

THE PSYCHEDELIC REVIEW

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EDITORIAL

During the past nine months several complex developments have taken place in the socio-political field surrounding psychedelic drug research. Events of an extremely bizarre nature suggest an undercurrent of many-faceted activities. To illustrate the quality of the *fantastic*, we mention two episodes :

(1) The August 1963 issue of *Escapade* magazine, devoted primarily to sexually provocative photographs, urged readers to put page 15 in four ounces of methyl alcohol and to drink the result, in order to get the hallucinogenic effect of an additive used in the printing ink. When the FDA pointed out that drinking wood alcohol could lead to death or blindness, the publishers of the magazine declared the idea a joke.

(2) In February 1964 the *San Francisco News Call-Bulletin* reported that "an unpublished, critical report on organized LSD giving-and-taking groups in California has been stolen from the Stanford Institute for the Study of Human Problems and sent to this newspaper, together with an anonymous letter attacking the authors." The stolen book was duplicated and sent to the President of Stanford University, the Palo Alto police, the U.S. Food and Drug Administration, and *Playboy* magazine.

One is reminded of Charles Williams' story *Many Dimensions*, in which the miraculous properties of a stone from the East lead to incredible machinations and wildly improbable situations.

Admitting the complete impossibility of coming to an objective view of the field at the present time, the following remarks may help to clarify our interpretations and enrich our stock of food for thought.

There is no doubt that a *psychedelic movement* exists in the United States at the present time which, in practice, probably means no more than a considerable number of small groups of people intensely interested in taking LSD or one of the other psychedelics for reasons which are primarily psychological, spiritual and esthetic. Obviously, the persons involved in this movement are in favor of some liberalization of the present situation regarding access to these drugs.

The existence of this movement has several aspects which one may regard as causes, effects or concomitants of the activities of the movement, depending on one's point of view.

Editorial

These aspects are (1) a fair amount of public discussion in all the major news media, (2) an increased governmental control of the distribution of psychedelic drugs, (3) an increased underground (illicit and semi-illicit) distribution of psychedelic drugs, and (4) the discovery of more and more plants and substances having psychedelic properties.

To take the last point first : in 1963 authorities and newspapers reported excitedly on heavy purchases of morning-glory seeds in major cities; *The Psychedelic Review* reported that certain species contained LSD-derivatives; and Senator Vance Hartke, Indiana Democrat, urged a committee to investigate the possibility of controlling sale of the seeds, since they contained LSD, which he termed "a dangerous and violent poison". In 1964 anecdotal evidence is brought forward by California enthusiasts that Scotch Broom (*Cytisus Scoparius*), a small yellow flower which the State of California Highway Department grows along the borders of parkways for decorative purposes, yields, when dried and smoked, a cannabis-like (marijuana) effect.

One may predict that the next few decades will witness an astonishing number of discoveries or rediscoveries of mind-changing plants and chemicals. It will be impracticable to try to suppress these, one after another. Some new policy will have to be adopted. Meanwhile chemists and pharmacologists are continually adding to the list of synthetic psychedelics. The Sandoz Company has developed a series of tryptamines in which slight variations in the molecular structure vary the length of the psychedelic effect — $\frac{1}{2}$ hour, 1 hour, $1\frac{1}{2}$ hours, 2 hours, etc., definitely increasing their usefulness in therapy.

The publicity surrounding psychedelic drugs and researchers presents fascinating data for a case study in public opinion formation.¹ We may assume initial total ignorance, a clean slate; then a brand new topic is introduced and immediately fitted into the pre-established clichés — use vs. abuse, danger vs. potential, Heaven vs. Hell, science vs. kicks and cults. As W. H. McGlothlin points out in an excellent essay recently published by the RAND Corporation,² "the reader is handed a neatly packaged assessment that in no way conflicts with his personal or cultural preconceptions of the good and bad role of drugs." Styles of presentation range from the sober, cautious assessment of *Scientific American* ("Do the constructive potentials of these substances outweigh their hazards?"), through the supercilious cynicism of *Esquire* ("Drugs in the Yard; and where, Mother, is your

wandering son tonight?"), to the frankly salacious *Confidential* ("The hep set calls it Instant John Glenn but our swingin' chick calls it 'Let's Strip Down'"). There are many illuminating aspects to these stories which some future sociologist may analyze with profit — we point out two.

(1) The strongest *moral* condemnation comes from magazines whose main business is pornography and sadism; the same article may present graphically detailed fictitious descriptions of LSD-"orgies" together with outraged disapproval and macabre warnings. (2) The most appreciative and positive articles, in which the liberative promise of psychedelics is most strongly endorsed, appeared in magazines such as *Playboy* and *Cavalier*, magazines with an established trend towards a liberalization of our attitudes about pleasure. These facts lend support to McGlothlin's statement that "the idea that drugs may produce pleasure without compensatory harm is not consistent with our puritanical ethics."³

Increased governmental control was initiated in June 1963, when the FDA implemented new and stringent regulations governing the distribution of "new" (that is, experimental) drugs. (See the articles by Bates, Barrigar and Unger in this issue.) Since the psychedelic drugs can now be obtained only by psychiatric investigators operating with state or federal support, many psychiatrists previously using LSD in private practice have been unable to continue doing so. Psychedelic research on human subjects has virtually come to a standstill in the United States. (It is increasing rapidly in England and Europe.)

As a natural and inevitable consequence of the stricter legal control there appears to be increased underground distribution and paralegal experimentation. In May of this year a California court convicted Bernard Roseman and Bernard Copely of smuggling LSD into this country from Israel and selling it illegally. They were given maximum sentences of 17 years in jail. The defense is appealing the case, claiming that the LSD was not imported but made in his own laboratory by Roseman. The defense attorney said that "any bright high school chemistry student could master the formula," which is easily obtainable from chemical journals. This case, the full story of which will remain obscure for some time, illustrates the complexity of the situation confronted by law-enforcement agencies.

As far as one can tell, the mobsters who control the multi-billion dollar narcotics industry in this country have not as yet taken over

psychedelics (presumably considering it unucrative) but if the present trend continues without any change in direction, i.e. increasing interest and tighter control, it will be only a matter of time before it becomes worth their while. The present uneasy truce between LSD-users and law-enforcement agencies will then give way to a more agitated state of affairs. Revised legislation is the most hopeful alternative and for this a more enlightened and informed public opinion is necessary.

The extent of paralegal use of psychedelics is of course unknown and hard to estimate, but one may guess that between 50 and 100 thousand people have by now taken one or the other of these agents at least once. This does not include the 250,000 peyote-using Indians. The number of people using psychedelics repeatedly is of course very much smaller, probably not exceeding one thousand. For the sake of perspective, one may compare these figures with comparable estimates for the use of cannabis. Although these are nothing more than informed guesses, they range from 3 to 10 million having taken it at least once; while around 1 million are estimated to be using it fairly regularly. The comparable figures for alcohol are 90% of the population having tried it at least once, and 60 to 70 million using it regularly.

Legal research with psychedelics now being carried out in the United States may be divided into three categories: (1) pharmacological — work with animals and tissue preparations on biochemical and physiological aspects, and a very small amount of work on behavioral aspects, again primarily with animals; (2) therapeutic — as Unger points out in the present issue, only two installations, Menlo Park and Spring Grove, have been doing psychotherapeutic work with LSD in this country (Canada has several LSD treatment centers for alcoholics). In July of this year, the Menlo Park Foundation closed, for reasons which are not entirely clear. They had been unable to get the expected federal financial support, and even the \$650.00 fee per person per session was apparently not enough to cover their costs. (3) Work in the third category, on normal human subjects, has been stagnant since the discontinuation last year of the Harvard Psilocybin Project, and the disbanding, last November, of the International Federation for Internal Freedom. Recently, however, it has been announced that the National Institute of Mental Health had awarded a grant of \$40,000 to Dr. Sidney Cohen and Dr. William H. McGlothlin, for a study of the effects of LSD on attitudes and anxiety in normal

subjects. A pilot project indicated that LSD decreased anxiety and dogmatism.

What of the future? All signs indicate that the psychedelic movement is increasing in numbers, if not in influence. The latest in the series of major magazine articles (*Maclean's* of Canada) is the most comprehensive and impartial survey of the whole scene to date. Several books on the subject are in preparation and scheduled to appear this fall. One, the stolen manuscript referred to above, is a survey of California LSD-users from a sociological point of view. (*Utopias: The Use and Users of LSD-25*, by Richard Blum & Associates, published by Atherton Press, N.Y.)

The other, a collection of essays by various experts, is entitled *LSD: The Consciousness-Expanding Drug*, edited by David Solomon of *Playboy*, just published by Putnam's. Finally, the circulation of this journal, which may be taken as an index of serious interest in the subject, is steadily increasing and now stands at 4,000.

In regard to the circulation of this journal, we may point out that the attempts to publicize *The Psychedelic Review* have met with certain difficulties. While *Maclean's Magazine*, *Contact* and *The New Republic* accepted our advertisement, *Scientific American*, *The American Psychologist* and *The Progressive* (sic) refused, for reasons best known to themselves. The refusal of *The American Psychologist*, official organ of the American Psychological Association, is particularly interesting in the light of Duncan Blewett's statement that LSD is a "mirror for psychologists". Apparently there are some in the Academy who do not even want to be told of the existence of the mirror!

Our aim as Editors of *The Psychedelic Review* is solely to facilitate the circulation of certain facts and ideas. These facts and ideas are perhaps the most exciting which twentieth century man can encounter: they concern the nature of his consciousness, the basic mechanisms of his own identity, and the possibilities of access to them and control of them, using the latest findings of Western biology and chemistry as well as the age-old intuitions of Eastern sages. In pursuing this aim of arousing certain thoughts and provoking the consideration of certain concepts, we hope to be as informative, impartial and objective as possible.

FOOTNOTES (to Editorial)

¹For those readers interested in pursuing further inquiry into the nature of the publicity that psychedelics have received, we present here a list of the magazine articles that have appeared in the English language on this topic during the past year (this list does not include articles in newspapers or in specialized journals):

- (1) *The Reporter* (August 15, 1963). "The hallucinogenic drug cult" by Noah Gordon.
- (2) *Esquire* (September 1963). "Getting Alienated with the Right Crowd at Harvard" by Martin Mayer. A rebuttal by Leary and Alpert, and Mayer's reply, appeared in June 1964.
- (3) *Time* (October 25, 1963). "Instant Mysticism."
- (4) *Ladies' Home Journal* (October, 1963). "Instant Happiness" by Robert P. Goldman.
- (5) *Cosmopolitan* (November 1963). "LSD: Hollywood's Status-Symbol Drug" by Bob Gaines.
- (6) *Saturday Evening Post* (November 2, 1963). "The dangerous magic of LSD" by John Kobler.
- (7) *Look* (November 5, 1963). "The Strange Case of the Harvard Drug Scandal" by Andrew T. Weil.
- (8) *Playboy* (November 1963). "The pros and cons, history and future possibilities of vision-inducing psychochemicals," three articles by Dan Wakefield, Alan Harrington and Aldous Huxley.
- (9) *Fate* (January 1964). "What does the drug experience hold for you?" by Paul Foght.
- (10) *Saga* (January 1964). "The men who risk insanity to cure insanity" by Lester David.
- (11) *Cavalier* (January, February 1964). "The Revolution in Sensation." Two-part article by Lionel Olay.
- (12) *Family Weekly* (March 1964). "The Nightmare Side of Those 'Dream-World' Drugs" by Lawrence Galton.
- (13) *Pageant* (March 1964). "The Mind-Altering Drugs" by Richard K. Brunner.
- (14) *Scientific American* (April 1964). "The Hallucinogenic Drugs" by Frank Barron, Murray Jarvik and Sterling Bunnell.
- (15) *Contact* (May 1964). "Una Limpia de Bruja" by E. T. Guidotti and "Through a Mushroom Darkly" by J. L. D. Lamm.
- (16) *Confidential* (May 1964). "When Daphne D. Tried LSD."
- (17) *Maclean's* (June 20, 1964). "The Heaven or Hell Drugs" by Sidney Katz.
- (18) *Man's Illustrated* (July 1964). "LSD — The Instant Thrill Pill" by Joseph Andrews.
- (19) *The Realist* (August 1964). "Timothy Leary and His Psychological H-bomb" by Robert A. Wilson.

²William H. McGlothlin, "Hallucinogenic Drugs: A Perspective with Special Reference to Peyote and Cannabis." July 1964, a RAND Corporation Reprint P-2937. ³*ibid.*

Publisher's Statement

All readers of *The Psychedelic Review* are aware that there have been protracted delays in the publication of the first four issues. The reasons for this are financial. Although the number of subscriptions has increased remarkably, the increase has not been sufficient to meet the rising debt incurred through the high cost of printing. In order to continue *The Psychedelic Review* needs help urgently. In order to break even, the number of subscriptions has to at least double, and in order to cover costs while this target is being reached, around \$6,000 will be needed per year.

We are therefore making a threefold urgent appeal to all our readers: (1) renew your own subscription immediately,^a (2) urge your friends to subscribe or give them gift subscriptions,^b and (3) if at all possible, make a direct donation, as generous as you can afford.

We take this opportunity to thank all those readers who have written to us their constructive criticisms, suggestions, praise and encouragement. Furthermore we thank authors for their manuscripts and their patience.

^a Use the renewal slip enclosed with this issue.

^b Use the reply envelope enclosed with this issue.

Psychedelics and the Law

A Prelude in Question Marks

ROY C. BATES

Im Innern ist ein Universum auch.

Goethe

... & every Word & every Character
Was Human according to the Expansion or Contraction,
the Translucence or
Opakeness of Nervous fibres: such was the variation of
Time & Space
Which vary according as the Organs of Perception vary.
William Blake, *Jerusalem*

No individual can keep these Laws, for they are death
To every energy of man and forbid the springs of life.
William Blake, *The Devil's Party
and the Part of Angels* (Jesus
answering Los from the fire.)

When Kaga no Chiyo, the poetess who lived toward the end of the Tokugawa regime, wrote her famous haiku (*Asagao ya!*) in humble homage to the morning-glory, she had no premonition that the seeds of this twining plant might contain a hallucinogenic substance and alarm legislators, governmental agencies, and law enforcement officers. Yet on August 1, 1963, Senator Vance Hartke, Democrat of Indiana, urged the Senate Commerce Committee to investigate whether the sale of morning-glory seeds should not be controlled to prevent harm to public health. Dr. Abram Hoffer, director of psychiatric research for the Province of Saskatchewan, Canada, contends that repeated or heavy ingestion of the seeds may cause ergot poisoning and thus gangrene. Following his lead, biochemists on the staff of the Food and Drug Administration are doing analyses. It is safe to presume that the police watch certain areas in Boston, New York, and San Francisco where young people, chiefly students, are suspected of buying the seeds "for kicks".

Whether or not Chiyo's plant, descendant of *Ipomoea nil* which grows in the Eastern Hemisphere, in fact shares the psychopharmacological qualities of *Rivea corymbosa*, or ololiuqui, a hallucinogenic morning-glory whose active components have been identified as similar

to LSD, is of some interest in view of the international traffic in drugs. An affirmative answer would place the seeds of the Japanese morning-glory in the same category as ololiuqui and possibly other psychedelics.

At present, a definition of psychedelics, acceptable to the majority of qualified experts, does not exist. No one has attempted a denotational or enumerative description of these substances; the class of psychedelics, though theoretically finite, has been explored only to a small extent and often with controversial results. There seems to be agreement about the "recognition" of LSD, mescaline and derivatives such as TMA, psilocybin (the chief active ingredient of the magic or sacred mushroom of Mexico) as well as psilocin, dimethyltryptamine (DMT), Ditran (or JB 329), Sernyl (or phencyclidine), DET, peyote buttons and morning-glory seeds. In the "doubtful" category are other substances and compounds, such as harmine, harmaline, adrenolutin, adrenochrome, carbon dioxide, nitrous oxide. And the oldest of all consciousness-altering drugs, marihuana (hashish), is in the process of reevaluation.

Nor has anyone offered a valid structural definition, which presupposes that the elements and relations constituting a psychedelic are known in full. Until that day, a number of criteria, tentatively selected and in part hypothetical rather than factual, must serve. The newly coined term "psychedelic" — "mind-manifesting" — itself remains vague and ambiguous.

Uncertainties are inherent in any novel experimentation. They are dramatically intensified when a venture of the intellect assumes the extraordinary forms of personal adventure and when research becomes a search for transcendental values. The adventurers are also members of a well-ordered society governed in minute detail by written state and federal constitutions, legal precedents, statutes, ordinances, rules and regulations. Thus it hardly comes as a surprise that almost everyone involved in psychedelics is grasping, like the proverbial drowning man, at a — law.

Radical innovations in the pursuit of ideas or the manufacture of products, perspectives never before seen by a judge, compel the lawyer to deviate from his usual method and dig deeper and wider into cross-disciplinary studies that will enable him to think in terms of laws *to be made* and clear the ground on which new laws can be built. He is confronted with such a task when entering the little-travelled land of psychedelics which has not as yet been surveyed by legal trigo-

nometry. Any move may lead to a pitfall. This is also true for the steps taken by officialdom. Their informative or warning instructions, though issued in good faith and a humane spirit, have not so far been tested in the high courts. Are they "according to law"?

Pragmatically speaking, law is a system of principles, doctrines, and precepts of social control, the basis of a prediction of what an institutional power — the government, a court, an administrative agency, a district attorney, a policeman ("the Law"!) — will do in a given situation. The factors that enter into the prediction are innumerable and by no means embodied in the messages and threats of the system alone. Decision-making does not operate in the rarefied sphere of deductive logic. It is influenced by political, ethical, sociological, economic, and a host of other considerations; by the latitude of words and phrases seldom precise enough to exclude divergent meanings; by idiosyncrasies and frequently unconscious moods of the moment; by the variant vistas of the facts themselves which are to be subsumed under the rules. These vistas change with the biases prevailing in each of the cultural orbits of mankind. We know, for example, that the East looks at phenomena such as observed in the study of psychedelics quite differently from the West; its law, whatever it may be, is not ours. Without world law as a basis, prediction must rest on sources of national laws, one by one, as well as relevant international treaties and agreements. Federal law frames the standards within which the states may constitutionally enact food and drug laws of their own.

Legal prediction sinks to the level of stock-market or horse-race forecasts where existing law is relied upon to deal with newly created types of human enterprise, and its chance of being right becomes infinitesimal where a scheme that breaks with all tradition in purpose, outlook, and method is put to the test and spawns unheard-of situations and relationships. Here the problem of the unprovided case presents itself, so embarrassingly that officials tend to close their eyes before it. They are apt to maintain that the existing law covers the "novel imposition"; that the law is complete and self-contained because of the rational web of its rules; and that the rule to apply in any particular case, however outlandish in aspects, can be deduced from known principles or found by analogy with precedents and the wider or stricter interpretation of terms. In short, they hold that tomorrow is today and today is yesterday. Unfortunately, the doctrine of logical completeness of the law, which flourished unassailed until about the turn of the

century, still dominates the American scene of justice and is not without followers in Europe. Everywhere, though, the legal *avant-garde* recognizes "gaps" due to technological progress and cultural mutation, and bridges them with timber from the behavioral and other sciences or vaults over them, as it were, with a pole of humane values derived from natural law.

