The Consumers Union Report on Licit and Illicit Drugs

by Edward M. Brecher and the Editors of Consumer Reports Magazine, 1972

Chapter 8. The Harrison Narcotic Act (1914)

- Harrison Narcotics Tax Act - Full text of the Act, as approved December 17, 1914

Through most of the nineteenth and early twentieth centuries, the antialcohol forces in the United States were gaining ground. The anti-opiate forces, in contrast, remained weak and poorly organized. Why, then, did opiate prohibition precede alcohol prohibition by five years?

After the Spanish-American War, when the United States War Department took over the chore of governing the Philippine Islands, it inherited a whole system for licensing narcotics addicts and supplying them with opium legally-a system established under Spanish rule. A War Department Commission of Inquiry was appointed under the Right Reverend Charles H. Brent, Episcopal Bishop of the Philippine Islands, to study alternatives to the Spanish system. After taking evidence on programs of narcotics control throughout the Far East, the Brent Commission recommended that narcotics should be subject to international rather than merely national control. [1]

This proposal struck a responsive chord in the United States State Department. For many years, Britain had been criticized for shipping opium grown in India into China; indeed, two nineteenth-century "opium wars" between Britain and China had been fought over this issue. Many Chinese saw opium from India as unfair cut-rate competition for their home-grown product. American missionaries in China complained that British opium was ruining the Chinese people; American traders similarly complained that the silver bullion China was trading for British opium could better be traded for other, perhaps American, products.*The agitation against British opium sales to China continued unabated after 1900. Thus the United States State Department saw a way not only to solve the War Department's Philippine opium problem but also to please American missionaries and traders. President Theodore Roosevelt in 1906, at the request of Bishop Brent, called for an international opium conference, which was held in Shanghai in 1909. A second conference was held at The Hague in 1911, and out of it came the first international opium agreement, The Hague Convention of 1912, aimed primarily at solving the opium problems of the Far East, especially China.

* Some American traders also sent opium into China on a small scale. [2] Some of New England's world-renowned "China clippers" were in fact

opium clippers.

It was against this background that the Senate in 1914 considered the Harrison narcotic bill. The chief proponent of the measure was Secretary of State William Jennings Bryan, a man of deep prohibitionist and missionary convictions and sympathies. He urged that the law be promptly passed to fulfill United States obligations under the new international treaty. [3]

The supporters of the Harrison bill said little in the Congressional debates (which lasted several days) about the evils of narcotics addiction in the United States. They talked more about the need to implement The Hague Convention of 1912. Even Senator Mann of Mann Act fame, spokesman for the bill in the Senate, talked about international obligations rather than domestic morality.

On its face, moreover, the Harrison bill did not appear to be a prohibition law at all. Its official title was "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes ." [4] The law specifically provided that manufacturers, importers, pharmacists, and physicians prescribing narcotics should be licensed to do so, at a moderate fee. The patent-medicine manufacturers were exempted even from the licensing and tax provisions, provided that they limited themselves to "preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin . in one avoirdupois ounce." [5] Far from appearing to be a prohibition law, the Harrison Narcotic Act on its face was merely a law for the orderly marketing of opium, morphine, heroin, end other drugs-in small quantities over the counter, and in larger Quantities on a physician's prescription. Indeed, the right of a physician to prescribe was spelled out in apparently unambiguous terms: "Nothing contained in this section shall apply . . . to the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist, or veterinary surgeon registered under this Act in the course of his professional practice only." [6] Registered physicians were required only to keep records of drugs dispensed or prescribed. it is unlikely that a single legislator realized in 1914 that the law Congress was passing would later be decreed a prohibition law.

The provision protecting physicians, however, contained a joker hidden in the phrase, "in the course of his professional practice only ." [7] After passage of the law, this clause was interpreted by law-enforcement officers to mean that a doctor could not prescribe opiates to an addict to maintain his addiction. Since addiction was not a disease, the argument went, an addict was not a patient, and opiates dispensed to or prescribed for him by a physician were therefore not being supplied "in the course of his professional practice." Thus a law apparently intended to ensure the orderly marketing of narcotics was converted into a law prohibiting the supplying of narcotics to addicts, *even on a physician's prescription*.

Many physicians were arrested under this interpretation, and some were convicted and imprisoned. Even those who escaped conviction had their careers ruined by the publicity. The medical profession quickly learned that to supply opiates to addicts was to court disaster.

