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BUREAUCRACY AND MORALITY:
AN ORGANIZATIONAL PERSPECTIVE ON A MORAL CRUSADE*

by

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The occurrence of a moral commitment within a bureaucratic setting is not an uncommon phenomenon, especially in our federal bureaucratic system. Examples abound, including the Federal Bureau of Investigation, the Narcotics Bureau; the Selective Service Bureau, the Central Intelligence Agency, the Internal Revenue Service, and on a different scale, the Departments of State and Justice. In fact, one could argue that some sort of moral commitment is necessary for the effective functioning of any bureaucratic body. Usually this moral commitment is termed an "ideology" and is translated into goals for the bureaucracy. Anthony Downs suggests four uses for an ideology: 1) to influence outsiders to support the bureau or at least not attack it; 2) to develop a goal consensus among the bureau members; 3) to facilitate a selective recruitment of staff, that is to attract those who will support and further the goals of the bureau and repel those who would detract from those goals; and 4) to provide an alternative in decision making where other choice criteria are impractical or ambiguous.¹

While most if not all bureaucracies attempt to maintain this moral commitment or ideology for the above mentioned reasons, some go further and initiate moral crusades, whereby they attempt to instill this commitment into groups and individuals outside their bureaus. The Narcotics Bureau in its efforts to mold public and congressional opinion against drug use is one bureaucratic example, the F.B.I. in its anti-subversive and

1. Anthony Downs, Inside Bureaucracy, Boston: Little Brown, 1967.

anti-communist crusades another.² The question then becomes, under what conditions does this transference of ideology from the bureaucracy to its environment or groups within its environment take place? Howard S. Becker supplies one answer to this, suggesting that this is the work of a "moral entrepreneur", either in the role of a crusading reformer or a rule enforcer.³ In either role, the moral entrepreneur as an individual takes the initiative and generates a "moral enterprise." This explanation has appeal. It is reminiscent of Weber's charismatic leader, and can be used to account for the genesis of most moral crusades and entire social movements. Further, it is very difficult to refute. A total refutation would not only have to indicate an alternative, but also demonstrate that the bureaucratic leader is not a "moral entrepreneur"--is not a major factor in this transference of ideology. The purpose of this paper is to accomplish the former only--to provide another alternative based upon organizational research and theory which is equally if not more persuasive in explaining a moral crusade than Becker's individually based "moral entrepreneur" argument. The difficulty in separating the two approaches is similar to the historian's dilemma of whether the historical incident makes the man great or the great man makes the historical incident. Here the question becomes: does the moral crusader create the

2. Fred J. Book, The FBI Nobody Knows, New York: Macmillan, 1964.

3. Howard S. Becker, The Outsiders: Studies in the Sociology of Deviance, New York: The Free Press of Glencoe, 1963 (especially pp. 147-163).

morally committed bureaucracy or is he a product of that bureaucracy?

The difference between the moral entrepreneur approach and an approach which attributes the moral crusade primarily to a bureaucratic response to environmental factors is that in the latter instance, moral considerations are secondary to bureaucratic survival and growth, while in the former instance, moral considerations are primary. Further, the end results of either of these crusades may vary considerably since each is in response to different stimuli. Other conditions being equal, the bureaucratic crusade will continue only so long as bureaucratic considerations dictate while the moral crusade will continue so long as the individual moral crusader's zealotry requires.

In this paper, the work of the Bureau of Narcotics and its former commissioner, Harry J. Anslinger, are examined in light of Becker's conclusion that Anslinger was a moral entrepreneur who led his Bureau on a moral crusade against the use of marijuana, culminating in an Anslinger-instigated publicity campaign that persuaded first the general public and then Congress that marihuana use was a vicious habit that should be outlawed and severely penalized.⁴ Given the short time span Becker chose and his individualized focus, this seems to be a logical explanation of the Bureau's efforts. But given a broader organizational perspective, the passage of the Marihuana Tax Act and the Bureau's part in that passage appear to be only one phase of a larger

4. Becker, op. cit., pp. 135-146.

organizational process, environmental change. Using this focus it is necessary first to briefly examine the relationships between organizations and their environments with special emphasis on adaptation and discuss a special case of these organizations, the public bureaucracy. The results of this analysis are then applied to the Narcotics Bureau and narcotics legislation in conjunction with an examination of Becker's findings. Finally, the implications of this analysis are examined.

ORGANIZATIONS AND ENVIRONMENTS

One on-going problem an organization must cope with is its relationship with its environment.⁵ For the incipient organization this means an initial decision as to the type of relationship it desires to establish with its environment, an assessment of the type of relationship it is able to establish, and the working-out of some acceptable compromise between the two. For the established organization, this means maintaining this relationship either through normal boundary defenses or through other means, or establishing a more favorable one. The consequences of these--decision, assessment, and compromise--for the organization are far reaching, for if the organization wishes to grow and expand, or even continue to exist, it must come to terms

5. See especially Peter M. Blau and W. Richard Scott, Formal Organizations: A Comparative Approach, San Francisco: Chandler Publishing Company, 1962, pp. 222-254; William H. Starbuck, "Organizational Growth and Development" in James G. March (ed), Handbook of Organizations, Chicago: Rand McNally & Co., 1965, pp. 450-533; and Phillip Selznick, TVA and the Grass Roots: A Case Study in the Sociology of Formal Organizations, Berkeley: University of California Press, 1949.

with its environment and where necessary insure acceptance by it. No doubt a few organizations with substantial resources may exist for some time in a hostile environment, but the more normal case seems to be that an organization must at least establish as environmentally neutral relationship if not an environmentally supportive one.