The existence of such gaps in the international arena is generally acknowledged. Everyone concedes, for instance, that outer space is legally as empty as it is to naive realism.

Not a mere gap, but a legal wasteland, is left by the "Copernican revolution" fomented by applying physical substances, psychedelics, to a goal-directed inquiry into the inner space of private experiences. Scientific means and methods are being turned from objective phenomena, coolly observed, tested, and evaluated, to experiments with individuals which not only engage the experimenter himself as a person but are aimed at discovering new dimensions of consciousness and making them fruitful for society and, perhaps, the metabiological or psychometabolic development of the human species. The wasteland is a call to battle. On this battle-ground the laws of psychedelics will be clarified, if not decided with finality. It will be a global war, and a long one, fought with patient endurance by those who will not yield to any authority until they have exhausted all ways of persuasion, review, appeal, revision on the local, state, national, and international level, and have created a climate of opinion in which "each individual is entitled to effective legal protection of fundamental and inalienable human rights without distinction of race, religion, or belief."*

The main issue is not drug law but individual human rights. Some of the secondary problems can be solved from precedents. Some are smoothed away by canons of ethics and other standards of various professions. To indicate the range of legal research needed it might be helpful to list the players who appear on the stage of psychedelics and illuminate a few selected scenes of potential conflict and confusion.

Physician (psychiatrist, medical practitioner), treating a patient. Pharmacologist experimenting with a new drug. Psychologist. Psychoanalyst. Psychotherapist. Biochemist. Philosopher. Theologian.

**Declaration of General Principles For a World Rule of Law*. Adopted at the First World Conference on World Peace Through the Rule of Law. Athens, Greece, July 6, 1963.

Artist. Volunteers: Everyman; groups (free, captive, regimented), such as alcoholics, and drug addicts, prisoners in jail, members of the armed forces, e.g., astronauts, hospitalized mental patients. Enter the Statesman, Law-giver, Judge, Governmental Administrator, Attorney, Law Enforcement Officer. The plot thickens around purchase, sale, storage, and distribution of psychedelics; personal qualifications and licensing; age and sex of participants; safety measures; place and time; negligence (what constitutes negligence?); release from liability; penal law; bill of rights. Chorus: diverse makers of public opinion. The authorities always refer to drug legislation as the *sedes materiae* in their dealings with psychedelics. For the sake of argument let us concede that drug law governs psychedelics if they are drugs. *Are psychedelics drugs?* The question is not rhetorical, the answer far from clear-cut. To illustrate the need for legal inquiry I move to analyze pertinent provisions of American drug laws, in preference to foreign ones which might serve as well, because of the discrepancy between the concern for psychedelic research in this country and the official resistance to permitting the researcher to carry it on. The Federal Food, Drug, and Cosmetic Act, as amended last in 1962, is the main source from which the restrictive policy against the use of psychedelics emanates and therefore of paramount importance for our subject. The Act, intended to prohibit the movement of impure or misbranded food, drugs, etc., in inter-state commerce, has been incorporated in many state laws. Tangential to our inquiry are the Harrison Narcotic Act, the Narcotic Drug Import and Export Act, and the Marihuana Tax Act — laws whose inclusion in the Internal Revenue Code indicates a budgetary motive beyond public health and welfare — as well as various other federal, state, and local laws for the control of narcotics.

The Act distinguishes between food and drugs and defines drugs by categories. Articles are "drugs" per se if listed as such in an official compendium or intended for specified purposes; they are "new drugs" according to certain criteria and qualifications.

"The term 'food' means: (1) articles used for food or drink for man or other animals; (2) chewing gum, and (3) articles used for components of any such article. The term 'drug,' without qualifier, means: (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treat-

ment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2), or (3). . . . The term 'new drug' means: (1) any drug, the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof, except that such a drug not so recognized shall not be deemed to be a 'new drug' if at any time prior to the enactment of this Act it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions."

In Alice's legal wonderland, where chewing gum is food, scientific usage counts as little as Webster's definitions. It is irrelevant that specialists in science call psychedelics, whatever their origin, birthday, or job, "drugs" (and on occasion, somehow timidly, "psychedelic substances"). The official compendia fail to mention psilocybin, mescaline, LSD and, it would seem, any psychedelics, which, therefore, are not drugs per se under the Act though a very few must be so regarded under constitutionally dubious narcotic laws. *I submit that psychedelics are drugs only if and when used for therapeutic purposes, as medicine, and otherwise not!*

Our burden of persuasion is limited to clause (3) of the "drug" definition, for we admit that clause (2) applies to psychedelics instrumental in medical therapy. Since they alter so-called mental processes, such as perceiving, imagining, thinking, evaluating, they "affect" a "function in the body of man," and they are "intended" to do so. Read out of context, clause (3) would not snatch psychedelics in non-medical use from the jaws of the Act. But it is a rule of statutory construction that even plain and seemingly clear words must yield to the impact of provisions adjoining in print as well as others and must, moreover, be interpreted in the light of the statute as a whole, the legislative policy expressed in it, related laws, and precedents. There can hardly be a

doubt that clause (3) is but an extension of clauses (1) and (2); they all are linked by "and" and form an inseparable unit suffused with one principle of demarcation: purpose of use. The *raison d'être* of the compendia to which clause (1) refers is the practice of medicine; their keynote is the reliability of pharmacological substances prescribed by physicians. To be admitted to the United States Pharmacopoeia the product must conform to legal specifications of purity and be of recognized therapeutic value. Similar curative properties are required for listing in the two other official books.

That it is the medical purpose which transforms — one is tempted to say, transubstantiates — a substance into a "drug" is comprehensively spelled out in clause (2), which is needed to catch up with the volume of medicines not yet listed in the compendia. Clause (3) owes its existence to the same effort to make our world safe for medical therapy. It was not deemed sufficient to include unlisted "articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease" in the term "drug" — clause (2) — without clarifying, in clause (3), that this term also applies *if the articles used in the diagnosis, and so forth, of disease, are "intended to affect the structure or any function of the body of man or other animals."*

We are bound to conclude that clause (3) is inapplicable to psychedelics employed for non-medical purposes. Not being "drugs" they cannot be "new drugs" either.

The courts, from Maine to California, from Washington to Florida, hold without exception that any vegetable, animal or mineral substance is a potential drug, but an actual one only if the substance is used in the composition of medicine and its use bears a reasonable relation to the policy underlying the Act, i.e., the furtherance of public health, safety, and welfare. By this test, cigarettes which contained combustible tartaric acid and allegedly reduced weight while preventing respiratory diseases, were considered drugs; in one amusing case — whiskey! As a rule, alcoholic beverages and cigarettes share with non-medical psychedelics the negative feature of not being drugs, so the secondary question about the reasonable relation of the three groups to public health does not arise although it may be worth pondering in connection with the law of psychedelics for therapy.

As media in the treatment of a patient and therefore "drugs" governed by the Act, psychedelics fall under the recently amended provisions for "new drugs". They were never subject to the Food and

Drug Act of June 30, 1906, as amended; they are not generally recognized among qualified experts as both safe and effective; they have not been used to a material extent and for a material time in medical practice. It follows that they are controlled by the 1962 amendment, which imposes severe restraints on the drug industry—its primary target—on physicians, clinical investigators, and other experts. Just as the sulfanilamide disaster in the fall of 1937 quickened the passage (1938) of the Act itself, so the frenzied furor raised by thalidomide is echoed in the amendment, and the emotional after-effects of this scare induced the authorities to wield their regulatory powers with redoubled caution.

Of particular interest for the law of psychedelics-as-medicine are the meaning of "effective" in the definition of "new drugs" and the franchise that may be granted to research. Before a "new drug" can be approved for marketing, the manufacturer must show that it will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. The evidence of effectiveness must be "substantial," that is, gathered by scientifically trained and experienced specialists, qualified to evaluate the effectiveness of the drug involved, in adequate and well-controlled basal and clinical investigations. If in the light of new evidence the drug does not measure up to standards, it will be ordered off the market. A short grace period for manufacturers of new drugs marketed prior to the 1962 amendment does not concern psychedelics, not yet, if ever, regular items of prescriptions. Psychiatrists may never be able to treat mental cases with LSD, etc., unless the discretion entrusted to the authorities in dealing with experimental drugs is most liberally exercised and research widely promoted. The law generally authorizes the Department of Health, Education and Welfare to exempt new drugs from certain encumbrances and allow their distribution for research on conditions related to the public health. It specifically authorizes the Secretary of the Department to prevent the testing of new drugs on human patients if detailed safety conditions are not met. It explicitly directs the Secretary to issue regulations conditioning the exemption of experimental drugs. A certification must be obtained by the drug manufacturers from the scientific investigators, stating that the latter will inform patients to whom the drug is to be administered, or their representatives, of the experimental nature of the drug and secure their consent except where the investi-

gator deems this not feasible or, in his professional judgment, contra-indicated. Among other things, as a precondition for testing safety and effectiveness on human patients, the regulations may require: submission of reports of preclinical tests, including animal tests, adequate to justify the proposed clinical testing; obtainment, by the sponsor, of signed agreements from investigators that work will be done under their personal supervision and drugs used will not be supplied to others; keeping of records and making of reports for the benefit of scientists in the employ of the Federal Drug Administration who are called to evaluate the safety and effectiveness of the new drug when an application is filed. Be it noted in passing that the research provisions refer to human "patients", and not to human beings at large. This clinches our argument: the nonmedical use of psychedelics is not governed by the Act.

In a Zen monastery, perhaps, the contention that psychedelics are both drugs and no-drugs might lead to a "mondo", if not a spontaneous combustion of satori. In this country, the even more paradoxical fact that the authorities fail to notice the paradox and regulate beyond the pale of their jurisdiction can only lead to a day, a month, a year, a decade in court. Who are the complainants? All who have a stake (material, ideal, or personal) in these substances. Whether they know it or not, the drug manufacturer, the psychiatrist, the scientist and scholar, the theologian, the seeker after happiness . . . are indispensable parties and must join to reach a sound determination of the controversy. The Act provides for judicial review over the denial or withdrawal of a new drug from the district court to the United States courts of appeals. Apart from this special provision, administrative orders and regulations, though sometimes shielded against attack, are generally subject to a judge's supervision buoyed up by the federal Administrative Procedure Act of 1946 and corresponding state laws. "Discretion" does not mean arbitrariness, however well-intended, and the court will draw the boundary lines. Eventually, the statute itself, or portions thereof, may be found unconstitutional by the Supreme Court of the United States and set aside.

This may suffice to illustrate — not to examine in depth — at least one of the secondary moot points. The primary problem is human rights, and it ought to be seen under the perspective of mankind. Regrettably, here again we must confine ourselves to a few glimpses at the legal home front.

Psychedelics manifest and affect the "mind". Mind, then, is the object of psychedelic investigation but it is not a clear word. The French have no equivalent. Neither *esprit* nor *intelligence* fit the term, and *mémoire*, the nearest rendering of "mind," alludes to a psychological theory without indication that consciousness has a seat or subject, while *âme* implies a religious or metaphysical belief of which "mind" is free. German parallels French in this regard: *Geist, Seele, Gedächtnis, Bewusstsein* — never mind. . . . The courts, always anxious to explain difficult words by familiar ones — *definitio semper periculosa sed necessaria* — have wrestled with "mind," too. In *U.S. v. Boylen*, D.C. Or. 41 F. Supp. 724, 725 it "appeared" to the judge that "the word 'mind' is synonymous with the 'memory' as used in Blackstone and other ancient authorities." Similarly, in *re Forman's Will*, N.Y., 54 Barb. 274, 286, equates mind with memory. "The use of the word 'mind' and 'memory' as convertible terms is not so unphilosophical as might at first seem, for without memory a person would be the mere recipient of a succession of present sensations like the lowest type of animal life." A working definition of the term, be it ever so metaphorical, is basic for the law of psychedelics and will evolve at the proper time. It will not resemble any of the existing legal shards inscribed "sound and normal," "unsound and insane," "disposing and testamentary," but may borrow from topographies such as Dante's or Freud's, adding one or more dimensions. Meanwhile, before there can be a "meeting of minds" about "mind," we are to rely on the non-conceptual knowing that permits us to say "*sub specie aeternitatis*" or "*human rights*" and mean it. Where concepts fail, concerns may still prevail.

The amendments of the Federal Constitution do not contain a Universal Declaration of Human Rights, but they emphasize individual freedom — the lever that may dislodge the administrative weight on psychedelics. It has been done, ephemerally and sideways, on July 26, 1960, at 3 p.m. when the Honorable Yale McFate pronounced his decision in the case of the State of Arizona v. Mary Attakai. The defendant, a member of the Navajo Indian Tribe, was charged with the illegal possession of peyote, a crime under an Arizona statute. She admitted the possession but pleaded not guilty on the ground that the prayers, rites, and ceremonies of the Native American Church, to which she belonged, centered on the cult and use of peyote and that, therefore, the statute deprived her of the freedom of religious worship

guaranteed by the Fourteenth Amendment of the Federal Constitution, and the Arizona Constitution as well. The court found that under the circumstances the statute was unconstitutional, dismissed the complaint, and released the defendant. In the opinion of the court, the peyote plant, believed to be of divine origin, bears a similar relation to the largely illiterate Indians as does the Holy Bible to the white man. "It is conceived of as a sacrament, a means of communion with the Spirit of the Almighty." Nor does the practice of the church — first incorporated under the law of Oklahoma, October 10, 1918 — threaten the peace and safety of the public, for the hallucinogenic phenomena produced by peyote, the court averred, leave all the mental faculties unimpaired, and "there are no harmful aftereffects. . . . Peyote is not a narcotic. It is not habit-forming." The judge thought it "significant that many states which formerly outlawed the use of peyote have abolished or amended their laws to permit its use for religious purposes."

Once again we draw attention to the crucial role the purpose of use plays in the law of psychedelics. One group of experimenters has been denigrated in the press as "cultists," and undeniably the scientific study of religion through LSD, etc., is embraced and supported by many more devotees of the spiritual life, among them artists and writers, and theologians from divinity schools or at large, than by medical men, some of whom, ignorant of their own legal advantages in collaboration, strive to pre-empt the entire field. It may seem far-fetched but would be altogether in accord with the Constitution to organize this group as a church, with the prospect of privilege. There is another Navajo-peyote case on the books; it was decided on July 26, 1962, by the United States District Court of Appeals, District of Columbia Circuit, in favor of the appellee, Stewart Udall, individually and as Secretary of the Interior. The appellants, eight residents of the Navajo Indian Reservation, sued for a judgment to declare a section of the Code of Indian Tribal Offenses — "Peyote Violations" — "null and void, invalidly authorized and unconstitutional." In the construction of the court, the Navajo Tribe itself adopted, in 1959, the ban on peyote as tribal law, denouncing its use as not connected with the Navajo religious practice and foreign to the Navajo traditional way of life. The complaint was dismissed on evidence *in abstracto*, by a series of syllogisms. What moved the tribe to "adopt" and point the dagger of a criminal offense against themselves, only to be sorry about it shortly

after, is a puzzle for an anthropologist to unravel. As to their traditional religious practices, William Blake (b. 1757) is a witness. "I then asked Ezekiel why he eat dung, & lay so long on his right & left side? he answer'd, 'the desire of raising other men into a perception of the infinite; this the North American tribes practice.'" (*The Marriage of Heaven and Hell*). Judge McFate said of peyote: "It is actually unpleasant to take, having a very bitter taste."

Included in the circle of freedoms which may give constitutional protection to psychedelic enterprise are not only those named and famous, in particular, the freedoms of religion, of speech, and of assembly, but innominate ones, such as the right of the individual to acquire, expand, and spread knowledge, and the "inalienable" right to the pursuit of happiness. This utterly anti-puritanic right, though enunciated in the Declaration of Independence, is the fixed star relative to which the constitutional luminaries are to move in a society of free men and women. Their courses foretell a constellation adjusted to the dynamism and the potential of psychedelics to realize a right inalienable and absolute. Then an equipoise will be attained between the desiderata of science, the rational requirements of public health and safety, and the yearnings of the human heart. Surely, a body politic that allows a machine to kill, year by year, tens of thousands of people and maim or injure over a million; allows liquors to intoxicate and cigarettes to hurt the whole nation — cannot with reason forbid or sharply curtail far less, if at all, harmful and far less common psychedelic experiments and experiences and thus retard medical progress, block discoveries and potential insights, and dry up a source of joy and enchantment.

Freedoms, it is understood, have a pathology of their own. They can be revelled in unwisely; that's a private affair. They can be abused to the detriment of public safety; then the law must be on hand to curb them. But they ought not to be legislated away as if adults were children of an overanxious mother. Sir William Blackstone's paradox holds true: "The public good is in nothing more essentially interested than in the protection of every individual's private rights." To assume such a right is to assume a risk. And — *volenti non fit injuria*. The maxim, codified in a California statute and analyzed by the judicature of the states, is important for the law of psychedelics, especially in regard to group sessions and group therapy where an enthusiast or coryphaeus, proclaiming that there is no danger at all, may confound

the "free" volition of the participants. "Volenti" is not "scienti." While no legal wrong is done to him who, knowing and comprehending the risk, voluntarily exposes himself, without being negligent in so doing, the mere knowledge of the possible danger does not preclude him from the recovery of damages for injuries sustained. Even if he himself has no action whatsoever, the investigator or person administering a psychedelic could be liable to an outsider, e.g., when the patient or subject, still under the influence of the psychedelic, runs his car over a third party or damages his property. We mention this only to exemplify the fact that many legal problems will persist after the freedoms have been implemented.

It may seem too sanguine to expect a sweeping victory due to one of the sudden spurts which in the record of cultures appear with the abruptness of biological mutation. We can look forward, though, to a gradual change in freeing the study and the enjoyment of psychedelics. To be sure, there are troughs and crests in the policy of the Supreme Court in protecting the individual and his pursuits, even as against the state, but for a hundred years no trough ever declined to the low level of the preceding one, each crest surmounted the last. By its own momentum, acceleration of the progressive trend is inevitable.

Nowadays, with the concepts of "world law" and "mankind" emerging from a shrunken globe, the legal destiny of psychedelics will further depend on how they are assessed in foreign lands. The major part of law vital to the people grows, except under a dictatorship, from the bottom up, not from the top down. It roots in public opinion and collapses if no longer supported by it; the repeal of the Prohibition Amendment is a striking example. Public opinion denotes a cross-sectional mass judgment based on private attitudes. Therefore, in the last analysis, the private attitudes toward psychedelics abroad, which create public opinion, which in turn creates foreign law, are likely to radiate into American attitudes, American public opinion, and American law.

Brief notes on psychedelics abroad.

They meet with no governmental interference in the various parts of the world where untold millions of people chew or smoke cannabis as freely as we drink alcoholic beverages. The same appears to be true for a number of South American countries. West-German law permits the marketing of any pharmaceutical specialty if it has been registered

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by the Federal Department of Health; a report on the nature and extent of the pharmacological and clinical trials and an evaluation of observed side-effects must be filed. Before granting the sale of new drugs, Canada demands a statement that their safety has been established by tests. In the United Kingdom, on the basis of a skimpy statute, as many as fifteen different organizations may examine a new drug and prevent marketing. Each canton of Switzerland has its own pharmaceutical legislation; an intercantonal office has controlled "medicaments" since 1954. Italian drug law is up for a probably thorough-going revision. Until 1941, drugs were not regulated in France; since 1959, the Ministry of Public Health issues or denies a sales permit according to safety, stability, conditions of use, and contraindications; the newness of the drug is immaterial.

