

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

by Rufus King

Chapter 18

ABA-AMA, No Match for HJA

Note: The two major documents discussed in this chapter are also in the Schaffer Online library:

- [Drug Addiction, Crime or Disease?](#) The Report of the Joint ABA-AMA Committee on Narcotic Drugs
 - [Comments on Narcotic Drugs](#) - Harry Anslinger's reply to the ABA-AMA report.
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AT THE SAME TIME (February 1955) that the American Bar Association addressed Congress, asking for a review of the federal drug program, ABA spokesmen also approached the American Medical Association and proposed that the two sister groups undertake a joint study. Obviously the subject concerned the legal and medical professions equally, and the sponsors of this project had great hopes for it. A forceful stand taken in that period, backed by the authority of these two professional bodies, might have sufficed to bring enforcement of the Harrison Act back into perspective by forcing federal officials to acknowledge that the law meant what the Supreme Court had said it meant in the Linder case. Furthermore, such an authoritative joint study might have breached the secrecy which had so long enabled Commissioner Anslinger to exploit public ignorance and play on exaggerated fears.

If nothing else, the lawyers believed that once the good doctors realized how the medical profession had been so long pushed around by mere tax collectors they would be stirred to anger and action. If a substantial group within the medical fraternity ever set out to reclaim its prerogatives from the drug police, at least a jolly scrap would ensue, in which the bar might be able to tip the scale toward victory for its sister professionals.

It would probably be stretching to suggest that the haste with which Senator Daniel and Congressman Boggs moved into their respective investigations, immediately after the ABA action, was induced by apprehension as to what might come of this joint ABA-AMA study, although it may be noted that the Narcotics Bureau pushed both congressional ventures from the very day of the ABA resolutions. But in any event,

Senator Daniel rushed precipitously to his conclusions, as we have seen, while the joint ABA-AMA Committee moved slowly. It was still in the processes of organizing and funding when Congress passed the Bureau-dictated Narcotic Control Act of 1956. And it encountered delays and obstacles at every turn.

It will be remembered that the American Medical Association had just taken a submissive position-as described by its spokesmen before the Daniel Subcommittee in the New York hearings based on the report of its Council on Pharmacy and Chemistry, which rejected the New York Academy proposal out of hand. But the Academy proposal had, also been referred to the AMA Council on Mental Health, and whereas the former had leapt to its conclusions without independent study, the latter still had under way a careful review, with a much more liberal orientation. (Recall Dr. Bartemeier's partial dissociation from the AMA position at the Daniel hearings.) The joint ABA-AMA project nearly foundered at the outset because the AMA hierarchy first said the Association's position had been fixed by the Council on Pharmacy conclusions, and then questioned the need for any further study because of the forthcoming report of its second Council. But this difficulty was overcome by appointing as one of the AMA members of the Joint Committee Dr. Robert H. Felix, who was also chairman of the Council on Mental Health, and when the latter Council finished its work, which included a thorough survey of medical and pharmacological material on addiction, its report became a starting point for the joint Committee.

Then there was delay because of fears among bar leaders that the joint Committee might stray away from narrow legal consideration and involve the Association in "sociological controversies." The ABA Board of Governors ruled that despite the joint nature of the venture, working funds could only be sought through an ultraconservative ABA subsidiary, the American Bar Foundation. The Foundation announced its unwillingness to aid a project so far from the traditional aspects of legal practices, and it was further ordained that if funds were independently obtained, administration of the project would have to be controlled exclusively by the ABF, including even the selection of participants and the direction of research.

The AMA delegation flatly refused such bridling conditions, and after a period in which the whole undertaking came close to foundering again, the impasse was resolved by obtaining help in the form of a small grant from the Russell Sage Foundation, one of the few funding bodies with its own operating staff.

Once under way-the foundation grant was obtained in October 1956, twenty months after the initial ABA resolution and three months after President Eisenhower had signed the Narcotic Control Act-the Joint Committee commissioned a survey of existing data to provide a basis for recommending research projects, or, if it proved possible, to support conclusions drawn from existing source material. Simultaneously a review of drug laws and policies elsewhere in the world was undertaken.

