

Senator KINLEY: Are these regulations going to be made by order in council?

Dr. HARDMAN: That is right.

The CHAIRMAN: This is an authority to make regulations as to those items. If you look at clause 40 you will see the wording "Except as authorized by this Part IV of the regulations," possession is an offence. By regulation, without coming back to Parliament, they can prescribe conditions under which you may be entitled to have possession.

Senator PROWSE: Referring to section 39(a), (b), (c) and (d), the definitions section, would there be any objection to adding an (e) in which "promotion" in trafficking could be defined?

The CHAIRMAN: But you see you would need both. To define something which is not dealt with as an offence does not mean anything. I would rather leave the word "promotion" to the widest possible meaning and let the courts interpret it.

Senator PROWSE: My objection is that there is provision for both indictment and procedures under the Summary Convictions Act. If it is by indictment, then of course the person has the opportunity of going to a superior court where presumably he has the advantage of having a man skilled in the law. However, magistrates are not in all instances lawyers. I have had experience, some of which I think is not unusual, particularly in the case of one who is beginning the practice of law, to appear in magistrate's court, and the magistrate has looked down at me, when I walked in the court with an array of books, and said, "I hope you are not going to waste my time with a lot of learning; we depend on plain common sense in this here court." This is the type of thing I am concerned with.

The CHAIRMAN: But there is always an appeal, senator.

Senator PROWSE: Mr. Chairman, nothing annoys me more, with all respect, than to hear that there is always an appeal, when we may be dealing with people who are students or who can hardly afford a lawyer to go into court, in the first instance; and even when we have provision in our Parliaments for public offenders, they may not provide that person with funds for an appeal. Lawyers get a little tired of bearing the expense themselves to carry a case to appeal. It is desirable that there should be as few appeals as possible.

The thing I have in mind is this. If there is any one person on the North American continent who is responsible for the widely irresponsible use of LSD which we hear of, it is surely a man by the name of Timothy Leary, who I understand has been indicted and convicted in the United States. But at the same time, there are people who for various reasons, it may be merely because of some psychological quirk of their own, do promote this, and do lead these young people to experiment in that area where angels would fear to tread.

I agree with Senator Molson's submission that the greatest damage that is being done in this particular area with these psychedelic drugs is not with the pusher of the type we know in the narcotics trade, but with the otherwise well-intentioned person or the damn fool who feels he has a responsibility to persuade people that this is one way to expand their minds, or perhaps to indulge their sense of adventure, and that if it is a danger it is a negligible danger on a percentage of bad effects basis. Now, if we can plug that hole, this is the time we should do it. Could it be done by adding a definition by a motion in the definition section, and then adding a penalty lower down?

Mr. MCCARTHY: Yes, I think it could be done in a couple of ways.

The CHAIRMAN: I wonder if I may interrupt to say that it has been suggested that we add another subsection in section 41, and that we renumber (2) as (3). The change suggested would be:

No person shall promote the use of a restricted drug or any substance represented or held out by him to be a restricted drug, otherwise than under the authority of this Part or the regulations.