Narcotics Act boosted crime in the country as well, for it spurred both addicts and occasional narcotic users to obtain their drugs through the black market. The Treasury Department, therefore, created the Narcotics Division to police the nation's growing class of drug-abusing criminals.¹⁹

The Narcotic Drugs Import and Export Act of 1922 replaced the Smoking Opium Exclusion Act of 1909 by banning the importation of not only opium, but coca leaves as well. The Act of 1922 allowed for a pre-determined amount of opium and coca leaves to enter the country for the purpose of manufacturing into medicines, and the newly created Federal Narcotics Control Board had the responsibility of making this determination.²⁰ The Import and Export Act received an amendatory act in 1924 with the Anti-Heroin Act, which made the eponymous drug into the third narcotic barred from U.S. importation. The Narcotic Farms Act of 1929 became the final narcotics legislation of the decade, instituting two narcotic farms for addicts; one opening in Lexington, Kentucky, in 1935, and the other in Fort Worth, Texas, in 1938.²¹ Federal narcotics laws did not classify

¹⁹ Quinn and McLaughlin, 599. The Treasury Department originally placed the Narcotic Division in the Bureau of Internal Revenue in 1920 before moving it to the Bureau of Prohibition in 1927.

²⁰ United States House Committee on Appropriations, *Treasury Department Appropriation Bill for 1932: Hearing before the Subcommittee of House Committee on Appropriations, Seventy-First Congress, Third Session* (Washington, D.C.: Government Printing Office, 1930), 363, <https://babel.hathitrust.org/cgi/pt?id=uc1.a0000127472> (accessed October 14, 2018). The Federal Narcotics Control Board consisted of the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce, who made their importation decisions based upon the advice of the Surgeon General of the Public Health Service.

²¹ Quinn and McLaughlin, 599.

marijuana as a habit-forming drug yet, but its users still wound up on the farms regardless.²² Also known as the Porter Act, the Narcotic Farms Act also established the Federal Bureau of Narcotics, which in the next decade would transform into one of the most powerful agencies in the federal government under the leadership of Harry J. Anslinger.

Born on May 20, 1892, Harry Jacob Anslinger grew up in rural Pennsylvania with a Swiss father and German mother who immigrated to the United States before his birth. Anslinger had an awareness of the dark side of narcotics from a young age; he claimed in his book *The Murderers: The Shocking Story of the Narcotic Gangs* that two specific events in his early life motivated him to eradicate drugs from society as an adult: one occasion in which he witnessed his neighbor experiencing severe morphine withdrawals, and another in which a kid from his hometown succumbed to an opium addiction.²³ As a young adult, Anslinger worked for the Pennsylvania Railroad and graduated from Pennsylvania State College as a business and engineering major. He married the niece of wealthy banker Andrew Mellon in 1917, shortly before joining the diplomatic corps of the United States during World War I. Anslinger's time in the corps prepped him for his future role as the head of the Narcotics Bureau by sending him all across the world to

²² Association of Military Surgeons, 272.

²³ Harry J. Anslinger and Will Oursler, *The Murderers: The Shocking Story of the Narcotic Gangs* (New York: Farrar, Straus and Cudahy, 1961), 8.

conduct investigations and piece together intelligence reports on international drug trafficking.²⁴

Anslinger relied heavily upon his uncle-in-law to receive employment in the Department of the Treasury, for Mellon was Secretary of the Treasury from 1921 until 1932. Anslinger landed a position as chief of the Division of Foreign Control in 1926 before transitioning three years later to the assistant commissioner of the Bureau of Prohibition in 1929, in which he led the Bureau's Narcotics Division.²⁵ As the Eighteenth Amendment and the federal narcotic laws both created a criminal underworld in America, the Prohibition Bureau found itself focusing less on the Treasury Department's responsibilities of taxation and more on the prevention of violent crimes. Thus, when the Prohibition Bureau transferred to the Justice Department on June 14, 1930, Mellon had Anslinger appointed as the first commissioner of the Treasury Department's new Federal Bureau of Narcotics, with President Herbert Hoover approving the appointment on September 25.²⁶

The Narcotics Bureau replaced the Prohibition Bureau's Narcotics Division and the Federal Narcotics Control Board, both of which became defunct in the text of the Porter Act in 1929.²⁷ Anslinger originally showed interest in marijuana only on a state

²⁴ Ibid., 10.

²⁵ U.S. House Committee on Appropriations, 364.

²⁶ Ibid., 363.

