

The Drug Hang Up, America's Fifty-Year Folly

by Rufus King

Chapter 27

And Now, D-Men

UP TO this point I have been able to identify moving forces behind most of the important developments in this narrative. But since 1965 less clear motivations have come into play--or perhaps the observer is simply too close to the action. It is hard to understand why Commissioner Larrick was eased out by HEW Secretary Gardner just at what seemed to be his moment of triumph. And it is puzzling that his successor was by no stretch what most observers expected, a nominee of the powerful drug industry. The new FDA Commissioner, Dr. James L. Goddard, was a medically oriented career physician from the U.S. Public Health Service, holding the rank of Assistant Surgeon General when he was appointed to Larrick's post.

Under Dr. Goddard it began to appear that the crime-busting aspects of the 1965 Drug Amendments might be played down after all. FDA's newly established Bureau of Drug Abuse Control continued to recruit and train agents to bring its field staff up to the 200 figure authorized by Congress, but it began putting them through courses in the cultural and social aspects of drug abuse, teaching them the pharmacology of drugs, and stressing restraint in the use of their authority. Goddard said of them:

These men are enforcers, true. But we are giving them as much information on the psychology and sociology-of drug abuse as we can gather together and as they can absorb. For enforcement is not the sole answer. We are dealing with medical and psychological problem areas; we are dealing with phenomena that rise out of a broad spectrum of social or economic stress; we are dealing-in areas that are as complex sociologically as some of the drugs are pharmacologically.

A separate Division of Drug Studies and Statistics was created in the new FDA Bureau to coordinate with Goddard's former associates in the Center for Studies of Narcotic and Drug Abuse, which he had helped establish at the National Institute of Mental Health, in wide-ranging research on drug abuse problems.

Instead of regaling congressional committees with stories about the fast-draw exploits of his agents, Goddard was cautious:

I believe, Mr. Chairman, you will be interested in the philosophy that will guide the new Bureau of Drug Abuse Control. In order to find out where we are going, we must first clarify what has always been an illusive, shadowy picture. To plan, with some measure of accuracy, a program to eliminate drug abuse to the maximum extent possible, we must first determine the magnitude of the problem.

Goddard proposed calm analysis at the outset. He stressed public education about drug abuse as probably his first-priority approach; he put persuasion directed at obtaining full cooperation from the drug industry and the affected professions in second place; and he ranked criminal law enforcement third.

When he struck out at rebels like Timothy Leary and Lisa Bieberman, who had appeared on the scene in the early sixties to extol the virtues of drug abuse as a positive form of self-expression, his attacks were notably different from the lumbering crudities which had so long characterized pronouncements by police spokesmen from the Anslinger camp:

Let me explain that the Food and Drug Administration is not engaged in tracking down the users of these dangerous drugs. But we are actively engaged in closing down the manufacturers, counterfeiters, wholesalers, and peddlers of these drugs. To the user, we hold out a compassionate hand: we are ready to aid the drug abuser to find his way back to reality with the help of proper medical expertise.

I believe that the job we have is far greater in scope than the one which the Government has waged thus far against the hard narcotics: cocaine, morphine, heroin, and the opiates. The FDA's efforts take in thousands of drug manufacturers, jobbers, distributors, repackers, and dispensaries where illegal diversion of the controlled drugs may take place. . . .

Above all, our professional people-doctors, teachers, government officials, the clergy-these and others must come forward and strike at the great lie of drug abuse, that drugs provide a "kick" and a "thrill" and a quick, safe way to run away from trouble. That is just not so. And those who know it is not so-as we do-must take up their share of the responsibility to prevent any further erosion of our national strength.

The Learys and the Biebermans and the other apostles of drug abuse are wrong in their science, wrong in their ethics, wrong in their sense of social responsibility. It is a wonder that, by now, after so much confessed ingestion of potent drugs, that they are not all dead wrong.

With respect to the headline potentials of LSD, however, Congress did not leave Goddard alone very long. Dr. Leary's insistence that hallucinogenic drugs were less harmful than alcohol and tobacco had embroiled him first with Harvard University, which fired him from his teaching post, then with zealous local police officers who took to harassing his

research headquarters in New York by midnight raids and rowdy searches, and finally with a federal judge in Laredo, Texas, who sentenced him to thirty years on a set-up charge of possessing marijuana. And as might have been expected, these events quickly drew the federal lawmakers back into the act.