A legal framework into which psychedelics can be smoothly fitted does not exist. Inner-space law today is in the stage of under-development which outer-space law was in A.D. 1903 when the Brothers Wright launched their airplane at Kittyhawk or, perhaps, when the Brothers Montgolfier ascended in the first air balloon, a hundred years earlier. Until it has matured, scholars in search of external on behalf of internal freedom will feel frustrated. They may believe themselves to be fugitives from injustice but in truth are victims of legal confusion engendered by the reversal of the scientific object, from the universe without to the universe within. Until psychedelics have found *their* place in law, a good many concrete questions will not be answerable with confidence.

[*Editor's Note*: Since this article went to press, an extremely important decision has been handed down by the California Supreme Court. The following description is quoted from the *San Francisco Chronicle*, August 25, 1964: ". . . in a 6-to-1 decision, the court ruled that American Indians using the hallucinatory drug peyote in their religious rites are not in violation of the State's narcotic laws. The landmark decision, written by Justice Mathew O. Tobriner, said use of the non-habit forming drug in 'honest rites' is protected by the First Amendment which guarantees freedom of religious beliefs. . . . Justice Tobriner wrote that 'law officers and courts should have no trouble distinguishing between church members who use peyote in good faith and those who take it just for the sensation it produces.' In a companion case, the court ruled that anyone arrested for possession of the drug must prove to a court that he falls within the religious exemption."]

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The Regulation of Psychedelic Drugs

ROBERT H. BARRIGAR

"It is precisely because the fruits of science can be as poisonous as they can be sweet that public understanding of their power is indispensable."

— Hans Selye, M.D.

Recently, controversy has arisen in both the popular¹ and scientific² press over the use of psychedelic drugs. The controversy has stemmed partly from the dismissal of two Harvard Psychology professors who used student volunteers in their drug experiments,³ and from the later activities of the same two professors and others as members of the International Federation for Internal Freedom, which advocated non-medical experimentation with psychedelic drugs.⁴ And undoubtedly the controversy has arisen partly because of rather sensational reports of some of the more bizarre effects of the drugs (example: for two days one person who had taken a psychedelic drug thought he was only six inches tall).⁵ As a result, investigators of psychedelic drugs have reason to consider their legal responsibilities in research, and proponents of the use of the drugs must determine the extent to which they may legally procure and use the drugs.

This paper therefore examines the legal limitations on the distribution and use (including experimental use) of psychedelic drugs, and the constitutionality of such limitations. Because the use of psychedelics is relatively novel and controversial, these drugs serve as excellent examples to illustrate the operation of the 1962 federal "new drug" legislation. Because the drugs have been used to promote religious experiences, they raise the unusual problem of the conflict between freedom of religion and legislative control of drugs. And in a broad sense, control of psychedelics reflects social and legal policy towards the novel, the unconventional and the potentially hazardous.

The paper does not discuss in detail the liability of manufacturers of psychedelic drugs to consumers injured as a result of ingesting the drugs. This problem does not seem to differ from that of liability for damage caused by drugs generally, which has been dealt with elsewhere.⁶ A recent leaning toward strict liability is indicated in the

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holding that a drug manufacturer is liable to a consumer for any defect in his product, even in the absence of a contract between them,⁷ and even though the manufacturer was not negligent.⁸ However, a product which causes harmful effects is not defective for that reason only; a manufacturer will avoid liability for the harmful effects of a perfectly-made article if he gives adequate warning of the possible occurrence of such effects.⁹ If the article is a drug, it is sufficient for the manufacturer to warn that the drug should not be taken without a physician's prescription.¹⁰ But violation of food and drug legislation has been held to be *per se* negligence.¹¹

Because of the unfamiliarity of many laymen with psychedelic drugs, the following resumé of the scientific and social background relating to psychedelic drugs is included.

SCIENTIFIC AND SOCIAL BACKGROUND

What are psychedelic drugs?

Psychedelic drugs (also referred to as "psychotogenic", "hallucinogenic", "psychotomimetic", and "consciousness-expanding"¹²) have been defined by the originator of the term "psychedelic"¹³ as

... substances that produce changes in thought, perception, mood and, sometimes, in posture, occurring alone or in concert, without causing either major disturbances of the autonomic nervous system or addictive craving, and although, with overdosage, disorientation, memory disturbance, stupor, and even narcosis may occur, these reactions are not characteristic.¹⁴

Included among the psychedelic drugs are *d*-lysergic acid diethylamide (LSD), psilocybin, mescaline, and a number of lesser-known drugs.¹⁵ The group contains both synthetic and naturally-occurring substances; marijuana and hashish are sometimes included in the latter sub-group.¹⁶

Psychedelics constitute only one of several types of mind-affecting drugs. Hofmann, the discoverer of LSD,¹⁷ has listed five other classes, viz: (1) analgesics or euphorics (including opium derivatives); (2) sedatives or tranquilizers (such as reserpine); (3) hypnotics (including barbiturates); (4) inebriants (e.g. alcohol, ether); and (5) stimulants (such as caffeine).¹⁸ The psychedelics differ from drugs in the other classes,

... in that the latter for the most part modify only the mood; they either calm or stimulate it. In contrast with this, the so-called hallucinogens or psychotomimetics produce profound and acute changes

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in the sphere of experience, in the perception of reality, changes even of space and time and in consciousness of self.¹⁹

Psychedelic substances exist naturally in certain species of mushroom and other flora.²² Mescaline is found in the cactus *Lophophora Williamsii*, commonly known as peyote (or "peyotl", "pellote"), which grows in the southern part of North America.²³ Psilocybin and psilocin are the active principles of hallucinogenic mushrooms found in Mexico.²⁴ It has recently been discovered that the seeds of some species of the common morning glory have psychedelic properties.²⁵

Indeed, it appears that many common substances have psychedelic effects when ingested — for example, nutmeg,²⁶ plastic cement,²⁷ paint and lacquer thinners,²⁸ and gasoline.²⁹ The fact that such substances are in common use implies that total prohibition of all psychedelic substances is impracticable.

Effects of Psychedelic Drugs

Psychedelic drugs may cause euphoria, depression, time disorientation, illusions and hallucinations, confusion, unresponsiveness, and loss of inhibitions. They have a direct biochemical effect, not completely understood, on the nervous system.³¹ Because the behavior of persons under the influence of the drugs is sometimes similar to that of psychotics, the drugs are often called "psychotomimetic".³² For example, subjects who ingested LSD were found to exhibit

. . . changes in perception, impaired concentration, inability to think abstractly, make associations, organize and interpret experiences. They lost the sense of self-identity and frequently attributed their own feelings to other persons or physical objects.³³

In short, "retaining full consciousness, the subject experiences a kind of dream-world, which in many respects seems to be more real than the customary normal world."³⁴

Under the influence of LSD, subjects have shown impairment of memory, thought, and intellectual capabilities such as ability to think abstractly.³⁵ However, such impairment may be caused not by a failure in mental powers, but by preoccupation of the subject with his experience and by his attitude that cooperation with an interrogating investigator is not worth while.³⁶ "The very fact that someone should want to test [the subject] . . . may seem absurd and may arouse either hostility or amusement."³⁷

Effects of the psychedelics vary greatly with the mood of the subject and with the social and psychological context.³⁸ The sensory

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effects occur a short time after ingestion and typically last several hours, but in unusual cases have persisted for days or weeks.³⁹

Subjective reactions to psychedelic drugs have varied from very good to very bad.⁴⁰ The reaction of the discoverer of LSD to his first experience under the influence of the drug is typical:

Occasionally I felt as if I were out of my body. I thought I had died. My ego seemed suspended somewhere in space, from where I saw my dead body lying on the sofa.⁴¹

A variety of extraordinary reactions to psychedelic drugs have been reported.⁴² However, in four studies, a substantial majority of subjects found the psychedelic experience pleasant and of lasting benefit.⁴³ A significant number described the experience as religious or mystical.⁴⁴

Whether repeated ingestion of psychedelic drugs causes habituation is not yet clear. The drugs apparently are not addictive — i.e., they do not create physiological dependence as does heroin, for example.⁴⁵ Studies of consumption of peyote by Indians over several decades indicate that it does not cause habituation,⁴⁵ but an increasing number of informed scientists believe that habituation (meaning psychological rather than physiological dependence⁴⁶) to the drugs can and does occur.⁴⁷

Furthermore, there is considerable evidence that in a small minority of cases, ingestion of psychedelic drugs can cause lasting psychosis and persistent social and psychological maladjustment.⁴⁸ In rare instances, suicide or attempted suicide has followed ingestion of the drugs.⁴⁹ However, the reported cases of suicides or attempted suicide have involved psychiatric patients with histories of instability.⁵⁰ It is arguable that such persons would have met disaster sooner or later anyway. It has also been suggested that unstable persons are more attracted than normal persons to the drugs.⁵¹ If this is so, the incidence of psychedelic casualties may be higher than would occur in the normal population.

On the whole, the drugs seem to be relatively safe. A study of some 25,000 ingestions of LSD revealed that psychotic reactions lasting more than 48 hours were observed in fewer than two-tenths of one per cent of the cases.⁵² Rats have survived one thousand times the normal human dose of LSD without lasting harm.⁵³

Some observers have noted persistent harmful but not psychotic after-effects in previously normal persons who have taken doses of

psychedelic substances.⁵⁴ David C. McClelland, Chairman of the Harvard Center for Research in Personality, listed these after-effects as: (1) dissociation and detachment (a feeling of being above and beyond the normal world); (2) interpersonal insensitivity; (3) religious and philosophical naiveté — concern with oneself rather than humanity; and (4) impulsivity.⁵⁵ According to other scientists, "there is a tendency for those who ingest hallucinogens habitually to make the drug experience the center of all their activities."⁵⁶

There are conflicting reports on the stimulation of sexual desire by the psychedelics.⁵⁷ Some of the substances have been historically associated with orgiastic behavior;⁵⁸ others are said to diminish the sexual urge.⁵⁹ It has been further suggested that by themselves the drugs have no direct effect on sexual desire; they merely provide an unusual experience which the subject may or may not find appropriate for sexual activity.⁶⁰

Uses and Abuses of Psychedelic Drugs

Mental illness is one of the most prevalent and least understood diseases afflicting mankind,⁶¹ and the need for mental health research is pressing.⁶² In recent years, investigators have hypothesized an organic basis for schizophrenia, and some evidence has been adduced tending to substantiate the hypothesis.⁶³ If it is true that "behind every crooked thought there lies a crooked molecule,"⁶⁴ then any drug or chemical which induces psychotic symptoms in normal persons merits investigation as a possible clue to the cause of psychosis, and the psychedelics are such substances.⁶⁵ While there is yet no definite agreement as to the mode of biochemical action of psychedelic substances on the brain,⁶⁶ most investigators would agree that "in psychedelic drugs we have a remarkable opportunity for interesting research."⁶⁷

In addition to using psychedelics for research, psychiatrists have attempted to use the drugs as therapeutic agents, mostly in cases of neurosis.⁶⁸ Reports on the results of such therapy vary widely,⁶⁹ but there have been positive results in some cases.⁷⁰ The drugs have proven particularly valuable in the treatment of alcoholics,⁷¹ and preliminary experiments on convicts have indicated the possibility of improved recidivism rates following psychedelic drug therapy,⁷² as well as improved behaviour patterns among criminal psychopaths.⁷³ Some success has been obtained in using LSD as an analgesic for patients with severe and prolonged pain, such as occurs in advanced cancer cases.⁷⁴

The ability of psychedelics to bring to light repressed childhood memories makes the drugs useful as psychoanalytic tools.⁷⁵ However, persons having non-psychotic schizoid personalities may become psychotic after ingestion of psychedelics.⁷⁶

If psychedelic drugs seem to be bizarre therapeutic agents, let it be remembered that many common psychotherapeutic measures are equally drastic — for example, electric shock treatment, and lobotomy.

Undoubtedly the most controversial use of psychedelic drugs is the creation of personality change in normal individuals.⁷⁷ A significant number of normal subjects who had taken psychedelics reported such lasting effects as "a greater understanding of the importance and meaning of human relationships", "a greater awareness of God, or a Higher Power, or an Ultimate Reality", "greater tolerance of others", "a set of new decisions and new directions for my life."⁷⁸ However, objective evidence of improvement in personality of normal persons seems to be lacking, perhaps because of an absence of objective criteria for assessing personality improvement in normal individuals. Proponents of personality change through the psychedelic experience nevertheless state categorically: "we know, yes we know, that science has produced methods for dramatically altering and expanding human awareness and potentialities,"⁷⁹ and "Make no mistake: the effect of consciousness-expanding drugs will be to transform our concepts of human nature, of human potentialities, of existence."⁸⁰ The company of persons who believe themselves to have benefited from the psychedelic experience has included such distinguished scholars as Aldous Huxley⁸¹ and Havelock Ellis.⁸²

Closely associated with the phenomenon of personality change is the mystical or religious nature of the psychedelic experience which is reported by many subjects. "There appear to be religious aspects of the drug experience that may bring about a change in behavior by causing a 'change of heart'."⁸³ The subject may experience a "rebirth", or a unity of himself with his environment that leads him to conclude that "all is one".⁸⁴ In a study of four hundred volunteers of whom less than ten per cent were orthodox believers or churchgoers, more than half the group reported religious aspects of the psychedelic experience.⁸⁵ The psychedelic experience has been seriously investigated by a number of active religious groups and leaders.⁸⁶

Furthermore, it is well-known that man has for centuries made use of naturally-occurring psychedelic substances for religious purposes.⁸⁷

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The example closest to home is that of the Native American Church, whose Indian members have since the nineteenth century eaten peyote as part of their rites,⁸⁸ and whose forefathers did likewise in pagan and Christian rituals prior to the Church's establishment.⁸⁹ Adherents to the peyote religion believe that by eating peyote, they absorb God's Spirit and receive divine revelations.⁹⁰ Members of the sect observe other Christian doctrines, accept Christian ethics, and avoid alcohol.⁹¹

While one may be skeptical of drug-induced religion, material aids to spiritual improvement such as bread, wine and incense are common. Objectively, the psychedelic contribution to religion is hardly more unusual than that of trances, Yoga postures, or glossolalia.

Undoubtedly, the currently prevailing social appraisal of psychedelic experiences is one of suspicion and perhaps hostility.⁹² Bizarre drug experiences, misuse of the drugs by students and others for "kicks", and occasional casualties have all played a contributing part to social apprehension. But perhaps the main reason for society's outlook is its inertia, i.e. its reluctance to accept the utility or desirability of an uncommon practice. This should be especially true in American society of a practice which is introspective, following Oriental tradition. Perhaps most Occidentals would subscribe to these views of Harvard psychologist David C. McClelland :

It is probably no accident that the society which most consistently encouraged the use of these [psychedelic] substances, India, produced one of the sickest social orders ever created by mankind, in which thinking men spent their time lost in the Buddha position under the influence of drugs exploring consciousness, while poverty, disease, social discrimination, and superstition reached their highest and most organized form in all history.⁹³

Professor McClelland's remarks were directed against general use of psychedelics. However, informed medical opinion, while cautious, tends to favor the use of psychedelic drugs at least for mental research purposes, if proper safeguards and controls are enforced.⁹⁴

Proponents of the psychedelic experience can perhaps find hope in the fact that many valuable medical advances, when first discovered, were denounced by orthodox opinion. Included in the group were Jenner's smallpox vaccine, Lister's theory of antisepsis, sulfa drugs, and cod liver oil.⁹⁵ The chairman of the U.S. Army's Commission on Infectious Disease found early reports on the efficacy of penicillin to be incredible, and poured down the drain a sample delivered for clinical testing.⁹⁶ When coffee was first introduced into the commerce of the

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world, it was widely condemned as Devil's brew, and was prohibited, suppressed, and destroyed.⁹⁷ Accordingly, it would be premature to assert that the bulk of society will continue to reject psychedelic drugs as a means for personality improvement.

THE CONSTITUTIONAL BASIS FOR REGULATING PSYCHEDELIC DRUGS

In general, Congress may legislate with respect to drugs in interstate commerce under the Commerce clause of the Constitution,⁹⁸ and with respect to narcotics under its revenue powers.⁹⁹ The constitutional basis for State legislation lies in the police power of the States, which may be exercised to promote public health and safety.¹⁰⁰ This might be the end of the matter were it not for the arguments raised by proponents of psychedelic drugs. They have urged that any person who is mentally competent should have the right to explore the varieties of conscious experience if he can do so without harming himself or others.¹⁰¹ International Federation for Internal Freedom leaders Leary and Alpert insist that "the Fifth Freedom — the freedom to expand your own consciousness — cannot be denied without due cause."¹⁰²

If there is such a Fifth Freedom, it has yet to be specifically recognized by the courts. Freedom of thought is not constitutionally protected *per se*, but is indirectly protected through the more objective freedoms such as freedom of speech, of the press, and of religion. In any case, conventional notions of freedom of thought generally involve concepts such as the freedom to accept or reject a proposition without fear of official sanction. Such notions do not obviously extend to the freedom to experience a drug-induced para-normal state of consciousness. Accordingly, it is necessary to turn to the legally recognized freedoms.

It has been advanced as a basic legal principle that "every person has the right to protect his health as he deems best, as part of his fundamental personal liberties."¹⁰³ The existence of this principle has been argued in two cases. In *United States v. Olsen*,¹⁰⁴ the court held that such a right, if it exists, is subordinate to the right of Congress to regulate food and drugs.¹⁰⁵ And in *Jacobson v. Massachusetts*,¹⁰⁶ the court upheld the right of the State to enact "such reasonable regulations . . . as will protect the public health and the public safety,"¹⁰⁷ stating that any right of the defendant to care for his own body and

health as he saw fit might be restrained "for the common good".¹⁰⁸ On the strength of these two cases, it must be concluded that proponents of psychedelic drugs have the right to use them in "protecting their health" only to the extent permitted by legislation, unless some other constitutional principle dictates otherwise.