²⁷ Ibid., 362.

level in his first two years with the Narcotics Bureau. He mostly concerned himself with enforcing the federal legislation that already pertained to his agency, such as the Harrison Narcotics Act, the Narcotics Drug Import and Export Act, and the Heroin Act. He voiced his support for the states to control marijuana under the Uniform State Narcotic Drug Act, but the lengthy drafting process did not conclude until 1932.²⁸ Anslinger might have had doubts that he could take on such a monumental task given the Narcotics Bureau's modest annual budget of almost two million dollars.²⁹ Whatever the case, the description of marijuana went largely unchanged in the annual reports from the time of the Narcotics Control Board to the early years of the Narcotics Bureau. The following excerpt from the annual report of 1931 shows the Narcotics Bureau's initial mindset on marijuana:

This abuse of the drug is noted among the Latin-American or Spanish-speaking population. The sale of cannabis cigarettes occurs to a considerable degree in States along the Mexican border and in cities of the Southwest and West, as well as in New York City and, in fact, wherever there are settlements of Latin Americans. A great deal of public interest has been aroused by newspaper articles appearing from time to time on the evils of the abuse of marihuana, or Indian hemp, and more attention has been focused upon specific cases reported of the abuse of the drug that would otherwise have been the case. This publicity tends to magnify the extent of the evil and lends color to an interference that there is an alarming spread of the improper use of the drug, whereas the actual increase in such use may not have been inordinately large.³⁰

²⁸ Federal Bureau of Narcotics, *Traffic in Opium and other Dangerous Drugs for the Year Ended December 31, 1928-1932* (Washington, D.C.: Government Printing Office, 1931), 5:13, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112103489433> (accessed May 9, 2018).

²⁹ U.S. House Committee on Appropriations, 362.

³⁰ Federal Narcotics Bureau, *Traffic in Opium 1928-1932*, 4:51.

Despite the change of federal narcotic agencies in 1930, every annual report from 1928 through 1931 used the above excerpt's first two sentences to associate marijuana with Latin Americans and the Mexican border. Anslinger took this association and started pushing it even further in the coming years by portraying the marijuana epidemic as a former border problem that had developed into a much larger internal threat. This excerpt from the 1931 report is also noteworthy because of its admission that the newspapers grossly exaggerated the evils of marijuana through the use of yellow journalism; this admission did not carry over to the 1932 report. Mellon resigned from his post as Secretary of the Treasury in 1932, facing impeachment proceedings that stemmed from an overwhelming disapproval over his handling of the Great Depression. Furthermore, the prohibition of alcohol had finally reached the end of its rope, with presidential hopeful Franklin Delano Roosevelt pledging in his 1932 campaign to repeal the Eighteenth Amendment. The combination of Mellon's resignation and Roosevelt's landslide victory undoubtedly troubled Anslinger; with his job security gone and the country's mounting anti-prohibition fervor, Anslinger had to find a way to make himself and the Federal Narcotics Bureau indispensable.

Anslinger's promotion of anti-marijuana propaganda after 1932 perhaps came from his realization that the Roosevelt administration would find him too valuable to replace if he overemphasized the need to exterminate the violence-inducing foreign substance within the country's borders. Thus, Anslinger embraced the anti-marijuana rhetoric of the nativists and embarked on his crusade to federally prohibit cannabis in the

U.S. He began to exclusively refer to cannabis as “marihuana” in an attempt to tie the “mysterious” and “dangerous” drug to Mexican immigrants, and stressed the plant’s connection to the assassins of the Middle East, all the while frightening Americans with cases of violent marijuana-related crimes that he kept in a “gore” file.³¹

In 1937, Anslinger finally came forward with his Marihuana Tax Act, seeking to pass it as quickly and discreetly as possible. The hearings for the Tax Act used unreliable studies to support the plant’s regulation, and its name caught many people in the hemp and medical professions off-guard since it used the term “marihuana” rather than “cannabis.” The Marihuana Tax Act itself did not necessarily make cannabis illegal, though; instead, it imposed a tax on anyone who produced, sold, prescribed, or purchased the plant.³² Anslinger modeled the act on both the Harrison Narcotics Act and the 1934 National Firearms Act, in that it aimed to criminalize undesirable behavior with the utilization of taxes, heeding the Constitution’s Commerce Clause.³³

In five separate sessions of hearings over the course of a week, from April 27 to May 4, 1937, Anslinger and the Treasury Department’s Assistant General Counsel,

³¹ Ernest L. Abel, *Marihuana: The First Twelve Thousand Years* (New York: Plenum Press, 1980), 162.

³² United States House Committee on Ways and Means, *Taxation of Marihuana: Hearings Before the Committee on Ways and Means, House of Representatives, Seventy-Fifth Congress, First Session on H.R. 6385* (Washington, D.C.: Government Printing Office, 1937), 14, <https://babel.hathitrust.org/cgi/pt?id=mdp.39015014177037> (accessed May 9, 2018).

³³ United States Senate Committee on Finance, *Taxation of Marihuana: Hearing Before a Subcommittee of the Committee on Finance, United States Senate, Seventy-Fifth Congress, First Session on H.R. 6906* (Washington, D.C.: Government Printing Office, 1937), 6, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112104251246> (accessed May 9, 2018).