Although LSD had been among the first drugs brought under control by the FDA early in 1966, and although possession of it for all purposes except personal use was already a crime, Commissioner Goddard and his associates soon found themselves before a special Senate Subcommittee to give testimony on the unique dangers of the drug and what Congress ought to do about increasing penalties and imposing more effective controls.

And here we encounter once more an old friend. Although the chairman of the Subcommittee (Subcommittee on Executive Reorganization of the Senate Committee on Government Operations, and jurisdictionally a little remote from drug abuse) was Senator Ribicoff, and although its senior Republican member was Senator Javits, both these elder statesmen merely sat by (in a manner most uncharacteristic of elder senators) and deferred to Javits' junior. The presiding senator throughout the proceedings was Robert F. Kennedy.

The Ribicoff Subcommittee had announced in April 1966 that it was going to make a study of how the federal government was providing services for handicapped persons, but a month later Senator Kennedy announced an abrupt change:

Since that time, widespread public attention has been focused on a problem which is a prototype of the problems we will examine in our hearings on the handicapped, a problem which raises many of the same questions that we will be asking as the weeks pass. I refer, of course, to the controversy over the use and abuse of the drug LSD. It has been the subject of cover stories in national magazines and news documentaries on network television, of widespread public debate, and new legislative action among the states. . . .

If LSD has slipped away from us, other new discoveries might be misused and other social dangers might be created, because we pay too little attention to an interlocking design for our programs. One has only to think of how close we came to tragedy in connection with thalidomide to realize the seriousness of the problem.

So the problem we discuss in these hearings is a classic example of the relationship of Government and science. The issue we examine is as broad as our fight against mental illness and our efforts to aid the handicapped generally. We must have a decision-making process about research and new discoveries that work. We must, as Government, weigh the social implications of the research we encourage and heed the warnings of reputable people about the dangers of any particular course of action. And

we must be properly organized to do the job and to make and carry out public policy in this important area.

Ribicoff's opening, following Kennedy's, was a little less wordy and a little more blunt:

Only when you sensationalize a subject matter do you get reform. Without sensationalizing it, you don't. That is one of the great problems. You scientists may know something, a Senator may know something, but only when the press and television come in and give it a real play because it hits home as something that affects all of the country, do you get action,

When Commissioner Goddard appeared to testify, he was accompanied by Dr. Stanley F. Yolles, director of the National Institute of Mental Health, and a team of lesser stars, including Dr. Frances Kelsey. Whenever the witnesses seemed to be too conservative, or made qualified statements, the senators pressed them for newsworthy material. For example, when Dr. Yolles described impending breakthroughs in the development of new drugs to treat mental illnesses and estimated that there might be a hundredfold increase in the number and types of such drugs over the next few years, he was interrupted:

Senator Kennedy. May I ask in connection with that: When you talk about the fact that there will be a hundredfold increase in drugs that will deal with the mind, do you include LSD as a drug that deals with the mind?

Dr. Yolles. Yes, sir. . . .

Senator Kennedy. What we are dealing with now is not just a question of LSD but LSD as a symptom of what is to be developed in the scientific world all over the country?

Dr. Yolles. Yes, it is a prototype of the drugs that are being developed, and the possible problems that may develop in connection with them.

Senator Kennedy. We talk about the fact that there will be a hundredfold increase in drugs like LSD. Can these other drugs be as equally dangerous to the mind as LSD?

Dr. Yolles. Quite so. That is quite possible.

When Dr. Yolles described a 1960 study involving 25,000 administrations of LSD to 5,000 subjects, wherein adverse reactions were experienced by only .4 per cent-or twenty persons-the following transpired:

Senator Kennedy. May I interrupt for clarification? This study was based on 25,000 administrations of LSD. I gather that these were under medical supervision?

Dr. Yolles. Yes, sir. . . .

Senator Kennedy. You don't have an answer in your statement on what has been the result of adverse effects on those who have taken the drugs without medical supervision?

Dr. Yolles. That is quite right. We don't know as yet. Studies are going on now.

And Dr. Goddard's reluctance to provide sensational anecdotes was soon overruled:

Senator Kennedy. What about the suicidal or other violent tendencies?

Dr. Goddard. There is no question that there have been suicides that have occurred when the person was under the influence of LSD. Those suicidal tendencies I would suppose probably existed prior to taking the drug, in latent form.

