

Dennis Peron and the Passage of Proposition 215

In the spring of 1996 The *New Yorker* assigned me to write a piece about Proposition 215, the ballot initiative to legalize marijuana for medical use in California. The piece was supposed to run the week before the election or the week after. It was spiked at the last minute, according to my editor, Hendrik Hertzberg, at the urging of “Tina’s guru on drug issues,” a man named Mitch Rosenthal. “Tina” was the top editor at the magazine, Tina Brown, who now runs the *Daily Beast*.

Mitch Rosenthal, M.D., runs the Phoenix House chain of treatment centers and has made many millions of dollars thanks to marijuana prohibition. When Gen. Barry McCaffrey retired as Drug Czar in 2000, he went to work for Rosenthal, pushing treatment as an alternative to incarceration.

The *Village Voice* ran a much-shortened version of the piece on November 12. The *New Yorker* paid me a \$3,000 “kill fee.” Here’s the story spiked at Dr. Rosenthal’s behest in the fall of ‘96. Most photos by David Smith and yours truly, *Fred Gardner*

The founder and maitre’d of the San Francisco cannabis buyers club, Dennis Peron, has been challenging the marijuana laws by direct action since 1969 (when he came back from Vietnam with 2 lbs in his Air Force duffle bag) and by legal and political means since 1970 (when first he was busted).

Dennis simply refused to accept that anybody could tell him he didn’t have a right to smoke this plant. “And the right to smoke it means the right to get it,” he would argue, “which means people have to have the right to grow it and sell it.”

Now 51, Dennis is still the perfect Puck —clever, mischievous, light on his feet. He’s from the Bronx originally, grew up on Long Island, one of five kids in an Italian-American family. His mom was a housewife, his dad an accountant employed by the city of New York.

Dennis was a natural salesman. As a delivery boy he won the trip to Miami that *Newsday* used to give for selling the most subscriptions. Dennis was not above appealing to a prospect’s compassion by going door-to-door on cold, rainy nights. “People would buy a subscription just so I would go home and go to bed,” he recalls.

Dennis first came to San Francisco en route to Vietnam in ‘67. He was stationed outside of Saigon when the Tet offensive began. His unit was pinned down for a week. It was during this time, he says, he had his first experience as a gay man. Later, on leave in Thailand, he befriended some locals who took him to the mountains where, coming around a pass onto a broad plateau, marijuana grew as far as the eye could see.

An anti-war drug

Dennis came home saying, “I want to dedicate my life to world peace.” He had stacked the body bags. And he was a true hippie, convinced that marijuana was inherently —due to its calming effect on the individual and the sharing ritual associated with its use— an anti-war drug.

In the ‘70s and ‘80s Dennis was busted for selling pot more than a dozen times, and after every bust he would resume selling out of his living room, which



“THE ISLAND,” Dennis Peron’s pot-friendly cafe at 16th and Sanchez, 1974.

would soon turn into a legendary salon. He ran a restaurant in the Castro district, “The Island,” where pot was always in the air —and could be purchased in the flat upstairs. Harvey Milk used The Island as campaign headquarters when he ran (unsuccessfully) for State Assembly in ‘76. Tony Serra, the flamboyant criminal defense specialist, was paid a retainer to stand by for action.

Dennis got to know thousands of people on a first-name-only basis. This was a security measure. The phone would ring and Dennis would say, “I know so many Judies. Are you the Judy who works at Wells Fargo or the Judy who works at the aquarium?”

I covered one of his trials and was struck by how many people waved hello as Dennis walked down Van Ness Avenue. Of one passerby I asked, “Is she a customer or a friend?” Dennis lilted, “Oh, you know, friends become customers, customers become friends.”

“One less faggot...”

The SFPD narcotics squad did not find him charming, in fact they regarded Dennis Peron as a walking, talking affront. During one raid on his Castro St. flat —widely known as “The Big Top”— Peron was shot in the thigh by an officer named Paul Mackavekias and arrested along with his diverse crew.

The ensuing pre-trial hearing, involving multiple defendants, took four months. (The court stenographer became a good friend of Dennis’s). Mackavekias and the other SFPD narcotics officers who testified had to endure many days of jive comments from Dennis’s friends.

“These macho cops just can’t stand the idea that a skinny little faggot won’t fold up and go away because they say so.”

Mackavekias’s testimony was thrown out after he blurted, in the presence of witnesses, that he wished he’d killed Peron so there’d be “one less faggot in San Francisco.” Dennis received a lighter sentence as a result of this outburst, and wound up doing seven months in jail.

Twenty years later, at the height of the campaign to legalize marijuana for medical use, Dennis would goad Dan Lungren, the zealous Attorney General, into a self-defeating tantrum at a press conference. Recalling Mackavekias’s outburst, Dennis said, “These macho cops just can’t stand the idea that a skinny little faggot won’t fold up and go away because they say so.”



DENNIS, WHILE IN JAILE, organized an initiative campaign to make marijuana arrests lowest priority for the San Francisco Police Department.

Dennis had gotten involved in electoral politics working on his friend Harvey Milk’s campaigns for supervisor in 1973 and ‘75. Milk was elected to San Francisco’s Board of Supervisors in ‘77, becoming the first openly gay elected official in the country. The Island had been his original campaign headquarters.