It is arguable that total prohibition of possession of psychedelic drugs in the hands of individuals would be unconstitutional as defying the basic right to have and use private property. A closely analogous case in which issue was argued is *Ex parte Francis*.¹⁰⁹ The Florida statute in issue in the *Francis* case sought to prohibit the possession or ownership of intoxicating liquor, even for personal consumption, in "dry" counties. In declaring the statutory provision unconstitutional, the court held that inasmuch as liquor is capable of private ownership (and so recognized in "wet" counties), the legislature might limit its sale, but could not entirely prohibit its private use and possession.¹¹⁰

In contrast to the *Francis* case, illegal possession of opium was in issue in *Luck v. Sears*,¹¹¹ but again the defendant challenged the constitutionality of a statute totally prohibiting its possession. In holding the legislation valid and not in violation of the "life, liberty or property" protection of the Constitution, the court distinguished the case at bar from cases involving possession of intoxicating liquor:

It is a matter of common knowledge that intoxicating liquors are produced principally for sale and consumption as a beverage, and so common has been their manufacture and use for this purpose that they are regarded by some courts as legitimate articles of property, the possession of which neither produces nor threatens any harm to the public. But the use of opium for any purpose other than as permitted in this act [i.e., for medicinal use] has no place in the common experience or habits of the people of this country, but is admitted by all to be an insidious and demoralizing vice, injurious alike to the health, morals, and welfare of the public.¹¹²

Psychedelic drugs cannot be arbitrarily placed in the same category as either opium or alcohol. The socially-accepted use of psychedelics, as of opium, probably does not extend, at present, beyond medicinal use. But it is impossible to state on the basis of present evidence that consumption of psychedelics is "an insidious and demoralizing vice", especially when there appears to be some religious value in the psychedelic experience. Like alcohol, psychedelic drugs have acknowledged legitimate uses, and are capable of ownership for at least some purposes. But their present use can hardly be regarded as

"common". And the injuries attributable to their use, while undoubtedly occurring less frequently than casualties attributable to alcohol, may be of sufficient seriousness to warrant a holding that the drugs do threaten harm to the public. Accordingly, it is hard to say with confidence what attitude a court would take toward a statute totally prohibiting private possession and use of psychedelic drugs. No doubt the decision, if and when it is made, will depend upon the developing social attitude towards the drugs, and upon the availability of objective evidence of the relative benefits and dangers of their use.

Of course, outright prohibition must be distinguished from regulation. Statutes which limit, rather than prohibit, possession, distribution or use of drugs have been repeatedly held to be constitutional.¹¹³

Freedom of Religion

Perhaps the most forceful attack which can be made upon the constitutionality of statutes limiting the availability and use of psychedelic drugs is that such statutes prevent persons from practising their religion — for, as discussed above, the drugs have been used to promote religious experiences.¹¹⁴ Proponents of the religious use of the drugs might well echo these words of a federal judge:

There is hardly a group of religious people to be found in the world who do not hold to beliefs and regard practices as important which seem utterly foolish and lacking in reason to others equally wise and religious; and for the courts to attempt to distinguish between religious beliefs or practices on the ground that they are reasonable or unreasonable would be for them to embark upon a hopeless undertaking and one which would inevitably result in the end of religious liberty.¹¹⁵

Notwithstanding comments such as the foregoing, it is not at all clear that psychedelic drug consumption for religious purposes would be given absolute constitutional protection by the courts. Indeed, at present there is more reason for reaching the opposite conclusion, as the following discussion attempts to indicate.

In the first place, the courts have tended to limit absolute constitutional protection of religion to freedom of belief, as opposed to freedom of action. While "the truth or falsity of a religious belief is beyond the scope of a judicial inquiry,"¹¹⁶ nevertheless "laws are made for the government of actions, and while they cannot interfere with mere religious beliefs and opinions, they may with practices."¹¹⁷ In other words, freedom of religion "embraces two concepts — freedom

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to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be."¹¹⁸

But some acts are symbolic only. Oliver Cromwell is alleged to have said :

As to freedom of conscience, I meddle with no man's conscience, but if you mean by that, liberty to celebrate the mass, I would have you understand that in no place where the power of the Parliament of England prevails shall that be permitted.¹¹⁹

Cromwell apparently did not perceive that freedom of religion is eviscerated by the inability to perform those symbolic acts, especially sacramental acts, which are involved in the practice of the religion in question. American courts, however, have drawn the necessary distinction between those acts necessary to worship and those which are not. Thus, a New York court was able to assure defendants that "full and free enjoyment of religious profession and worship is guaranteed, but acts which are not worship are not."¹²⁰ The court decided that failure to provide medical care for the defendants' child was an act which could not be justified by freedom of religion (the parents believed in the healing power of prayer); such an act went beyond freedom of worship.¹²¹ In contrast, a State statute requiring schoolchildren to salute the flag was held by the Supreme Court to be in violation of the constitutional protection of religion.¹²² In this case the questioned act was of a symbolic nature, and thus invaded the sphere of freedom of conscience.

It surely cannot be argued successfully that ingestion of a psychedelic drug is no more than a symbolic religious act. It is also an act which can have, in some instances, a harmful effect on the person taking the drug and possibly on other members of society.¹²³ This being the case, it falls within the category of acts which are given only qualified protection by the courts under the Constitution, subject to the right of the state to protect the public interest, and in particular, public health and safety.¹²⁴ Indeed, it has been frequently held that the state may undertake positive action infringing the religious beliefs of some citizens — for example, it may fluoridate the water supply,¹²⁵ quarantine its citizens,¹²⁶ and require compulsory vaccination.¹²⁷

While the Supreme Court has stated that there must be a "clear and present danger to a substantial interest of the State"¹²⁸ in order to justify restricting an act practiced for a religious cause, this principle appears to have been eroded in subsequent cases.¹²⁹ Furthermore, the

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hazards posed by psychedelics to the public health probably constitute a sufficient "clear and present danger" to warrant legislative control of the drugs. To permit freedom of religion to prevail over such legislation undoubtedly "would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself."¹³⁰

In part, the probable rejection by courts of freedom of religion as a legally sufficient reason for ingestion of psychedelic drugs in defiance of controlling legislation would be because of the unconventionality of the practice.¹³¹ Such judicial suspicion of the unorthodox is not unusual. For example, in condemning the practice of polygamy in the *Mormon Church* case, the Supreme Court termed the practice an offense "against the enlightened sentiment of mankind",¹³² and declared :

One pretence for this obstinate course is, that their belief in the practice of polygamy, or in the right to indulge in it, is a religious belief, and therefore, under the protection of the constitutional guaranty of religious freedom. This is altogether a sophistical plea. No doubt the Thugs of India imagined that their belief in the right of assassination was a religious belief, but their thinking so did not make it so.¹³³

And in another Mormon case, the Supreme Court posed this question :

Suppose one believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice?¹³⁴

One observer, discussing cases holding that Jehovah's Witnesses must permit their children to accept blood transfusions, argued that

Society commonly accepts the religious opinions of larger groups who decline to accept certain medical treatment, but the same tolerance is not shown toward minorities. . . .¹³⁵

On the basis of principle and tradition, then, it seems likely that courts would uphold as constitutional legislation limiting the use and distribution of psychedelic drugs. But there are a few cases directly on point, all involving Indian peyotists.¹³⁶ In one of the reported cases, the constitutional issue, although argued, was not decided.¹³⁷ In another case, the trial court held that an ordinance prohibiting the importation of peyote into a Navajo nation was a valid exercise of the police power,¹³⁸ but the affirming opinion of the Court of Appeal was based entirely on the holding that no constitutional protection of religion is guaranteed to Indian nations, in the absence of direct

Congressional action, because the Indian nations are distinct political entities not directly subject to either the First or Fourteenth Amendments of the United States Constitution.¹³⁹

In one reported case, however, the court did reach the religious issue and decided it. This was *State v. Big Sheep*,¹⁴⁰ a Montana case in which an Indian member of the Native American Church was charged with unlawful possession of peyote. The defendant offered to prove that peyote was used by members of the Church only for sacramental purposes, and pleaded freedom of religion as a defense to the charge. The court held, however, that the defense could not be upheld, and declared:

It was clearly within the power of the legislature to determine whether the practice of using peyote is inconsistent with the good order, peace and safety of the state. . . . While laws cannot interfere with mere religious belief and opinions, they may inhibit acts or practices which tend toward the subversion of the civil government, or which are made criminal by the law of the land.¹⁴¹

In an unreported decision,¹⁴² of which I have only secondary knowledge,¹⁴³ a Wisconsin Indian was apparently acquitted on a charge of illegally shipping peyote through the mails, on the defense that freedom of religion justified his action.

Finally in a recent unreported Arizona case,¹⁴⁴ a member of the Native American Church was charged with illegal possession of peyote. The defendant admitted possession, but challenged the statutory prohibition *inter alia* upon the ground of freedom of religion under the United States Constitution. McFate, J., agreed that the State, "under the police power, may regulate or prohibit the use or possession of substances, even though used in religious rites, if reasonably necessary to protect the public health or safety." However, he found on the evidence that peyote consumers are in possession of all "mental faculties", that "there are no harmful after-effects from the use of peyote," and that it "is not habit-forming". He further found that the only significant use of peyote is by the Native American Church members, and that "there is nothing debasing or morally reprehensible about the peyote ritual." The court therefore concluded that the Indians' use of peyote was consistent with the public health, morals and welfare, and that the statute outlawing its use was unconstitutional.

It is possible that the conflict of authority between the two unreported peyote cases and *State v. Big Sheep* results partly from the nature of the evidence before the courts involved. In the unreported

Arizona case, McFate, J., nowhere alludes to the possibility of harm resulting from the ingestion of peyote. Had the court been presented with scientific evidence of the potential hazards of psychedelic substances, it is unlikely, in my view, that the court would have reached the conclusion it did. Furthermore, in the case of a conflict of scientific opinion, it is hard to resist the view of the Montana court in *State v. Big Sheep* that it is the duty and power of the legislature, not of the courts, to determine whether the good order, peace and safety of the state are in any way threatened by uncontrolled use of peyote.¹⁴⁵

Accordingly, unless proponents of the use of peyote (or any other psychedelic substance) can prove that it is so safe as to constitute no possible threat to the public health, order, morals, and safety, the judicial attitude will probably pattern itself on that of the court in *State v. Big Sheep*. And in the hypothetical case in which all available evidence is presented, it is hard to resist a finding of constitutionality of statutes regulating psychedelic substances.

FEDERAL REGULATION OF PSYCHEDELIC DRUGS

Federal Legislation Applicable to Psychedelics

Federal control of drugs is exercised largely through the Federal Trade Commission, the Bureau of Narcotics, and the Food and Drug Administration (FDA), and through the legislation and regulations discussed below.

The Federal Trade Commission is empowered to curb false advertising, by use of the mails or otherwise, which is intended or likely to induce the purchase of food, drugs, devices and cosmetics.¹⁴⁶ Because this area of control does not seem to present problems peculiar to psychedelic drugs, it will not be further discussed.

Federal narcotics legislation¹⁴⁷ is dependent for constitutional validity on the revenue powers of Congress.¹⁴⁸ Narcotic drugs are defined medically as those which produce "stupor, insensibility, or sound sleep",¹⁴⁹ and this definition applies to some psychedelic substances.¹⁵⁰ However, as used in federal narcotics legislation, the term "narcotic drug" is restricted to opium, morphine, coca leaves, codeine; and their preparations, derivatives, etc.¹⁵¹ The term "opiate" refers to any drug which, after due procedural formalities are observed, is proclaimed by the Secretary of the Treasury to have addiction-forming or addiction-sustaining liability similar to that of morphine or cocaine.¹⁵²

However, no psychedelic drug has been so proclaimed,¹⁵³ and it is unlikely that any psychedelics will be so proclaimed in view of present indications that psychedelics are not addictive.¹⁵⁴

The narcotic marijuana is given special legislative treatment.¹⁵⁵ While it has been included by some scientists in the category of psychedelic drugs,¹⁵⁶ its properties seem to be somewhat different from those of most other psychedelics,¹⁵⁷ and its social use is frequently associated with the misuse of addictive narcotics. Its exceptional status in American legal and social contexts renders it a major subject in its own right, and therefore inappropriate for detailed discussion here.¹⁵⁸

The Federal Food, Drug and Cosmetic Act¹⁵⁹ (hereinafter referred to as "the Act") includes most of the general federal legislation applicable to drugs. Because "practically all drugs are dangerous in some degree",¹⁶⁰ and because the Act touches "phases of the lives and health of people which, in the circumstances of modern industrialism, are largely beyond self-protection",¹⁶¹ such legislation has been rightly described as "essential to the health and well-being of the American people."¹⁶²

In order for the Act to apply to psychedelics, they must fall within the definition of "drug" in Section 201(g) of the Act, the relevant parts of which read as follows :

The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals. . . .

In the three official pharmacopoeias named in the above definition, I was able to locate atropine and belladonna, both of which have psychedelic properties,¹⁶³ but none of the more common psychedelics such as LSD, mescaline or psilocybin was listed. However, the term "drug" is not confined to drugs so listed, as the statute clearly indicates and as has been held in court.¹⁶⁴ Insofar as psychedelic drugs are used for therapeutic purposes, they satisfy the requirements of subclause (2) above. Further, psychedelics are "intended to affect . . . (a) function of the body", and therefore satisfy subclause (3), even if not used therapeutically. The Food and Drug Administration agrees with this interpretation.¹⁶⁵ Although it might be argued that psychedelics are intended to affect the mind rather than the body, a more realistic

view is that they affect the brain, a part of the body, through some biochemical process.¹⁶⁶

A more difficult problem is presented by those psychedelic substances, such as morning glory seeds, which have everyday uses independent of their psychedelic properties. Are such substances "drugs" within the meaning of the Act? The word "intended" in section 201(g) (3) of the Act implies that the answer depends upon the purpose for which the substances are used. Such has been held by a court construing this section :

It is the *intended use* of an article which determines whether it is a drug, regardless of its inherent properties or dictionary definition.¹⁶⁷

Therefore, if morning glory seeds are used for the purpose of growing morning glories, they are not drugs; but if used for their psychedelic effects, they are drugs within the meaning of the Act.

As drugs subject to the Act, psychedelics are within the purview of the statutory prohibitions against adulteration and misbranding, in common with other drugs.¹⁶⁸ Apart from the "new drug" section of the Act, discussed below, the only specific substantive provisions of particular interest in relation to psychedelics are sections 502(d) and 502(e) (1). The first of these requires that any drug containing any quantity of, *inter alia*, peyote, must be labeled "Warning — May be habit forming", in juxtaposition with a statement on the label of the quantity or proportion of peyote in the drug. (Incidentally, it is no defense to a violation of this provision that peyote has no habit-forming potential, for once so designated, it is considered to have such as a matter of law.¹⁶⁹) Section 502(e) (1) of the Act requires that any drug containing atropine or its derivatives include on its label the quantity or proportion of such substance.

Psychedelics are, of course, subject not only to the Act itself but to regulations promulgated under it by the FDA (nominally by the Secretary of Health, Education and Welfare).¹⁷⁰ The Secretary's power is "one of regulation only — and administrative power only — not a power to alter or add to the act."¹⁷¹ Nevertheless, this power has been called a "quasi legislative"¹⁷² power under which the Secretary is given a wide discretion and his judgment, if based on substantial evidence of record and within statutory and constitutional limitations, is controlling even though the reviewing court might on the same record have arrived at a different conclusion. The statute contemplates that he shall not arbitrarily exercise his power, but shall act only

upon a conscientious judgment derived from a consideration of the facts and conditions to which the regulation is to be applied.¹⁷³

Once the regulation is promulgated by the Secretary in conformance with the Act, it "has the force and effect of law to the same extent as though written into the statute."¹⁷⁴

It should be noted that the validity of the regulations promulgated by the Secretary cannot always be challenged by the defendant in a court proceeding brought by the FDA. Because the Act specifically provides a procedure under which many of the regulations may be challenged,¹⁷⁵ courts have held that such regulations may not be challenged collaterally as a defense to an action except on constitutional grounds¹⁷⁶ or on the ground that statutory procedural formalities have not been observed.¹⁷⁷ Because the statutory procedure for challenging many regulations under the Act must be initiated within thirty days after the Secretary publishes his proposed regulations,¹⁷⁸ it is important that persons likely to be affected by the regulations be faithful readers of the Federal Register or of a reliable food and drug news service.

Psychedelics as "New Drugs"

Under the American system, unfortunately, it sometimes takes tragedy to supply the impetus for needed social and legislative reform. In 1937, more than one hundred persons died as a result of taking a new medicine which had been tested for appearance, fragrance, and flavor, but not for safety.¹⁷⁹ On June 25, 1938, President Roosevelt signed a new Food, Drug and Cosmetic Act.¹⁸⁰ Under this Act, which, as amended, is still in force, new drugs could not be legally marketed unless recognized by experts as safe.¹⁸¹ In the words of one commentator,

The idea that the safety of an article should be officially established before it is permitted to be marketed is certainly one of the important concepts of our times. . . . The quarter century since its [the Act's] enactment has seen a revolution in therapeutics. Over 14,000 New Drug Applications have been received and processed. Ninety per cent of the drugs in use today were unknown before 1938, most of them cleared through the New Drug procedure, yet with a remarkably small incidence of mishaps and mistakes.¹⁸²

But the 1938 Act was not perfect. In 1962, the thalidomide tragedy stimulated a previously reluctant Congress into passing the Drug Amendments Act of 1962.¹⁸³ Under the new legislation, the "new drug" provisions of the 1938 Act were tightened up;¹⁸⁴ for example,

manufacturers of new drugs are now required to convince the FDA that the drugs are effective as well as safe, before the drugs may legally be marketed.¹⁸⁵

Opponents of the 1962 legislation expressed fears that further regulation and "red tape" might tend to prevent or delay useful new drugs from reaching the market,¹⁸⁶ that physicians and drug manufacturers would tend to rely not on their own trained judgment but on that of the FDA,¹⁸⁷ that adequate criteria for judging the effectiveness of new drugs are not set forth in the legislation,¹⁸⁸ and that history is replete with examples of rejection by orthodox opinion of new drugs and other medical advances.¹⁸⁹

Nevertheless, the evidence indicates that reforms were needed. Over a recent four-year period prior to the 1962 legislation, some 20 new drugs which had received FDA approval were removed from the market as having dangerous side effects (including carcinogenic effects, cataracts, hepatitis, liver damage, blood dyscrasias) some of which could lead to death.¹⁹⁰ And the manufacturers of new drugs have not always been cooperative with the FDA. For example, the manufacturer of thalidomide, in an effort to get the drug on the market, contacted the FDA fifty times, and some of its pressure tactics were vigorous.¹⁹¹ At one point, the company charged that a letter from the FDA's Dr. Kelsey (who was largely responsible for FDA refusal to clear thalidomide) was libelous.¹⁹² And it is not unknown for a drug manufacturer to be charged with falsification of new drug applications.¹⁹³

The FDA appears to be aware of the dangers of too strict new drug regulation.¹⁹⁴ One FDA official stated: "It is not our purpose to interfere with the development of useful new drugs but to promote a responsible approach utilizing the best available methodology."¹⁹⁵ And another representative expressed the view that officialdom should "keep its mind open to dissenting views and to the possibility, however remote, that an unorthodox opinion may contain the germ of truth."¹⁹⁶

It remains to be seen how psychedelic drugs are affected by the present "new drug" provisions. Under the Act as amended in 1962, a "new drug" is defined as

(1) Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any

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time prior to the enactment of this chapter it was subject to former sections 1-5 and 7-15 of this title, and if at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.¹⁹⁷

A regulation under the Act further defines the "newness" of a drug as follows:

The newness of a drug may arise by reason (among other reasons) of:

(1) The newness for drug use of any substance which composes such drug, in whole or in part, whether it be an active substance or a menstruum, excipient, carrier, coating, or other component.

(2) The newness for drug use of a combination of two or more substances, none of which is a new drug.

(3) The newness for drug use of the proportion of a substance in a combination, even though such combination containing such substance in other proportion is not a new drug.