Of course when the organization is in its incipient stages, the problems are magnified. Environmental support is more necessary, environmental hostility more of a threat to survival. Usually the organization will adapt to the demands of the environment, but occasionally Starbuck's observation "Adaptation is an obvious precondition of survival"⁶ is ignored and the organization either chooses to attempt to alter these demands or chooses to ignore them. Not uncommonly such a decision results in drastic consequences for the organization. The W.C.T.U. failed in its efforts to gain wide acceptance for its programs and has only been able to continue with its operations severely curtailed. The counseling organization at Western Electric that grew out of the Hawthorne Studies felt it could not function properly if it adapted to the requirements of the larger organization and was eventually discontinued, though adaptation was part of a more complex problem.⁷

6. W. Starbuck, op. cit., in March (ed), Handbook of Organizations, p. 468.

7. William J. Dickson and F. J. Roethlisberger, Counseling in an Organization: A Sequel to the Hawthorne Researches, Boston: Division of Research, Harvard Business School, 1966, Chapters XIV and XVI.

An organization may attempt to alter the demands of its environment when such an attempt would not draw too heavily upon the organization's resources, or when the alternative, adaptation to the environment, would mean a substantial loss to the organization or perhaps dissolution. Selznick's study of the TVA and Clark's study of adult education in California are examples of organizations which chose to try to alter their environments rather than adapt to them.⁸ In Selznick's case, the organization itself was altered by its own efforts. Clark argues that a number of organizations undergoing a similar value transformation may alter the values of the society in which they exist. He focuses on what he calls "precarious values" and discusses under what conditions these may be changed.

It is clear then that some attempts to alter the environment succeed, others fail. Why is this so? An organization's environment may be very simple or highly complex, but in general every environment when viewed as a system will contain the following elements: 1) pragmatic day-to-day decisions categorized as policies or practices; 2) long range goals; 3) a clearly defined normative system; and 4) a generalized value system.⁹

8. Selznick, op. cit.; Burton Clark, "Organizational Adaptation and Precarious Values, American Sociological Review, 21 (1956), pp. 327-336.

9. Adapted from Talcott Parsons, "An Outline of the Social System," in Talcott Parsons, Edward Shils, Kasper D. Nazele and Jesse N. Pitts (eds), Theories of Society: Foundations of Modern Sociological Theory, New York: The Free Press of Glencoe, Volume I, pp. 30-79.

If placed in a hierarchy in this order, each succeeding category would influence its predecessors. That is, values in the environment are in part the basis of the other three, norms influence both goals and policies and practices, and so forth. Further, any member of any category may be strongly or weakly held. Some of the reasons for weakness are outlined by Clark--that is, not legitimated, undefined, or not widely accepted.¹⁰

Any organization that chooses to alter its environment will have to make a decision as to where along the hierarchy to focus its efforts. Attempts to alter some policy of an environmental element may be more successful and less costly than attempts to alter some value of an environment, but the latter might result in a long-term change while the former might be the more stable since the goals, norms and values underlying it were not changed. A change in the value system, where possible, would eventually result in changes throughout the system.

It would seem that organizational attempts at environmental change will depend upon a number of factors:

- (a) the necessity for change--is environmental change a prerequisite for organizational survival, or is it not necessary, merely desirable?
- (b) the amount of resources available--can the organization afford to attempt the change effort?
- (c) the size and complexity of the environment--would change be necessary in only a small element in the environment, or would a whole complex of elements need to be altered?

10. Clark, op. cit., pp. 328-329.

- (d) the extent to which change must take place--is it necessary to change only some environment policy or practice, or is it necessary to totally revamp the environmental structure from values on down?
- (e) is the policy, goal, norm or value to be changed strongly or weakly held--is it firmly entrenched and legitimated, or is it "precarious"?

It is clear, then, that when one is talking about organizations changing their environment, one should make explicit what elements in the environment are being focused upon, how extensively they are being changed and how strongly held they were to begin with. Clark's adult education study was concerned with weakly-held values. The W.C.T.U. as discussed by Gusfield was concerned with strongly-held values, and this may in some degree account for its failure.¹¹ Becker, in his discussion of the Marihuana Tax Act as a "moral enterprise" was concerned with a weakly-held value, as will be shown, though he did not discuss it in these terms.

A CASE STUDY: THE U.S. NARCOTICS BUREAU

The Narcotics Bureau as a Public Bureaucracy.

This case study will be limited to an analysis of the policies of the Narcotics Bureau and the effects of these policies on salient elements of its environment. This approach is preferable to a more general organizational analysis of the Bureau, examining its structure, recruitment, boundary defenses and its myriad environmental transactions, because in these

11. Joseph R. Gusfield, Symbolic Crusade: Status Politics and the American Temperance Movement, Urbana: University of Illinois Press, 1963.

respects, the Bureau is not unlike most other governmental bureaucracies. Further, in its efforts to mold public opinion in support of its policies it is not unlike many organizations, especially those with a moral commitment. The W.C.T.U. carried out the same sort of campaign, including propoganda, attacks on its critics and legislative lobbying. What makes the Bureau unique from many other organizations which have tried to influence their environments is that the campaign was and is carried out by a governmental organ.