While in jail Dennis drafted and organized a signature-collection drive for an initiative declaring, “We, the people of San Francisco, demand that the District Attorney, along with the Chief of Police, cease the arrest and prosecution of individuals involved in the cultivation, transfer, or possession of marijuana.” Aptly named “Proposition W,” it passed in 1978 and Mayor George Moscone directed the police chief and district attorney to not arrest or charge individuals in possession of an ounce or less.

Dennis saw the contradictions in decriminalization. “It’s the ‘miracle ounce,’” he observed. “Where did all these people get their legal ounces?”

Very soon Dennis saw the contradictions in this so-called decriminalization. “It’s the ‘miracle ounce,’” he observed. “It’s illegal to grow marijuana, it’s illegal to possess a pound, it’s illegal to sell or buy it. Where did all those people get their legal ounces? Every one of them must be a miracle!”

Dennis was planning a legalization campaign at the state level when the

assassination of Milk and Moscone by a former policeman named Dan White took away his highest-ranking allies and turned the local political landscape into a cratered wasteland as the 1970s came to an end.

And then came the epidemic.

Marijuana and AIDS

Dennis says he decided to change his tactical approach —to stop crusading for legalization and to concentrate on making marijuana available for those in medical need— as his longtime companion Jonathan West was dying of AIDS in 1990. “Jonathan was taking many prescribed drugs,” Dennis recounts, “and there were severe side effects, from nausea to loss of appetite. Marijuana was the only drug that eased his pain and restored his appetite and gave him some moments of dignity in that last year. And of course I had hundreds of friends with AIDS who relied on marijuana for the same reasons: appetite, relief from nausea, relief from pain, to be able to sleep.”

On the night of January 27, 1990, a squad of San Francisco police department narcotics officers came to the house and busted Dennis for selling pot. As Dennis tells it, “There were four ounces of Thai weed in the house and it was Jonathan’s. I wasn’t dealing at that time because taking care of him had become my full-time job. He was very thin and he had KS [Kaposi’s Sarcoma] lesions on his face.

“The cops made AIDS jokes and they made a big production of putting on their rubber gloves before tearing up the place. When they saw the picture of me and Harvey [in which the two young men are hugging] they went into a harangue about “that fag.”” Dennis says he recognized one of the cops as a former bodyguard for Moscone. “I told him, ‘Great job you did protecting George.’”

A vision of the cannabis buyers club came to him later that night, Dennis says, as he was lying on a cement slab at the Mission Station. “The cops were coming by and banging with their nightsticks and yelling, ‘Hey, Peron, we’re gonna get you!’”

“And I was thinking about Jonathan all alone and without any marijuana. And I was thinking ‘Wouldn’t it be great if there was a place where he could go and be among friends?’ Jonathan had the KS on his face and I was thinking, ‘He wouldn’t be ashamed here.’ And the place in my dream was the buyers club.”

Jonathan West died in September 1990, two weeks after testifying at Peron’s trial that the confiscated pot belonged to him. At the end he was down to 90 pounds. “Doesn’t that tell you something?” says Dennis. “He lived to testify at my trial and then he let go of life.”

The millions of Americans who started smoking marijuana in social settings in the 1960s and ‘70s and ‘80s were generally unaware that it had been widely prescribed as a medicine in the not-too-distant past.

The Medical Marijuana Movement

The first version of the cannabis buyers club was launched in a flat on Sanchez Street in October, 1992. Dennis had three quarters of a pound, which he said he would provide to people who needed it for medical reasons —and free to those who couldn’t afford it.

continued on next page



DENNIS’S FLAT ON CASTRO STREET, 1976—a legendary salon known as “The Big Top.” Rolling joints is his friend George San Marin. Photo by Michael Zagaris

Dennis Peron and the Prop 215 Campaign from previous page

He was taking his cue from the Healing Alternatives buyers club around the corner on Church Street, which had been established to provide vitamins at cost to AIDS patients and to obtain an Israeli egg-yolk extract known as AL-721 that was commercially unavailable in the U.S. and had not been approved by the Food & Drug Administration for medical use.

Dennis was also inspired by AIDS patients to act on the available anecdotal evidence instead of waiting for the medical efficacy of marijuana to be proven at an academic research center and published in a peer-review journal.

The millions of Americans who started smoking marijuana in social settings in the 1960s and '70s and '80s were generally unaware that it had been widely prescribed as a medicine in the not-too-distant past. Over the years we figured out or heard about medical applications—from a friend of a friend in the VA hospital who used it for spasticity; an aunt who made it through chemo by smoking pot; a grampa who requested it for pain— but there was no journal, no institute tracking who was using marijuana for what medical purposes and to what effect.

In starting the cannabis buyers club, Dennis Peron provided a setting in which people who were using marijuana for medical purposes could compare notes and get a sense of their numbers. Berkeley psychiatrist Tod Mikuriya, seeing “a unique research opportunity,” signed on as medical coordinator and began interviewing members about their conditions, pattern of marijuana use, and results.

As always, Dennis hoped to bring the law into conformity with his operation. In 1991 he drafted and organized support for the aptly named Proposition P, whereby “The People of the City and County of San Francisco recommend that the State of California and the California Medical Association restore hemp medical preparations to the list of medicines in California. Licensed physicians shall not be penalized for or restricted from prescribing hemp preparations for medical purposes to any patient.”

