

studying the structure and functioning of the retina; John Blofeld finds mescaline confirming the teachings of Vajrayana Buddhism; Timothy Leary reports on a new device to record empirically the flow of consciousness in LSD and ESP research.

Meanwhile, Senator Thomas J. Dodd, in a statement regarding consideration of the Drug Abuse Control Amendments of 1965 before the United States Senate, refers to "pseudo-intellectuals who advocate the use of drugs in the search for some imaginary freedoms of the mind and in the search for higher psychic experiences." The outcome of the federal lawmakers' deliberations is quoted below, along with another set of restrictions imposed by the State of New York.

Thus the creative tension increases between those who wish to realize the potentials of their nervous systems more fully and those who regard such activities as dangerous. The American system, for all its faults, is an admirable field for this kind of constructive conflict since, as Howard Becker points out: "Our institutions can, when they are spurred into action by determined men, protect minorities of whatever kind from the restraints of cultural tradition and local prejudice."

R.M.

TWO NEW LAWS RELATING TO PSYCHEDELICS

I. FEDERAL LAW

President Johnson signed into law on July 15, 1965, a bill known as the "Drug Abuse Control Amendments of 1965," originally sponsored by Senator Thomas J. Dodd. This law is effective from February 1, 1966. Relevant sections are quoted verbatim from the law below:

FINDINGS AND DECLARATION

SEC. 2. The Congress hereby finds and declares that there is a widespread illicit traffic in depressant and stimulant drugs moving in or otherwise affecting interstate commerce; that the use of such drugs, when not under the supervision of a licensed practitioner, often endangers safety on the highways (without distinction of interstate and intrastate traffic thereon) and otherwise has become a threat to the public health and safety, making additional regulation of such drugs necessary regardless of the intrastate or interstate origin of such drugs; that in order to make regulation and protection of interstate commerce in such drugs effective, regulation of intrastate commerce is also necessary because, among other things, such drugs, when held for illicit sale, often do not bear labeling showing their place of origin and because in the form in which they are so held or in which they are consumed a determination of their place of

origin is often extremely difficult or impossible; and that regulation of interstate commerce without the regulation of intrastate commerce in such drugs, as provided in this Act, would discriminate against and adversely affect interstate commerce in such drugs.

CONTROL OF DEPRESSANT AND STIMULANT DRUGS

SEC. 3. (a) Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end thereof the following:

"(v) The term 'depressant or stimulant drug' means—

"(1) any drug which contains any quantity of (A) barbituric acid or any of the salts of barbituric acid; or (B) any derivative of barbituric acid which has been designated by the Secretary under section 502(d) as habit forming;

"(2) any drug which contains any quantity of (A) amphetamine or any of its optical isomers; (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (C) any substance which the Secretary, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

"(3) any drug which contains any quantity of a substance which the Secretary, after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect; except that the Secretary shall not designate under this paragraph, or under clause (C) of subparagraph (2), any substance that is now included, or is hereafter included, within the classifications stated in section 4731, and marihuana as defined in section 4761, of the Internal Revenue Code of 1954 (26 U.S.C. 4731, 4761).

DEPRESSANT AND STIMULANT DRUGS

SEC. 511. (a) No person shall manufacture, compound, or process any depressant or stimulant drug, except that this prohibition shall not apply to the following persons whose activities in connection with any such drug are solely as specified in this subsection:

"(1) (A) Manufacturers, compounders, and processors registered under section 510 who are regularly engaged, and are otherwise qualified, in conformance with local laws, in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment, (i) to pharmacies or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed by law to administer such drugs in the course of their professional practice, or (ii) to laboratories or research or educational institutions for their use in research, teaching, or chemical analysis.

"(B) Suppliers (otherwise qualified in conformance with local laws) of manufacturers, compounders, and processors referred to in subparagraph (A).

"(2) Wholesale druggists registered under section 510

who maintain establishments in conformance with local laws and are regularly engaged in supplying prescription drugs (A) to pharmacies, or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed by law to administer such drugs in the course of their professional practice, or (B) to laboratories or research or educational institutions for their use in research, teaching, or clinical analysis.

"(3) Pharmacies, hospitals, clinics, and public health agencies, which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs upon prescriptions of practitioners licensed to administer such drugs for patients under the care of such practitioners in the course of their professional practice.

"(4) Practitioners licensed by law to prescribe or administer depressant or stimulant drugs, while acting in the course of their professional practice.