Senator Kennedy. Does LSD stimulate those tendencies?

Dr. Yolles. I would feel that it allows these latent impulses to come out even though in perhaps masked form. The individual, thinking he can fly, walks out of an open window. This may be interpreted as a suicidal intent on the part of the person.

Senator Kennedy. Would it be possible for you to furnish us with some of the case studies which you have covering all of these categories?

Dr. Goddard. We will be happy to do so.

Senator Kennedy. I would like some regarding violence and some regarding injury to an individual over a period of time.

Goddard and his team went on to become the most popular performers of the 1966 congressional season. After the Kennedy hearing, they were called before the juvenile Delinquency Subcommittee of the Senate judiciary Committee to tell their story again:

Some of our investigations have confirmed the tragic results of LSD use by juveniles and young adults. . . . We are not prepared to say that these bizarre and often pathetic cases are representative. We do not have sufficient data to determine how often such cases occur. Nor do we have statistical evidence concerning how many people are experimenting illegally with LSD. There are indications that the illegal use of the drug is expanding, particularly around educational institutions.

Then the Subcommittee on Intergovernmental Relations of the House Government Operations Committee put them through their paces. And Goddard personally remained in demand every time there was a plausible excuse for taking another look-with accompanying press releases and television coverage-at the hallucinogens and LSD.

Whether cause or effect, the popular media kept doing their fair share to stir up excitement. It availed Goddard little to point out again and again that everyone was short on facts. Sunday supplement stories ran off the scale chronicling exotic horrors associated with LSD. Agents of Goddard's new Bureau of Drug Abuse Control (who made ninety-four arrests in connection with hallucinogens in the first year of their operation) were dubbed "Be-daks" and glamorized Shamelessly in popular accounts:

Professionally nondescript, their faces as anonymous as their Bureau of Drug Abuse Control, the Be-dak men waited for him to start production again. Then, walkie-talkies crackling softly, four young agents with a warrant eased in, grabbed their quarry as he stepped out of the door. . . . Coats off, sleeves rolled, more Be-daks moved systematically into a 5-hour search of the biggest underground lab ever busted.

"Every LSD user is a potential suicide," argues Jan F. Larsen. "People get these delusions of grandeur. They even think they can fly. A kid in Los Angeles was going to throw his girl off the roof when the cops caught him. After one trip, you may freak out again years later."

He's not trying to put you on. Coming out of a hippie pad or acid lab, Larsen makes straight for the nearest washroom. He scrubs his hands. The procedure is standard for agents in the Bureau of Drug Abuse Control, who guard against getting a trace of LSD in the mouth, on a cigarette, or toothpick. "If one of our men went on a trip," says Larsen, "we couldn't trust him anymore -and he carries a gun."

As was to be expected, state legislators also came crowding into the limelight. Led by New York and California, more than thirty states enacted dangerous-drug laws, frequently with penalties more severe than the federal model, including prison terms for all unauthorized possession.

The White House at first kept pace merely by press statements and Executive Orders calling on federal agencies to coordinate their efforts in the face of this new menace. But when the 90th Congress reconvened in 1968, a presidential election year, President Johnson jumped in all the way:

In no area of law enforcement is there a greater need for a concentrated drive than in dealing with the growing problem of narcotics and dangerous drugs. These powders and pills threaten our Nation's health, vitality and self-respect. . . .

Penalties for improper use of these substances are inconsistent and in the dangerous drug field, too weak. The illegal sale of LSD, a powerful hallucinogen, is only a misdemeanor punishable by a maximum prison term of one year for the first offense. There is no penalty at present for possession of LSD for personal use. Possession of marijuana, another hallucinogen, is punishable by a minimum term of two years and a maximum of ten for the first offense. Illegal sale is punishable by a minimum of five years. These inconsistencies have seriously hampered law enforcement-for drug and narcotics peddlers do not observe bureaucratic niceties.

The bill introduced by the administration, with a scramble of co-sponsors, identified LSD by name in the same category as regulated stimulant and depressant drugs; made possession of any drug in this category a misdemeanor (one year and \$5,000 fine); increased the penalty for all sales transactions to five years and \$10,000; and provided that any sale by a person over eighteen to a minor should be punished as a special offense (ten years and \$15,000 on the first conviction, and fifteen years and \$20,000 thereafter).