The effects of this policy were almost immediately visible. On May 15, 1915, just six weeks after the effective date of the Harrison Act, an editorial in the *New York Medical Journal* declared:

> As was expected ... the immediate effects of the Harrison antinarcotic law were seen in the flocking of drug habitues to hospitals and sanatoriums. Sporadic crimes of violence were reported too, due usually to desperate efforts by addicts to obtain drugs, but occasionally to a delirious state induced by sudden withdrawal....
>
> The really serious results of this legislation, however, will only appear gradually and will not always be recognized as such. These will be the failures of promising careers, the disrupting of happy families, the commission of crimes which will never be traced to their real cause, and the influx into hospitals to the mentally disordered of many who would otherwise live socially competent lives. [8]

Six months later an editorial in *American Medicine* reported:

> Narcotic drug addiction is one of the gravest and most important questions confronting the medical profession today. Instead of improving conditions the laws recently passed have made the problem more complex. Honest medical men have found such handicaps and dangers to themselves and their reputations in these laws . . . that they have simply decided to have as little to do as possible with drug addicts or their needs. . . . The druggists are in the same position and for similar reasons many of them have discontinued entirely the sale of narcotic drugs. [The addict] is denied the medical care he urgently needs, open, above-board sources from which he formerly obtained his drug supply are closed to him, and he is driven to the underworld where lie can get his drug, but of course, surreptitiously and in violation of the law....
>
> Abuses in the sale of narcotic drugs are increasing. . . . A particular sinister sequence . . . is the character of the places to which [addicts] are forced to go to get their drugs and the type of people with whom they are obliged to mix. The most depraved criminals are often the dispensers of these habit-forming drugs. The moral dangers, as well as the effect on the self-respect of the addict, call for no comment. One has only to think of the stress under which the addict lives, and to recall his lack of funds, to realize the extent to which these . . . afflicted individuals are under the control of the worst elements of society. In respect to female habitues the conditions are worse, if possible. Houses of ill fame are usually their sources of supply, and one has only to think of what repeated visitations to such places mean to countless good women and girls unblemished in most instances except for an unfortunate addiction to some narcotic drug-to appreciate the terrible menace. [9]

In 1918, after three years of the Harrison Act and its devastating effects, the secretary of the treasury appointed a committee to look into the problem. The chairman of the committee was Congressman Homer T. Rainey; members included a professor of pharmacology from Harvard, a former deputy commissioner of internal revenue responsible for law enforcement, and Dr. A. G. Du Mez, Secretary of the United States Public Health Service. This was the first of a long line of such committees appointed through the years. Among its findings [10] were the following:

- Opium and other narcotic drugs (including cocaine, which Congress had erroneously labeled as a narcotic in 1914) were being used by about a million people. (This was almost certainly an overestimate; see Chapter 9.)

- The "underground" traffic in narcotic drugs was about equal to the legitimate medical traffic.

- The "dope peddlers" appeared to have established a national organization, smuggling the drugs in through seaports or across the Canadian or Mexican borders-especially the Canadian border.

- The wrongful use of narcotic drugs had increased since passage of the Harrison Act. Twenty cities, including New York and San Francisco, had reported such increases. (The increase no doubt resulted from the migration of addicts into cities where black markets flourished.)

To stem this apparently rising tide, the 1918 committee, like countless committees since, called for sterner law enforcement. it also recommended more state laws patterned after the Harrison Act. [11]

Congress responded by tightening up the Harrison Act. In 1924, for example, a law was enacted prohibiting the importation of heroin altogether, even for medicinal use. This legislation grew out of the widespread misapprehension that, because of the deteriorating health, behavior, and status of addicts following passage of the Harrison Act and the subsequent conversion of addicts from morphine to heroin, heroin must be a much more damaging drug than opium or morphine. In 1925, Dr. Lawrence Kolb reported on a study of both morphine and heroin addiction: "If there is any difference in the deteriorating effects of morphine and heroin on addicts, it is too slight to be determined clinically." [12] President Johnson's Committee on Law Enforcement and Administration of justice came to the same conclusion in 1967: "While it is somewhat more rapid in its action, heroin does not differ in any significant pharmacological effect from morphine." [13]

The 1924 ban on heroin did not deter the conversion of morphine addicts to heroin. On the contrary, heroin ousted morphine almost completely from the black market *after* the law was passed.