"(5) Persons who use depressant or stimulant drugs in research, teaching, or chemical analysis and not for sale.*

"(6) Officers and employees of the United States, a State government, or a political subdivision of a State, while acting in the course of their official duties.

"(7) An employee or agent of any person described in paragraph (1) through paragraph (5), and a nurse or other medical technician under the supervision of a practitioner licensed by law to administer depressant or stimulant drugs, while such employee, nurse, or medical technician is acting in the course of his employment or occupation and not on his own account.

"(b) No person, other than—

"(1) a person described in subsection (a), while such person is acting in the ordinary and authorized course of his business, profession, occupation, or employment, or

"(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any depressant or stimulant drug is in the usual course of his business or employment as such, shall sell, deliver, or otherwise dispose of any depressant or stimulant drug to any other person.

"(c) No person, other than a person described in subsection (a) or subsection (b) (2), shall possess any depressant or stimulant drug otherwise than (1) for the personal use of himself or of a member of his household, or (2) for administration to an animal owned by him or a member of his household. In any criminal prosecution for possession of a depressant or stimulant drug in violation of this subsection (which is made a prohibited act by section 301 (q) (3)), the United States shall have the burden of proof that the possession involved does not come within the exceptions contained in clauses (1) and (2) of the preceding sentence.

"(d) (1) Every person engaged in manufacturing, compounding, proc-

* *Editors' Note:* Paragraphs 4 and 5 will have to be ultimately clarified by the courts.

essing, selling, delivering, or otherwise disposing of any depressant or stimulant drug shall, upon the effective date of this section, prepare a complete and accurate record of all stocks of each such drug on hand and shall keep such record for three years. On and after the effective date of this section, every person manufacturing, compounding, or processing any depressant or stimulant drug shall prepare and keep, for not less than three years, a complete and accurate record of the kind and quantity of each such drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any depressant or stimulant drug shall prepare or obtain, and keep for not less than three years, a complete and accurate record of the kind and quantity of each such drug received, sold, delivered, or otherwise disposed of, the name and address of the person, and the registration number, if any, assigned to such person by the Secretary pursuant to section 510(e), from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction. No separate records, nor set form or forms for any of the foregoing records, shall be required as long as records containing the required information are available.

"(2) (A) Every person required by paragraph (1) of this subsection to prepare or obtain, and keep, records, and any carrier maintaining records with respect to any shipment containing any depressant or stimulant drug, and every person in charge, or having custody, of such records, shall, upon request of an officer or employee designated by the Secretary permit such officer or employee at reasonable times to have access to and copy such records. For the purposes of verification of such records and of enforcement of this section, officers or employees designated by the Secretary are authorized, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, to enter, at reasonable times, any factory, warehouse, establishment, or vehicle in which any depressant or stimulant drug is held, manufactured, compounded, processed, sold, delivered, or otherwise disposed of and to inspect, within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished material, containers and labeling therein, and all things therein (including records, files, papers, processes, controls, and facilities) bearing on violation of this section or section 301(q); and to inventory any stock of any such drug therein and obtain samples of any such drug. If a sample is thus obtained, the officer or employee making the inspection shall, upon completion of the inspection and before leaving the premises, give to the owner, operator, or agent in charge a receipt describing the sample obtained.

"(B) No inspection authorized by subparagraph (A) shall extend to (i) financial data, (ii) sales data other than shipment data, (iii) pricing data, (iv) personnel data, or (v) research data, which are exempted from inspection under the third sentence of section 704(a) of this Act.

"(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to a licensed practitioner described in subsection (a) (4) with respect to any depressant or stimulant drug received, prepared, processed, administered, or dispensed by him in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drug or drugs to his patients for which they are charged, either separately or together with charges for other professional services.

"(c) No prescription (issued before or after the effective date of this section) for any depressant or stimulant drug may be filled or refilled

more than six months after the date on which such prescription was issued and no such prescription which is authorized to be refilled may be refilled more than five times, except that any prescription for such a drug after six months after the date of issue or after being refilled five times may be renewed by the practitioner issuing it either in writing, or orally (if promptly reduced to writing and filed by the pharmacist filling it).

"(f) (1) The Secretary may by regulation exempt any depressant or stimulant drug from the application of all or part of this section when he finds that regulation of its manufacture, compounding, processing, possession, and disposition, as provided in this section or in such part thereof, is not necessary for the protection of the public health.