Several ramifications of this difference are immediately apparent. There is the element of legitimation--the public is far more likely to accept the pronouncements of a federal department than a voluntary private organization. There is the element of propoganda development--due to its public nature, a federal department is more skilled in dealing with the public and preparing propoganda for public consumption. There is the element of communication--a federal organization has far more means available for the dissemination of the information than a private one, by press releases, publications, or lectures and speeches, and is likely to have representatives based in major population centers to disseminate the information. There is the element of coercion--a federal department can bring a wide range of pressures to bear on its critics.

Finally, at a different level, a federal bureau differs in the area of survival. Private organizations have considerable control over their future. They may decide to expand, continue as before, disband, merge, alter their aims or reduce their

activities. The attitude of their environments will have great bearing on this decision, to be sure, but the final decision rests with the organization. A federal department may go through any of the above stages, but frequently, the final decision does not rest within the department, but with the congressional, executive or judicial body that created it. A bureau created by congressional enactment will continue to be unaltered except by internal decision only as long as Congress can be convinced that there is no need to alter it. Although there may be some question of degree, there is no question that public opinion will be a major factor in the congressional decision.

Therefore, the federal department must convince the public and Congress: 1) that it serves a useful, or if possible, a necessary function; and 2) that it is uniquely qualified to do so. The less the department is sure of its future status, the more it will try to convince Congress and the public of these.

Background to Environmental Change: The Emergence and Development of the Bureau.

In the late nineteenth and early twentieth centuries, narcotics were widely available, through doctors who indiscriminately prescribed morphine and later heroin as pain killers, through druggists who sold them openly, or through a wide variety of patent medicines.

The public...(in the early twentieth century) had an altogether different conception of drug addiction from that which prevails today. The habit was not approved, but neither was it regarded as criminal or monstrous. It was usually looked upon as a vice or personal misfortune, or much as alcoholism is viewed

today. Narcotics users were pitied rather than loathed as criminals or degenerates....¹²

In 1914, Congress through the passage of the Harrison Act attempted to exert some control over the narcotics traffic. This act remains today the cornerstone of narcotics legislation. Rather than eliminate the use of narcotic drugs, the act was passed in order to honor a previous international obligation stemming from the Hague Convention of 1912, and to control the criminal encroachments into the drug trade. Nowhere in the act is there direct reference to addicts or addiction.

Its ostensible purpose appeared to be simply to make the entire process of drug distribution within the country a matter of record. The nominal excise tax (one cent per ounce), the requirement that persons and firms handling drugs register and pay fees, all seemed designed to accomplish this purpose. There is no indication of a legislative intention to deny addicts access to legal drugs or to interfere in any way with medical practices in this area.¹³

Medical practices were specifically exempted:

Nothing contained in this section...shall...apply... (t) to the dispensing or distribution of any drugs mentioned...to a patient by a physician, dentist, or veterinary surgeon registered under section 4722 in the course of his professional practice only.¹⁴

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12. Alfred R. Lindesmith, Opiate Addiction, Bloomington, Ind.: Principia Press, 1947, p. 183.
 13. Alfred R. Lindesmith, The Addict and the Law, Bloomington, Ind.: Indiana University Press, 1965, p. 4. See also Rufus King, "The Narcotics Bureau and the Harrison Act: Jailing the Healers and the Sick," 62 Yale Law Journal, 736 (1953), and William B. Eldrige, Narcotics and the Law, New York: The American Bar Foundation, 1961. The Act is placed in a statutory perspective in "Note: Narcotics Regulation," 62 Yale Law Journal, (1953), pp. 751-787.
 14. 26 U.S.C. 4705 (c) (1954 Code).

Thus, the act did not make addiction illegal. All it required was that addicts should obtain drugs from registered physicians who made a record of the transaction.

A narcotics division was created in the Internal Revenue Bureau of the Treasury Department to collect revenue and enforce the Harrison Act. In 1920, it merged into the Prohibition Unit of that department, and upon its creation in 1927 into the Prohibition Bureau. In 1930, the Bureau of Narcotics was formed as a separate Bureau in the Treasury Department.

Legitimation: The Process of Changing an Environment.

After 1914, the powers of the Narcotics Division were clear and limited: to enforce registration and record-keeping, violation of which could result in imprisonment for up to ten years, and to supervise revenue collection. The large number of addicts who secured their drugs from physicians were excluded from the Division's jurisdiction. The public's attitude toward drug use had not changed much with the passage of the Act--there was some opposition to drug use, some support of it, and a great many who did not care one way or the other. In fact the Harrison Act was passed with very little publicity or news coverage.¹⁵

15. The New York Times Index for 1914 lists only two brief articles on the federal legislation, one in June and one in August when the Senate adopted the Act. It should be noted that there was also discussion of a broadened New York State narcotics act and articles publicizing the arrest of violators of an earlier New York statute at that time.

Thus at this time, the Narcotics Division was faced with a severely restricted scope of operations. Acceptance of the legislation as envisioned by Congress would mean that the Division would at best continue as a marginal operation with limited enforcement duties. Given the normal, well-documented bureaucratic tendency toward growth and expansion, and given the fact that the Division was a public bureaucracy and needed to justify its operations and usefulness before Congress, it would seem that increased power and jurisdiction in the area of drug control would be a desirable, and in fact, necessary goal. Adaptation to the Harrison Act limitations would preclude attainment of this goal. Operating under a legislative mandate, the logical alternative to adaptation would be to persuade the Congress and public that expansion was necessary and to extend the provisions of the Harrison Act.