Clinton M. Hester, went before the Committee on Ways and Means to secure passage of the Marihuana Tax Act. The bill they proposed would technically still allow anyone to purchase marijuana on a federal level, but the buyer would have to jump through legislative hoops of taxes and registration forms with the threat of a \$5,000 fine or two years of imprisonment for not complying; these measures ultimately made it far too expensive and risky to have anything to do with the plant. For example, the market price for marijuana in 1937 sat at one dollar per ounce, but the Marihuana Tax Act required any unregistered buyers to pay outlandish taxes of \$100 per ounce.³⁴ The taxes for those who registered could range anywhere from \$1 to \$50 per ounce, depending on their status as a manufacturer, compounder, importer, producer, dealer, laboratory user, or practitioner.³⁵

Anslinger opened his statement to the committee by reciting the tale of the ancient Hashishins and informing them of marijuana's influence on the word "assassin," which accurately described the plant according to Anslinger, who called it the "assassin of youth."³⁶ He then provided the committee with a letter from Floyd K. Baskette, the editor of the *Alamosa Daily Courier* in Colorado, pleading for the federal government to pass

³⁴ U.S. House Committee on Ways and Means, *Taxation*, 14.

³⁵ *Ibid.*, 7.

³⁶ National Commission on Marihuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding. Appendix: The Technical Papers of the First Report of the National Commission on Marihuana and Drug Abuse* (Washington, D.C.: Government Printing Office, 1972), 489, <https://babel.hathitrust.org/cgi/pt?id=coo.31924013982875> (accessed October 20, 2018).

anti-marijuana legislation. The letter described how a Hispanic man named Lee Fernandez brutally attacked and attempted to rape a young girl from Alamosa while under the influence of marijuana. Baskette wrote, “I wish I could show you what a small marihuana cigarette can do to one of our degenerate Spanish-speaking residents. That’s why our problem is so great; the greatest percentage of our population is comprised of Spanish-speaking persons, most of whom are low mentally, because of social and racial conditions.”³⁷ Anslinger used another source from Colorado that claimed the state’s Mexican population cultivated three tons of marijuana annually and sold it to white school children in the form of marijuana cigarettes.³⁸

When Anslinger finished his statement, two representatives of the seed industry, Ralph F. Lozier and Raymond G. Scarlett, addressed their concerns to the committee regarding the bill’s classification of hempseed as marijuana and how such a classification would hurt their businesses. The committee took their concerns to heart by changing the definition of marijuana to exclude sterilized hempseed and hempseed derivatives like oil and cake.³⁹ According to Scarlett’s statement, the deceptive name of the Marihuana Tax Act gave no indication to the people in the seed industry that the bill would affect them; they allegedly only became aware of marijuana’s connection to hemp the day before the

³⁷ U.S. House Committee on Ways and Means, *Taxation*, 32.

³⁸ *Ibid.*, 33.

³⁹ U.S. Senate Committee on Finance, *Taxation*, 1.

hearings began.⁴⁰ Even some of the committee members expressed their difficulties understanding the relationship between marijuana and hemp. Member David A. Reed, of New York, voiced his confusion on the matter:

I want to get it clearly in my mind that this marihuana and the ordinary hemp that we hear about are the same thing...Several people have talked to me about marihuana and they have impressed me with the fact that they are different plants. I think that ought to be cleared up in the public mind, so that we may know we are dealing with hemp...I suppose a good many people have the idea that it is some sort of a new species of plant in this country.⁴¹

The fact that some of the committee members supported the bill despite having difficulties in comprehending the Tax Act's concepts of marijuana and hemp shows the effectiveness of Anslinger's strategy. The chairman had troubles understanding whether marijuana produced the hempseed, or vice versa, and Hester agreed with Reed when the latter said they should clear up the confusion and alert people to the fact that they were "not dealing with the ordinary hemp plant," despite the Tax Act clearly dealing with the hemp plant.⁴² Anslinger kept the committee in a state of confusion by sliding his bill through as fast as possible, while exploiting their nativistic fears through the use of sensational horror stories that linked the foreign toxin to deranged immigrants and minorities and degenerate Americans.

⁴⁰ U.S. House Committee on Ways and Means, *Taxation*, 76.

⁴¹ *Ibid.*

⁴² *Ibid.*

Hester tried to explain why the Narcotics Bureau decided to name the bill the Marihuana Tax Act instead of the Cannabis Tax Act. The Bureau justified calling the bill the Marihuana Tax Act because of both the media and the American public's use of the word "marihuana" for over thirty years.⁴³ Hester claimed that the Bureau did not want to refer to the plant as its scientifically accepted name "cannabis," since they did not intend to tax the plant as a whole; the bill merely sought to tax the parts of the plant containing the psychoactive properties. The Bureau believed the word "marihuana" pertained to such parts, even if the scientific community did not agree.⁴⁴ Hester's explanation never addressed the fact that most of the American public had no idea what marijuana really was though; many people knew about marijuana only from the vague descriptions given by the media and the Narcotics Bureau.