An editorial in the *Illinois Medical Journal* for June 1926, after eleven years of federal law enforcement, concluded:

> The Harrison Narcotic law should never have been placed upon the Statute books of the United States. It is to be granted that the well-meaning blunderers who put it there had in mind only the idea of making it impossible for addicts to secure their supply of "dope" and to prevent unprincipled people from making fortunes, and fattening upon the infirmities of their fellow men.
>
> As is the case with most prohibitive laws, however, this one fell far short of the mark. So far, in fact, that instead of stopping the traffic, those who deal in dope now make double their money from the poor unfortunates upon whom they prey. . . .
>
> The doctor who needs narcotics used in reason to cure and allay human misery finds himself in a pit of trouble. The lawbreaker is in clover. . . . It is costing the United States more to support bootleggers of both narcotics and alcoholics than there is good coming from the farcical laws now on the statute books.
>
> As to the Harrison Narcotic law, it is as with prohibition [of alcohol] legislation. People are beginning to ask, "Who did that, anyway?" [14]

By 1936, twenty-two years after passage of the Harrison Act, an outstanding police authority had reached the same conclusion. He was August Vollmer, former chief of police in Berkeley, California,

former professor of police administration at the Universities of Chicago and California, author of a leading textbook on police science, and past president of the International Association of Chiefs of Police. Chief Vollmer wrote:

> Stringent laws, spectacular police drives, vigorous prosecution, and imprisonment of addicts and peddlers have proved not only useless and enormously expensive as means of correcting this evil, but they are also unjustifiably and unbelievably cruel in their application to the unfortunate drug victims. Repression has driven this vice underground and produced the narcotic smugglers and supply agents, who have grown wealthy out of this evil practice and who, by devious methods, have stimulated traffic in drugs. Finally, and not the least of the evils associated with repression, the helpless addict has been forced to resort to crime in order to get money for the drug which is absolutely indispensable for his comfortable existence....
>
> Drug addiction, like prostitution and like liquor, is not a police problem; it never has been and never can be solved by policemen. It is first and last a medical problem, and if there is a solution it will be discovered not by policemen, but by scientific and competently trained medical experts whose sole objective will be the reduction and possible eradication of this devastating appetite. There should be intelligent treatment of the incurables in outpatient clinics, hospitalization of those not too far gone to respond to therapeutic measures, and application of the prophylactic principles which medicine applies to all scourges of mankind. [15]

Perhaps the most eloquent and most persistent critic of our narcotics laws, Professor Alfred R. Lindesmith, Indiana University sociologist, had this to say in 1940:

> Solemn discussions are carried on about lengthening the addict's already long sentence and as to whether or not he is a good parole risk. The basic question as to why he should be sent to prison at all is scarcely mentioned. Eventually, it is to be hoped that we shall come to see, as most of the civilized countries of the world have seen, that the punishment and imprisonment of addicts is as cruel and pointless as similar treatment for persons infected with syphilis would be....
>
> The treatment of addicts in the United States today is on no higher plane than the persecution of witches of other ages, and like the latter it is to be hoped that it will soon become merely another dark chapter of history. [16]

In 1953, Rufus King, Esq., chairman of the American Bar Association's committee on narcotics, * summed up his personal views in the *Yale Law Journal:*

> The true addict, by universally accepted definitions, is totally enslaved to his habit. He will do anything to fend off the illness, marked by physical and emotional agony, that results from abstinence. So long as society will not traffic with him on any terms, he must remain the abject servitor of his vicious nemesis, the peddler. The addict *will* commit crimes-mostly petty offenses like shoplifting and prostitution-to get the price the peddler asks. He *will* peddle dope and make new addicts if those are his master's terms. Drugs are a commodity of trifling intrinsic value. All the billions our society has spent enforcing criminal measures against the addict have had the sole practical result of protecting the peddler's market, artificially inflating his prices, and keeping his profits fantastically high.

> No other nation hounds its addicts as we do, and no other nation faces anything remotely resembling our problem. [17]

> *And author, in 1972 of The Drug Hang-up: America's Fifty-Year Folly (Norton).