Prop P carried San Francisco with 80% of the vote. The Board of Supervisors then passed resolution 741-92—a medical marijuana measure introduced by Terence Hallinan—which Dennis cited as “the authority by which the buyers club will supply cannabis and other hemp byproducts to those who can benefit by it.”

By the fall of '93, the cannabis buyers club had outgrown the original Sanchez St. location. Dennis rented and decorated a 2,000 square foot room above a bar on Church and Market. Mikuriya designed an admissions protocol which Dennis and his staff attempted to follow. By the summer of '94 there were 2,000 members.

The club not only attracted sick people who used it as a dispensary and floating support group, it became a center for people who considered themselves activists in a political reform movement.



DENNIS AS BUDTENDER



DENNIS WITH MARY RATHBUN ('Brownie Mary'). Behind them is Dr. Tod Mikuriya, taking a patient's history. In 1995 Mikuriya wrote a paper listing the medical conditions for which SFCBC members were using cannabis. Never published in a peer-reviewed journal, it can be found online at beyondthc.com

Dennis began holding monthly Sunday night meetings at the club. Among those who came were Dale Gieringer, the head of California NORML. Valerie and Mike Corral came up from Santa Cruz. She has epilepsy, the result of an accident suffered in the '70s; Mike had become a grower to develop strains that worked best for her. There was Jack Herer, author of “*The Emperor Wears No Clothes*,” who had been organizing for legalization since the early '70s from his home base in Fresno... Pebbles Trippet, a migraine sufferer who'd been arrested often over the years for marijuana possession and transportation, and had written about the applicability of the necessity defense... Bill Panzer and Rob Raich, lawyers from the East Bay... Bob Basker, a union man and longtime ally of Dennis's, and John Entwistle, a closest political confidante... Historian/activist Michael Aldrich and his wife Michelle... Community organizer Gilbert Baker. Writers Ed Rosenthal, Ellen Komp, and Chris Conrad. Mary Pat and Monty Jacobs. Judy and Lyn Osburne, Lynnette Shaw, Dave Bowman, Vic Hernandez... At some meetings, Dennis estimated, there were “almost 100 people.”

In '94 and '95 these activists helped draft and lobby for bills introduced by State Senator John Vasconcellos (D. Santa Clara) that would have made marijuana use legal, with a doctor's approval, by patients suffering from AIDS, cancer, multiple sclerosis, and glaucoma. (The finite list of conditions was insisted on by law enforcement and accepted by Vasconcellos to insure majority support.) Both bills passed the legislature, only to be vetoed by Republican Governor Pete Wilson.

By the start of '95 the Cannabis Buyers Club had some 4,000 members and Dennis was looking for an even bigger location. Terence Hallinan had been elected district attorney—meaning that San Francisco's top prosecutor was now a defense specialist who, as a supervisor, had introduced a resolution that legitimized medical marijuana use in the city. And Willie Brown, also a former criminal defense lawyer, was mayor. Dennis seemed secure in his home base, unaware that Mackevikias's partner, Greg Corrales, who had risen to head the SFPD narcotics squad, had launched



MARY RATHBUN AND TERENCE HALLINAN.

an undercover investigation of this club.

Dennis proposed overcoming Gov. Wilson's veto of the Vasconcellos bills by an initiative through which California voters would change the state's Health & Safety code to legalize marijuana for medical use. For 25 years he had been mounting legal defenses and political campaigns to establish his right to operate a real-world business. He was making progress, slowly but steadily. He was confident that any jury or electorate checking out his club would endorse his right to run it the way he did.

One Sunday evening in mid-August the activists meeting at the cannabis buyers club voted 39-1 to devote themselves to getting an open-ended medical marijuana initiative on the ballot. The only dissent came from Jack Herer, who in 1994 had organized a drive to legalize hemp for all uses. Herer considered it philosophically untenable to work for anything less than comprehensive legalization. Pebbles Trippet reminded him, “If medical wins, I wouldn't be facing jail.” Herer came to support the initiative in due course.

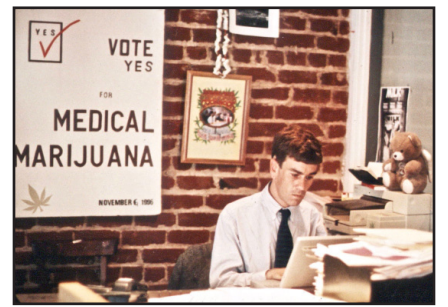
The first draft of the measure that would become Proposition 215 had been written by Dennis and Dale Gieringer of California NORML in July '95 and revised in the months to come in negotiations that included John Entwistle, attorney Bill Panzer, and others. At the Cannabis Buyers Club Dennis had been observing—and Mikuriya was documenting—patients with an extremely wide range of medical problems who obtained relief from marijuana. Mikuriya suggested that the ballot measure apply to patients diagnosed with certain specific conditions as well as “...any other condition for which marijuana provides relief.”

Although many activists thought the open-ended approach would undermine the initiative's chances of passing, Dennis, supported by Gieringer and Panzer, had the moral authority to prevail. He was the undisputed leader of the movement and he was doing the real work of providing marijuana to people in need on a daily basis. The final draft, filed with the Secretary of State reflects Dennis's view of himself as a “caregiver” and of his club as an extension of his living room and personality. Its open-ended nature is asserted in the first sentence, which allows doctors to approve “the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.”