Another year elapsed. In November 1957, in the light of studies completed to that date, the joint Committee agreed on five specific projects: a small-scale, carefully controlled

outpatient facility or 'clinic' where addicts could be treated experimentally, which the Committee felt could most appropriately be set up in Washington, D.C.; research aimed at learning more about relapse and causative factors in addiction; an evaluation of educational campaigns and other preventative techniques; legal research to clear up confusion in existing federal and state laws; and a detailed study of the way in which existing laws and policies were currently being administered.

Accompanying these recommendations was a seventy-page analysis, prepared by Judge Morris Ploscowe, summarizing developments after the 1914 Harrison Act and gently suggesting that severity of punishment might not be the only or even the best way to deter addiction, that nobody could be sure of the number of addicts, though the problem had remained a vexing one for forty years, and that criminality associated with addiction might spring more from the need to get money to pay the peddlers' prices than from inherent evil in the affliction itself. Analyzing the nature of addiction (with a copious sampling of authorities), judge Ploscowe concluded that addicts should be regarded primarily as sick persons, sometimes drawn to drugs by underlying personality disorders rather than by lack of character or criminal inclination, and that the spread of drug abuse was due to complex sociological factors rather than solely to the malevolent "contagious" nature of the addict.

In a review of the Linder case and subsequent court decisions, the Ploscowe study concluded that notwithstanding the contrary position of the Narcotics Bureau, physicians could legally treat addicts, including the prescribing of narcotic drugs, so long as the treatment was in good faith and according to proper medical standards. Finally, it was suggested that throwing addicts into prison was not a good solution, that the New York Academy proposal deserved further consideration, and that experimenting with outpatient treatment for addicts should be encouraged.

If the foregoing recitation sounds bland and the research proposals less than ultimata, that is what it was and they were not. The Committee had used most of its grant, so as an economy the Ploscowe review was combined with a survey of drug policies in other countries and a brief interim report addressed to the parent Houses of Delegates, and the whole was printed in temporary form as an unbound document which looked more like proofs than a finished tome. Only enough of these were printed for the two Associations, with a small overrun for distribution to interested persons. Out of excess caution, because the report was not being submitted for final action, this makeshift version even bore a legend marking it confidential and not for general distribution.

On every occasion, from its first organizational meeting, the joint Committee had extended invitations to Commissioner Anslinger to attend and participate or to send a nominee, but these invitations were consistently declined. When judge Ploscowe's study and the joint Committee's proposed recommendations were still in draft form, they were sent to the Commissioner with an invitation to comment, or to meet for a discussion. Anslinger replied:

Dear judge Ploscowe:

For your kindness in sending me, with your letter of February 24 [1958], the interim report of the joint Committee of the American Bar Association and the American Medical Association on Narcotic Drugs and asking for comments and suggestions, I am grateful. As for my comment, after reading this report I find it incredible that so many glaring inaccuracies, manifest inconsistencies, apparent ambiguities, important omissions and even false statements could be found in one report on the narcotic problem.

My suggestion is that the person (unquestionably prejudiced) who prepared this report should sit down with our people to make necessary corrections. We do not wish to censor the report. Our concern is to have you submit for consideration a factual document, regardless of policy, whether it be narcotic law enforcement, clinics, the British System, hospitalization or penal provisions. It would then be possible for those who are to recommend appropriate action to have the facts at their disposal.

Sincerely yours,

H. J. Anslinger,

Commissioner of Narcotics

The Bureau nonetheless requested a large number of copies of the printed version from the joint Committee's sparse supply, and the Committee promptly furnished them. Thereafter, instead of addressing himself further to judge Ploscowe, Anslinger purported to set up his own Advisory Committee "composed of distinguished experts"--"purported" because this body never actually convened as such, and turned out to be merely a list of names, headed by Senator Daniel (who had meanwhile become Governor of Texas) and including Hale Boggs and a motley assortment of nearly everyone who had ever spoken out in favor of the Narcotics Bureau's "official line" in years past. Allegedly the joint Committee's document was distributed to this group. But with only a handful of comments written for the occasion, Anslinger then combined old snatches and excerpts from all directions and put together in paste-and-shears fashion a 186-page booklet entitled "Comments" on the ABA-AMA Interim Report.