Only one person at the hearings testified in opposition to the Marihuana Tax Act: Dr. William C. Woodward, a representative of the American Medical Association and co-author of the Harrison Narcotics Act. He made it clear in his statement that he opposed more than just the Marihuana Tax Act; he opposed all legislation for narcotic suppression proposed by the federal government, and, more specifically, by the Secretary of the Treasury and the Federal Bureau of Narcotics.⁴⁵ The AMA believed that the U.S. did not

⁴³ Ibid., 78.

⁴⁴ Ibid.

⁴⁵ Ibid., 87.

need more federal legislation beyond the Harrison Narcotics Act, and thus any further narcotics legislation should fall to the states. Woodward did say that if the federal government absolutely had to involve itself with cannabis, he would not object to an amendment placing cannabis in the confines of the Harrison Narcotics Act.⁴⁶ The AMA found it unreasonable and overcomplicated for the Marihuana Tax Act to require physicians and pharmacists who were already in compliance with the Harrison Narcotics Act to purchase yet another registration, pay a separate tax, and use special order forms solely for cannabis. Woodward suggested that if the federal government really wanted to limit the number of people addicted to narcotics in the country, then it should work alongside the states to educate children in public schools on the effects of narcotics.⁴⁷ Woodward hurled several criticisms at the underhanded methods of the Narcotics Bureau, such as how they secretly drafted the bill for two years without anyone's knowledge, or how they utilized dishonesty and unprofessional tactics to get the bill passed. In the years leading up to the bill's proposal, Anslinger gave the impression that state laws would be enough to control marijuana activity, so the Narcotics Bureau's sudden call for federal involvement came as a surprise to the AMA. Regarding the bill, Woodward stated:

There is nothing in the medicinal use of cannabis that has any relation to cannabis addiction. I use the word "cannabis" in preference to the word "marihuana", because cannabis is the correct term for describing the plant and its products... [Marihuana] is not recognized in medicine, and I might say that it is hardly recognized even in the Treasury Department... So, if you will permit me, I

⁴⁶ Ibid., 97.

⁴⁷ Ibid., 96.

shall use the word “cannabis”, and I should certainly suggest that if any legislation is enacted, the term used be “cannabis” and not the mongrel word “marihuana.”⁴⁸

Statements such as these certainly did not help Woodward’s case. The AMA had already made enemies with President Roosevelt in the preceding years because they opposed his proposals for national health insurance.⁴⁹ During Roosevelt’s administration, the AMA presented themselves as fearful that they would lose authority over matters of medical importance; hence, Woodward’s authoritative opposition to the marijuana issue in front of the Democrat-controlled Ways and Means Committee did not bode well for him.⁵⁰

Woodward questioned why the Narcotics Bureau never asked federal agencies like the Bureau of Prisons, the Indian Bureau, the Children’s Bureau, or the Bureau of Public Health Services to carry out investigations in their respective fields on issues related to marijuana.⁵¹ Instead, Woodward accused Anslinger and Hester of providing the committee with information from indirect or unsubstantiated sources, mainly consisting of yellow journalistic newspaper articles, biased studies, and distorted quotations. For instance, Woodward pointed out that Hester had used a quotation from the *Journal of the*

⁴⁸ Ibid., 90.

⁴⁹ Jaap Kooijman, “Soon or Later On: Franklin D. Roosevelt and National Health Insurance, 1933-1945,” *Presidential Studies Quarterly* 29, no. 2 (June, 1999): 342, <https://www.jstor.org/stable/27551992> (accessed October 29, 2018).

⁵⁰ The Democrats outnumbered the Republicans on the Ways and Means Committee eighteen members to seven.

⁵¹ U.S. House Committee on Ways and Means, *Taxation*, 106.

American Medical Association during the first day of the hearings in support of the bill's passage. What Hester neglected to tell the committee was that the quote in the journal actually came from an editorial written by none other than Anslinger, and therefore did not represent the views of the AMA.⁵²

After Woodward finished his statement, the committee proceeded to grill him with an intense line of questioning. They disregarded the fact that Hester did not cite Anslinger as the source of his quote from the *Journal of the American Medical Association*; instead, the committee stubbornly refused to believe that such a highly esteemed periodical as the *Journal of the American Medical Association* would publish editorials professing different opinions than those held by the AMA. Woodward tried to explain that the AMA allowed for the publication of a wide range of editorials with opposing viewpoints, but to no avail.⁵³ The committee also failed to see why the Marihuana Tax Act's secret two-year construction would have any relevance to the content in the bill. They did not care how the Narcotics Bureau drafted the bill, as long as they could agree with its proposals.

The members repeatedly asked Woodward whether his resentment over the Narcotics Bureau not consulting him for the drafting process was the real reason he objected to the bill.⁵⁴ Throughout Woodward's questioning, members of the committee

⁵² Ibid., 88.

⁵³ Ibid., 102.