As a sop to medical and scientific spokesmen who had urged more emphasis on educational programs, the administration bill contained a ringing exhortation (devoid of any new statutory authority or all-important appropriated funds):

It is the sense of the Congress that, because of the inadequate knowledge on the part of the people of the United States of the substantial adverse effects of misuse of depressant and stimulant drugs, and of other drugs liable to abuse, on the individual, his family, and the community, the highest priority should be given to Federal programs to disseminate information which may be used to educate the public, particularly young persons, regarding the dangers of drug abuse.

But now for a second time events unfolding in this era are affected by a personal and national tragedy: on June 5, 1968; Senator Robert Kennedy was shot down in Los Angeles, and he died the next day. Initiative with respect to the new penalty bill thereupon shifted to the House, where it was favorably reported on June 12, 1968, and passed in July. The Senate acted in October, and President Johnson signed on October 24, 1968.

But while this scramble to toughen the laws was taking place, another major development was impending, and with reference to it also I confess puzzlement about moving forces. It is simply not clear why anyone would have wanted to shake up the entire federal drug-enforcement structure so soon after the creation of the new Bureau of Drug Abuse Control in the Food and Drug Administration, and when, thanks to men like Dr. Goddard, there appeared to be developing, for the first time, an extensive and fruitful interplay among medical and scientific officials, enforcement agents, and the Lawmakers. But nonetheless the federal structure was radically altered early in 1968, simultaneously with the LSD hearing and the move for stiffer penalties. And what happened-transferring

virtually all authority over drug repression and drug-law enforcement to the Department of Justice-already seems not only to have been precipitous and unwarranted, but a large step in precisely the wrong direction.

The Department of justice, headed by the Attorney General, is the federal arm most narrowly charged with firing-line police work and the prosecution and conviction of persons who commit crimes against the federal sovereign. The FBI is a bureau within this department. So is the federal Bureau of Prisons. The U.S. attorneys who prosecute federal cases throughout the country are answerable to it, as are enforcers of the antitrust laws, policers of the Internal Revenue Code, and other hard-fisted guardians of public order. Scientific resources at justice have been limited to the remarkable FBI crime laboratories and a few experts qualified to identify substances like alcohol when a bootlegger or moonshiner is brought to book.

Yet presently everything pertaining to nonmedical drug use and abuse is centered in this Department in a fledgling Bureau of Narcotics and Dangerous Drugs directed by a former North Carolina police chief, John E. Ingersoll, who has developed a thousand-plus force of agents patterned after the FBI. Ingersoll, like Hoover, answers only to the Attorney General. Former Commissioner Giordano and his entire Bureau of Narcotics were moved over from Treasury; the short-lived Bureau of Drug Abuse Control in the Food and Drug Administration, and its director, John Finlator, were moved in from the Department of Health, Education, and Welfare. Giordano and Finlator became Associate Directors under Ingersoll in the new Justice Department setup, although pharmacist Giordano soon went on to greener fields and Finlator has since departed.

Since FDA retained its responsibilities with respect to many other drugs and chemicals in medicinal categories, most FDA inspectors stayed there, whereas Giordano brought his whole agency with him, so the new Bureau was loaded with men who got their training under Anslinger-though curiously, sadly, and as a final commentary on the quality of the old Bureau, nearly a hundred veteran narcotic agents resigned precipitously or were exposed in various kinds of flagrant corruption when the new Justice regime took over, and some forty have been indicted for bribery, perjury, or illegal dealings in the drugs they were supposed to be repressing.

It has already been noted that the suggestion to place responsibility for actual drug-law enforcement in the Justice Department rather than in treasury traces back at least to 1949 and the Hoover Commission. Such a transfer was urged again in 1956, when the small band of Anslinger critics who were resisting the Daniel Committee proposed it in a last-ditch attempt to head off the extreme enforcement provisions which became law that year. A similar proposal, suggesting also the transfer of other law-enforcement functions of the Food and Drug Administration, made its appearance in the Final Report of the President's Advisory Commission on Narcotic and Drug Abuse in 1963, somewhat surprisingly since it had not been so much as mentioned in the preceding White House Conference or in the work of the 1962 Ad Hoc Committee.