We shall turn in a moment to the physical form in which this melange came to be published and circulated, as an official document of the United States Treasury Department, by the Government Printing Office, with public funds (after Anslinger had in all seriousness demanded money for its dissemination from the Russell Sage Foundation and the Bar and Medical Associations). But first consider some samplings of its flavor. On the opening page appears an introductory "Memorandum for the Advisory Committee," consisting in its entirety of the following:

When one examines the composition of the joint Committee of the American Bar Association and the American Medical Association, one finds that the members are, almost without exception, individuals who have identified themselves with one panacea. These single minded individuals then emerged under what appeared to be the sponsorship of the ABA and the AMA. The public is conditioned to expect that ABA and AMA

committees are oriented toward impartial deliberation, rather than propaganda. In this instance it would appear that the conclusions of the committee were determined by the composition of its membership, and for all practical purposes, their conclusions preceded the formation of the Committee. This should be called to the attention of whosoever may be interested in the report.

The issue crystallized by the committee tends to obscure many important areas for research in the field of narcotics addiction.

H. J. Anslinger Commissioner of Narcotics

The "comments" first featured, by excerpts, the statements Anslinger himself had pushed through the National Academy of Sciences and National Research Council, rejecting maintenance therapy, ambulatory treatment, and all "clinic" proposals, and the United National Economic and Social Council declaration of 1956, rejecting "ambulatory" and "clinic" again. Then Malachi L. Harney, who had just retired from a lifelong career as Anslinger's closest associate in the Bureau, contributed a rambling diatribe against the "English System," insisting that in the United Kingdom there is more drug addiction than in the United States (a statistical result achieved by adding to the British figures estimates of the traffic in Hong Kong and Singapore), and that the joint Committee used techniques "reminiscent of the Hitler 'Big-lie!'"

A Deputy Chief of Police from Los Angeles contributed the opinion that "the negligence of the Committee in failing to analyze the differences of the peoples of England and the United States is regrettable" (referring to the fact that there are more "noncaucasians" in America), and that the Committee "should have been frightened into a sober consideration of the evidence," it being "almost inconceivable that the committee neglected to evaluate this reality." Starting from the fact that in the United Kingdom almost 100 individuals connected with the medical profession-doctors, nurses, and hospital staff members-were currently known to be addicted, in an estimated total of 382,000 such persons, this commentator makes his point by some remarkable figuring: since the number of known nonmedical addicts not connected with the medical profession in Britain was currently 233 (in a population of about 55 million), he manipulates the two ratios to reach the following conclusion, presented thus:

To summarize: In Britain, THOSE WHO CAN OBTAIN THE DRUG WITH EASE HAVE AN ADDICTION RATE THAT IS 5,500 PERCENT GREATER THAN DO THOSE WHO DO NOT HAVE THE DRUG READILY AVAILABLE TO THEM. An impartial investigator needs no further evidence to reasonably conclude that the easier or more readily available opiates are to the English people, the greater is the possibility of their becoming drug addicts.

Some paragraphs labeled "Conclusions" are offered as a consensus of Anslinger's entire group-which, it will be recalled, never really existed as a committee:

The Advisory Committee is utterly amazed that the ABA-AMA group recommends measures similar to the British system as a panacea for the problem in the United States. This shows a complete lack of penetrating analysis. . . .

We unanimously reject these recommendations. The proponents of the British system conceal their ignorance by ostentation of seeming wisdom.

And so on, page after page. A doctor named Quinn was listed on the Advisory Committee to enable reproduction of the following item which had previously been published in the Los Angeles County Medical Association Bulletin:

The doctor who is committed to an institution soon discovers that he can think things out for himself; he soon realizes and finally admits to himself that he can break the habit only if he is locked up where he has no access to narcotics. . . .