Also at this point, the public's attitude toward narcotics use could be characterized as only slightly opposed. Faced with a situation where adaptation to the existing legislation was bureaucratically unfeasible, where expansion was desirable, and where environmental support--support by both Congress and the public--was necessary for continued existence, the Division launched a two-pronged campaign, one a barrage of reports and newspaper articles which generated a substantial public outcry against narcotics use, and the other a series of Division-sponsored test cases in the courts which resulted in a re-interpretation of the Harrison Act and substantially broadened

powers for the Narcotics Division.¹⁶ Thus the Division attained its goals by effecting an alteration of a weakly-held public value on narcotics use from neutrality or slight opposition to strong opposition, and by persuading the courts that it should have increased powers.¹⁷

Though the resources of the Division were limited, it was able to accomplish its goals because it was a public bureaucracy, and as such had the aforementioned advantages which arise from that status. Since the ability to develop propaganda and the means to communicate it were inherent in this status, as was the propensity by the public to accept this propaganda, environmental support could be generated with less resource expenditure.

Further, the Division as a public bureaucracy would be assumed to have a familiarity with governmental processes not only in its own executive branch, but also in the congressional and judicial branches as well. This built-in expertise, necessary for the Division's expansion, might be quite costly in time and resources for the private bureaucracy but again was inherent in the Division's status.

16. King, op. cit., pp. 737-748, Lindesmith, The Addict..., op. cit., pp. 5-11.

17. Why a judicial expansion of existing legislation was preferred over further Congressional action is not clear, but one can probably assume that it was decided the former would involve fewer resources or was more of a certainty. In so doing, the Division was able to finesse lobbies of doctors and pharmacists who strongly opposed the Harrison Act and lobbied for the medical exception. (See the New York Times, June 28, 1914, Sec. II, p. 5.)

One typical example of the public campaign was a report cited and relied upon by the Narcotics Division for some years. It is an interesting combination of truth, speculation and fiction, a mix which the Division and the Bureau which succeeded it found to be an effective public persuader for many years. In a report dated June, 1919, a committee appointed by the Treasury Department to study narcotics reported inter alia that there were 237,665 addicts in the United States treated by physicians (based upon a thirty per cent response by physicians queried), that there were over one million addicts in the country in 1919 (a figure based upon a compromise between projections based on the percentage of addicts in Jacksonville, Florida in 1913 and New York City in 1918), that there was extensive addiction among children, that narcotics were harmful to health and morals, and that they were directly connected with crime and abject poverty. Among the physical effects noted were sterility, diseased lungs, hearts and kidneys, rotting of the skin and insanity.¹⁸

The "scholarly report" is an interesting example of the propaganda effort, for it appears to the casual reader to be credible (especially given its source), and contains charges which seem to be designed to generate widespread public disgust toward narcotics users and support for the Division and its efforts. Many of the same charges were applied to marihuana when the Bureau campaigned against its use.

18. U.S. Treasury Department, Report of Special Committee to Investigate the Traffic in Narcotic Drugs, (April 15, 1919).

While the Division was carrying out its public campaign, it was also busy in the courts. Between 1918 and 1921, the Narcotics Division won three important cases in the Supreme Court and persuaded the Court essentially to delete the medical exception from the Harrison Act, thereby broadening its position as an enforcement agency. In the first case, Webb v. U.S.,¹⁹ the court held that a physician could not supply narcotics to an addict unless he was attempting to cure him, and in so doing made illegal the work of a large number of physicians who were supplying addicts with drugs under the registration procedures of the Harrison Act. This decision was supported in the two following cases, Jin Fuey Moy v. U.S.²⁰ and U.S. v. Behrman.²¹ In Behrman, it was held that physicians could not even supply drugs to addicts in an attempt to cure them. The medical exception was nullified. The cases were skillfully chosen and presented to the court. Each was a flagrant abuse of the statute--in Webb, the physician's professional practice seemed to be limited to supplying narcotics in whoever wanted them. In the other two cases, the physicians supplied huge amounts of drugs over short periods of time to a small number of patients--patently for resale at a later time. Yet the Division did not argue for and the court did not rule on the

19. 249 U.S. 96 (1918)

20. 254 U.S. 189 (1920)

21. 258 U.S. 280 (1921)

cases as violations of the statute as it was intended, but instead regarded all of these as normal professional practices by physicians and held that as such, they were illegal.