(4) The newness of use of such drug in diagnosing, curing, mitigating, treating, or preventing a disease, or to affect a structure or function of the body, even though such drug is not a new drug when used in another disease or to affect another structure or function of the body.

(5) The newness of a dosage, or method or duration of administration or application, or other condition of use prescribed, recommended, or suggested in the labeling of such drug, even though such drug when used in other dosage, or other method or duration of administration or application, or different condition, is not a new drug.¹⁹⁸

The only gloss put on the foregoing definitions by the case law is that if there is a genuine difference of opinion among experts as to the safety of a drug, it must be concluded that the drug is not generally recognized as safe for the use in question.¹⁹⁹

Probably all psychedelic drugs fall within the statutory definition of "new drugs", at least when used to cause a psychedelic experience, because of the general novelty of the use of drugs for this purpose, and because of the body of informed medical opinion which is yet to be convinced of the safety of the drugs.²⁰⁰ The FDA takes the view that at least some psychedelics are "new drugs".²⁰¹ It is true that some of the drugs, notably mescaline, have been known for decades, and thus might not be considered "new drugs" because of the clause in the statutory definition stating that a drug is not deemed to be a new drug if prior

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to the enactment of the Act (1938) the drug was subject to the 1906 Act, and its labeling contained the same representations concerning its conditions of use. This raises questions of law and of fact with respect to the older psychedelics. Was mescaline (say) as a matter of fact labeled, with respect to its psychedelic use, in substantially the same way in 1938 as it is today, for the same conditions of use? If not, it is as much a "new drug" as the recently-discovered psilocybin. Assuming that this hurdle is overcome, it remains to be seen whether, as a matter of law, the 1906 Act applied to mescaline. In my opinion it probably did. Although the 1906 statutory definition of "drug" did not include clause (3) of the present statutory definition,²⁰² and no section analogous to section 502(d), discussed above,²⁰³ appeared in the 1906 statute, there is evidence that, prior to 1938, peyote (which contains mescaline) was used in the cure, mitigation, or prevention of disease.^{203a} Thus its derivatives, including mescaline, probably qualify as "drugs" under the 1906 Act. However, it is improbable that it and other psychedelics were labeled prior to 1938 for research, personality change, and other psychedelic uses; therefore, for such uses, all psychedelics are "new drugs" under the present Act. I have no information that any new drugs have been cleared by the FDA for psychedelic uses, and at least some have not.^{203b}

The key words in the statutory definition of "new drug" are "safe" and "effective". They are also the key words in section 505 of the Act,²⁰⁴ which prohibits the introduction of any new drug into interstate commerce unless and until the FDA has approved an application showing that the drug is in fact safe and effective. The Commissioner of Food and Drugs has stated: "There are few drugs that are absolutely 100 per cent safe,"²⁰⁵ yet thousands of new drug applications have been approved.²⁰⁶ It is therefore apparent that the legal meaning of the words "safe" and "effective" requires elaboration.

Nearly all drugs are dangerous to some degree and are used despite their dangers.²⁰⁷ The Committee which guided the 1962 drug amendments through the House of Representatives explained:

[A] drug the use of which involves the risk of toxic side reactions is considered "safe" only if the drug is so valuable from the point of its efficacy as to overbalance this risk and if these side reactions are warned against in the proposed labeling of the drug.²⁰⁸

The medical profession also takes a relativistic view of safety. In an official statement to the aforementioned House Committee, the

American Medical Association's representative explained :

A prescription drug is, by definition, "unsafe" in the sense that its use in human beings can and does involve hazards. . . . Only the physician can add the "safety factor" through the knowledge at his command of all the consequences which may follow the administration of a specific dosage of a specific drug to a specific patient.²¹⁰

The approach of the FDA to the meaning of "safety" has been stated in simple terms by the Commissioner of Food and Drugs :

In determining whether or not a new drug is safe . . . we try to learn what the probable side effects and harm to be produced by the drug are.

We try to learn what good it will do.

Then we balance one against the other, and if the good outweighs the harm, we pass it.²¹⁰

According to one expert, the FDA will approve a drug capable of inflicting considerable harm, even death, if it is capable of unusual therapeutic usefulness.²¹¹ Nor does the fact that a drug is habit-forming render it unsafe; it is merely one of the factors to be considered.²¹²

Although there are no reported cases directly on point, presumably the courts would, if the issue arose, accept the foregoing notions of relative safety in construing the "new drug" provisions of the Act. In a case involving a patent application on a new drug, the court stated :

With regard to . . . the nature of "safety" in the field of drugs and medicaments, we take judicial notice that many valued therapeutic substances or materials with desirable physiological properties, when administered to lower animals or humans, entail certain risks or may have undesirable side effects.²¹³

Like "safe", the word "effective" is also a relative term. The House Committee (who originally used the terms "efficacy" and "efficacious" rather than "effectiveness" and "effective" in their draft bill) explained :

The "efficacy" to which the bill refers is not efficacy in the abstract, but efficacy of the drug for use under the conditions prescribed, recommended, or suggested in its proposed labeling.²¹⁴

Language similar to the above appears in the statutory definition of a "new drug" and in section 505 of the Act dealing with new drugs.

Because the safety of a drug is assessed in the light of its therapeutic effectiveness, it might be argued that the addition of "effective" to the relevant statutory provisions is superfluous. The reason for the FDA's requested addition was to prevent manufacturers from making unproved claims for new drugs approved as safe for other purposes.²¹⁵ Although it is not at all clear that such practice by the manufacturers

was permissible prior to the 1962 amendments, the addition of "effective" and "effectiveness" to the new drug provisions should remove any doubt.

But in other respects the inclusion of the "effectiveness" requirement raises new problems. Is a drug "effective" if it has therapeutic value for only half of the patients for whom it is prescribed? For only one per cent? What if some physicians find the drug effective, and others do not? An American Medical Association spokesman, in opposing the grant of authority to the FDA to judge efficacy of drugs, said :

A drug which is, on the average, less efficacious than another, must still be available to every physician since it may be completely efficacious in treating the medical problems of one of his patients. We do not practice medicine on the average — we seek to solve or alleviate the problems of each and every patient.²¹⁶

These A.M.A. fears should be alleviated if courts interpret the "new drug" legislation in the light of the Senate Report on the 1962 amendments. According to the Senate Committee :

When a drug has been adequately tested by qualified experts and has been found to have the effect claimed for it, this claim should be permitted even though there may be preponderant evidence to the contrary based upon equally reliable studies. . . . In such a delicate area of medicine, the committee wants to make sure that safe new drugs become available for use by the medical profession so long as they are supported as to effectiveness by a responsible body of opinion.²¹⁷

At first sight, psychedelic drugs seem to present somewhat unusual problems with respect to convincing the FDA of their safety and effectiveness. While a drug that helps psychotic patients to act normally is clearly valuable, what view should the FDA take of a drug which induces psychotic symptoms in normal people? By some standards, such a drug is inherently unsafe. And in what sense is a drug which causes personality changes "effective"? This sense of the word "effective", especially if the drug is "effective" in causing a mock psychosis, seems to be quite different from the therapeutic effectiveness implicit in the statutory language. Furthermore, if the only use of a psychedelic drug is as a research tool, a verbal paradox arises — research must be done to prove the drug safe and effective for research.

To escape at least some of these dilemmas, it is necessary to recall the relative manner in which the terms "safe" and "effective" are used. It might be argued that any drug which, in moderate doses, renders

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a person unconscious and, in larger doses, causes death, is ineffective and unsafe. Yet anaesthetics act in this manner—but their effect is intended to be temporary only, and for an overriding beneficial purpose. A new anaesthetic is safe and effective if it can be used to achieve its intended purpose with minimal adverse side effects. Similarly, the psychotic symptoms caused by psychedelics are intended to be temporary only, and for an ultimately useful purpose, which may be an improvement in the mental health or personality of the persons taking the drugs, or a better understanding of the psyche by an investigator. Such drugs ought to be deemed “safe” if they can be used beneficially with relatively few casualties.

Nor is there any real contradiction or paradox in stating that limited research should be carried out to determine whether the drugs are safe enough to be used widely as research tools. The FDA is aware of the possibility that a drug may have no other use, and considers that new drug applications for such substances may ultimately be approved.²¹⁸

However, the problem of effectiveness is troublesome. As indicated above, there are conflicting reports as to the therapeutic value of psychedelic drugs.²¹⁹ Presumably the evidence supporting therapeutic value is sufficient, nevertheless, if the viewpoint of the Senate Committee, previously referred to, is adopted.²²⁰ With respect to research use of psychedelics, no criteria have been set forth defining “effectiveness” of drugs as research tools. And FDA approval of a new psychedelic drug application for therapeutic or research purposes would not make the drug available to normal persons who wish to ingest it to improve their personalities. Even if it is agreed that the term “effective” may be applied to personality improvement, it seems difficult to establish adequate criteria for judging whether or not a person’s personality has in fact improved after ingestion of the drug. In short, the new drug legislation was obviously drafted without consideration of the specific problems relating to psychedelics. Presumably the FDA will settle these problems as they arise, on an *ad hoc* basis.

I do not propose to discuss in detail the procedure relating to the preparation and approval of new drug applications. Both the Act²²¹ and the regulations under it²²² contain provisions regarding the forms and particulars required for the applications, the investigations which must be made, and the records which must be kept. The FDA is

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required to keep confidential all information submitted in the applications,²²³ and is required to take action on each application within 180 days of its submission.²²⁴ There are specific provisions for appeal to a court if the FDA denies approval of an application.²²⁵ If new information reveals that approval should not be continued, the FDA may withdraw its approval.²²⁶

On the whole, the procedure seems to work smoothly; the Commissioner stated that there have been only two appeals from FDA objections to new drug applications in more than 20 years.²²⁷

Of current interest is the investigational use which may be made of psychedelic drugs prior to approval of new drug applications for them.²²⁸ Section 505(i) of the Act²²⁹ enables the FDA to promulgate regulations permitting “experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs” to use any unapproved new drug “intended solely for investigational use”. Such use is conditioned upon FDA approval of an application by the sponsor of the investigation, setting forth the qualifications of the investigators, the nature of the investigation, the results of previous research, technical data concerning the composition and manufacture of the drug, and a host of other details.²³⁰ Additionally, each of the sponsor’s investigators must submit a résumé of his qualifications and experience.²³¹ There are also obligations imposed on the sponsor regarding drug shipments, the maintenance of records, and the like.²³²

Nowhere in the Act or Regulations is there any requirement that an investigator be a physician or have any particular training—the Act simply requires that he be “qualified by scientific training and experience to investigate the safety and effectiveness of drugs”. In the past, some psychedelic drug research has been carried out by psychologists with little or no medical or pharmacological training. Would such persons qualify as “experts” under the Act? No clear answer can be given, but one FDA official has stated :

We believe that at least in the early phases of clinical investigation of a novel drug it [the term “expert”] refers to physicians who have experience in drug investigation and are specialists in the field applicable to the specific drug. Furthermore, they should have adequate facilities for investigation with respect to patients, clinical laboratory services, and time to give attention to such studies. This usually does not apply to the busy general practitioner.²³³

Other authorities share the view that not every physician qualifies as

an expert,²⁴⁴ but the right of non-physicians to investigate new drugs remains uncertain. In view of the fact that both psychological and physiological hazards are presented by psychedelic research, it appears necessary to have at least one research-oriented psychiatrist in every psychedelic research project carried out under the Act. However, there seems to be no reason for prohibiting psychologists, chemists and others with no medical training from assisting in such projects, provided proper medical supervision is exercised.

One interesting statutory provision relating to the investigational use of drugs is that the experts must certify

that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where they deem it not feasible or, in their professional judgment, contrary to the best interests of such human beings.²⁴⁵

This is probably merely a statutory confirmation of the common law duty of investigators, as will be discussed in greater detail below.²⁴⁶

Enforcement of Federal Legislation

Section 301 of the Act²⁴⁷ lists a series of prohibited acts, including adulteration, misbranding, and the following "new drug" offenses:

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 505 of this title. . . .

. . . (1) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that approval of an application with respect to such drug is in effect under section 505 of this title, or that such drug complies with the provisions of such section.

To enforce these prohibitions, the FDA (nominally, the Secretary of Health, Education and Welfare) has available a battery of remedies, including seizure of drugs introduced into interstate commerce in violation of the Act²⁴⁸ (which may be accomplished by an *in rem* proceeding against the drugs themselves rather than against any person²⁴⁹), injunction,²⁴⁰ and criminal proceedings which may result in a fine of \$10,000 or less and imprisonment of up to three years.²⁴¹ Even if the owner of the drugs is convinced of their safety, it is no answer to an FDA seizure action that the drugs are in no way dangerous to health, if the Act has in fact been violated.²⁴² Furthermore, one court has held that if an FDA official makes an error of fact or law in

seizing the drugs, his action, if bona fide and not arbitrary or unreasonable, will be sustained.²⁴³ It has also been held that the fact that the Act imposes criminal sanctions does not mean that the FDA has to allege or prove guilty knowledge or intent.²⁴⁴

As indicated above,²⁴⁵ if a new drug has been approved by the FDA but is later found to be unsafe or ineffective for its recommended purpose, the FDA may withdraw its approval.²⁴⁶ Normally the applicant is given a hearing prior to withdrawal, but if the FDA finds that "there is an imminent hazard to the public health", it may suspend its approval without a hearing, thus rendering further introduction of the drug into interstate commerce illegal.²⁴⁷ In such an instance the applicant has the right to an expedited hearing.²⁴⁸ The FDA may also withdraw approval of a new drug application if the applicant has failed to maintain proper records or has denied access to them, or if the processing or labeling of the drug is deficient.²⁴⁹ The applicant has the right to appeal a withdrawal order on the same basis as an order denying initial approval of a new drug application.²⁵⁰

All of the foregoing offenses are limited to drugs which have been in interstate commerce, in accordance with the constitutional power of Congress under the commerce clause. Nevertheless, the Act has been given wide scope by the courts. As long as the drugs or their ingredients have been in interstate commerce at some time or other, an offense committed before, during or after their presence in interstate commerce is within the purview of the Act.²⁵¹ It does not matter how great a time lag occurs between the offense and the presence of the drugs in interstate commerce, nor how many interstate transactions intervene.²⁵²

But the chief thrust of the Act is not to punish violators. Rather, in the words of the Commissioner of Food and Drugs,

It has been the objective . . . from the very beginning to administer the statute in such a way as to prevent violations of the law rather than to punish violators after they occur.²⁵³

For minor violations, section 306 of the Act²⁵⁴ permits the FDA to issue a notice or warning rather than to prosecute. As a matter of policy, the FDA does not prosecute unless it is convinced that it has conclusive evidence that the law has been violated.²⁵⁵

In addition to the powers given to the FDA, the Secretary of the Treasury has the power to refuse admission into the United States of any imported drugs which are in violation of, *inter alia*, the adulteration, misbranding, and "new drug" provisions of the Act.²⁵⁶

REGULATION OF PSYCHEDELIC DRUGS BY THE STATES

As indicated previously, the constitutional power to regulate drugs is invested in the States through their police power.²⁵⁷ This power may not be exercised without limit—the State may not regulate interstate commerce,²⁵⁸ nor may its legislation impair the effectiveness of federal law.²⁵⁹ However, the courts have repeatedly upheld the validity of State drug legislation, stating that there has been no federal pre-emption of State statutes.²⁶⁰

It should be noted that neither federal nor State legislation entirely displaces the common law, which may in some cases impose greater liability than that set forth in the statutes.²⁶¹

The diversity in drug legislation of the several States precludes a detailed State-by-State analysis; I shall do no more than exemplify some of the important variations.²⁶² Fortunately, a number of States²⁶³ have enacted legislation patterned on the Model State Food, Drug and Cosmetic Act, which has been endorsed by the Executive Committee of the Association of Food and Drug Officials of the United States.²⁶⁴ Many portions of the Model Act are identical or similar to corresponding provisions of the Federal Act (for example, the definition of “drug”²⁶⁵), and it has been indicated that, in the absence of prior State decisions, State courts will follow federal decisions on the interpretation of such portions.²⁶⁶ Notwithstanding that criminal penalties may result from violations of State drug statutes, the statutes are “highly beneficial and remedial”²⁶⁷ and are not “to be subjected to such a hypercritical construction as would thwart the legislative design.”²⁶⁸

As in the Federal Act, psychedelics are not treated as a special class in the State legislation. However, some of the psychedelics are individually subject to statutory provisions.

LSD is a derivative of ergot,²⁶⁹ and as such is classified variously as a “harmful drug”²⁷⁰, “poison”²⁷¹, or “dangerous drug”²⁷² and is thereby subjected to various labeling and dispensing requirements. Atropine and belladonna are also included among “poisons”, and subjected to similar restrictions.²⁷³

Mescaline, in its naturally-occurring state in the peyote cactus, is the oldest of the important psychedelic drugs used in this country. It is not, therefore, surprising that of all psychedelic substances, peyote should be given the most prominent treatment in State statutes. Peyote has also been subjected to various labeling and distribution restrictions

by reason of its classification as potentially “habit forming”,²⁷⁴ “narcotic”²⁷⁵ (or subjected to the same restrictions as narcotics²⁷⁶), and sometimes as one of a list of “narcotic or hypnotic” substances.²⁷⁷ Peyote has been declared by the Colorado legislature to be “dangerous to the life, liberty, property, health, education, morals and safety of the citizens of this state, and is inconsistent with the good order, peace, and safety of the state.”²⁷⁸ After this thorough indictment, one is not surprised to find, upon reading further, that the sale, use, possession, disposal, and importation of peyote are totally prohibited in Colorado.²⁷⁹

Montana and New Mexico, while prohibiting the possession and sale of peyote, have excepted from the prohibition peyote used “for religious sacramental purposes by any bona fide religious organization incorporated under the laws” of the State.²⁸⁰ Accordingly, any religious group contemplating the establishment of a new church which would employ psychedelics but would be independent of the Indian traditions of the Native American Church, would probably maximize its chances of avoiding legal difficulties by establishing the church in Montana or New Mexico and taking advantage of the permissive peyote legislation.

The future attitude of legislators towards peyote and other psychedelics is by no means easy to predict. In 1620, the Spanish Inquisitors against “heretical perversity and apostasy” ordered peyote condemned as an agent of the Devil,²⁸¹ and its users have had legal difficulties ever since. Congressional bills to prohibit its use have been introduced several times, but have never been passed.²⁸² The most recent of these was a proposal to apply the federal narcotics legislation to peyote.²⁸³ To the best of my knowledge, no action has been taken on the bill.

Of the State legislation applicable to drugs having certain specified pharmacological characteristics, only those provisions relating to “hypnotic” drugs appear to be relevant to psychedelics. For example, Massachusetts restricts the distribution of all “hypnotic” drugs, without specifically defining the term.²⁸⁴ In the absence of a statutory definition, the ordinary medical definition should apply; therefore this Massachusetts provision applies to such psychedelic drugs as have hypnotic (sleep-inducing) properties.