Dennis also prevailed on the question of how signatures would be raised. Panzer and others advocated raising money to hire a professional signature-gathering firm. (Proceeds from the cannabis buyers club could not legally be used for that purpose.) Dennis's line was, “Let's do it with love.” Meaning, let's have club members go to their friends and friends of friends with the petitions. Dennis had always developed support for his operations in this direct, organic manner, and he saw no reason to change.

1444 Market Street

In August '95 Dennis leased 1444 Market Street—a narrow 5-story building a few blocks from the civic



JOHN ENTWISTLE, Dennis's close confidante.

center that had been vacant for years. His friend Tom Ammiano had leased the ground floor to be his headquarters when he ran for supervisor—that's how the building caught Dennis's eye. Across Market St. loomed a massive, ugly building in which hundreds Bank of America clerical workers sat at screens keeping track of who owes what to who. Next door was a shelter serving alcoholics and addicts.

Constructed in 1908, the building at 1444 Market St. had been damaged in the quake of '89 and then thoroughly reinforced with steel girders and cross-beams that broke up the floor space. “It was perfect for a buyers club,” says Dennis, “We just put counters between the girders.” He named it “The Brownie Mary Rathbun Building” in honor of a close friend and ally who'd had several tragicomic run-ins with the law for the crime of baking cannabis goodies for AIDS patients.

There was plenty of natural light, the ceilings were high, the furniture was comfortable, the place was kept spotlessly clean.

The third and fourth floors—the main floors of the club—were decked out with rugs and serapes, houseplants, origami birds, mobiles, incandescent lamps, bookshelves, artwork, political signs, a couple of television sets, a large aquarium. There was plenty of natural light, the ceilings were high, the furniture was comfortable, the place was kept spotlessly clean.

The ground floor was devoted to offices—one for registering club members, one for registering voters and collecting signatures for the initiative. The second floor was where most of the staff worked. A small room adjoining the staircase was devoted to campaign materials and political literature for patrons to read and distribute. It also housed a heavy-duty photocopy machine.

continued on next page



DENNIS PERON IN THE DOORWAY OF THE SFCBC

Dennis Peron and the Prop 215 Campaign *from previous page*

Wholesome food was served on paper plates for \$1 (there was no kitchen at the time and it all had to be prepared elsewhere and brought in). In the cooler, along with the bottled water and fruit juices and sodas, there was a large supply of liquid nutritional supplement for patrons who couldn’t hold down solid food. Bowls of oranges were strategically placed on every floor.

The bud bar

Samples of the buds for sale were displayed under glass cake covers on the counters, labeled as to type (“Mexican sinsemilla,” etc.) and priced by a star system (1 star = \$5/per eighth of an ounce, up to 4 stars = \$55). The typical sale was for an eighth, but budtenders — which is what the vendors were called — would sell up to an ounce if the buyer could document that he or she was leaving town or going into the hospital. Patrons seeking to buy larger quantities were directed to Dennis, who would sell a pound occasionally to buyers whose stated intention was to distribute it to sick people.

By the spring of ’96 Dennis had 16 bakers working as subcontractors. He would get the leaf from the growers and provide it to the bakers free. It was all he could do to keep up with the demand, selling between 300 and 500 baked goods a day — brownies, rice krispies, pudding, every baker had a different



Geo and Bob Basker, a veteran union organizer, whose advice Dennis valued.

specialty. “This was something they did at home,” Dennis says. “They really enjoyed it and they got paid by the piece, \$2 or \$2.50. We’d sell them for \$4 to \$5. But you could get it for \$3, or free, if you had no money.” The club also sold “merry pills” — capsules containing high-grade marijuana sauteed lightly in olive oil. The name is a pun on Marinol.

More than 90 people were employed, most of whom had AIDS. There were food servers, registration workers, carpenters and custodians, budtenders, bouncers and office workers, as well as people who helped deal with the dealers and growers. Employees got all the pot they wanted and people who needed cash got cash. Dennis says he kept no records, that he had always managed his business by a seat-of-the-pants method, and that he didn’t change as he did more volume.

To become a member of the cannabis buyers club you needed a letter of diagnosis from a doctor confirming your medical condition. No prescription or letter of recommendation was required, i.e., the doctor didn’t have to agree that cannabis should be part of the treatment plan. Membership was granted or refused by a registration worker on the club’s ground floor, based on a protocol developed by Dr. Mikuriya.

District Attorney Hallinan was concerned about the looseness with which Peron operated, and arranged a meeting in June ’96 at which he advised, among other things, that the club not allow members to bring guests. “I also questioned him about the financial side of his operation,” says Hallinan. “He

explained that he was making a profit, less than people thought — remember, he had to buy all this marijuana — but his numbers added up in terms of what he said he spent and what he made and what he paid his employees and what he put back into the club. He claims the money they made was going to buy a place on the Russian River, a resort for the club members. Is he a profiteer? We see no evidence of that. He lives with a bunch of people in a small house, he doesn’t have a new car, he doesn’t take vacations, he doesn’t have a big family that he’s trying to leave a fortune to, he says ‘The club is my family’...”