Three years after Behrman, the court somewhat reversed itself in Linder v. U.S.²² Here the doctor supplied a small dosage to a patient who was a government informer. The court rejected the government's case in a unanimous opinion, holding:

The enactment under consideration...says nothing of "addicts" and does not undertake to prescribe methods for their medical treatment, and we cannot possibly conclude that a physician acted improperly or unwisely or for other than medical purposes solely because he has dispensed to one of them, in the ordinary course and in good faith, four small tablets of morphine or cocaine for relief of condition incident to addiction.²³

The court went on to warn the Division:

Federal power is delegated, and its prescribed limits must not be transcended even though the ends seem desirable. The unfortunate condition of the recipient certainly created no reasonable probability that she would sell or otherwise dispose of the few tablets entrusted to her and we cannot say that by so dispensing them the doctor necessarily transcended the limits of that professional conduct with which Congress never intended to interfere.²⁴

Though Linder might have reintroduced doctors into the area, the Narcotics Division successfully prevented this by refusing to recognize Linder in its regulations, thus making a situation where few would accept the risks involved in testing the doctrine, and by launching an all-out campaign

22. 268 U.S. 5 (1924)

23. 268 U.S. 5 at 15 (1924)

24. 268 U.S. 5 at 20 (1924)

against doctors--closing the remaining narcotics clinics, imprisoning rebellious doctors, and publicizing records and convictions of physician addicts.²⁵

Rufus King comments on this period of growth:

In sum, the Narcotics Division succeeded in creating a very large criminal class for itself to police...instead of the very small one Congress had intended.²⁶

The success of this campaign was reflected not only in the increased number of potential criminals, but in financial growth as well. Between 1918 and 1925, the Bureau's budgetary appropriations increased from \$325,000 to \$1,329,440, a rise of over 400 per cent.²⁷

The Marihuana Tax Act of 1937: A Bureaucratic Response.

There are many other examples of efforts by the Bureau to create and maintain a friendly and supportive environment, through other publicity campaigns, through lobbying in Congress and through continued and diligent attacks upon and harassments of its critics which have been amply chronicled by others,

25. King, op. cit., pp. 744-745; "Note: Narcotics Regulation," op. cit., pp. 784-787. The Bureau's yearly report Traffic in Opium and Other Dangerous Drugs carries numerous reports on addiction among physicians during this period. See also Lindesmith, The Addict..., op. cit., pp. 135-161.

26. King, op. cit., p. 738.

27. See Table I, p. 21. During this period, two pieces of legislation were enacted that affected the Bureau's scope of operation: The Revenue Act of 1918, and the Narcotic Drug Import and Export Act of 1922.

though not as part of an organizational process.²⁸

The Bureau's efforts to induce passage of the Marihuana Tax Act deserve special mention, however, in light of Becker's findings that the legislation was the result of what he terms a "moral enterprise."²⁹ Becker concludes that Narcotics Commissioner Anslinger and his Bureau were the motive forces behind the original 1937 legislation and the increasingly severe penalties which have since been imposed. This is readily conceded.³⁰ But he argues that the motivation behind this desire for the marihuana legislation was a moral one. He presents a picture of a society totally indifferent to the use of marihuana until Anslinger, in the role of a moral entrepreneur, "blows the whistle" on marihuana smoking. Again, it is conceded that Commissioner Anslinger throughout his long career with the Narcotics Bureau has opposed drug and narcotics use on moral grounds. This

28. Along with the works of Lindesmith and King, supra, see the Bureau of Narcotics publication, Comments on Narcotic Drugs (undated), the Bureau's reply to the A.B.A.-A.M.A. committee interim report "Narcotic Drugs". This publication, which was described by DeMott as "perhaps the crudest publication yet produced by a government agency" (Benjamin DeMott, "The Great Narcotics Muddle," Harpers Magazine, March, 1962, p. 53), was later taken out of print. For a vivid account of the Bureau's methods with its critics, see Lindesmith, The Addict..., op. cit., pp. 242-268.

29. Becker, op. cit., p. 135.

30. It seems clear from examining periodicals, newspapers and the Congressional Record that the Bureau was primarily responsible for the passage of the act, though Becker's almost exclusive reliance on the claims of the Bureau in its official publication Traffic in Opium and Other Dangerous Drugs does not seem warranted given the previously discussed tendency of a public bureaucracy to emphasize its necessity and successful functioning.

theme runs consistently through his writings.³¹ What Becker ignores is that Anslinger was also a bureaucrat, and thus responsive to bureaucratic pressures and demands as well. The distinction between these roles is difficult to make, but it is fundamental in analyzing the legislation.

To understand whether the marihuana legislation was to a large degree the result of bureaucratic processes similar to the Bureau's expansion after the Harrison Act or whether it was instead the result of an individual's moral crusade, it is necessary to focus not only on the individual as Becker has done, but upon the Bureau and its environment during this period. Through this method, certain parallels with the post-Harrison Act period become evident.

The Marihuana Tax Act which imposed a prohibitively costly tax on the sale of marihuana was passed by both houses of Congress

31. See especially Harry Anslinger and Will Osborne, The Murderers: The Story of the Narcotic Gang, New York: Farrar, Straus and Cudahy, 1961, Chapter I, and also the other writings of the Commissioner, *inter alia* Harry Anslinger and William F. Tompkins, The Traffic in Narcotics, New York: Funk and Wagnalls, 1953, and Harry Anslinger and J. Gregory, The Protectors: The Heroic Story of the Narcotics Agents, Citizens, and Officials in Their Unending, Unsung Battle Against Organized Crime in America, New York: Farrar, Straus, 1964.

with practically no debate³² and signed into law on August 2, 1937. While Becker seems to argue that the Bureau generated a great public outcry against marihuana use prior to the passage of the Act, his data supporting this argument are misleading if not erroneously interpreted.³³ While marihuana use seems to

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32. This is not unusual in the area of moral legislation, as Becker points out. Furthermore, unlike non-criminal legislation where the losing party still has a variety of remedies available to challenge the law, few remedies are available to those who are legislated against in criminal areas. Legitimate lobbies cannot be formed, and test cases are dangerous.