The idea of establishing clinics for narcotic addicts where the addict can be furnished narcotics cheaply intrigues many people. Proponents of the idea naively assume that the person is quite normal as long as he can obtain narcotics. They should talk to doctor addicts who point out how their whole lives are meaningless except for one thing-and that is getting a shot 4 hours from now. Family, children, friends, and patients mean nothing to them. For example, in delivering a baby they will nonchalantly cut through into the rectum with no sense of remorse whatsoever, since in their state of mild euphoria nothing else is particularly important anyway.

Another Californian, Anslinger's perennial apologist, Dr. Bloomquist, then a faculty member at the Los Angeles College of Medical Evangelists and billed as a "narcotic expert," contributed a polemic against overpermissiveness in raising children: "We see the result of this pathetic psychology today in a significantly large collection of youthful vipers whose disrespect for authority, parental, religious, governmental or otherwise, is responsible for a wave of juvenile delinquency unparalleled in the history of our Nation." Referring directly to the joint Committee, Dr. Bloomquist urged his colleagues to "have no part in permitting a handful of emotionally disturbed individuals and their well-meaning but unwise supporters to force upon the majority of Americans a habit so foul that its propagation can result in nothing but destruction of our nation." Likening the joint Committee's work to "promoting a fifth column," he continues:

There are many points mentioned in this report which make it difficult to believe it is sponsored by men of the integrity of those on the committees involved in its preparation. The very fact that such men have closed their eyes to the danger of the program proposed should fill those charged with the responsibility of controlling the narcotic problem in America with energy sufficient to counteract the dangerous attitude which general release of this report could bring to Americans.

Another doctor raised a point, albeit more temperately, truly calculated to shake his colleagues:

The experience with these patients indicates, however, that the physician in private practice is not likely to find that his income will be augmented by treating persons who correspond to the various psychiatric categories which are characteristic of addicts in the United States. . . . It should be pointed out that in England medicine is socialized, and the physician's income is not dependent on fees for service. The British physician is not concerned with the ability of the individual patient to pay.

Still another sounds as if Anslinger's men were twisting both his arms:

True, there have been minor leniencies extended by the Federal Bureau of Narcotics for the convenience of the ethical physician in his administration to his patients (e.g., exempt preparations; certain humane considerations, such as the permission to administer to the incurable patient such amounts of narcotics left entirely to the attending physician's discretion as may be calculated to relieve or benefit said patient; the provisions set forth in the Harrison Act, to allow the physician in the course of his legitimate practice to administer narcotics to the aged and infirm addict in those cases where deprivation of such drugs would endanger said patient's life). All of the above, of course with the exception of the dispensing of exempt preparations, are contingent upon the physician in question contacting the Bureau and presenting the bona fide details of the medical problem confronting him in such type of patients. AR of the above is merely expounding the obvious; however, it illustrates the fact that the Federal Bureau of Narcotics has through the years been most reasonable in their position as regards the physician, the addict, and their interpretation and enforcement of the act.

Et cetera. A California judge wrote, "The ABA-AMA Interim Report is so utterly confusing and bereft of basic principles of logic, that I have spent many days in what seems to be a futile effort to piece together its several segments." With the Bureau as the source, someone relates a 1937 story of a youthful addict who had murdered his entire family, father, mother, two brothers, and a sister." The weapon was the family ax; the cause of the multiple crime was marijuana. "Marijuana is a lethal weapon, a killer weed." Marijuana is "the worst of all narcotics far worse than the use of morphine or cocaine."

How did Japan conquer the Orient? By fostering drug addiction:

Has the joint Committee given consideration to the ash heaps that lay in the cities of Harbin, Mukden, and Tientsin, during the Japanese invasion of China, bearing mute evidence of the toll of g addiction-the deaths of thousands of drug addicts, who were the victims of Japanese narcotics clinics ON A WHOLESALE BASIS? . . .

In its survey of existing sources of material available that could be relied upon, did the joint committee give consideration to the Press Release of January 26, 1942, issued by the U.S. Treasury Department, wherein it is stated: "Press reports have stated that, in 1935, in the principal cities of Manchuria, nearly 6,000 persons died of narcotic addiction." This statement is supported by the minutes of the Opium Advisory Committee of the old League of Nations.