There has always been an element of logic in these proposals, especially when they were addressed to the police functions of the Treasury unit, for the work of Anslinger's Bureau, through all the years it dominated the scene, had very little to do with drug control (as opposed to prohibition) and less with bona fide tax collection. The case made by the Advisory Commission in 1963 was a good one:

The Bureau of Narcotics is an anomaly in the Department of the Treasury. . . . The Bureau is not a revenue-collecting unit. . . . Taxation is in fact only a guise for law enforcement and regulation.

The primary functions of the Treasury Department concern fiscal and monetary matters. In these vital affairs, the country looks to the Treasury. To the extent that its top officials must give time and energy to a major criminal problem outside the realm of fiscal affairs, the attention given the prime responsibilities of the Department must necessarily be diluted. . . .

The investigation and prosecution of the illicit traffic in narcotics and marijuana is no minor task. This illicit traffic is one of the major areas of concern at all levels of law enforcement in this country, and it is one of the principal activities and primary sources of income of organized crime. Yet the Department of justice lacks direct command over the agency primarily responsible for investigating this illicit traffic.

But as already suggested, the real force behind this logical argument when it was made in 1963 was probably that it would bring a large additional area under the control of then Attorney General Kennedy, thus further enhancing his public image as a crime fighter.

Kennedy's successors, brought in when President Johnson took the reins, appeared to have no such concern about their images or those of their Department. On the contrary, both Attorney General Katzenbach and Attorney General Clark played significant roles in developing the Narcotic Addict Rehabilitation Act which, in directional least, somewhat offset the naked enforcement role; and both encouraged the emergence of the new Food and Drug Bureau, which promised better medical and scientific orientation because of its association with the medical forces of the Department of Health, Education, and Welfare.

In July 1965, when President Johnson created his blue-ribbon Commission on Law Enforcement and Administration of justice to make a sweeping new study of the nation's crime problem "and the depth of ignorance about it," the Commission, in turn set up a Task Force on Narcotic and Drug Abuse which assembled a formidable array of consultants and advisors. In February 1967 the Commission released its final report with separate volumes containing the annotations and working papers of its Task Forces, and it is noteworthy that as of the latter date the idea of wiping out the Narcotics Bureau, or turning any aspects of drug enforcement over to the Justice Department, had apparently been abandoned.

Yet in January 1968 the President made a complete about face. Goddard had incurred the enmity of powerful forces in Congress by dragging his feet on LSD, marijuana, and the drug menace in general. But his Bureau had scarcely gotten organized, and had certainly not been given a fair chance to demonstrate what it could do. On the Treasury side, Giordano's program as successor to Anslinger had been notably like that of his predecessor. There appeared to be no good reason for rocking the boat.

But perhaps the obvious answer is the true one: it was an election year, and the issue might simply have been too attractive to be let alone. Perhaps (as happens more often than one might wish in Washington) the moving parties were merely under a compulsion to do something, instead of nothing. Be that as it may, on February 7, 1968, the President sent a message to Congress stating in part as follows:

In my first Reorganization Plan of 1968, I call for the creation of a new and powerful Bureau of Narcotics and Dangerous Drugs. With this action, America will serve notice to the pusher and the peddler that their criminal acts must stop. No matter how well organized they are, we will be better organized. No matter how well they have concealed their activities, we will root them out. . . .

In many instances, we are confronted by well-organized, disciplined and resourceful criminals who reap huge profits at the expense of their unfortunate victims. The response of the Federal Government must be unified. And it must be total. . . .

This Administration and this Congress have the will and the determination to stop the illicit traffic in drugs. But we need more than the will and the determination. We need a modern and efficient instrument of Government to transform our plans into action. That is what this Reorganization Plan calls for.

Under the President's power to reorganize executive departments this proposal required no legislation. Instead, the Reorganization Plan had merely to be submitted to Congress and allowed to be for a period of sixty days, after which it took effect automatically unless the lawmakers expressly intervened in the interim.

Needless to say, this plan was not ignored when it reached Congress. Several representatives introduced a disapproving resolution, and a new committee, with virtually an all-new cast of participants, commenced hearings in March 1968: "We are all aware that serious social and criminal problems have developed from the use and abuse of narcotics and dangerous drugs, particularly among our young people. We all are searching for proper answers to these vexing problems."

Much of the testimony evoked from spokesmen for the affected agencies is doubletalk, for they dared not oppose the proposal openly, coming as it did from the head of their executive branch, though it meant the total liquidation of some of their prime dominions.