"(2) The Secretary shall by regulation exempt any depressant or stimulant drug from the application of this section, if—

"(A) such drug may, under the provisions of this Act, be sold over the counter without a prescription; or

"(B) he finds that such drug includes one or more substances not having a depressant or stimulant effect on the central nervous system or a hallucinogenic effect and such substance or substances are present therein in such combination, quantity, proportion, or concentration as to prevent the substance or substances therein which do have such an effect from being ingested or absorbed in sufficient amounts or concentrations as, within the meaning of section 201(v), to—

"(i) be habit forming because of their stimulant effect on the central nervous system, or

"(ii) have a potential for abuse because of their depressant or stimulant effect on the central nervous system or their hallucinogenic effect.

PROHIBITED ACTS

SEC. 5. Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end thereof the following new paragraph:

"(q) (1) The manufacture, compounding, or processing of a drug in violation of section 511(a); (2) the sale, delivery, or other disposition of a drug in violation of section 511(b); (3) the possession of a drug in violation of section 511(c); (4) the failure to prepare or obtain, or the failure to keep, a complete and accurate record with respect to any drug as required by section 511(d); (5) the refusal to permit access to or copying of any record as required by section 511(d); (6) the refusal to permit entry or inspection as authorized by section 511(d); or (7) the filling or refilling of any prescription in violation of section 511(e)."

GROUND AND JURISDICTION FOR JUDICIAL SEIZURE AND CONDEMNATION

SEC. 6. (a) Subsection (a) of section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by inserting "(1)" after "(a)" and redesignating clauses (1) and (2) of the proviso thereto as "(A)" and "(B)," respectively; and by adding at the end of such subsection the following new paragraph:

"(2) The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States within the jurisdiction of

which they are found: (A) Any depressant or stimulant drug with respect to which a prohibited act within the meaning of section 301 (p) or (q) by any person has occurred, (B) Any drug that is a counterfeit drug, (C) Any container of such depressant or stimulant drug or of a counterfeit drug, (D) Any equipment used in manufacturing, compounding, or processing a depressant or stimulant drug with respect to which drug a prohibited act within the meaning of section 301 (p) or (q), by the manufacturer, compounder, or processor thereof, has occurred, and (E) Any punch, die, plate, stone, labeling, container, or other thing used or designed for use in making a counterfeit drug or drugs."

(b) (1) The first sentence of subsection (b) of such section 304 is amended by inserting, "equipment, or other thing proceeded against" after "article."

(2) Subsection (d) of such section 304 is amended by inserting "(1)" after "(d)" and redesignating clauses (1) and (2) of the second sentence of such subsection as "(A)" and "(B)," respectively; and by adding at the end of such subsection the following new paragraphs:

"(2) The provisions of paragraph (1) of this subsection shall, to the extent deemed appropriate by the court, apply to any equipment or other thing which is not otherwise within the scope of such paragraph and which is referred to in paragraph (2) of subsection (a).

"(3) Whenever in any proceeding under this section, involving paragraph (2) of subsection (a), the condemnation of any equipment or thing (other than a drug) is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court (i) that he has not committed or caused to be committed any prohibited act referred to in such paragraph (2) and has no interest in any drug referred to therein, (ii) that he has an interest in such equipment or other thing as owner or lienor or otherwise, acquired by him in good faith, and (iii) that he at no time had any knowledge or reason to believe that such equipment or other thing was being or would be used in, or to facilitate, the violation of laws of the United States relating to depressant or stimulant drugs or counterfeit drugs."

PENALTIES

SEC. 7. (a) Section 303(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(a)) is amended by inserting after the final word "fine" and before the period the following: "Provided, however, That any person who, having attained his eighteenth birthday, violates section 301(q) (2) by selling, delivering, or otherwise disposing of any depressant or stimulant drug to a person who has not attained his twenty-first birthday shall, if there be no previous conviction of such person under this section which has become final, be subject to imprisonment for not more than two years, or a fine of not more than \$5,000, or both such imprisonment and fine, and for the second or any subsequent conviction for such a violation shall be subject to imprisonment for not more than six years, or a fine of not more than \$15,000, or both such imprisonment and fine."

(b) Section 303(b) of such Act (21 U.S.C. 333(b)) is amended by inserting after the word "shall" the following: "(except in the case of an offense which is subject to the provisions of the proviso to subsection (a) relating to second or subsequent offenses)."