Who would take greatest comfort from the ABA-AMA report?

The nation's communist enemies, thus aided incalculably in their efforts to destroy the United States.

Joint Committee members were subjected to personal abuse ("rendering a distinct disservice to the avowed policy of law and order found in the canons of the American Bar Association of which he is a member" . . . "frightening ignorance or callous disregard" . . . "one so biased and uninformed" . . . "does not appear to be quite honest"). And there were large servings of Gibberish:

Students of Modesto (California) High School, according to newspaper dispatches published December 12, 1951, ". . .-called on the California Legislature to prescribe the death penalty for persons convicted of selling narcotics to minors. . . . the request is contained in a petition already signed by more than 2,200 students." Here is an example of youth being aroused to the death dealing properties of contraband narcotics, but the ABA-AMA Joint Committee will not go along with them. Contrast this youth movement with the sentence imposed upon George Yokoyama by a California judge who placed the defendant on probation for two years, fined him \$150, and ". . . to be paid in installments," following his conviction of having approximately 900 pounds of growing marijuana---enough of the killer-weed to send hundreds of juveniles reeling into a world of moronic behavior, crime and near insanity.

We shall return briefly to the text of this singular Treasury document, because in the end the zeal of some of Commissioner Anslinger's commentators backfired and compelled him to retract.

But first let us note its publication history and some related matters. As has been indicated, the joint Committee's Interim Report was only published in a limited number of unbound copies, bearing the legend "Confidential." It was expected that when the ABA and AMA Houses of Delegates voted approval, as both did early in 1958, a large printing would be made in permanent form with additional funds tacitly promised by the Russell Sage Foundation. But that was not to be. Directly and indirectly Russell Sage trustees were approached from the Treasury Department-the same Treasury Department which of course holds life-and-death power over all foundations through its discretion in granting tax exemptions-and given to understand that they were sponsoring a "controversial" study, that the ABA and AMA spokesmen were irresponsible if nothing worse, and, in short, that it would be discreet to drop the project. And that is what the trustees did; nor are they censurable for it, since their foundation had other important works underway and the serious disfavor of Treasury could have jeopardized everything.

But soon the supply of the joint Committee's printed report gave out. And then came the most below-the-belt blow of all. The half-finished, unbound copies had been encased in a blue backing that folded over to make a simulated cover, on which was printed in black ink and bold type the title reproduced on page 172. Official U.S. Government publications are usually covered with white stock, or a standard gray or buff.

Commissioner Anslinger's "Comments" came out in a shade of blue that closely approximated the paper used by the joint Committee. And the size, title and type (page 173) were calculated deception.

Remember that the only copies of the joint Committee's work were the limited number prepared for submission to the ABA and AMA Houses, all bearing the restriction "Confidential," that the supply was gone, and that Anslinger had succeeded in cutting off funds for a further printing as well as any funds to carry on additional projects contemplated by the joint Committee. In this state of affairs, the Treasury "Comments," in their deceptive cover, were scattered broadside. At every important meeting of a local medical or bar association a carton of the Treasury polemic was likely to turn up for distribution. Library orders were confused, and at one point the American Bar Association itself began, in a bureaucratic muddle, to refer requests for the joint Committee's Interim Report to the Treasury Department.

For what satisfaction it may have given the abused joint Committee members, the exuberance of these Treasury "Comments" finally caused them to receive a setback. One of the police spokesmen had folded into his mix an attack on the U.S. Supreme Court consisting in part of the following:

This Nation is becoming increasingly aroused as more and more obstacles are erected by the courts to binder law enforcement and to assist the narcotic peddler and other law violators to escape punishment. This awakening was magnificently stated recently. . . . "In the struggle between the forces of law and order and those of crime and treason, on which side are the men who are the judges of the Supreme Court of the United States? These nine men have opened the secret files of the FBI to the criminal; they have struck down the criminal laws of the States; . . . in countless other decisions, they have gladdened the hearts and built up the power of criminals and subversives. I ask you--on whose side do you think they are?"