But they put their best feet forward. Food and Drug sent an Assistant Secretary of HEW who told how in its brief two-year life the Bureau of Drug Abuse Control had carried out 2,000 criminal investigations resulting in 1,300 arrests, had seized forty-five clandestine laboratories, had completed 300 criminal prosecutions, and had seized various drugs capable of providing an estimated 600 million dosage units; then he (Assistant Secretary Lee) made his mild pitch:

In summary . . . we believe that drug abuse is a serious problem in our society; it requires an effective and efficient program of law enforcement to adequately deal with the illicit traffic in drugs, We must maintain a broad-based program of research related to narcotics and the problems of drug abuse. These efforts must be combined with programs of public education, prevention, treatment and rehabilitation for the victims of narcotic addiction and drug abuse.

Before this witness was through, Dr. Goddard was dragged in again:

Chairman Blatnik. Mr. Edwards.

Mr. Edwards. Thank you, Mr. Chairman. I suppose somebody has to ask the question that has been frequently asked lately and I might as will. Is Dr. Goddard going to testify?

Dr. Lee. On this reorganization?

Mr. Edwards. Yes, sir.

Dr. Lee. No, sir. But he reports directly to me and he fully supports this proposal. As a matter of fact, he was one of the people who originally made this suggestion.

Mr. Edwards. Is there any reason why he is not here today?

Chairman Blatnik. I can answer that. There is no reason at all. It wasn't necessary. . .

Mr. Edwards. Dr. Goddard has been rather outspoken on this subject generally. I just thought perhaps his testimony might be of some value to us. I am concerned about this business of enforcement and regulation in the justice Department. One of you gentlemen mentioned a moment ago the subject of cops and robbers. I had already made a note about cops and robbers. Justice is the Federal cop and I am not convinced that the Justice Department is the place for business regulations, health measures and social reforms as well as enforcement. So I would like for you to explain a little more clearly if you can where this dividing line is going to be. . . . I am mindful of the fact that Dr. Goddard testified before another

Subcommittee of this Committee not too long ago, that the coordination between justice and FDA was good, and that in the area of organized crime, there was a good interplay, good relationship between the agencies. Now, we are told that this is better. And yet in listening to you folks, it is awfully confusing as to just who is going to do what in whose laboratory and who is going to tell whom how to do it. Break it down a little better, if you can, on the question of regulation and enforcement.

Dr. Lee. I might make a general statement to somewhat restate your position and then ask John [Finlator] to give you additional details. From our point of view, the real reason for the transfer is because of the organized criminal elements involved in the trafficking in dangerous drugs. This appears to us to be - and John can comment on this in more detail - perhaps an increasing problem. . . .

Mr. Finlator. First I would like to say, Congressman, I don't believe we have really claimed there would be any savings. I did mention there might be some possible or probable savings and that could be where you have two organizations with the administrative setup that each one has, an amalgamation of that obviously can cut down on the overhead, where you have two units doing the same thing, one can do it. It won't cut down on the number of agents, as a matter of fact, we hope we will have more agents. . . .

Mr. Edwards. What would be the philosophy and the objectives of the Department of justice in the enforcement of narcotics and dangerous drug laws?

Mr. Finlator. I think it is going to a tough one.

Mr. Edwards. Do you think they will take a hard line?

Mr. Finlator. Well, you are going to take a hard line when you deal with any criminal, I hope.

After the congressmen finished with him, Dr. Lee was taken to task by minority counsel for the Committee, who badgered him into a revelation of some infighting:

Mr. Copenhaver. To go one step further, Dr. Lee, did you recommend in the last year or two that the enforcement of the marijuana laws be transferred to HEW?

Dr. Lee. Did I recommend this? No.

Mr. Copenhaver. In a memorandum . . .

Dr. Lee. It has been discussed.

Mr. Copenhaver. In a memorandum of August 14, 1967-does that refresh your recollection . . .

Dr. Lee. Did I sign that memorandum? I don't recall this. This subject has been discussed with the Treasury Department, with the Bureau and with the Department of Justice within the past year. I don't personally recall sending such a memorandum or submitting such a recommendation to the Secretary.

Mr. Copenhaver. Or did you recommend it to be a part of Health, Education & Welfare, and that the Attorney General and the Treasury Department would have to reach agreement at the Cabinet level on needed changes in the law, budget modifications, and the possible transfer of trained enforcement personnel from the Bureau of Narcotics to the Drug Abuse Control?