Psychedelics may also fall within State “new drug” provisions. In the Model Act, the definition of a “new drug” is patterned on that of the Federal Act except that the Model Act speaks only of a drug not generally recognized as “safe”,²⁸⁵ whereas the federal statute uses the

words "safe and effective".²⁸⁶ Presumably the Model Act definition will be amended to correspond to the new federal definition; this amendment has already been made in California.²⁸⁷ Under the Model Act, a new drug subject to the Federal Act must be approved by the FDA before its sale or delivery is legal in the State.²⁸⁸ If the Federal Act does not apply to the new drug, the Model Act requires an application to be approved by State officials before the drug may be legally marketed.²⁸⁹ It is interesting to note that almost half the States have no "new drug" laws.²⁹⁰

While State prohibitions against adulteration, misbranding, and misuse of new drugs tend to follow the federal pattern,²⁹¹ much of the language used in State enactments is aimed at private local transactions, whereas federal legislation is necessarily restricted to drugs in interstate commerce. Thus state statutes may typically prohibit "the sale, delivery for sale, holding for sale, or offering for sale", of drugs in violation of the enactment.²⁹² Occasionally, a State may prohibit possession of drugs, subject to certain exceptions.²⁹³ In general, violation of the various prohibitions gives rise to criminal or quasi-criminal sanctions.²⁹⁴

In their legislation to protect the public health, the States ordinarily include the regulation of the practice of medicine and of pharmacy.²⁹⁵ The administration of drugs to patients is ordinarily a medical procedure, and courts have so held.²⁹⁶ Thus, a psychologist who administers psychedelic drugs to persons risks prosecution for practicing medicine without a license. However, if the administration of a psychedelic drug to a person is clearly not a medical act, as in the case of religious use of psychedelics, the medical practice statutes would not apply.

Furthermore, a physician who administers psychedelic drugs unlawfully is in danger of losing his license to practice.²⁹⁷ And if a psychologist or some other person without medical training were deemed to be practicing medicine in administering psychedelics, a physician who aided and abetted the illegal practice would be in violation of State legislation forbidding such aiding and abetting, and accordingly in danger of losing his license.²⁹⁸

LEGAL LIMITATIONS ON EXPERIMENTATION WITH PSYCHEDELIC DRUGS

As has been shown, ingestion of psychedelic drugs can cause injury.²⁹⁹ Because these drugs have been and are likely to be used extensively in research work, an examination is in order of the extent to which investigators may make use of the drugs without legal liability to subjects who are injured in some way as a result of their participation in a psychedelic experiment. I do not propose to deal here with the difficult problem of the extent to which mental trauma unaccompanied by physical injury is actionable;³⁰⁰ I shall proceed on the assumption that at least some of the possible injuries to research subjects may give rise to a cause of action.

Because there is a dearth of authority on the legal responsibility of investigators to their research subjects, it is necessary to derive many of the principles likely to be applied by courts from cases dealing with the closely analogous relationship of physician and patient.

Legal Liability for Experimental Injuries

From a reading of many of the reported cases, a layman might conclude that an investigator conducting medical research does so at his peril, and that he will be liable for any injury caused to a subject.³⁰¹ However, such a conclusion would not be justified. In the cases cited, the courts developed the unfortunate habit of labelling as "experiments" departures from recognized medical treatment sufficient to constitute malpractice. This usage has been justly criticized³⁰² as a failure by these courts to distinguish between (1) unauthorized and unaccepted medical procedures which would not be practiced by responsible physicians, and (2) organized scientific research. Because the cases in question have not dealt with properly conducted research, they cannot be deemed authoritative concerning liability for research mishaps. Furthermore, there is no indication, in any of the cases cited, that the patient gave consent to an "experiment" in any sense of the word; an entirely different case is presented where there is consent by a subject to a properly conducted experiment.

In two circumstances it seems reasonably clear that no liability should attach to the investigator for an experimental mishap. The first of these is the situation in which the "experiment" is being conducted for the therapeutic benefit of the patient and is only incidentally of

research value. Thus, a psychiatrist using psychedelic drugs in the treatment of neurotic patients may incidentally report the results of such treatment in scientific manner; the treatment, if justifiable according to accepted medical practice, surely does not become actionable merely because it is also the subject of research. It has been pointed out that "every medical procedure, no matter how simple or accepted, is an experiment since it is applied in a new context each time."³⁰³

Secondly, a normal volunteer may be paid for his participation in a research project. In such a case, the volunteer is in a contractual situation vis-à-vis the investigator. If the volunteer assumes certain specified risks under the contract, knowing their probability, he ought not to have a cause of action if these risks materialize, assuming that he has been correctly informed and the experiment has been properly carried out. It is arguable, however, that a person cannot consent to assume the risk that the experiment will not be properly conducted,³⁰⁴ on the rationale that a person may not unreasonably consent to an assault on his body.

If there is no contract and no possibility of therapeutic benefit to the subject, the investigator still may, in some circumstances, have legal immunity against liability for experimental injuries. The basis for such immunity has been set forth as follows :

If a legal action is brought against the scientific experimenter, its result will depend upon the existence of a privilege conferred on the experimenter by society, determined by balancing the risk of possible harm to the subject against the potential returns to society, and upon the legal efficacy of the subject's consent.³⁰⁵

Although the existence of such a "privilege conferred by society" has not yet been expressly conceded by the courts, one court has acknowledged the need for medical research and has hinted at the possibility of a limited immunity for investigators :

We recognize the fact that if the general practice of medicine and surgery is to progress, there must be a certain amount of experimentation carried on; but such experiments must be done with the knowledge and consent of the patient or those responsible for him and must not vary too radically from the accepted method of procedure.³⁰⁶

Although the use of the term "patient" by the court might limit its dictum to cases in which the experiment is possibly of therapeutic value to the subject, this choice of terminology may be explained by the assumption that the court was not directing its attention to other

situations. In view of the overwhelming social need for medical research using normal, healthy volunteers as well as ill persons, it seems likely that the law will not impose strict liability on investigators when normal volunteers are involved.

Conceding the existence of some legal immunity for investigators, one must ascertain its bounds. The Nürnberg Military Tribunal in the *Medical Case*³⁰⁷ undertook perhaps the most extensive legal study of medical experimentation ever made, and listed several criteria by which to judge the legality of particular experiments.³⁰⁸ Because these criteria were held applicable to a criminal prosecution, it is likely that criteria no less stringent would be applied to civil actions involving liability for experimental injuries.

With respect to the question of whether an experiment is justified at all, the tribunal stated :

The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.³⁰⁹

But not all experiments which might yield fruitful results are justifiable :

No experiment should be conducted where there is an *a priori* reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.³¹⁰

Even where the risk of injury is comparatively small,

the degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.³¹¹

Presumably the risks to be considered should include the possibility of emotional or mental injury as well as physical injury. In the opinion of the American Psychological Association,

Only when a problem is significant and can be investigated in no other way is the psychologist justified in exposing research subjects to emotional stress.³¹²

On the whole, properly conducted psychedelic experimentation appears to offend none of the foregoing criteria. Although psychedelics can cause mental injury, they are relatively safe;³¹³ in most cases the risk of injury is small, and the potential benefits to society in improved mental health are enormous.

Assuming that the experiment in question is justified, the subject's consent must be obtained, and the experiment must be properly conducted. These requirements obviously apply not only to cases in which

a healthy volunteer is used without compensation, but also to cases in which a patient or a paid volunteer is the experimental subject. The two requirements will therefore be discussed in detail.

(1) Consent

A physician must obtain consent, express or implied, before he can treat a patient.³¹⁴ Without consent, the physician is liable for trespass against the person.³¹⁵ Furthermore, the consent must be an informed consent directed to the treatment in question — consent to treatment of one ailment does not ordinarily extend to collateral or additional treatment, especially where surgical operations are involved.³¹⁶

A fortiori, it seems reasonable to require that an investigator obtain specific and informed consent from the subject of an experiment in order to avoid liability for trespass against the subject.³¹⁷ In the *Medical Case*, the Nürnberg Military Tribunal listed first among the principles which must be observed in medical experimentation, the duty to obtain consent :

The voluntary consent of the human subject is absolutely essential.

This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.³¹⁸

Although these general principles should apply to psychedelic research, there are several problems peculiar to this type of research which merit discussion.

Firstly, the experimenter may not know what results to expect from the experiment; the literature is replete with reports of bizarre behavior resulting from the ingestion of psychedelic drugs.³¹⁹ If he cannot predict or foresee the possible consequences of the experiment on the subject, how can he adequately inform the subject of the risks? The sound course of action is probably the most obvious, viz. to tell the subject that the risks are not completely known.

Secondly, subjects under the influence of psychedelic drugs are responsive not only to suggestions made while the drug is taking effect but also to suggestions made beforehand.³²⁰ This fact has two undesirable consequences : (1) it impairs the value of the experiment, which should be free from the personal influence of the experimenter; and (2) because the subject has been informed of the hazards, his resulting anxiety is a factor increasing the probability of their occurrence.³²¹

As a practical matter, it is probable that a warning of the hazards involved can be made without undue suggestive effect. For example, one mental research institution used the following language in its consent form for psychedelic research :

I give this authorization with the understanding that the administration of such drugs and such examination [of their effects] involve new techniques and procedures which may produce new and unusual physiological and psychological effects.³²²

The question remains whether a warning such as the foregoing is sufficiently explicit. In my opinion, it is. In physician-patient cases, courts have recognized that there are situations in which less than full disclosure of the hazards of treatment to the patients is justifiable.³²³ These cases apparently rely on the principle that the physician must consider the patient's welfare above all else and should not unduly alarm the patient.³²⁴ A warning by a psychiatrist to a subject that "these drugs may make you permanently insane" would probably maximize the chances of persistent psychosis; accordingly, particularly in view of the relatively infrequent occurrence of injury,³²⁵ a general warning of the risk of "new and unusual physiological and psychological effects" ought to be sufficient.

A final consent problem presented in psychedelic research is that subjects may be psychiatric patients in mental hospitals and legally incompetent to give consent to experiments. If the experiment is intended to be of therapeutic benefit to the patient, consent given by his legal guardian is sufficient.³²⁶ However, if the purpose of the experiment is to advance scientific knowledge, without possibility of direct therapeutic benefit, it is not at all clear that the guardian can give valid consent to the procedure. The guardian is supposed to act for the benefit of the patient — it is hard to find a principle which would justify the guardian's exposing his ward to risk of harm with no countervailing possibility of benefit, and bind the patient to take no action if he later recovered.³²⁷

The same word of warning applies to subjects who are children

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not of legal age. Although older juveniles have been held legally competent to give consent to necessary medical treatment³²⁸ and to treatment not of a serious nature,³²⁹ the general rule is that the parents' consent must be obtained.³³⁰ One case has suggested that if the child has reached the age of understanding, the consent of both parent and child must be obtained.³³¹ It is again difficult to find a principle upon which a parent can justifiably expose a child to risk of harm when there is no possibility of therapeutic benefit to the child, and at the same time bind the child not to take legal action if injury occurs.³³² On the other hand, if the child has reached the age of understanding and both he and his parents have given consent, it would seem a miscarriage of justice to permit the child to withdraw the consent later.

It must be emphasized that if the subject is legally competent, he must in every case give his consent. For example, in one case³³³ the physician in charge of an emotionally-disturbed patient did not inform the patient of the risks of shock treatment, but instead informed the patient's wife and obtained her consent to the treatment. When the patient was injured as a result of the shock treatment, it was held that the physician's failure to obtain an informed consent from him rendered the physician liable for the injury.

It should be understood that consent is given on the implied condition that the experiment will be properly conducted,³³⁴ and as has been mentioned, it is arguable that this condition cannot be waived.³³⁵

(2) *Standard of Care*

In a sense, due care is required of the investigator before the experiment begins, because his preparations for the experiment must be carefully carried out. In the first place, the investigator must himself have acquired the necessary training and experience to qualify himself for research.³³⁶ This requirement has been discussed with respect to the "new drug" provisions of the Federal Food, Drug and Cosmetic Act.³³⁷

Secondly, the experiment on humans must be preceded by preliminary tests on animals, to minimize the risk of harm to human subjects.³³⁸ In the case of psychedelic research, animal experimentation may be of limited value, because the investigator is likely to be primarily interested in the mental effects of psychedelics. However, the physiological effects of the drugs may be investigated in animals.

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Finally, risks to human life and health should be minimized by preventive measures,³³⁹ and if there is doubt concerning the safety of the experiment, it has been rightly suggested that the investigator subject himself to the experiment before risking injury to others.³⁴⁰

During the experiment, all effort should be made to minimize risk of suffering and injury,³⁴¹ and the investigator should be prepared to terminate the experiment at any stage if circumstances warrant this.³⁴² Administration of certain tranquilizing drugs is known to halt the traumatic mental effects of ingestion of psychedelics.³⁴³ Also, if the subject himself does not want the experiment to continue, he should be at liberty to bring it to a halt.³⁴⁴

Extra-Legal Limitations on Experimentation

In addition to the restrictions imposed by law, limitations on experimentation include

the ethics of the biological-medical professional community; the standards, codified or grounded in practice, of reputable medical and health institutions; . . . and perhaps least explicit, but of commanding influence, the social climate and opinion of the public.³⁴⁵

Unfortunately, social needs do not always coincide with legal duties; for example, research on mentally ill patients may fulfil a pressing social need, but it may be impossible in some cases to obtain legally sufficient consent to such research.³⁴⁶ Commenting on psychedelic drug research, one observer argued that because of the pressure of politicians, mass media, and vested-interest groups, "the simple division of legal versus illegal is not always a reliable guide to the scholar as to the pursuits by which society will best be served."³⁴⁷ To some extent, misunderstanding between the legal and medical professions can be cleared up by apt choice of terminology. It would undoubtedly have been better for courts not to have used the term "experiment" in straightforward examples of malpractice, for example. In other areas where there is genuine conflict between medical and legal standards, one can only hope for an exchange of views between the two professions and an expression of such views to legislative bodies.

CONCLUDING NOTE

The use of psychedelic drugs for many purposes, and particularly for religious use and personality change, must be considered to be in its

infancy. In general, the law follows rather than precedes social change; the law relating to psychedelic drugs is no exception. The oldest of the most important psychedelics used in America, peyote, has been the subject of many statutory provisions. It is to be expected that as more becomes known about other psychedelics, specific legislation will be enacted to control their use. If, over the years, the drugs become accepted as having a genuine medical, religious or social value, the law will undoubtedly become less restrictive than it is now. Until such time, the law will continue to reflect the present American social climate which, despite the unparalleled innovations of the twentieth century, remains rather suspicious of radical changes.

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Footnotes

1. Kobler, *The Dangerous Magic of LSD*, Saturday Evening Post, Nov. 2, 1963, p. 30; Weil, *The Strange Case of the Harvard Drug Scandal*, 27 Look, Nov. 5, 1963, p. 38; Gordon, *The Hallucinogenic Drug Cult*, 29 The Reporter, Aug. 15, 1963, p. 35.
2. Maher, *Drugs and Academic Freedom*, 7 Mass. Psychological Ass'n Newsletter, Oct. 1963, p. 3; Barron et al., *The Hallucinogenic Drugs*, 210 Sci. American, Apr. 1964, p. 29.
3. See sources cited in notes 1 and 2, *supra*.
4. Statement of Purpose of the International Federation for Internal Freedom (Jan. 24, 1963).
5. Gordon, *supra* note 1, at 40.
6. *Liability of Manufacturer or Seller for Injury Caused by Drug or Medicine Sold*, 79 A.L.R. 2d 301 (1961).

7. *Gottsdanker v. Cutter Laboratories*, 182 Cal. App. 2d 602, 6 Cal. Rptr. 320, (1960).
8. *Ibid.*
9. *Martin v. Bengue, Inc.*, 25 N.J. 359, 136 A. 2d 626 (1957).
10. *Webb v. Sandoz Chemical Works, Inc.* 85 Ga. App. 405, 69 S.E. 2d 689 (1952).
11. *Taugher v. Ling*, 127 Ohio St. 142, 187 N.E. 19 (1933).
12. Metzner, *The Pharmacology of Psychedelic Drugs*, 1 Psychedelic Rev. 69 (1963).
13. *Ibid.*
14. Osmond, *A Review of the Clinical Effects of Psychotomimetic Agents*, 66 Ann. N.Y. Acad. Sci. 418 (1957).
15. Metzner, *supra* note 12.
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19. Hofmann, *supra* note 17, at 241.
22. Schultes, *Botanical Sources of the New World Narcotics*, 1 Psychedelic Rev. 145 (1963).
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24. Hofmann et al., *Psilocybin und Psilocin*, 42 Helvetica Chimica Acta 1557 (1959).
25. International Federation for Internal Freedom Newsletter, July 1963, p. 3.
26. Payne, *Nutmeg Intoxication*, 269 New Eng. J. Med. 36 (1963).
27. Glaser et al., *Glue-Sniffing in Children*, 181 J. Am. Med. Ass'n 300 (1961).
28. *Id.* at 303.
29. Edwards, *A Case Report of Gasoline Sniffing*, 117 Am. J. Psychiatry 555 (1960).
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32. Hofmann, *supra* note 17, at 241.
33. Remmen, Cohen, Ditman & Frantz, *Psychochemotherapy — The Physician's Manual* 34 (1962).
34. Hofmann, *supra* note 17, at 241.
35. Klee, *Lysergic Acid Diethylamide (LSD-25) and Ego Functions*, 8 Arch. Gen. Psychiatry 461, 467-469 (1963).
36. Barron et al., *supra* note 2 at 35-36
37. *Ibid.*
38. *Id.* at 33.
39. Cohen, *Lysergic Acid Diethylamide: Side Effects and Complications*, 130 J. Nerv. Mental Disease 30, 34 (1960).
40. *The Subjective After-effects of Psychedelic Experiences: A Summary of Four Recent Questionnaire Studies*, 1 Psychedelic Rev. 18 (1963).