In 1957, Dr. Karl M. Bowman, one of this country's foremost psychiatrists and authorities on narcotics, concluded similarly:

> For the past 40 years we have been trying the mainly punitive approach; we have increased penalties, we have hounded the drug addict, and we have brought out the idea that any person who takes drugs is a most dangerous criminal and a menace to society. We have perpetuated the myth that addiction to opiates is the great cause of crimes of violence and of sex crimes. In spite of the statements of the most eminent medical authorities in this country and elsewhere, this type of propaganda still continues, coming to a large extent from the enforcement bureaus of federal and state governments. Our whole dealing with the problem of drug addiction for the past 40 years has been a sorry mess. [18]

Also in 1957, Dr. Robert S. de Ropp, biochemist and writer on mind affecting drugs, added this comment:

> just why the alcoholic is tolerated as a sick man while the opiate addict is persecuted as a criminal is hard to understand. There is, in the present attitude of society in the United States toward opiate addicts, much the same hysteria, superstition, and plain cruelty as characterized the attitude of our forefathers toward witches. Legislation reflects this cruelty and superstition. Prison sentences up to 40 years are now being imposed and the death sentence has been introduced. Perhaps one should feel thankful that the legislators have not yet reached the point of burning addicts alive. If one insists on relying on terrorism to cope with a problem which is essentially medical one may as well be logical and go the whole hog. [19]

In 1958, a study of the narcotics problem published by the joint Committee on Narcotic Drugs of the American Bar Association and American Medical Association declared:

> Stringent law enforcement has its place in any system of controlling narcotic drugs. However, it is by no means the complete answer to American problems of drug addiction. In the first place it is doubtful whether drug addicts can be deterred from using drugs by threats of jail or prison sentences. The belief that fear of punishment is a vital factor in deterring an addict from using drugs rests upon a superficial view of the drug addiction process and the nature of drug addiction.... The very severity of law enforcement tends to increase the price of drugs on the illicit market and the profits to be made therefrom. The lure of profits and the risks of the traffic simply challenge the ingenuity of the underworld peddlers to find new channels of distribution and new customers, so that profits can be maintained .... [20]

Dr. Jerome H. Jaffe remarked in the 1965 edition of Goodman and Gilman's textbook:

> . . . Much of the ill health, crime, degeneracy, and low standard of living are the result not of drug effects, but of the social structure that makes it a criminal act to obtain or to use opiates for their subjective effects.... It seems reasonable to wonder if providing addicts with a legitimate source of drugs might not be worthwhile, even if it did not make them our most productive citizens and did not completely eliminate the illicit market but resulted merely in a marked reduction in crime, disease, social degradation, and human misery. [21]

Footnotes
Chapter 8

1. *Terry and Pellens,* pp. 629-631.

2. Harry J. Anslinger and William F. Tompkins, *The Traffic in Narcotics* (New York: Funk and Wagnalls, 1953), p. 8.

3. Congressional Record, U.S. House of Representatives, June 26, 1913, p. 2205.

4. Public Law No. 223, 63rd Cong., approved December 17, 1914.

5. Ibid.

6. Ibid.

7. Ibid.

8. "Mental Sequelae of the Harrison Law," *New York Medical Journal,* 102 (May 15, 1915): 1014.

9. Editorial Comment, *American Medicine,* 21 (O.S.), 10 (N.S.) (November 1915): 799-800.

10. Quoted by Anon., in *Outlook,* 112 (June 25, 1919): 122.

11. Ibid.

12. Lawrence Kolb, "Pleasure and Deterioration from Narcotic Addiction," *Mental Hygiene,* 9 (1925): 724.

13. *Task Force Report: Narcotics and Drug Abuse* (Washington, D.C.: U.S. Government Printing Office, 1967), p. 3.

14. "Stripping the Medical Profession of Its Powers and Giving Them to a Body of Lawmakers. The Proposed Amendment to the Harrison Narcotic Act--- Everybody Seems to Know All About

Doctoring Except the Doctors," *Illinois Medical Journal,* 49 (June 1926): 447.

15. August Vollmer, *The Police and Modern Society,* (Berkeley, 1936), pp. 117-118.

16. Alfred R. Lindesmith, "Dope Fiend Mythology," *Journal of the American Institute of Criminal Law and Criminology,* 31 (July-August, 1940): 207-208.

17. Rufus King in *Yale Law journal,* 62 (1953): 748-749.

18. Karl M. Bowman, "Some Problems of Addiction," in *Problems of Addiction and Habituation,* ed. Paul H. Hoch and Joseph Zubin (New York: Grune & Stratton, 1958), p. 171.

19. Robert S. de Ropp, *Drugs and the Mind* (New York: St. Martin's Press, Macmillan, 1957), pp. 157-158.

20. *ABA-AMA Report,* pp. 19-21.

21. Jerome H. Jaffe, in *Goodman and Gilman,* 3rd ed. (1965), pp. 292-293.

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