⁵⁴ Ibid., 118.

frequently interrupted him, called his merits into question, and proclaimed their dissatisfaction with his answers. The following quotation from the chairman perfectly sums up Woodward's reception at the hearings: "If you want to advise us on legislation, you ought to come here with some constructive proposals rather than criticism, rather than trying to throw obstacles in the way of something that the Federal Government is trying to do."⁵⁵

The Committee on Ways and Means recommended only a few minor changes to the Marihuana Tax Act before moving it on to the Senate for one final hearing on July 12. Anslinger relied upon his gore files once again, and more representatives of the hemp fiber industry came to voice their concerns that the bill would hurt their businesses. The committee also included a letter of objections from Dr. Woodward, in which he stated, "Since the medicinal use of cannabis has not caused and is not causing addiction, the prevention of the use of the drug for medicinal purposes can accomplish no good end whatsoever. How far it may serve to deprive the public of the benefits of a drug that on further research may prove to be of substantial value, it is impossible to foresee."⁵⁶ After the hearing, the bill went before Congress for a vote, which enacted the legislation on August 2, 1937.

⁵⁵ *Ibid.*, 116.

⁵⁶ U.S. Senate Committee on Finance, *Taxation*, 33.

The Narcotics Bureau wasted no time in enforcing the Marihuana Tax Act, for just a couple days after the Tax Act went into effect, two men in Colorado named Moses Baca and Samuel Caldwell became the first Americans arrested under federal law for marijuana possession (Baca) and distribution (Caldwell); Caldwell received four years in federal prison and Baca eighteen months.⁵⁷ The judge presiding over their cases reportedly said, “I consider marihuana the worst of all narcotics – far worse than the use of morphine or cocaine...Marihuana destroys life itself. I have no sympathy with those who sell this weed. In the future I will impose the heaviest penalties.”⁵⁸ In their 1937 annual report, the Narcotics Bureau described a few of the first arrests related to the Marihuana Tax Act, which they considered “cases of major importance.” Out of the eight people the Narcotics Bureau felt the need to identify, two were white males, five were Hispanic males, and one was a black female.⁵⁹

After the passage of the Marihuana Tax Act, authors who had associations with the Narcotics Bureau began to produce studies on marijuana that used information straight out of the Narcotics Bureau’s findings, which created a wave of carbon copied studies spouting anti-marijuana rhetoric. One example is Frederick Merrill, a member of the United Nations Narcotics Commission, who authored *Marihuana: The New*

⁵⁷ Federal Bureau of Narcotics, *Traffic in Opium 1935-1941*, 3:54.

⁵⁸ *Ibid.*, 3:57.

⁵⁹ *Ibid.*, 3:54-56.

Dangerous Drug. He clearly showed where he stood on the marijuana issue, and he mirrored everything the Narcotics Bureau pushed, such as how marijuana corrupted morals and caused murder, crime, and insanity. Merrill wrote that half of the violent crimes committed in city districts containing large percentages of “Mexicans, Filipinos, Latin Americans, Spaniards, and Negroes are attributed to marihuana abuse.”⁶⁰ Furthermore, he believed that non-white races had emotional temperaments that became completely unbalanced when using marijuana.⁶¹ People like Merrill rubbed elbows with Anslinger and the Narcotics Bureau because the organization had power, much in the same way that people rubbed elbows with Joseph McCarthy during the Second Red Scare.⁶²

World War II briefly revived hemp production in the U.S. after Japan took control of both the Philippines and the trade routes from the Pacific to the Indian Ocean, thereby cutting off the U.S. from its jute and manila supply. The Department of Agriculture encouraged farmers to grow hemp for the war effort and produced the 1942 film *Hemp for Victory* to present hemp production as patriotic. The film gave a short history of hemp in the U.S. while showing how to grow and process the crop; not once did it mention the

⁶⁰ Frederick T. Merrill, *Marihuana: The New Dangerous Drug* (Washington, D.C.: Foreign Policy Association, Incorporated, 1938), 30.

⁶¹ Ibid.

⁶² Anslinger and Oursler, 181. Interestingly, McCarthy had a morphine addiction and he threatened to risk a public scandal by acquiring his morphine from drug dealers. Anslinger believed that such a scandal would “hurt America gravely” during the Red Scare, and so he personally made sure that McCarthy received all the morphine he ever wanted.

word “marijuana,” though, and the only reference to hemp’s recent suppression under the Marihuana Tax Act of 1937 came when the narrator issued the warning, “This is hemp seed. Be careful how you use it, for to grow hemp legally, you must have a federal registration and tax stamp.”⁶³

During the war, the federal government invested twelve million dollars into the construction of forty-two hemp mills in the states of Kentucky, Indiana, Illinois, Iowa, Minnesota, and Wisconsin.⁶⁴ The War Protection Board requested for the Commodity Credit Corporation to create a Hemp Division to oversee the planting of over three hundred thousand acres of hemp in America.⁶⁵ The Narcotics Bureau raised an issue with hemp farmers during this time of increased production because many farmers were transporting hemp stalks from their farms to the mills without completely removing the leaves, and according to the Marihuana Tax Act, this meant they were transporting marijuana.⁶⁶ Farmers felt betrayed by Anslinger, who said back in 1937 that hemp

⁶³ United States Department of Agriculture, *Hemp for Victory*, 1942, https://archive.org/details/Hemp_for_victory_1942_FIXED (accessed October 21, 2018).