Luis and Gary

Dennis’s “Looseness”

An example of Dennis Peron’s famous looseness was televised when “48 Hours” sent a crew to the club in April ’96. Dennis gave a guided tour to the narrator, Richard Schlesinger, who seemed aghast: “These people are openly smoking marijuana in a major American city!” Schlesinger informed his viewers. Cut to the registration desk where Hazel Rodgers, a woman in her 70s, is telling a middle-aged man in a windbreaker that his diagnosis of skin cancer might not entitle him to join. The man expresses disappointment. Dennis, who is observing the interaction, waves a hand and says, “Cancer? Oh, let him in.” The narrator acts shocked but triumphant, he thinks it’s a “Gotcha!” moment, the head of the Cannabis Buyers Club openly flaunting his own rules!

By the summer of ’96 the S.F. Cannabis Buyers Club had almost 10,000 members. Dennis estimated that about half had AIDS; 10 percent had cancer; and the rest had multiple sclerosis or were wheelchair bound; were senior citizens (whom he automatically qualified for membership); were blind or deaf; or had insomnia, menstrual cramps, colitis,



Intake workers take a break

epilepsy, arthritis, debilitating emotional problems, “and many other conditions, some of which I’ve never even heard of.”

At any given time the crowd bellying up to the bars included a certain percentage of perfectly healthy people who were there as guests (in June the practice of allowing club members to bring guests was abandoned at Hallinan’s urging), and may have included a few who had entered under false pretenses. On a couple of occasions I tried to figure out how many were in this latter category, with help from Lynne Barnes — better known as Geo — a former oncology nurse at UCSF Medical Center who had become a full-time volunteer at the club. It was a macabre exercise and was being conducted at the same time, unbeknownst to me, by undercover narcotics agents, who probably skewed my survey.

“This is about more than marijuana, it’s about compassion. It’s about America. It’s about how we treat each other as people.”

Dennis sold marijuana to people over 65 whether or not they had a letter of diagnosis. He defended his practice by asking, “Don’t you think people that age have the right to decide what they want to treat their aches and pains with?” When allies expressed concern that his looseness might jeopardize the cause of Proposition 215, he would reiterate, “This is about more than marijuana, it’s about compassion. It’s about America. It’s about how we treat each other as people.”

The presence of some perfectly healthy people contributed to the environment he was trying to achieve. Although many

Although many people at the Cannabis Buyers Club were visibly ill, the place did not have the feel of a hospital ward — quite the opposite, it had the feel of a fern bar serving people of all ages and all types.

people at the Cannabis Buyers Club were visibly ill, the place did not have the feel of a hospital ward — quite the opposite, it had the feel of a fern bar serving people of all ages and all types.

Dennis’s ultimate looseness in the eyes of his detractors was to allow a young parent with a toddler in hand to enter, on occasion, a room containing second-hand marijuana smoke. Dennis says sincerely that he does not think smoking marijuana is good for kids, then adds, “Did it ever occur to these people who are so concerned about the toddlers that the toddlers might have AIDS, too? Or that mom really needs her medicine, which is impossible to get anyplace else? Would they rather she left her kid in the car?”

By late January, 1996, it was becoming clear that Dennis Peron’s network of volunteers could not come up with enough signatures to place the Compassionate Use Act of 1996 on the ballot. Some 433,000 valid signatures were needed by April 24; Dennis’s followers claimed to have gotten 175,000 of uncertain validity and Panzer says that number was inflated.

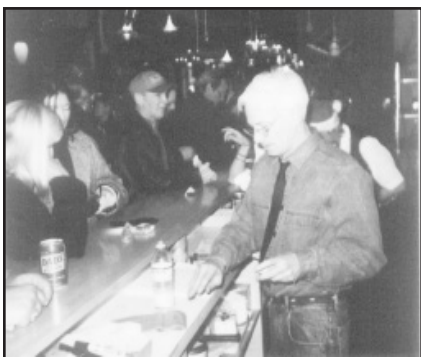
Enter the Enlightened Billionaires

Enter Ethan Nadelmann, a 40-year-old drug-policy expert who runs a Manhattan think tank called the Lindesmith Center, through which he allocated \$4 million annually on behalf of financier George Soros. Nadelmann has a law degree from Harvard, a doctorate from Princeton, and is the author of a book about the drug war, “Cops Across Borders: The Internationalization of U.S. Criminal Law Enforcement.”

He knew the effort to get a medical marijuana initiative on the California ballot had a strong chance of success because a statewide poll taken in June 1995 by David Binder Associates showed that 60% of the voters were favorably inclined. Soros agreed to back a professional signature drive after reading a *New York Times* article that said Dennis already had gathered 200,000 valid signatures.

Nadelmann was concerned about Soros *et al* being perceived as out-of-staters exerting political influence in California (which of course they were). He also wanted proof that the reform effort had support beyond Dennis Peron’s circle of friends.

He got reassurance on both counts in February when George “I Guarantee It” Zimmer, president of the Men’s Wearhouse and a resident of Oakland, pledged \$105,000 towards a professional signature drive. (It was actually in the form of a loan.)



continued on next page

The Compassionate Use Act of 1996 (Proposition 215)

Section 11362.5 is added to the Health and Safety Code, to read:
The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:
(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.
(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.
(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.
(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.
(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.
(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.
(e) For the purposes of this section, “primary caregiver” means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

Dennis Peron and the Prop 215 Campaign *from previous page*



DAVID NASH AND RANDI WEBSTER

Nadelmann then kicked in \$350,000 from Soros; \$300,000 from Peter Lewis, the owner of Progressive Insurance in Cleveland; \$100,000 from John Sperling, a professor of economic history whose Phoenix-based Apollo Group owns 88 private colleges (and who was also backing a medical marijuana initiative in his home state of Arizona), and \$50,000 from Laurence Rockefeller.