However, Becker gives the impression that the only opposition to the marihuana legislation came from hemp growers, and that no one argued for the marihuana users (Outsiders, pp. 144-145). This is erroneous. The legislative counsel for the A.M.A., Dr. William C. Woodward, challenged the Bureau's conclusions that marihuana use was harmful to health and widespread among children, and demanded evidence to support these assertions. While he was not representing the marihuana users, he was certainly arguing their case and questioning the need for the legislation. See Taxation of Marihuana (Hearings Before the Committee on Ways and Means of the House of Representatives, 75th Congress, 1st Session, on H.R. 6385, April 27-30 and May 4, 1937, especially p. 92). It should be noted that this opposition was ignored by the committee members.

33. Becker's data consist of a survey of the Readers Guide to Periodical Literature, in which he found that no magazine articles appeared before July, 1935; four appeared between July, 1935 and June, 1937; and seventeen between July, 1937 and June, 1939 (Outsiders, p. 141). While this is correct, the four articles in the second period all appeared before 1937, no articles appeared in the five months preceding the House Ways and Means Committee hearings on the act in late April and early May, one appeared in July, 1937 and the rest appeared after the bill was signed into law on August 2, 1937. In short, of the articles which Becker asserts provided the impetus to Congressional action, only one appeared in the seven months of 1937 before the marihuana bill was signed into law.

to have increased since the early 1930's, there appears to have been little public concern expressed in the news media, even in 1937. Few magazine articles were written about the subject, and if the New York Times is any indication, newspaper coverage was also slight.³⁴ The final presidential signing of the act received minimal coverage from the Times.³⁵ In short, rather than the Bureau-generated public turmoil that Becker indicates, it seems that public awareness of the problem, as well as public opposition to it, was slight.

While it cannot be shown conclusively that the Marihuana Tax Act was the result of a bureaucratic response to environmental conditions, similarities between this period and the post-Harrison Act period are evident. Marihuana opposition, like narcotics opposition before, appears to have been a weakly held value. In both situations, publicity campaigns were launched. In both cases, one through the courts and one through Congress, efforts were exerted to expand the power of the Bureau. In both

34. A survey of the New York Times Index shows: one article discussed marihuana in 1936 and eight discussed the subject in 1937 up to August third. There were no articles about or coverage of any of the Congressional hearings. Contrary to Becker's assertion, perhaps the most significant thing about this period was the lack of publicity involved.

35. The total coverage by the New York Times consisted of a four line AP dispatch near the bottom of page four, titled "Signs Bill to Curb Marihuana" and reading in its entirety: "President Roosevelt signed today a bill to curb traffic in the narcotic, marihuana, through heavy taxes on transactions." (August 3, 1937).

cases there were substantial numbers of potential criminals which could be incorporated into the Bureau's jurisdiction.

Perhaps more convincing than similarities are the budgetary appropriations for the Bureau from 1915 to 1944 presented in Table I. For easier comparison, these data for a twenty year period from 1920 when the Narcotics Division became part of the Prohibition Division of the Treasury Department to 1939 are presented in Figure I. In 1932, when the Bureau's appropriations were approaching an all time high, the Bureau stated:

The present constitutional limitations would seem to require control measures directed against the intrastate traffic of Indian hemp (marihuana) to be adopted by the several State governments rather than by the Federal Government, and the policy has been to urge the State authorities generally to provide the necessary legislation, with supporting enforcement activity, to prohibit the traffic except for bona fide medical purposes. The proposed uniform State narcotic law...with optional text applying to restriction of traffic in Indian hemp, has been recommended as an adequate law to accomplish the desired purpose.³⁶

At that time, according to the Bureau, sixteen states had enacted legislation in which "the sale of possession (of marihuana) is prohibited except for medical purposes."³⁷ By 1936, it appears that the Bureau's policy had succeeded, for, as Table II shows, all forty eight states had enacted legislation which governed the sale of possession of marihuana.

36. U.S. Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs For the Year Ending December 31, 1932, Washington: Government Printing Office, p. 43.