⁶⁴ United States Senate Committee on Finance, *Hemp and Marijuana: Hearing Before the Committee on Finance, United States Senate, Seventy-Ninth Congress, First Session on H.R. 2348* (Washington, D.C.: Government Printing Office, 1945), 2, <https://babel.hathitrust.org/cgi/pt?id=uiug.30112038172372> (accessed May 9, 2018).

⁶⁵ United States Senate Committee on Agriculture and Forestry, *Utilization of Farm Crops, Industrial Alcohol and Synthetic Rubber: Hearings Before a Subcommittee of the Committee on Agriculture and Forestry, United States Senate, Seventy-Eighth Congress, Second Session on S. Res. 80* (Washington, D.C.: Government Printing Office, 1944), 2481, <https://babel.hathitrust.org/cgi/pt?id=uc1.b5101572> (accessed October 20, 2018).

⁶⁶ *Ibid.*, 3.

farmers under the Marihuana Tax Act could “go ahead and raise hemp just as they have always done it.”⁶⁷ There was no reasonable method for removing all of the leaves from the stalks before taking them to the mills, though.

The nativist rhetoric and unsubstantiated scientific findings of the Federal Bureau of Narcotics solidified the country’s rejection of cannabis by the end of the early-twentieth century. Use of the word “marihuana” made it seem like a new drug had come out of Mexico, and some of the Congressmen who passed the Marihuana Tax Act did not even know about marijuana’s connection to hemp. The hostility of the Narcotics Bureau toward the wartime production of hemp scared most farmers away from growing the crop after World War II ended. Narcotics legislation would only grow stronger in the 1950s, as the Boggs Act of 1952 and Narcotics Control Act of 1956 enforced mandatory sentences and harsher penalties for narcotics violations. Although the U.S. hemp industry hardly had a pulse by the end of the 1950s, it could at least exist in some shape with the tax system in place. The true ban on hemp production finally came with the Substance Control Act of 1970, which placed *C. sativa* L., and therefore hemp, on the list of Schedule I drugs.

⁶⁷ U.S. Senate Committee on Finance, *Taxation*, 17.

CONCLUSION

By the end of World War II, Anslinger had effectively crippled the U.S. hemp industry. As the 1950s progressed, the situation would only become worse for hemp, as Congress passed the Boggs Act on November 2, 1951, which established mandatory fines and prison sentences for violators of either the Narcotic Drugs Import and Export Act or the Marihuana Tax Act, thus combining cannabis and narcotics into one piece of legislation for the first time in American history.⁶⁸ Anslinger used his mastery of nativist rhetoric during the Korean War to paint the Narcotics Bureau as America's shield from communism. Anslinger claimed that Korean and Japanese communists were deliberately neutralizing Americans by turning them into narcotic addicts; he exploited the shock value of such statements to make a request for longer jail sentences for dealers and addicts.⁶⁹ Complying with Anslinger's wishes, Congress passed the Narcotic Control Act on July 18, 1956, raising both the fine and prison sentence for drug violations.⁷⁰ States

⁶⁸ United States House Committee on Ways and Means, *Control of Narcotics, Marihuana, and Barbiturates: Hearings Before a Subcommittee of the Committee on Ways and Means, House of Representatives, Eighty-Second Congress, First Session on H.R. 3490* (Washington, D.C.: Government Printing Office, 1951), 54, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112104233806> (accessed October 18, 2018).

⁶⁹ "Asia Reds Accused of Making G.I.'s Narcotic Addicts," *The New York Times*, July 18, 1954, <https://timesmachine.nytimes.com/timesmachine/1954/07/18/83342482.html> (accessed October 23, 2018).

⁷⁰ The minimum fine totaled to twenty thousand dollars, whereas the minimum time of imprisonment depended on a few factors: minimum years for possession – first offense, two years; second offense, five years; third and subsequent offenses, ten years. The minimum years for selling – first offense, five years; second offense, ten years; sale to a minor by an adult, ten years.

started to pass their own versions of these merciless federal narcotic laws, such as Ohio, which made the penalty for selling narcotics a minimum of twenty years in prison.⁷¹

The harsh sentences of the 1950s narcotic acts directly led to the demise of industrial hemp production in 1958. The market for American hemp no longer existed thanks to all of the anti-cannabis legislation pushing merchants toward alternate fibers, and farmers certainly did not want to risk making a mistake with the taxes or registrations of the Marihuana Tax Act and winding up facing the minimum fine and sentencing penalties. The 1950s narcotic acts began to lose support in the next decade, though, as drug use among middle-to-upper class white youths increased.⁷²

Anslinger eventually retired at the age of seventy in 1962, and Congress passed the Drug Abuse Control Amendments of 1965, establishing a Bureau of Drug Abuse Control within the Food and Drug Administration, which created new drug classifications for depressants, stimulants, and hallucinogens that came with misdemeanors penalties.⁷³ On April 8, 1968, President Lyndon B. Johnson combined the Federal Bureau of

⁷¹ Federal Bureau of Narcotics, *Traffic in Opium and other Dangerous Drugs for the Year Ended December 31, 1950-1956* (Washington, D.C.: Government Printing Office, 1950), 5:6, <https://babel.hathitrust.org/cgi/pt?id=mdp.35112103489490> (accessed May 9, 2018).