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43. *Supra* note 40.
44. *Ibid*; Barron *et al.* *supra* note 2 at 35.
- 44a. Barron, *supra* note 2 at 36; Cohen, *supra* note 39 at 36.
45. *Peyotl*, 11 *Bull. Narcotics* No. 2, p. 16 at 27 (1959); Slotkin, *The Peyote Religion* 50 (1956).
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48. Cohen *et al.*, *supra* note 47; Farnsworth, *Editorial*, 185 *J. Am. Med. Ass'n* 878, 879 (1963); Cohen, *supra* note 39.
49. Cohen, *supra* note 39, at 33-34.
50. *Ibid.*; Barron *et al.*, *supra* note 2 at 37.
51. Farnsworth, *supra* note 48.
52. Barron *et al.*, *supra* note 2 at 37.
53. *Id.* at 36.
54. Cohen *et al.*, *supra* note 47, at 161, 162.
55. Gordon, *supra* note 1, at 36.
56. Barron *et al.*, *supra* note 2, at 36.
57. *Id.* at 35.
58. De Ropp, *Drugs and The Mind* 272 (1957).
59. *Id.* at 280.
60. Barron *et al.*, *supra* note 2, at 35.
61. Health Inquiry, *Hearings Before the House Committee on Interstate & Foreign Commerce*, 83d Cong., 1st Sess., pt. 4, at 1034-1035 (remarks of S.B. Wortis, M.D.) (1953).
62. *Ibid.* See also Rossi, *Psychotherapeutic Drugs*, 132 *Am. J. Pharm.* 86 (1960).
63. Barron *et al.*, *supra* note 2 at 32, 33; Heath *et al.*, *Effect on Behaviour in Humans with the Administration of Taraxein*, 114 *Am. J. Psychiatry* 14, 21 (1957).
64. Remmen *et al.*, *op. cit.* *supra* note 33, at 32.
65. See text accompanying note 32, *supra*.
66. Metzner, *supra* note 12 at 97.
67. Huxley, *Psychometabolism*, 1 *Psychedelic Rev.* 183, 199 (1963).
68. See, for example, Unger, *supra* note 42; Sherwood *et al.*, *The Psychedelic Experience — A New Concept in Psychotherapy*, 4 *J. Neuropsychiatry* No. 2, p. 69 (Dec. 1962).
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70. *Ibid.*
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75. De Ropp, *op. cit.* *supra* note 58, at 236; Unger, *supra* note 42 at 117.
76. Cohen, *supra* note 39 at 37.
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78. *Supra* note 40, at 21, 22.
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91. Slotkin, *The Peyote Religion* 65, 68, 71 (1956).
92. Sources cited *supra*, notes 1 and 2.
93. Quoted by Gordon, *supra* note 2, at 36.
94. Farnsworth, *Editorial*, 185 *J. Am. Med. Ass'n* 878, 879 (1963).
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97. De Ropp, *op. cit.* *supra* note 58, at 248.
98. *United States v. Walsh*, 331 U.S. 432 (1946); *United States v. 44 Cases*, etc. *Viviano Spaghetti with Cheese*, 101 *F. Supp.* 658 (E.D. 111. 1951).
99. *Linder v. United States*, 268 U.S. 5(1925); *United States v. Jin Fuey Moy*, 241 U.S. 394(1916).
100. See cases cited 16 C.J.S. *Constitutional Law* §183, note 68.
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105. *Id.* at 671.
106. 197 U.S. 11 (1905).
107. *Id.* at 25.
108. *Id.* at 26.
109. 76 Fla. 304, 79 So. 753 (1918).
110. *Ibid.*
111. 29 Ore. 421, 44 Pac. 693 (1896).
112. *Id.* at 427, 428; 44 Pac. at 694.
113. *Ex parte* Nash, 55 Nev. 92, 26 P.2d 353 (1933); Hyde v. State, 131 Tenn. 208, 174 S.W. 1127 (1915); And see cases cited 28 C.J.S. Druggists §2, notes 41-43.
114. See text accompanying notes 83-91, *supra*.
115. *Barnette v. West Virginia State Bd. of Educ.*, 47 F. Supp. 251, 253 (S.D.W.Va., 1942, Parker, Cir. J.), *aff'd* 319 U.S. 624.
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120. *People v. Pierson*, 176 N.Y. 201 at 211, 68 N.E. 243, 246 (1903).
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123. See note 48, *supra*.
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126. *Varholj v. Sweat*, 153 Fla. 571, 15 So. 2d 267 (Sup. Ct. Fla., 1943).
127. *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).
128. *Cantwell v. Connecticut*, 310 U.S. 296, 311 (1940).
129. See *Prince v. Massachusetts*, 321 U.S. 158 (1944); *Kraus v. City of Cleveland*, 163 Ohio St. 559, 127 N.E. 2d 609 (1955), *appeal dismissed* 351 U.S. 935.
130. *Reynolds v. United States*, 98 U.S. 145, 167 (1878).
131. *Cf.* text accompanying notes 92-97, *supra*.
132. *The Late Corporation of the Church of Jesus Christ of Latter-Day Saints v. United States*, 136 U.S. 1, 50 (1890).
133. *Id.* at 49.
134. *Reynolds v. United States*, 98 U.S. 145, 166 (1878).
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136. *Infra*, notes 137, 138, 140, 142, 144.
137. *Oliver v. Udall*, 306 F. 2d 819 (D.C. Cir. 1962), *cert. denied* 372 U.S. 908.
138. *Native American Church v. Navajo Tribal Council*, 272 F. 2d 131, 133 (10th Cir., 1959).
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141. *Id.* at 239, 240; 243 Pac. at 1073.
142. *United States v. Mitchell Neck, alias Nah-qua-tah-tuck* (Wis. 1914).
143. See Slotkin, *The Peyote Religion* 181 (1956); De Ropp, *Drugs and the Mind* 31 (1957); Taylor, *Narcotics: Nature's Dangerous Gifts* 139 (1963).
144. *State v. Attakai*, No. 4098, Super. Ct. of Coconino County, Arizona, July 26, 1960. All quotations are from a copy of the transcript of the decision of Yale McFate J.
145. *Supra*, note 141.
146. 15 U.S.C. §§45, 52 (1958) (as amended Supp. IV, 1963).
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148. See authorities cited *supra*, note 99.
149. *Stedman, Medical Dictionary* (20th ed., 1961).
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151. 26 U.S.C. §4731(a) (Supp. IV, 1963). See also 21 U.S.C. §171(a) (1958).
152. 26 U.S.C. §4731(g) (Supp. IV, 1963).
153. A list of drugs so proclaimed follows 26 U.S.C.A. §4731, to date.
154. See text accompanying note 44a, *supra*.
155. See 21 U.S.C. §176a (1958); 26 U.S.C. §§4741 ff. (1958).
156. Metzner, *The Pharmacology of Psychedelic Drugs*, 1 *Psychodelic Rev.* 69, 70 (1963).
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162. Willcox, *supra* note 160 at 322.
163. Henry, *The Plant Alkaloids* 84, 105, 106 (4th ed. 1949); De Ropp, *Drugs and the Mind* 272 ff. (1957).
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165. Kelsey, CCH Food Drug Cosm. L. Rep. para. 80024, p. 80098 (Apr. 25, 1963).
166. See note 31, *supra*.

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168. 21 U.S.C. §331 (1958), as amended to date.
169. See . . . *Archambault v. United States*, 224 F. 2d 925, 928 (10th Cir. 1955).
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171. *United States v. Antikamnia Chemical Co.*, 231 U.S. 654,666 (1913).
172. *Byrd v. United States*, 154 F. 2d 62, 63 (5th Cir., 1946).
173. *Ibid.*
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175. See, e.g., 21 U.S.C. §371(e)(2), (f) (1958; Supp. IV, 1963).
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180. *Ibid.*
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186. *Jurow, The Legislative Picture for the Drug Industry*, 18 Food Drug Cosm. L.J. 97, 102, 103 (1963); *Hearings Before the House Committee on Interstate and Foreign Commerce*, 87th Cong., 2d Sess., on H.R. 11581, 11582 (the Drug Industry Act of 1962), at 234-235 (1962) (remarks of T. G. Klumpp, M.D.)
187. Remarks of Klumpp, *supra* note 186, at 239.
188. *Id.* at 231.
189. *Id.* at 232.
190. Sen. Rep. No. 1744, 87th Cong., 2d Sess., p. 43 (1962).
191. *Id.* at 41-42.
192. *Ibid.*
193. See CCH Food Drug Cosm. L. Rep. para. 40093, p. 40237 (1964).
194. *Willcox, Public Protection, Private Choices and Scientific Freedom: Food, Drugs and Environmental Hazards*, 18 Food Drug Cosm. L.J. 321, *passim* (1963).
195. *Meyers, The Food and Drug Administration's View of Investigational Drugs*, 18 Food Drug Cosm. L.J. 391, 402 (1963).
196. *Willcox, supra* note 194, at 335.
197. 21 U.S.C. §321(p) (Supp. IV, 1963).

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198. 28 Fed. Reg. 6377 (1963), replacing 21 C.F.R. §130.1 (h).
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200. See text accompanying notes 47-56, *supra*.
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202. 34 Stat. 769.
203. See text following note 168, *supra*.
- 203a. *Schultes, The Appeal of Peyote (Lophophora Williamsii) as a Medicine*, 40 Am. Anthropologist 698 (1938).
- 203b. *Supra*, note 201.
204. 21 U.S.C. §355 (Supp. IV, 1963).
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206. *Janssen, supra* note 182.
207. *Willcox, supra* note 194, at 326.
208. Note 205, *supra*, at 23.
209. *Id.* at 593.
210. *Id.* at 80.
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212. *Id.* at 78.
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219. See note 69, *supra*.
220. See text accompanying note 217, *supra*.
221. 21 U.S.C. §355 (Supp. IV, 1963).
222. 21 C.F.R. §§130.1-130.34 (as amended in 28 Fed. Reg. 179-183, 6377-6384 (1963)) See also the proposed new regulations in 29 Fed. Reg. 2790-2791 (1964).
223. §130.32, 28 Fed. Reg. 6384 (1963).
224. 21 U.S.C. §355(c) (Supp. IV, 1963).
225. 21 U.S.C. §355(h) (Supp. IV, 1963).
226. 21 U.S.C. §355(e) (Supp. IV, 1963). See *infra* text accompanying notes 245 ff.
227. *Hearings Before the House Committee on Interstate and Foreign Commerce, on the Drug Industry Act of 1962* (H. R. 11581, 11582), 87th Cong., 2d Sess., p. 82 (1962).
228. See generally *Meyers, The Food and Drug Administration's View of Investigational Drugs*, 18 Food Drug Cosm. L.J. 391 (1963).
229. 21 U.S.C. §355(i) (Supp. IV, 1963).
230. §130.3, 28 Fed. Reg. 179-182 (1963)

231. §130.3 (12), (13). 28 Fed. Reg. 180, 181 (1963).
 232. §130.3, 28 Fed. Reg. 179-182 (1963).
 233. Meyers, *supra* note 228, at 396.
 234. Herrick, *New Drugs* 81 (1946); Harvey, Deputy Commissioner of Food and Drugs, quoted in 108 Cong. Rec. 16126 (1962).
 235. 21 U.S.C. §355(i) (Supp. IV, 1963).
 236. See text accompanying notes 314-335, *infra*.
 237. 21 U.S.C. §331 (1958, Supp. IV, 1963).
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 240. 21 U.S.C. §332 (1958, Supp. IV, 1963).
 241. 21 U.S.C. §333 (1958, Supp. IV, 1963).
 242. *Ewing v. Mytinger & Casselberry, Inc.*, 339 U.S. 594, 601 (1940).
 243. *Merritt Corp. v. Folsom*, 165 F. Supp. 418, 421 (D.D.C. 1958).
 244. *United States v. Hohensee*, 243 F. 2d 367 (3d Cir. 1957), *cert. denied* 353 U.S. 976, *rehearing denied* 354 U.S. 927.
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 247. *Ibid.*
 248. *Ibid.*
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 250. 21 U.S.C. §355(h) (Supp. IV, 1963).
 251. *United States v. 40 Cases, More or Less, of Pinocchio Brand 75% Corn, Peanut Oil and Soya Bean Oil Blended with 25% Pure Olive Oil*, 289 F. 2d 343 (2d Cir. 1961) *cert. denied* 368 U.S. 831; *United States v. 4 Devices, Labeled in Part "Color-therm"*, 176 F. 2d 652, 654 (10th Cir. 1949); *Arner Co. v. United States*, 142 F. 2d 730, 733 (1st Cir., 1944), *cert. denied* 323 U.S. 730.
 252. *United States v. Sullivan*, 332 U.S. 689, 696 (1947).
 253. Larrick, *Administering New Food and Drug Laws*, 18 *Food Drug Cosm. L.J.* 133-134 (1963).
 254. 21 U.S.C. §336 (1958).
 255. Harvey, *Administration of the Food, Drug, and Cosmetic Act*, 10 *Food Drug Cosm. L.J.* 441, 443 (1955).
 256. 21 U.S.C. §381 (1958, Supp. IV 1963).
 257. *supra*, note 100.
 258. *Savage v. Jones*, 225 U.S. 501, 524 (1912).
 259. *Id.* at 529; *McDermott v. Wisconsin*, 228 U.S. 115, 133-134 (1913).
 260. *E.g.*, *Whitehall Laboratories v. Wilbar*, 397 Pa. 223, 154 A. 2d 596 (1959); And see cases cited 21 U.S.C.A. §301, note 7, p. 262.
 261. *Martin v. Bengue, Inc.* 25 N.J. 359 at 376, 136 A.2d 626, 635 (1957).
 262. A State-by-State summary of drug legislation appears in the CCH Food Drug Cosm. L. Rep., para. 11000ff.
 263. A list of 22 such states appears in 108 Cong. Rec. 17396 (1962).
 264. CCH Food Drug Cosm. L. Rep. para. 10100, p. 10101 (gives text of the Model Act).
 265. Model Act, §2(d), CCH Food Drug Cosm. L. Rep. para. 10100, p. 10101.

266. *Merck & Co. v. Kidd*, 242 F.2d 592 (6th Cir. 1957), *cert. denied* 355 U.S. 814.
 267. *Commonwealth v. Sweeney*, 61 Pa. Super. 367-370 (1915).
 268. *Ibid.*
 269. Metzner, *The Pharmacology of Psychedelic Drugs*, 1 *Psychodelic Rev.* 69, 72 (1963)
 270. *E.g.*, Mass. Gen. Laws ch. 94, §187A (1963 Supp.).
 271. *E.g.*, Cal. Bus. & Prof. Code §4160(p).
 272. *E.g.*, Wis. Stat. §151.07(1) (1964 Supp.).
 273. *E.g.*, N.Y. Educ. Law, §6813.
 274. *E.g.*, Ark. Stat. §82-1115(d) (1960 Supp.).
 275. *E.g.*, Cal. Health & Safety Code, §11001(I).
 276. S.Dak. Code §22.1324 (1939).
 277. *E.g.*, Mass. Gen. Laws ch. 94, §187 (1963 Supp.)
 278. Colo. Rev. Stat. §48-5-1 (1953).
 279. Colo. Rev. Stat. §48-5-2 (1953).
 280. Rev. Codes Mont., Crimes & Crim. Proc., §94-35-123 (1963 Supp.); N. Mex. Stat. §54-5-16 (1962 Supp.).
 281. Stewart, *Peyote and Colorado's Inquisition Law*, 5 *The Colo. Quarterly* 79 (Summer, 1956).
 282. *Id.* at 86.
 283. 109 Cong. Rec. 23394 (1963) (daily ed'n).
 284. Mass. Gen. Laws, ch. 94, §187A (1963 Supp.).
 285. §2(n), CCH Food Drug Cosm. L. Rep. para. 10102.
 286. 21 U.S.C. §321(p) (Supp. IV, 1963).
 287. Cal. Health & Safety Code, §26211.
 288. §16(a), CCH Food Drug Cosm. L. Rep. para. 10116.
 289. *Ibid.*
 290. For a list of such States, see 108 Cong. Rec. 17396 (1962).
 291. *E.g.*, Rev. Code Wash. §69.04.040 (1962).
 292. N.Y. Educ. Law, §6821.
 293. *E.g.*, Fla. Stat. ch. 500, §500.151 (1961).
 294. *E.g.*, Mass. Gen. Laws, ch. 94, §187A (1963 Supp.).
 295. *E.g.*, N.Y. Educ. Law, §§6502, 6802ff.
 296. *Gouy Shong v. Chew Shee*, 254 Mass. 366 at 369, 150 N.E. 225, 227 (1926); *Order of United Commercial Travelers v. Shane*, 64 F. 2d 55 (8th Cir. 1933).
 297. *Cf. Du Vall v. Bd. of Medical Examiners*, 66 P. 2d 1026 (Sup. Ct. Ariz. 1937).
 298. *E.g.*, Conn. Gen. Stat. §20-45 (1959). See generally 70 C.J.S. Physicians and Surgeons §17(7).
 299. See text accompanying notes 47-56, *supra*.
 300. On this subject, see for example Smith, *Relation of Emotions to Injury and Disease: Legal Liability for Psychic Stimuli*, 30 Va. L. Rev. 193 (1944); Cantor, *Psychosomatic Injury, Traumatic Psychoneurosis, and Law*, 6 *Clev.-Mar. L. Rev.* 428 (1957).
 301. *Slater v. Baker*, 2 Wils. K.B. 359, 95 Eng. Rep. 860 (1767); Carpenter

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- v. Blake, 60 Barb. 488 (N.Y. Sup. Ct. 1871), *rev'd on other grounds* 50 N.Y. 696; Jackson v. Burnham, 20 Colo. 532, 39 Pac. 577 (1895); Owens v. McGleary, 313 Mo. 213, 281 S.W. 682 (1926); Allan v. Voje, 114 Wis. 1, 89 N.W. 924 (1902).
302. Ladimer, *Ethical and Legal Aspects of Medical Research on Human Beings*, 3 J. Pub. L. 467, 480 (1954).
303. *Id.* at 482.
304. Markel, *Legal Considerations in Experimental Design in Testing New Drugs on Humans*, 18 Food Drug Cosm. L.J. 219, 223 (1963).
305. *Legal Implications of Psychological Research with Human Subjects*, [1960] Duke L.J. 265, 267.
306. Fortner v. Koch, 272 Mich. 273 at 282, 261 N.W. 762, 765 (1935).
307. United States v. Brandt, 2 Trials of War Criminals Before the Nürnberg Military Tribunals (1949).
308. *Id.* at 181-182.
309. *Id.* at 182.
310. *Ibid.*
311. *Ibid.*
312. Ladimer, *supra* note 302, at 492.
313. Note 52, *supra*.
314. See generally, Oppenheim, *Informed Consent to Medical Treatment*, 11 Clev.-Mar. L. Rev. 249 (1962); McCoid, *A Reappraisal of Liability for Unauthorized Medical Treatment*, 41 Minn. L. Rev. 381 (1957). For an illustrative case, see Dietze v. King, 184 F. Supp. 944 (E.D.Va. 1960).
315. *E.g.*, Franklyn v. Peabody, 249 Mich. 363, 228 N.W. 681 (1930).
316. Salgo v. Leland Stanford Jr. University Bd. of Trustees, 154 Cal. App. 2nd 560, 317 P. 2d 170 (1957); Natanson v. Kline, 187 Kan. 186, 354 P. 2d 670 (1960); Pratt v. Davis, 224 Ill. 300, 79 N.E. 562 (1906), *aff'd* 118 Ill. App. 161.
317. *Cf.* quotation accompanying note 306, *supra*.
318. United States v. Brandt, *supra* note 307, at 181-182.
319. Authorities cited notes 1, 2, 42, 68, *supra*.
320. Sherwood *et al.*, *The Psychedelic Experience—A New Concept in Psychotherapy*, 4 J. Neuropsychiatry No. 2, p. 69 at 72-73 (Dec. 1962); Unger, *Mescaline, LSD, Psilocybin, and Personality Change*, 26 Psychiatry 111, 118 (1963).
321. Unger, *supra* note 320 at 118.
322. Pharmacotherapy Project, Mass. Mental Health Center.
323. Natanson v. Kline, *supra* note 316; Dietze v. King, *supra* note 314, at 949.
324. Salgo v. Bd. of Trustees, *supra* note 316 at 578, 317 P. 2d at 181.
325. See text accompanying note 52, *supra*.
326. See *Faber v. Olkon*, 40 Cal. 2d 503, 254 P. 2d 520 (1953). See generally 44 C.J.S. Insane Persons §85(c)(1). *Cf.* 70 C.J.S. Physicians & Surgeons §48(g).
327. This problem is dealt with by Bowker, *Legal Liability to Volunteers in*

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- Testing New Drugs*, 88 Can. Med. Ass'n J. 745, 748 (1963).
328. Bishop v. Shurly, 237 Mich. 76, 211 N.W. 75 (1926).
329. Lacey v. Laird, 166 Ohio St. 12, 139 N.E. 2d 25 (1956).
330. Zoski v. Gaines, 271 Mich. 1, 260 N.W. 99 (1935). See generally 70 C.J.S. Physicians & Surgeons §48(g).
331. Bonner v. Moran, 126 F. 2d 121, 122-123 (D.C.Cir. 1941), *semble*.
332. This is discussed by Bowker, *supra* note 327, at 748.
333. Mitchell v. Robinson, 334 S.W. 2d 11 (Sup. Ct. Mo. 1960).
334. See *State v. Gile*, 8 Wash. 12, 35 Pac. 417 (1894); See generally Ladimer, *May Physicians Experiment?* 172 Int'l Rec. Med. 586, 596 (1959).
335. Markel, *supra* note 304.
336. United States v. Brandt, *supra* note 307, at 182.
337. See text accompanying notes 233, 234, *supra*.
338. United States v. Brandt, *supra* note 307, at 182.
339. *Ibid.*
340. Ladimer, *supra* note 302, at 491.
341. United States v. Brandt, *supra* note 307, at 182.
342. *Ibid.*
343. Sherwood *et al.*, *supra* note 320, at 74.
344. United States v. Brandt, *supra* note 307, at 182.
345. Ladimer, *supra* note 334, at 586.
346. *Cf.* text accompanying note 327, *supra*.
347. Maher, *Drugs and Academic Freedom*, 7 Mass. Psychol. Ass'n Newsletter No. 3, p. 3 (Oct. 1963).