37. Ibid., p. 43.

Table I

Budgetary Appropriations for the U.S. Narcotics Bureau
(1915-1944)*

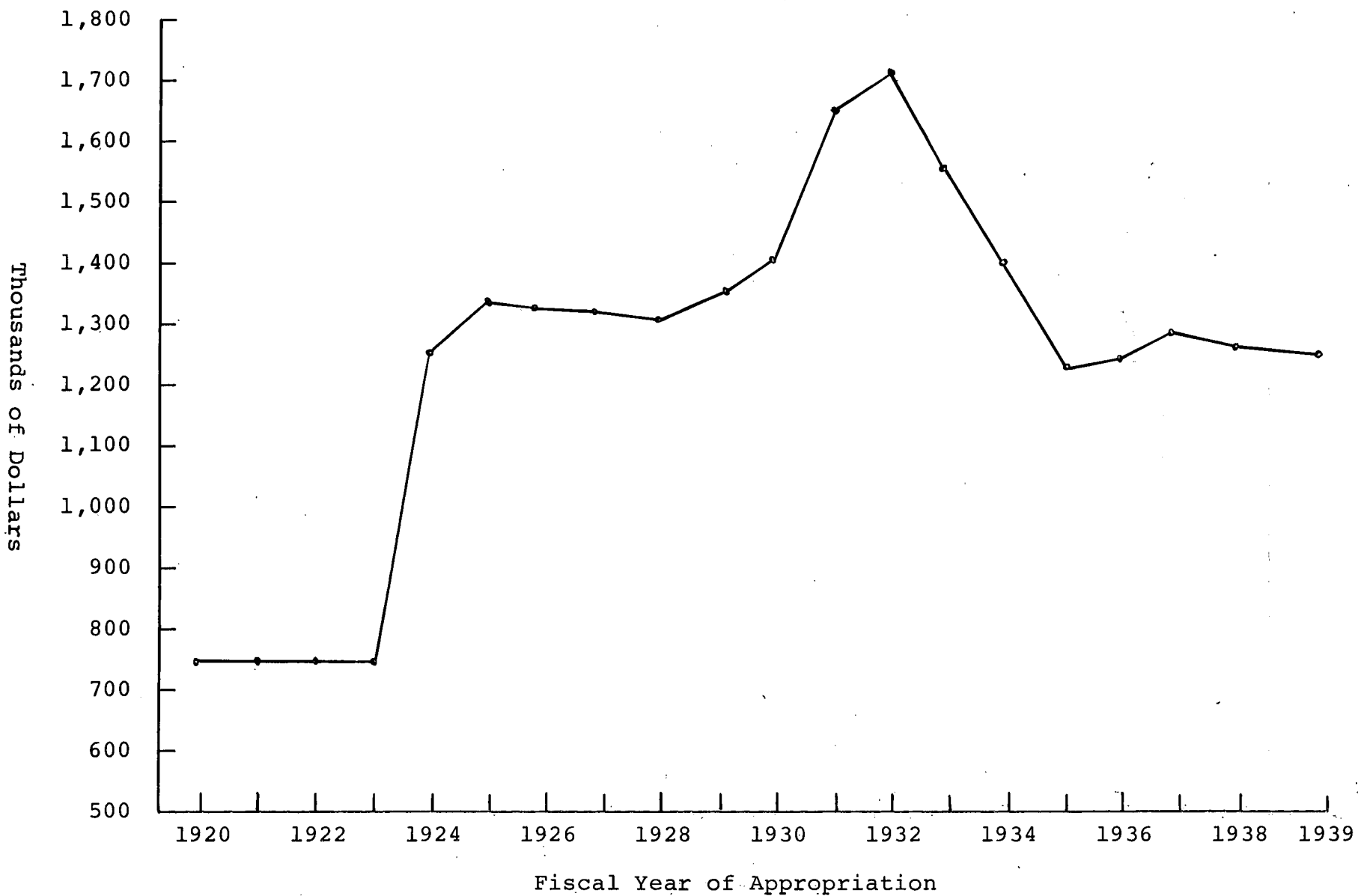
<u>Year**</u>	<u>Total Appropriation</u>
1915	\$ 292,000
1916	300,000
1917	325,000
1918	750,000
1919	750,000
1920	750,000
1921	750,000
1922	750,000
1923	750,000
1924	1,250,000
1925	1,329,440
1926	1,329,440
1927	1,329,440
1928	1,329,440
1929	1,350,440
1930	1,411,260
1931	1,611,260
1932	1,708,528
1933	1,525,000
1934	1,400,000
1935	1,244,899
1936	1,249,470
1937	1,275,000
1938	1,267,000
1939	1,267,600
1940	1,306,700
1941	1,303,280
1942	1,283,975
1943	1,289,060
1944	1,150,000

*Source: Appropriations Committee, U.S. Senate, Appropriations, New Offices, etc., Statements Showing Appropriations Made, New Offices Created, etc., 1915-1923; U.S. Bureau of the Budget, The Budget of the United States Government, Washington: United States Government Printing Office, 1923-1945.

**Fiscal year the appropriation was made. Each sum was appropriated for the following fiscal year.

Figure I

Budgetary Appropriations (1920-1939)*



*Source: See Table I, p. 24.

Table II

States Enacting Legislation
Controlling Sale or Possession of Marihuana (1932-1936)³⁸

<u>Year</u>	<u>Number of States</u>
1932	16
1933	34
1934	36
1935	45
1936	48

Despite the fact that this policy had succeeded and despite former questions of the constitutionality of the measure, the Bureau in 1937 pressed for the enactment of the federal marihuana act. For Anslinger the moral entrepreneur, 1936 should have been a year of victory: in every state the marihuana menace was subjected to statutory control.³⁹ But for Anslinger the bureaucrat, 1936 seems to have been another year of defeat. His budgetary appropriation remained near a low point that had not been seen in over a decade, which to some extent reflected the general economic conditions of the time. His request for fiscal 1933:

38. U.S. Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs..., Washington, Government Printing Office, 1932-1936.

39. While it can be argued that a federal measure was still necessary because 1) state legislation was poorly drawn or 2) state enforcement was inadequate, the former is doubtful since by 1937, thirty-nine states (as compared to four in 1933) had enacted the Uniform Narcotic Drug Act, the very legislation the Bureau felt would best control marihuana use, and the latter situation, even if true, could have been rectified by means other than federal legislation.

had been cut \$100,000 below the general Treasury Department reduction for all bureaus.⁴⁰ In the succeeding years, reductions in actual operating expenses were greater than those reflected in Table I, for varying sums were deducted from the appropriations and held in a general trust fund as part of the government's anti-depression program. The Bureau's actual operating funds remained at about one million dollars from fiscal 1934 to fiscal 1936.⁴¹ In his appearances before the House Subcommittee of the Committee on Appropriations that considered the Treasury Department budget, Anslinger repeatedly warned that the limited budget was curtailing his enforcement activities.⁴² By 1936, his budget

40. Hearings Before the Subcommittee of the House Committee on Appropriations, 72nd Congress, First Session, in charge of the Treasury Department Appropriations Bill for 1933, January 14, 1932, pp. 375-393.