"All these individuals, as businessmen, consider drug prohibition wasteful and costly," says Nadelmann, "and each has personal reasons for feeling strongly about it." Of Soros he says, "He has a practical concern about the drug issue: it's in danger of bankrupting the country. We're spending hundreds of billions of dollars a year on the war on drugs, if you count law enforcement, medical costs, and lost productivity." In other words, the donors represent an enlightened faction of capital.

There were strings attached to the money. Nadelmann wanted control of the campaign placed in the hands of a "professional," and he selected a Santa Monica consultant named Bill Zimmerman, based, he says, on Zimmerman's success promoting an insurance-reform measure that passed in 1993. "Dennis Peron is a remarkable character," says Nadelmann, "and it's true that the movement was 'organic,' in that he got his signatures through volunteers. But if I had one moral to draw from this situation, it's to go straight to the professionals and avoid the hassles involved in starting with the grass roots."

Zimmerman, upon getting the money from Nadelmann, created a front group called Californians for Medical Rights (CMR) and hired a competent outfit called Progressive Campaigns to get the signatures. The signature gatherers were paid 60¢ per —high for a popular measure— and the rate was upped to \$1 per signature before they had more than enough.

Zimmerman hired, as CMR press representative, a 28-year-old graduate of Pomona College named Dave Fratello, who had been employed at the Drug Policy Foundation in Washington, where he had caught the eye of Nadelmann. He also hired lobbyist Jim Gonzalez to represent CMR in Sacramento.

On April 24 Zimmerman and Gonzalez presented some 800,000 signatures to Secretary of State Bill Jones. It was Jones — a Republican career politician actively involved in the No-on-215 campaign— who selected Zimmerman's rather than Dennis Peron's ballot arguments in support of Prop 215 for inclusion in the Voters Handbook.

The State Invades the City

Prop 215 was well ahead in the polls when Zimmerman took over the campaign. A statewide survey in June by David Binder Associates put the margin of support at 60-40. Most of those polled said they had made up their minds based on personal experience — their own or a loved one's— and/or media coverage of the San Francisco club. The opposition

was led by an over-confident Attorney General Lungren and other Republican politicians and law enforcement officials who assumed the populace would buy the war-on-drugs propaganda forever.

On Sunday morning August 4, some 100 agents from the California Bureau of Narcotics Enforcement, supervised by John Gordnier, the Senior Assistant Attorney General who had obtained the court order, raided 1444 Market Street.



BASILE GABRIELE AND BARBARA SWEENEY

Simultaneously, five smaller BNE squads raided the homes of Buyers Club staff members in and around the city. The raiders wore black uniforms with BNE shoulder patches. They seized 150 pounds of marijuana, \$60,000 in cash, 400 growing plants, plus thousands of letters of diagnosis that citizens had brought from their doctors and left on file at the club.

"It was strange not seeing any San Francisco police," remarked Basile Gabriele, one of the employees detained for questioning that morning, "it felt like the state had invaded the city." Mayor Willie Brown said the high-profile bust had been carried out unbeknownst to him, and he accused Lungren of "Gestapo tactics." (The club's front door had been battered in and the raiders hung black drapes over the windows to conceal what they were doing from civilian observers on Market Street.)

The San Francisco Medical Society protested the confiscation of medical records as a violation of doctor-patient confidentiality. Dennis Peron charged that closing him down was "step one in Lungren's No-on-215 campaign. It was timed to kick off the Republican convention in San Diego. They want to make the war on drugs a big issue because what else have they got?"

It turned out that Lungren had taken the case against the SF Cannabis Buyers's Club at the request of... Greg Corrales! Corrales had first brought the results of his investigation to San Francisco's district attorney — Arlo Smith, Hallinan's

predecessor— who decided prosecution wasn't warranted. Then he'd tried to interest the local DEA office, which also decided to pass.

Then Corrales went to the BNE, which is under the state attorney general, and the BNE decided to conduct its own three-month investigation, which involved all kinds of techno-surveillance (including a helicopter!) and agents going to elaborate lengths to gain membership. They forged letters of diagnosis on fabricated doctors' letterheads and even set up phone lines so that a club registration worker calling to confirm a patient's letter would reach an agent at BNE headquarters pretending to be a doctor's receptionist.

Dennis considered opening the club in defiance of the court order. He was dissuaded by his lawyer, J. David Nick, who thought he could get the terms of the shutdown modified in Superior Court by promising to tighten up the admissions procedures.



ELIA, THE WOMAN BEHIND THE COUNTER, grew up in Spanish Harlem in the 1920s. "All the women in the neighborhood made a marijuana tea [to ease their periods]," she recalled.

Members kept streaming by in the days after the bust, and expressed their dismay and anxiety as they stood outside the closed front door, with its big red cross and heart painted on the plateglass. Many went across the Bay and joined the newly formed Oakland Cannabis Cooperative. Several San Francisco churches began serving as dispensaries. New clubs were launched in the Mission District (Flower Power) and at Dennis's old location at Church and Market (CHAMP — Cannabis Helping Alleviate Medical Problems).