POWERS AND PROTECTION OF ENFORCEMENT PERSONNEL

SEC. 8. (a) Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) is amended by adding at the end thereof the following new subsection:

"(c) Any officer or employee of the Department designated by the Secretary to conduct examinations, investigations, or inspections under this Act relating to depressant or stimulant drugs or to counterfeit drugs may, when so authorized by the Secretary—

"(1) carry firearms;

"(2) execute and serve search warrants and arrest warrants;

"(3) execute seizure by process issued pursuant to libel under section 304;

"(4) make arrests without warrant for offenses under this Act with respect to such drugs if the offense is committed in his presence or, in the case of a felony, if he has probable cause to believe that the person so arrested has committed, or is committing, such offense; and

"(5) make, prior to the institution of libel proceedings under section 304(a) (2), seizures of drugs or containers or of equipment, punches, dies, plates, stones, labeling, or other things, if they are, or he has reasonable grounds to believe that they are, subject to seizure and condemnation under such section 304(a) (2). In the event of seizure pursuant to this paragraph (5), libel proceedings under section 304(a) (2) shall be instituted promptly and the property seized be placed under the jurisdiction of the court."

(b) Section 1114 of title 18 of the United States Code is amended by striking out "or any security officer of the Department of State or the Foreign Service" and by inserting in lieu thereof the following: "any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare to conduct investigations or inspections under the Federal Food, Drug, and Cosmetic Act."

II. NEW YORK STATE LAW

The New York State senate and assembly approved a new law restricting the sale and possession of psychedelic drugs on June 7, 1965, effective July 1, 1965. The following quotation is from *Laws of New York, 1965*, Chapter 332:

1747-d. *Sale or possession of hallucinogenic drugs or preparations.* The possession, sale, exchange or giving away of hallucinogenic drugs or preparations by other than registered manufacturers or licensed physicians who hold a license issued by the commissioner of mental hygiene to receive such drugs shall constitute a violation of this section.

The provisions of this section restricting the distribution and possession of hallucinogenic drugs or preparations shall not apply to common carriers or to warehousemen while engaged in lawfully transporting or storing such drugs or preparations, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of hallucinogenic drugs or preparations; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or to persons whose possession is for the purpose of aiding public officers in performing their official duties.

For the purposes of this section, the term "hallucinogenic drugs" shall mean and include stramonium, mescaline or peyote, lysergic acid diethylamide and psilocybin, or any salts or derivatives or compounds of any preparations or mixtures thereof, except such preparations as the commissioner of mental hygiene has, by regulation, excluded from the restrictions of this paragraph.

Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than one year, or a fine of not more than five hundred dollars, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than two years or a fine of not more than one thousand dollars or both such imprisonment and fine.

3. Subdivision three of section sixty-eight hundred four of the education law is hereby amended by adding thereto a new paragraph, to be paragraph r, to read as follows: r. Any person to sell or dispense any hallucinogenic drug; provided, however, that a registered manufacturer of such drugs may supply such drugs to licensed physicians who hold a license issued by the commissioner of mental hygiene to receive such drugs and a holder of such a license may sell or dispense such drugs in accordance with the regulations of the commissioner of mental hygiene. For the purpose of this section, the term "hallucinogenic drugs" shall mean and include stramonium, mescaline or peyote, lysergic acid diethylamide and psilocybin, or any salts or derivatives or compounds of any preparations or mixtures thereof. The commissioner of mental hygiene may, by regulation, exclude any such preparation as he may determine to be desirable from the restrictions of this paragraph.

229. *Hallucinogenic drugs*

No person, except a registered manufacturer as permitted by subdivision r of subdivision three of section sixty-eight hundred four of the education law, may receive, sell or dispense a hallucinogenic drug without first obtaining a license therefore from the commissioner. Such license, if issued, may be issued only to licensed physicians, may be issued for a definite period and shall be issued only for such scientific and medical reasons and under such conditions regarding receipt, possession, sale or dispensation as the commissioner may, by regulation, prescribe. For the purpose of this section, the term "hallucinogenic drugs" shall mean and include stramonium, mescaline or peyote, lysergic acid diethylamide and psilocybin, or any salts or derivatives or compounds of any preparations or mixtures thereof. The commissioner may, by regulation, exclude any such preparation as he may determine to be desirable from the restrictions of this paragraph.