⁷² National Commission on Marihuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding. Appendix: The Technical Papers of the First Report of the National Commission on Marihuana and Drug Abuse* (Washington, D.C.: Government Printing Office, 1972), 285, <https://babel.hathitrust.org/cgi/pt?id=coo.31924013982875> (accessed October 20, 2018). The Shafer Commission compiled a national survey that determined white Americans constituted 88.9% of adult marijuana users and 87.1% of youth marijuana users, with both numbers significantly increasing over the years.

⁷³ *Ibid.*, 196.

Narcotics and the Bureau of Drug Abuse Control within the Department of Justice, calling it the Bureau of Narcotics and Dangerous Drugs, which later became the Drug Enforcement Agency in 1973. In 1969, the Supreme Court ruled the 1937 Marihuana Tax Act unconstitutional in the case of *Leary v. United States*. The controversial psychologist Timothy Leary argued in his defense that the registration process involved in the Marihuana Tax Act violated the Fifth Amendment rights of self-incrimination.⁷⁴ The Supreme Court's decision left the federal government with no marijuana laws for the time being, which contributed to the massive revision of America's drug laws in the next few years.

Finally, President Richard Nixon signed into effect the Comprehensive Drug Abuse Prevention and Control Act on October 27, 1970, bringing an end to legal hemp production in the U.S. Lawmakers branded *C. sativa* L. in its entirety as a Schedule I drug in the Act of 1970, which made it illegal to grow any form of cannabis in the country.⁷⁵ The prohibition on hemp has only recently undergone revision with the Agricultural Act of 2014, giving states authorization to grow industrial hemp through their departments of agriculture or higher education institutions for the sole purpose of

⁷⁴ Richard J. Bonnie and Charles H. Whitebread. "The Forbidden Fruit and the Tree of Knowledge: An Inquiry into the Legal History of American Marijuana Prohibition." *Virginia Law Review* 56, no. 6 (October 1970): 1080, http://www.law.virginia.edu/pdf/faculty/hein/bonnie/56va_1_rev971_1970_PART1.pdf. (accessed May 9, 2018).

⁷⁵ National Commission on Marihuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding*, 3.

research. It is consequently much easier now to study industrial hemp than it was five years ago, but obstacles still stand in the way of its complete decriminalization. Many of the states that have yet to legalize cannabis refuse to permit the growth of industrial hemp in their borders due to its relation to marijuana, and although federal law lets the states grow hemp for research, it does not allow them to produce hemp for commercial use. Nevertheless, scientists in the wake of the Comprehensive Drug Abuse Prevention and Control Act have provided a strong case for the revival of the U.S. hemp industry by making it possible for the law to distinguish hemp from marijuana. While nativist sentiments still do have an influence over legislation, the trajectory of hemp legalization looks promising for those who advocate its decriminalization.

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APPENDIX A

HEMP CULTIVATION: 1849-1889¹

States	1889			1879	1869	1859	1849
	Area	Crop	Value	Crop	Crop	Crop	Crop
	Acres 25,054	Longtons 11,511	Dollars 1,102,602	Tons 5,025	Tons 12,746	Tons 74,493	Tons 34,871
California	22	11	900	...	200	...	...
Illinois	1,178	556	44,575	61	174	1,502	...
Kansas	60	20	1,600	72	35	44	...
Kentucky	23,468	10,794	1,045,081	4,583	7,777	39,409	17,787
Missouri	79	31	2,301	209	2816	19,267	16,028
Nebraska	134	54	4,350	...	...	9	...
New York	47	25	2,010	...	6	5	4
Ohio	66	20	1,785	...	25	1,212	150
Other	...	...	...	100	1,713	13,045	902

¹ United States Department of Agriculture, *A Report on the Culture of Hemp and Jute in the United States* (Washington, D.C.: Government Printing Office, 1896), 8, <https://babel.hathitrust.org/cgi/pt?id=hvd.32044106381999> (accessed August 20, 2018).