A few of Dennis's so-called allies in the Yes-on-215 campaign did not want to see him reopen. They argued that ongoing publicity around his operation would jeopardize their chances of success at the polls on November 5. Bill Zimmerman went so far as to urge the northern California ACLU chapter not to file an amicus brief on Dennis's behalf. "Every time I debate Brad Gates," said

Zimmerman said he had developed an effective counter: "If Prop 215 were law, we wouldn't need such clubs."

Zimmerman, referring to the Orange County Sheriff, a No-on-215 leader, "he always begins by saying, 'This bill was written by a dope dealer from San Francisco,' and emphasizes the looseness with which the Cannabis Buyers Club was run." Zimmerman said he had developed an effective counter: "If Prop 215 were law, we wouldn't need such clubs."

It was against his instincts to stay closed but Dennis was exhausted and outnumbered. I dropped in on him at the club one evening in mid-September, shortly after a Superior Court judge in San Francisco had turned down a motion to get the injunction lifted. The place was quiet but not empty. I mentioned that the most recent polls showed that Prop 215's lead was narrowing. Peron said with a smirk that he and Entwistle were under orders not to talk to reporters. "I'm supposed to direct you to Dave Fratello in Santa Monica."

Bob Dole came on TV —the News Hour was replaying his speech at Villanova University on "the drug issue"— and seven or eight club staffers gathered around to watch. "The simple fact is that drug abuse, especially among young people, leads to more criminal activity," said Dole. "Because you get arrested for smoking marijuana!" said Peron. "Three quarters of the people in jail are in there for marijuana! Are they going to build prisons from sea to shining sea? 20 million Americans smoke marijuana!"



CYNTHIA LAIRD, MICHAEL SALINAS

Bill Clinton came on next, telling a police officers' convention that he was second to none in his support for the war on drugs. He cited his appointment of 4-Star General Barry McCaffrey as drug czar — "He kept drugs from South America out of this country," Clinton claimed to loud guffaws from Dennis's friends. Clinton also took credit for a bill that specifies the death penalty for "drug kingpins." "Am I a drug kingpin?" asked Dennis. Clinton went on: "We proposed the largest anti-drug effort in history, and I hope Congress will give us the extra \$700 million we asked for..."

Peron was disgusted. "All these politicians and members of narcotics associations should remember that their own family members may have cancer someday. And they may find that marijuana brings some relief... It's not even about marijuana anymore. It's about where we're going and who we are, just like the politicians say." He had been doodling out campaign ads, but it was all just an exercise because Zimmerman didn't want his input. "Imagine being called 'a liability' to your own movement," he sighed.

I asked why he had come up so short

continued on next page



CARTOON BY DAN ASMUSSEN OF THE SAN FRANCISCO CHRONICLE linked the raid on the SFCBC to the upcoming Republican National Convention. Attorney General Lungren reportedly hoped that publicity from the the raid would discredit Prop 215 (written by a drug dealer) and catapult him to the vice-presidential nomination.

Dennis Peron and the Prop 215 Campaign
 from previous page

on the original signature drive. “I think I underestimated the climate of fear,” Dennis said. “People think twice before they sign a petition that involves drugs. It’s like the McCarthy period —people worry if their name will go down on some list, if they’ll lose their job. Where are the liberals who will stand up and say, ‘This has gone too far!’?”

Doonesbury to the Rescue
 One liberal who stood up was Garry Trudeau, the author of Doonesbury. On September 8 John Entwistle had gotten a call from a friend who said he’d been at a party with Trudeau (a longtime advocate of reforming the marijuana laws) and that the cartoonist had expressed serious interest when the conversation turned to Proposition 215 and the recent bust of the Cannabis Buyers Club. Entwistle then spoke to Trudeau on the phone and sent him a packet of news stories describing the bust and the general situation.

On Monday, Sept. 30 the *Chronicle*, the *LA Times*, and many other papers in California ran a Doonesbury strip in which Zonker’s friend Cornell says, “I can’t get hold of any pot for our AIDS patients. Our regular sources have been spooked ever since the Cannabis Buyers’ Club in San Francisco got raided...”

Attorney General Lungren feared the impact these strips would have on the Prop 215 campaign. He urged the

publishers who carry Doonesbury to spike the entire set. “Alternatively,” he suggested in a letter to them, “your organization should consider running a disclaimer side-by-side with the strips which states the known facts related to the Cannabis Buyers Club.”

Lungren provided an op-ed piece stating the facts as determined by his BNE investigators. The club “Sold marijuana to teenagers. Sold marijuana to adults without doctors’ notes. Sold marijuana to people with fake doctors’ notes using phony doctors names and in some cases written on scrap paper. Allowed many small children inside the club where they were exposed for lengthy periods of time to second-hand marijuana smoke. Sold marijuana to people whose stated ailments included vaginal yeast infections, insomnia, sore backs and colitis —hardly terminal diseases. Sold marijuana in amounts as large as two pounds, greatly exceeding the club’s ‘rules.’”