And Anslinger's own Mr. Harney had reached crescendo thus: "We are presently the victims of a Supreme Court majority which to me seems almost hysterical in its desire to suppress any freedom of action of law enforcement officers."

This proved too much. The press ultimately focused on the spectacle of an official agency of the executive branch, and the prestigious Treasury at that, using public funds to circulate an unseemly attack on the High Court. Embarrassed, Anslinger publicly withdrew the publication. But for several years thereafter anyone who requested a copy would receive it, with the offensive allusions to the Court merely penciled out. And the Commissioner himself never relented in his attacks. In speeches and network appearances he continued assaulting the ABA and AMA spokesmen as do-gooders, "bleeding hearts," and incompetent interpreters of what the narcotics laws really meant.

Deprived of funds (other foundations proved to be as jittery as Russell Sage) and subjected to this remarkable attack, the Joint Committee summarized its conclusions in a Final Report the following year and disbanded, recommending that at least the

experimental and research efforts it had outlined be carried forward through the established facilities of its parent groups.

For a time it looked as if the Joint Committee's work might not only be lost for want of permanent publication, but might be perennially confused with the shabby Treasury "Comments." Finally, however, in 1961, through the good offices of Lindesmith (and in spite of additional blocking efforts by the Bureau), the Interim and Final Reports, together with their appended studies, were published by the University of Indiana.

As for the joint Committee's recommendations, a few years after it had disbanded, the American Bar Foundation commissioned a staff member to evaluate what it had done-and this resulted in an ABF study which gave the joint Committee yet another polite buffeting. The staff reviewer found it "not readily apparent" what Judge Ploscowe had been talking about when he referred to an experimental clinic, and found it "difficult to determine" what the Joint Committee intended. He concluded that because any experimental drug program would involve "complex medical-legal questions," might raise ethical problems, and - Judge Ploscowe to the contrary notwithstanding-would conflict with present laws and treaty obligations, the suggestion ought to be shelved until the way was better paved by research and educational efforts.

The joint Committee's views about the value of educational and preventive measures fared slightly better in this appraisal, being tentatively accepted, although the report noted that Judge Ploscowe should have been more specific and predicted that not much would really be accomplished along such lines. In the matter of legal research, the ABF evaluation concluded that Judge Ploscowe and the joint Committee had not understood one another, and that although some of the problems were "discussed fully and competently by Judge Ploscowe," tackling them would require large expenditures of time and money and would probably not produce meaningful results.

Finally the Joint Committee's dissatisfaction with too-severe criminal penalties was dismissed as starting from "an unproved assumption," and it was concluded that "evidence has not been marshalled to demonstrate that severe penalties are or are not the answer to the narcotics problem of the United States." From this it followed that further studies would be "both presumptive and unpropitious," and so the joint Committee's discussions in this area were put aside with a near-scolding: "Any proposal for sweeping revision of legislation in this field should reflect the most careful consideration of all possible factors and be supported by the most complete evidence of the need for change."

(AMA-ABA Report cover)

NARCOTIC DRUGS

INTERIM REPORT
Of
THE JOINT COMMITTEE OF THE AMERICAN BAR ASSOCIATION AND THE
AMERICAN MEDICAL ASSOCIATION ON NARCOTIC DRUGS

AMERICAN BAR ASSOCIATION

Rufus King:, Esq., Chairman

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AMERICAN MEDICAL ASSOCIATION

Dr. Robert H. Felix

Dr. Isaac Starr

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Morris Ploscowe

Director Narcotics Control Study

NEW YORK: 1958

(Anslinger's Report Cover)

Comments on
NARCOTIC DRUGS
INTERIM REPORT OF THE JOINT COMMITTEE
OF the
AMERICAN BAR ASSOCIATION
And the

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ON

NARCOTIC DRUGS

BY

Advisory Committee to the Federal Bureau of Narcotics

U.S. TREASURY DEPARTMENT

BUREAU OF NARCOTICS

WASHINGTON, D.C.