

Some Ambiguities for Research in Senate's Drug Bill

The Senate last week passed a comprehensive drug control bill which is part of an Administration "anti-crime" legislation package, but in some respects effects a liberalization of drug laws in accord with changing public attitudes toward drug use and abuse. The Controlled Dangerous Substances bill (S. 3246) would consolidate previously scattered drug legislation controlling hard narcotics like heroin, dangerous drugs such as amphetamines and barbiturates, and hallucinogenics such as marihuana and LSD, and also provide a new structure of penalties for drug offenses. Significantly, the bill would moderate the treatment of persons convicted of possession of drugs for their own use, but increase penalties for those engaged in drug traffic.

The bill now passes to the House of Representatives for consideration. The legislation has developed considerable momentum since it was originated in the Justice Department, has the backing of the White House, and passed the Senate by an 82-0 vote.

In the Senate, the sharpest debate centered on a civil liberties issue. In dispute was a provision authorizing federal officers with warrants on drug raids to break into homes or other premises without announcing themselves when a judge signing the warrant agrees there is a probability that evidence would otherwise be destroyed. This "no-knock" provision was stiffly opposed by a group of senators led by Senator Sam J. Ervin (D-N.C.). An attempt to kill the provision was narrowly defeated 44 to 40, but the provision, which involves the constitutional guarantee against unreasonable search and seizure, is likely to receive further challenges.

Under the new bill, drugs with a potential for abuse are grouped in four "schedules" with penalties of decreasing severity prescribed for offenses involving substances in each of the schedules. Schedule I, for example, includes drugs regarded as having a high potential for abuse and having no accepted medical use in the United States; these would include heroin, marihuana, and LSD.

Penalties prescribed reflect the widespread feeling that punishment for those who profit from illicit traffic in drugs should be much more severe than that for those charged with possession or use of drugs. The law creates a new category of "professional criminal" for those substantially involved in the organization or management of a criminal drug enterprise and prescribes a mandatory sentence of 5 years to life and a \$50,000 fine. On the other hand, the bill departs from past practice in federal narcotics legislation by banishing mandatory minimum sentences for those convicted of lesser offenses and by providing the possibility of parole or suspension of sentence for first offenders.

But if the bill provides a flexibility in penalties which is welcomed by many, it is inspiring few hosannas among those in government and in the universities concerned with research on drugs.

Federal narcotics laws historically have had the effect of deterring serious research on drug effects and addiction, and, while some successful attempts have been made to open up the field in recent years, the research

effort is still rather inhibited. The shift in authority over narcotics and dangerous drugs to the Department of Justice in 1968 was viewed with some misgivings by researchers who felt that Justice was likely to sacrifice its acquired taste for research to its instincts for enforcement.

Part of the arrangement that underlay the shift of authority to Justice was a gentlemen's agreement that the Department of Health, Education and Welfare (HEW) would act as the Attorney General's chief adviser on scientific and medical questions related to drugs. It was announced, for example, that the National Institutes of Health would take the lead role in research on the politically sensitive subject of marihuana and its effects. There has been some anxiety about how Justice would interpret the agreement, particularly in a period when funds for research were generally contracting.

This continuing concern is reflected in Senate hearings on the bill, and it surfaced last week when Senator Harold E. Hughes (D-Iowa) led attempts on the floor to attach several amendments which would have had the general effect of assuring that the main responsibility for planning and administering research on drugs reposed with the Department of Health, Education and Welfare and the scientists it customarily deals with.

Senator Thomas J. Dodd (D-Conn.), chief sponsor and floor manager of the legislation, accepted a Hughes amendment bolstering the confidentiality of research by requiring that names of addicts and other subjects of research be withheld from the Attorney General. But in other cases amendments attempts were rebuffed.

Hughes's main aim was to limit the Attorney General's charter as sponsor of research to those projects which related directly to the control provisions of the act. But the Senate agreed with Dodd that the Attorney General, who has the responsibility to make decisions on drug questions, should not be limited in his ability to get necessary facts.

HEW Secretary Robert Finch has said that he is satisfied with the terms of departmental relationships set forth in the bill, and officials in HEW are publicly biting the bullet. Hearings on the bill begin almost immediately in the House. Jurisdictional peculiarities in the House seem to dictate that two committees—Ways and Means and Commerce—will consider different parts of the bill, and it is possible that the question of research arrangements will get serious scrutiny.

On one level, the dispute over research can be seen simply as a contest for the control of research funds. But at a time when effects on humans of using substances like marihuana and LSD are considered open scientific questions and controversial public issues, research and its results in these areas require impeccable handling.

The new bill directs that the Attorney General and the Secretary of HEW appoint a committee of experts to "advise them with respect to all aspects of marihuana use." A wide-ranging 2-year study on marihuana and its effects is called for and the membership of this committee and its activities are sure to be closely appraised.

—JOHN WALSH