Lungren called a press conference for Tuesday, Oct. 1, to reveal some of the evidence that had been assembled against Peron and the San Francisco Cannabis Buyers Club. During the question-and-answer session he got irritated by a question about Doonesbury. “Skin flushed and voiced raised, Attorney General Dan Lungren went head-to-head with a comic strip Tuesday...” is how Robert Salladay began his *Oakland Tribune* story. Don Asmussen in the *SF Examiner* lampooned

“Lungren’s War on Comics.” The *New York Times* devoted two full columns to the brouhaha, including a quote from Peron: “Crybaby Lungren... I think he’s just gone off the deep end. Waaa!”

According to the polls, a gradual decline in support for Prop 215 ended Oct. 1. Lungren had Peron arrested Oct. 5 on criminal charges that included conspiracy to distribute marijuana —one more effort to make the vote a referendum on the proprietor of the San Francisco Cannabis Buyers Club— but with only seven more propaganda days till the election, Proposition 215 led in the polls, 50-40 with 10 percent undecided.

Former Surgeon General C. Everett Koop carried the No-on-215 message in the final ad campaign. Drug Czar Barry McCaffrey held a press conference to denounce Prop 215. So did Joseph Califano of the National Center on Addiction and Substance Abuse at Columbia University. Former Presidents Ford, Carter and Bush released a letter calling for its defeat. Democratic Senators Boxer and Feinstein also opposed legalizing marijuana, as did Governor Gray Davis.

As all the world knows, the measure passed. My original *New Yorker* piece ended: “If Proposition 215 passes, the war on drugs, as we have known it all these years, will end. There will be a small demilitarized zone called California in which the rules of acceptable behavior must be worked out, county-by-county, case-by-case.”



“WE MADE HISTORY,” SAID DENNIS. “They always told us ‘You have to change the law. You can’t smoke marijuana, it’s illegal, you have to change the law.’ Well, we changed the law.” He tempered the elation by predicting that Attorney General Lungren would resist implementing Prop 215.

The Morning After
 A law passed by ballot initiative takes effect immediately —so, as of 12:01 a.m. on Nov. 6, California’s Health & Safety Code included a new section, 11362.5, incorporating the text of Prop 215.
 Also at 12:01 a.m., all California law enforcement officials received a fax from the Attorney General Dan Lungren advising, “The focus in cases involving potential marijuana violations should be on whether the medicinal use defense is factually applicable.” In other words, keep confiscating, arresting and prosecuting as before and let the courts decide whether those taken into custody can claim an “affirmative defense” as medical users.
 Officers involved in marijuana busts were instructed to “Ask early whether the person is taking medication, what medication for what condition, at which doctor’s direction, and the duration of treatment... whether the individual is a patient or caregiver. If he/she says patient, then ascertain name of doctor and caregiver. If caregiver, ascertain for whom, for how long, and on what basis.”
 Lungren called for putting the burden of proof on the defendant and forcing doctors to testify in open court to confirm cannabis approvals. He summoned his troops to a Dec. 3 “Emergency All-Zones Meeting” in Sacramento at which tactics would be discussed in detail.



The Prop 215 Vote: Demographics

“Yes” % by County

Alameda 70	Nevada 52	San Francisco 78
Alpine 56	Orange 51	San Joaquin 46
Amador 44	Placer 48	San Luis Obispo 50
Butte 49	Plumas 47	San Mateo 66
Calaveras 49	Riverside 48	Santa Barbara 53
Colusa 39	Sacramento 53	Santa Clara 64
Contra Costa 63		Santa Cruz 73
Del Norte 49		Shasta 41
El Dorado 51		Sierra 50
Fresno 42		Siskiyou 41
Glenn 39		Solano 55
Humboldt 57		Sonoma 69
Imperial 40		Stanislaus 46
Inyo 42		Sutter 39
Kern 42		San Bernadino 50
Kings 41		San Diego 52
Lake 52		Tehema 41
Lassen 40		Trinity 50
Los Angeles 51		Tulare 37
Madera 41		Tuolumne 48
Marin 73		Ventura 52
Mariposa 48		Yolo 58
Mendocino 64		Yuba 46
Merced 56		
Modoc 39		
Mono 57		
Monterey 58		
Napa 59		

The *Los Angeles Times* queried 2,473 Californians as they exited 40 polling places across the state on November 5, 1996. The rich and poor supported the initiative in a U-shaped curve. And how ‘bout them Jews —only 6% opposed!

% of all voters		% voting Yes	
Gender			
47%	Male	53%	
53%	Female	58%	
Age			
19%	18-29	62%	
35%	30-44	60%	
35%	45-64	53%	
11%	65 and Older	40%	
Race/Ethnicity			
74%	White	56%	
7%	Black	70%	
10%	Latino	49%	
5%	Asian	49%	
Education			
20%	High School or less	49%	
29%	Some College	58%	
27%	College or More	56%	
24%	Postgraduate	58%	
Income			
12%	Less Than \$20,000	62%	
24%	\$20,000 to \$39,999	56%	
23%	\$40,000 to \$59,999	51%	
15%	\$60,000 to \$74,999	54%	
26%	\$75,000 or more	59%	
Ideology			
21%	Liberal	78%	
47%	Moderate	63%	
32%	Conservative	29%	
Political Affiliation			
45%	Democrats	70%	
14%	Independents	65%	
38%	Republicans	34%	
Religion			
49%	Protestant	44%	
24%	Catholic	54%	
6%	Jewish	75%	