41. Hearings Before the Subcommittee of the House Committee on Appropriations, op. cit., for fiscal 1934: 72nd Congress, Second Session, November 23, 1932, pp. 171-180; for fiscal 1935: 73rd Congress, Second Session, December 18, 1933, pp. 178-198; for fiscal 1936: 74th Congress, First Session, December 17, 1934, pp. 201-225.

42. Thus in the hearing for the 1935 appropriation:
Mr. Arnold: "How are you getting by with that \$1,000,000 after those deductions?"
Comm. Anslinger: "I am getting by, but I have had to cut back enforcement activities so sharply that it has reached a point where I think it has been harmful..." (1935 Hearings, op. cit., p. 189)

In his opening statement at the hearing for the 1936 appropriation, Anslinger stated: "Mr. Chairman, and distinguished members of the committee, during the past fiscal year we have been operating under a very restricted appropriation. Our enforcement did not fall off too much although it did suffer somewhat." (1936 Hearings, op. cit., p. 201) A decrease in seizures and fines levied were attributed to the limited budget. (Ibid., pp. 213-214)

had decreased over \$450,000 from its high four years ago, a fall of almost twenty-six per cent.

Again, in 1937, Anslinger the moralist would be expected to first convince the general public that marihuana use was evil and immoral, while Anslinger the bureaucrat would be more concerned with attaining passage of legislation which would increase the Bureau's powers and then proceed to generate environmental support for these powers. In fact, the latter occurred. The great bulk of bureau-inspired publicity came after the passage of the act, not before.⁴³

Faced with a steadily decreasing budget, the Bureau responded as any organization so threatened might react: it tried to appear more necessary, and it tried to increase its scope of operations. As a result of this response, the Marihuana Tax Act of 1937 was passed.⁴⁴ Whether the Bureau's efforts were entirely successful is questionable. One positive result for the Bureau was that violations and seizures under the Marihuana Tax Act contributed substantially to the Bureau's totals, which had been declining for some time. (When arrests, convictions and seizures were on the increase, these were faithfully reported to the House Subcommittee as evidence of the Bureau's effective use of funds.)

43. See footnote 32.

44. While Commissioner Anslinger as leader of this bureaucratic response might be characterized as a "bureaucratic entrepreneur", such characterization would be misleading, for similar to Becker's characterization it still simplifies the problem by emphasizing the individual's importance and disregarding that of the bureau and its environment.

In 1938, the first full year under the Marihuana Tax Act, one out of every four federal drug and narcotic convictions was for a marihuana violation.⁴⁵

However, though the budgetary decline was halted, expected increases for enforcing the new legislation did not immediately materialize. Anslinger pointed out this situation in 1937 in connection with the fiscal 1939 appropriation:

Comm. Anslinger: We took on the administration of the marihuana law and did not get any increase for that purpose. The way we are running we may have to request a deficiency of \$100,000 at the end of the year; but I sincerely hope you will not see me here for a deficit. Beginning the first of the year, Mr. Chairman, I shall control all travel out of Washington. That is a hard job. I have to do that to make up some of this money. We went ahead at high speed and broke up ten big distributing rings, and now we find ourselves in the hole financially.

Mr. Ludlow: You have to find some way to recoup?

Comm. Anslinger: Yes; and keep the enforcement of the Marihuana Act going. Not a dollar has been appropriated in connection with enforcement of the Marihuana law. We have taken on the work in connection with the Marihuana Act in addition to our other duties.⁴⁶

While the Bureau's budgetary appropriations since that time have in general increased, the period of the late 1930's and early 1940's, where increases might be expected to be the largest,

45. U.S. Bureau of Narcotics, Traffic in Opium and Other Dangerous Drugs For the Year Ending December 31, 1938, Washington: Government Printing Office, pp. 77-79.

46. Hearings Before the Subcommittee of the House Committee on Appropriations, 75th Congress, Third Session, in charge of the Treasury Department Appropriations Bill for 1939, December 14, 1937, p. 380.

was a period of small advances and then a gradual decline.⁴⁷

Of course the major factor in that period was the massive redirection of funds from non-military areas, and thus these figures do not accurately reflect the Bureau's enterprise.

As was pointed out at the beginning, this paper does not presume to totally refute Becker's conclusions, but rather to demonstrate that an alternative explanation is equally if not more persuasive. The usefulness of this organizational approach lies in that it can be extended to other similar moral crusades or to entire social movements, where the emphasis so far has been on the work of certain individual crusaders rather than on the organizations themselves. Viewed in this way, whole new ranges of variables become evident, and hopefully researchers will be able to contribute to as well as draw upon current organizational knowledge.

47. See Table I, p. 24.