APPENDIX B

MEXICAN IMMIGRATION TO THE U.S.: 1900-1920²

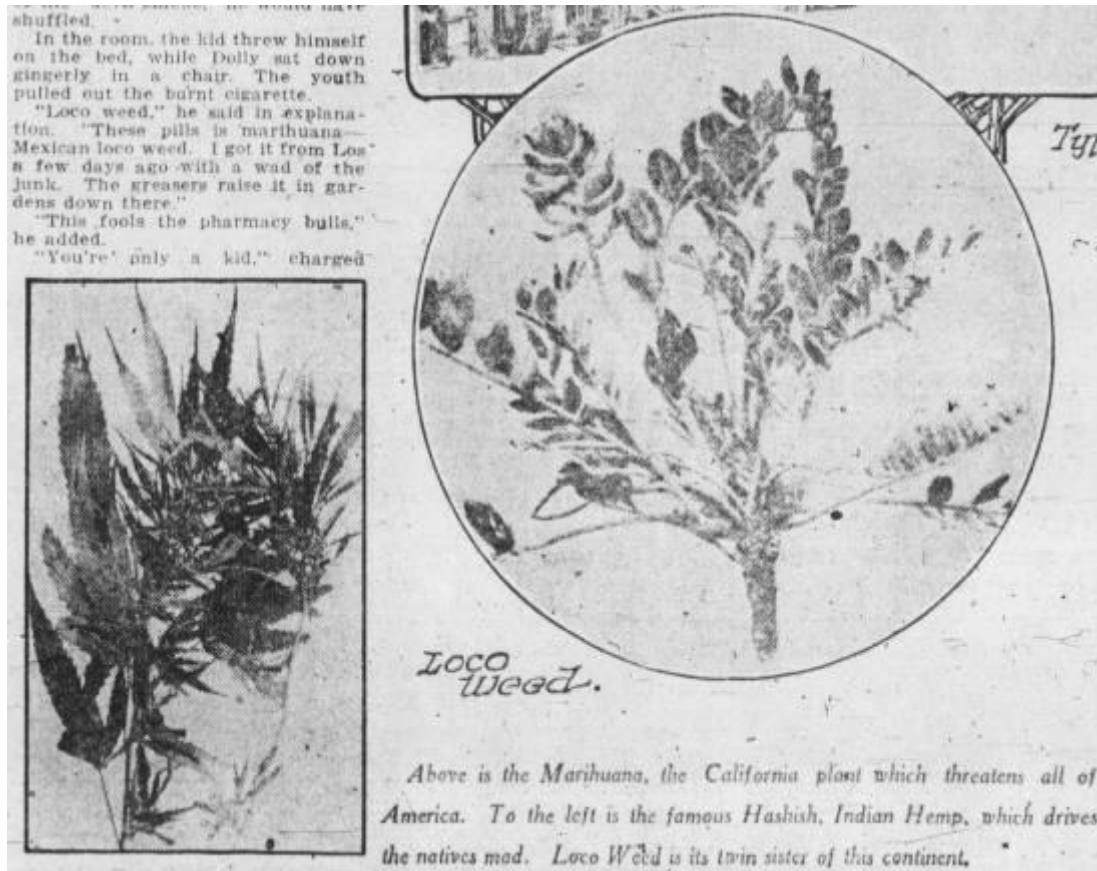
According to American Censuses			
States	Number of Mexicans		
	1900	1910	1920
Alabama	43	81	146
Arizona	14,172	29,987	61,580
Arkansas	68	132	280
California	8,086	33,694	88,771
Colorado	274	2,502	11,037
Connecticut	22	19	44
Delaware	2	2	52
District of Columbia	38	26	73
Florida	84	145	167
Georgia	14	25	55
Idaho	28	133	1,215
Illinois	156	672	4,032
Indiana	43	47	686
Iowa	29	620	2,650
Kansas	71	8,429	13,770
Kentucky	19	28	138
Louisiana	488	1,025	2,487
Maryland	26	10	87
Massachusetts	41	71	148
Michigan	56	86	1,333
Minnesota	24	52	248
Mississippi	48	72	110
Missouri	162	1,413	3,411
Montana	47	67	236
Nebraska	27	290	3,611
Nevada	98	752	1,177
New Hampshire	3	6	10
New Jersey	55	97	420
New Mexico	6,649	11,918	20,272
New York	353	555	2,999
North Carolina	4	10	30
North Dakota	1	8	29
Ohio	53	85	952
Oklahoma	134	2,744	1,818
Oregon	53	85	.....
Pennsylvania	110	135	.....
Rhode Island	5	8	.....
South Carolina	2	2	.....
South Dakota	13	15	68
Tennessee	29	45	.....
Texas	71,062	125,016	251,827
Utah	41	166	.....
Vermont	3	6	.....
Virginia	18	12	.....
Washington	73	145	.....
West Virginia	7	10	.....
Wisconsin	499	399	.....
Wyoming	58	188	.....

² Manuel Gamio, *Mexican Immigration to the United States: A Study of Human Migration and Adjustment* (Chicago, IL: University of Chicago Press, 1930), 24-25.

*Maine is noticeably missing from the list. Also, the numbers in the 1920s column for the last few states were in absolute disorder in Gamio's book.

APPENDIX C

HEMP AND MARIHUANA³



³ Henderson, George C. "Things the People Do Not Know About the Deadly New Poison, Marihuana, "California Opium." Crazy Weed." *Oakland Tribune*, October 2, 1921. <https://www.newspapers.com/image/82320063>. (accessed August 7, 2018).