Dr. Lee. I don't recall. But if it is in a memorandum I signed, and you have a copy of it, I perhaps did so, but I do not recall forwarding such a memorandum to the Secretary.

Even the 1963 Advisory Commission had had no thought of transferring all functions pertaining to federal control of drug abuse to the Attorney General. It recommended only that enforcement of the purely criminal laws should be entrusted to the FBI, and that regulatory functions vested in Treasury governing manufacture, distribution, record keeping, etc.-be transferred to the Food and Drug Administration, along with the scientific responsibilities of the Secretary of the Treasury in classifying and exempting new preparations. This would have been a substantial wrench nonetheless, to the extent that it put the FBI directly into the business of enforcing tax laws.

But the 1968 Executive Order went further, calling for the transfer of everything-scientific analysis, education about drugs and drug abuse, classification of new substances, and even the international aspects based on treaty obligations-lock, stock, and barrel into an entirely new enforcement arm under the exclusive control of whoever happened to occupy the post of Attorney General. Administration spokesmen finally made this clear:

Chairman Blatnik. You still haven't clarified how these functions will be related to each other, how they will be balanced off, with au the emphasis on enforcement. Is enforcement the major primary source of coping with the drug problem?

Mr. Hughes. The purposes of the plan are, I think, twofold, really, Mr. Chairman. One of them is to consolidate and thereby improve the enforcement machinery, the drug control machinery. The other purpose,

other direct purpose, is to strengthen the Department of justice's hand and the-Attorney General's hand in dealing with problems of crime and particularly of organized crime.

The only thing that was split, and which remained in part under the jurisdiction of the Food and Drug Administration, was the regulation of counterfeit drugs other than drugs in the controlled categories. The Executive Order made no change in the provisions of the counterfeit drug sanctions, but specified that counterfeiting would be policed jointly by the two agencies, FDA and Justice, depending on what category the counterfeited article might fall into.

President Johnson withdrew as a candidate for renomination on March 31, 1968, at the climax of the Reorganization Plan fight. The resolution disapproving it was defeated in the House only two days later, on April 2, by a margin of ten votes. But nonetheless the President moved fast. On April 8 the FDA and Treasury Bureaus were disbanded, and the new Justice Department Bureau was established, with an announcement that recruiting would commence at once to build up a new force of agents. Early in May a separate section was established in the Criminal Division of the Department to centralize prosecution functions arising out of the new Bureau's enforcement efforts, and early in July Ingersoll was named director.

When President Nixon brought in Attorney General Mitchell to replace Ramsey Clark, the new Bureau of Narcotics and Drug Abuse was still being organized. Though weighted with Anslinger-trained enforcement agents, the Bureau also contained a sprinkling of FDA men with solid scientific orientation. But Mitchell made it clear at once that he intended to run the Department as , in his own words, "an institution for law enforcement, not social improvement." His speeches and press releases puffed the menace of addiction, and especially addiction to so-called hard narcotics, in the ranks of adolescents and schoolchildren.

In the summer of 1969 lines were recast so as to emphasize the Department's involvement with marijuana, the federal authorities announced they were concentrating on drug importers, and the highly publicized weekend raid on the Mexican border dubbed 'Operation Intercept' was carried out (with few direct results except a temporary inflation of the black-market price of pot, plus a shortage which was claimed by some knowledgeable observers to have actually facilitated the sale of more heroin and other "hard" narcotics in the vacuum created by this brief interruption of a main marijuana supply channel).

So now it has come to pass that after fifty years of tolerating an illogical and unreasonable situation by virtue of the overemphasis on drug-law enforcement in the Treasury Department, America is proceeding under a new arrangement which threatens to be worse. justice gets exaggerated authority, funds, and headlines by promoting its dramatic attacks on the traffic. The National Institute of Mental Health carries on research projects in a relationship openly subordinated to the purposes of the Attorney General. And preventive education in the drug field has fallen under the uncoordinated

control of the Department of HEW, whose competence and dedication in the field are by no means well established and whose first head in the Nixon cabinet, Secretary Finch, became embroiled in a feud with Mitchell that will leave bitter traces and impair cooperation for a long time.

In sum, after all these years during which the drug problem has been distorted and aggravated by a small bureaucratic tyranny entrenched at Treasury, in the current phase the whole story may well be repeated from the beginning by a new Bureau, equally inappropriately located in and dominated by the Department of Justice.