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LSD and Psychotherapy: A Bibliography of the English-Language Literature

SANFORD M. UNGER

(The first account of the use of LSD as an aid in psychotherapy was published by a pair of American investigators, Busch and Johnson, in 1950. Since that time, claims of clinical usefulness have appeared periodically, and from many countries besides the U.S.—from England and Canada, widely from South America, from Israel, from Germany, France, Italy, Holland, and Czechoslovakia. The bibliography that follows lists only English-language publications; readers interested in the foreign-language literature may consult the exhaustive *LSD: Annotated Bibliography* available from Sandoz Pharmaceuticals, Hanover, N.J.)

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CONCLUDING NOTES

1. *Summary of claimed therapeutic effects.* Reported therapeutic effects have recently been summarized by Schmiede (1963) as follows:

"Those using LSD in multiple doses as an adjunct to psychotherapy feel that it is so useful because of its ability to do the following: (1) It helps the patient to remember and abreact both recent and childhood traumatic experiences. (2) It increases the transference reaction while enabling the patient to discuss it more easily. (3) It activates the patient's unconscious so as to bring forth fantastic and emotional phenomena which may be handled by the therapist as dreams. (4) It intensifies the patient's affectivity so that excessive intellectualization is less likely to occur. (5) It allows the patient to better see his customary defences and sometimes allows him to alter them. Because of these effects, therapists feel that psychotherapy progresses at a faster rate. . . . Those who administer lysergic acid in a single dose have as their goal, in the words of Sherwood, *et al.* (1962), an overwhelming reaction 'in which an individual comes to experience himself in a totally new way. . . .' Frequently, this is accompanied by a transcendental feeling of being united with the world. . . . Some spectacular, and almost unbelievable, results have been achieved by using one dose of the drug."

Exemplary descriptions of the use of LSD as an aid, adjunct, adjuvant, or facilitating agent in traditionally-conceived therapy are contained in Sandison and co-workers (1954), Abramson (1955), Eisner and Cohen (1958), and Chandler and Hartman (1960). Exemplary accounts of the recently-formulated "new concept" procedure — that is, with psychotherapy considered as preparation for a single, high-dosage, "psychedelic" session — are contained in Chwelos and co-

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workers (1959), MacLean and co-workers (1961), and Sherwood and co-workers (1962).

2. *Safety.* The issue of the safety (or danger) of LSD is quite complex. Leaving subtle questions aside — that is, speaking only "medically" — LSD appears quite safe. Two recent reviews concluded as follows: "LSD (or one of the other chemicals of this class) represents a potent and versatile tool requiring responsible handling and effective controls (as with electricity or automobiles). There are real hazards involved with casual or uninformed or maldirected usage of the psychedelic drugs. But any agent with the power to produce benefits has also the power to do harm. Safety is not a basic issue, but often is a camouflage for issues less easy or less comfortable to examine" (Harman, 1963).

" . . . warranted concern over the illicit abuse of these agents should not prevent the systematic study of their possible potential in the treatment of otherwise severely treatment-resistant psychiatric conditions" (Cole and Katz, 1964).

The incidence and occurrence of side effects and prolonged adverse reactions have been dealt with in the series of papers by Cohen (1960), Cohen and Ditman (1962), and Cohen and Ditman (1963). Their conclusion (1963): "When properly employed, LSD is a relatively safe and important research tool." However, when *improperly* employed — that is, irresponsibly or unskillfully, or self-administered — the occurrence of LSD casualties is considered inevitable (opinion of the present author). It should be absolutely understood that safe and effective work with LSD (or other psychedelic agents) presupposes specialized training and experience.

3. *Miscellany.* There does exist a fair-sized clinical literature on psychedelic agents other than LSD. For early work with mescaline and the "Weir Mitchell treatment," see: Ross, T. A., *The common neuroses* (2d ed.): London: Arnold, 1937. Mostly paralleling the uses of LSD, there has been considerable recent work with psilocybin (see *Psilocybin: Annotated Bibliography*, Sandoz Pharmaceuticals, Hanover, N.J.). Of special interest in the psilocybin literature, in view of the patient category (recidivist convicts) is an as yet unpublished paper: Leary, T., Metzner, R., Presnell, M., Weil, G., Schwitzgebel, R., & Kinne, Sara, "A change program for adult offenders using psilocybin," in press, *Psychother.: Theory, Res., Practice*. For a number of other incidental items, not included in the bibliography,

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see : Bender, Lauretta, Goldschmidt, L., & Siva Sankar, D. V., "Treatment of autistic schizophrenic children with LSD-25 and UML-491," *Recent Advances Biol. Psychiat.*, 1962, 4, 170-177 (which follows a chemo- rather than a psychotherapeutic model); and Kast, E., "The analgesic action of lysergic acid compared with dihydromorphinone and meperidine," *Bull. Drug Addiction and Narcotics*, 1963, Appendix 27, 3517-3529 (which recounts work with terminal cancer patients).

4. *Current legal situation.* Following the Thalidomide tragedy, Congress passed restrictive legislation governing the testing and research use in man of experimental or non-introduced drugs. Since the implementation of these regulations on June 7, 1963, the authorized distribution of psychedelic agents has been stringently controlled. They are legally available only to investigators functioning within federal or state agencies who have the formal approval of the agency, or to investigators carrying out research under grants from federal or state agencies. The intent has been to insure against misuse of these potent substances or unsafe research — which might be undertaken by well-meaning but unqualified investigators — by surrounding them with an adequate system of checks and balances. Cole and Katz (1964) have made a more detailed statement :

"Psychotomimetic agents are legally and scientifically 'investigational' drugs and can only be studied by experienced investigators under carefully controlled conditions. . . . None of these agents can legally be used, even on an investigational basis, except by investigators who have filed a formal research plan with the Food and Drug Administration through a sponsoring pharmaceutical company or by investigators who have themselves taken on both the role of sponsor and of investigator and have gone through the appropriate steps for providing the necessary information concerning the safety of the agents and their proposed research use in man with the Food and Drug Administration."

5. *Current status and prospects.* Not a single, methodologically-acceptable controlled study of the efficacy of LSD-assisted psychotherapy has yet been performed. The many claims of dramatic therapeutic changes in such highly treatment-resistant conditions as chronic alcoholism, severe chronic neurosis, and severe personality disorder must thus be regarded as *not proven* (for further discussion, see Cole and Katz, 1964). (In all fairness, it may be pointed out that method-

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ologically-acceptable controlled studies of *other* psychotherapies, including psychoanalysis, hardly abound in the literature.)

One controlled study is presently in progress. Financed by a grant from the National Institute of Mental Health and proceeding under the auspices of the Department of Medical Research, Spring Grove State Hospital, Baltimore, Md. (Dr. Albert Kurland, Director), it is designed to assess both the short-term and possibly enduring therapeutic consequences in chronic, hospitalized alcoholics of "psychedelic therapy" — that is, two weeks of intensive psychotherapeutic preparation for one single, high-dosage, continuously-monitored LSD session (averaging ten hours in duration).

The only other installation in the United States at which extensive clinical research has been pursued in recent years is the International Foundation for Advanced Study, Menlo Park, California (Dr. Charles Savage, Medical Director). For accounts of this work, see : Sherwood and co-workers (1962), Savage and co-workers (1963, 1964), as well as the as yet unpublished papers : Savage, C., Hughes, Mary A., and Mogar, R., "The effectiveness of psychedelic (LSD) therapy — A preliminary report," in press, *Int. J. Soc. Psychiat.*; and Mogar, R., Fadiman, J., and Savage, C., "Personality changes associated with psychedelic (LSD) therapy," in press, *Psychother.: Theory, Res., Practice*, 1964.

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The Treatment of Frigidity with LSD and Ritalin

THOMAS M. LING
and JOHN BUCKMAN

"Frigidity" is the inability to enjoy sexual love to its fullest capacity. It may vary in degree or in type.

The capacity of the human female to respond sexually depends upon a complex network of interdependent activators. These activator systems include the endocrinological, the somesthetic and the psychic.

In lower mammals, the endocrine system predominates, but in humans the somesthetic and the psychic are paramount, particularly the latter.

The recognized incidence of frigidity and its manifestations such as vaginismus, passivity, lack of vaginal orgasm and refusal to have intercourse, depends a good deal on the outlook of the gynaecologist. Thus Hamilton (1961) estimates that 40% of American women suffer from frigidity in some degree, while a London gynaecologist states approximately 30% of his private patients complain of sexual difficulties, a number of which are aggravated by the incompetence of their husbands. The incidence in hospital practice is apparently lower, which is attributed to the fact that owing to pressure of time, a detailed history covering emotional factors is usually impracticable.

The textbooks are not encouraging about treatment. Thus Curtis and Huftman (1950) write as follows :

Female frigidity often presents an insolvable problem. Prudery, incompatibility, ill health and coital maladjustment are among the numerous factors involved. Common sense advice has been effective in some cases.

Young (1958) states :

In many cases, there is no local lesion present at the vulva or in the pelvis to account for the symptoms. In such cases we can sometimes discover the history of a painful lesion from which the symptom has dated as a kind of neurosis. In other cases the condition is to be explained on the lines of a disturbed sex psychology.

MacLeod and Read (1955) write :

Frigidity and most cases of dyspareunia are but further examples of

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psychosomatic disorder. . . . A multitude of symptoms may unfold themselves, including neurasthenia, insomnia, loss of weight, and vaginal pain of wide distribution, in fact a state of chronic ill health. As few women will volunteer information on their sexual inadequacies, it should be the aim of the gynaecologist to ascertain whether such a state of affairs exists and if possible, correct it.

Judging by the above extracts from standard British and American text books, frigidity and its associated manifestations are diagnosed to a variable extent, while its alleviation is usually difficult and frequently impossible.

The Psychiatric Aspects of Frigidity

In psychiatry, sexual difficulties frequently form part of the total problem. Treatment is often as difficult for the psychiatrist as it is for the gynaecologist. O'Neill (1954) has written wisely on the subject.

Sexual maturity equates with emotional maturity, and frequently this has been arrested by early childhood experiences such as parental disharmony, sexual guilt absorbed by the small child from the parents or nurse, or a sexual assault in early life. These experiences are forgotten but continue indefinitely to influence the woman as wife and mother.

Their release from the unconscious by deep psychotherapy is very time-consuming and frequently unrewarding. On this account lysergic acid diethylamide (LSD-25), combined more recently with Ritalin, has been used as a part of a research program in this Hospital for the last five years in selected cases of neurosis for the speedy release of the unconscious material and alleviation of its associated sexual and other manifestations.

Action of Lysergic Acid Diethylamide (LSD-25)

LSD-25 was synthesized by Sandoz in 1938, is a synthetic amide of lysergic acid and belongs to the ergonovine group of alkaloids. After its ingestion, or injection in minute doses, it induces psychic states in which the subject, in a state of clear consciousness, becomes apparently aware of repressed memories of childhood and infancy and other unconscious material, including fantasy. The drug is administered to out-patients intra-muscularly, with the patient in bed in a quiet darkened single room. A session takes about four hours and leaves the patient fatigued.

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When LSD is given alone, it frequently accentuates anxiety so that it is now combined with intravenous Ritalin (methylphenidate). The latter is a C.N.S. stimulant and acts particularly on the posterior hypothalamus. This combination enables the patient to recall forgotten material with less fear.

The patient develops the capacity of watching and understanding her own unconscious and the recovered childhood memories and fantasies. Often one of the most gratifying results of treatment is the progressive maturity that comes from self-understanding, and one is reminded of the inscription over the Delphic temple: "Know thyself."

Sessions are given every two weeks. Patients are seen regularly during treatment, and a varying amount of psychotherapy is given in all cases.

The selection of patients is important. Good intelligence, a real desire to be cured, absence of psychosis and being under fifty years of age are prerequisites.

The treatment is more effective with educated patients, as their active cooperation and appreciation of interrelated experiences are essential.

Sandison (1962), Bierer (1960), Martin (1957), Eisner & Cohen (1958), Robinson *et al.* (1963), and the authors of this article (1964) among others have described the clinical use of LSD in a wide variety of neurotic and psychosomatic conditions. Many of these cases include sexual difficulties among their multiple difficulties, while this article details the treatment of frigidity occurring as the patient's only problem. There were 1,122 references in the world literature as of January 1964, and this is the first contribution to its use in the treatment of frigidity.*

Details of Case

A married woman of thirty-three and the mother of two young children complained of lack of any sexual desire since marriage. She was fond of her husband, and their relationship during the daytime was harmonious. The husband was fully potent, successful in his profession, in love with his wife, and they were good parents.

Since girlhood, the patient had been frightened of sex and later

[* An extended popular account of psychoanalytic treatment of frigidity with LSD is seen in C. A. Newland, *My Self and I* (1962), reviewed in our previous issue.—Ed.]

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had intercourse as a marital duty. Two years previously, she had been told by a consultant gynaecologist that she was physically normal. He was very sympathetic and suggested that she should learn to accept her disability. She was subsequently seen on a number of occasions by a psychiatrist without improvement.

The following is a summary of her experiences under LSD and Ritalin:

First Session. 50 μ g (micrograms) LSD intramuscularly and 20 mg (milligrams) and 10 mg Ritalin intravenously.

My experiences were divided into four phases. I felt physical misery and depression. Then I felt frightened. Half of my mind desperately wanted to remember what had happened, and half would not allow it.

After the next injection of Ritalin, I pictured my father as a young man who rejected me. I felt disappointed, bitter and resentful. I could not understand why he did not love me. Then I seemed to travel backwards in time to a point where I had idolized him and felt possessive. My conscious mind prompted me that sex came into this and, at the same time, I knew it was because he was a man that this love was so important, but adult sexuality was not involved.

Following the last injection of Ritalin, I felt a wonderful outpouring of love and a zest for life which I had never felt before. I felt that nothing would ever frighten or hurt me again. I thought "So you had a baby love affair with your father and you don't have to hide yourself away because he rejected you." The most important thing was to love and live life to the full, and the least important was to be afraid of anything. I felt that sex came somewhere halfway and was a healthy way of showing that you loved someone and were happy — like laughing. In this mood I felt that my erotic responses would be entirely different from those I had previously experienced, which were unsatisfying and guilt-ridden.

I felt that in sexual intercourse I had, unconsciously, been seeking that pinnacle of love that I had felt for my father and that, not having found it, I was left with a feeling of disgust.

I know that my father is totally incapable of showing affection. I have never seen him show affection to anyone, not even my children. Perhaps my rejection came when I felt that he did not show me any love at all.

Three weeks later she reported progress as follows:

The most obvious change in my feelings is in my reaction to sex. I now feel very differently about it, with varying enjoyment. I can now enjoy certain intimacies which previously I had indulged in with shame, and which afterwards I had preferred not to think about.

The other marked change in my feelings is the thought that I might

become pregnant. I have always felt that to have another baby would be disastrous, but since the last treatment all the practical reasons have been swept aside by a purely emotional desire to have a small baby to care for again.

Second Session. 75 µg LSD, 20 mg Ritalin and 10 mg Ritalin.

After a short time, I felt that I was a tiny baby, suckling at the breast, and I felt the secure feelings that it gave me. I also remembered being held and cuddled by someone.

I would not let myself enjoy these memories for any length of time, as my mind kept telling me that it was not the experiencing of these infantile pleasures that would cure me, but that I must find out what it was that was so crushing, that had cast its shadow over my personality all my life.

After the last injection of Ritalin, I had a feeling of frustration and of being kept a prisoner. I desperately sought release from this tension, and I had the sensation of being physically held down and of something on top of me. I felt that this was an important experience, and the failure to recall it fully left me depressed.

A few days later, the patient reported progress :

I feel much more at ease over sex, but this is not yet right. Also I have got over my fear of spiders. Another change is that I am no longer afraid of being alone when my husband has to be away for the night. I feel much more tolerant towards the children and I feel more confident in dealing with them. My husband has noticed other changes which I have not, and says that I am much easier to live with.

Third Session. 75µg LSD, 20 mg, 10 mg, and 10 mg Ritalin.

I felt I wanted to remember my first awareness of sexuality and what happened. Then suddenly I remembered. I was a tiny baby about six months old, lying on my back with my legs in the air, with no clothes on and my father was looking at me. I was aware that he was male and I was female. He was looking at my private parts and I expected him to react in an approving way, but he did not. I cannot remember exactly what his reaction was. It was either indifference or disgust, but it was not what I expected and was a shattering blow to my self-esteem. I felt that here was the very essence of my femaleness, and the one male I most wanted to show approval, did not do so. I see now that this infantile rejection was the reason why I felt having a surgical induction with my first baby such a ghastly experience. It was much more than just embarrassment that I felt.

I felt that as a baby I tried more than once to gain my father's approval and failed. I felt that for some time I was competing with my mother for my father but in the end she won.

Looking at the session afterwards, it seems hardly credible that this incident could possibly have had such a shattering and lasting effect upon me. Being able to live through the experience and feel the way I

felt at the time, makes me appreciate what a devastating experience it was, combined with my tremendous and useless competition with my mother. I feel enormously released.

It was decided to rest the patient after this session, and six weeks later both partners were seen again. The husband reported that the patient was a much happier person, a calmer mother, and was now sexually responsive on approximately every other occasion. The patient said she felt much more at peace with herself but still had considerable fear of her own sexuality. She felt she had not completed treatment.

Fourth Session. 75µg LSD, 20 mg, 20 mg, and 10 mg Ritalin.

At first I had the usual turmoil of unpleasant emotions, fear, guilt and a desire to run away and hide.

Later, when I had calmed down, I had a memory of tremendous sexual excitement. I felt that I was about six and that somebody had been "playing" with me sexually. I also seemed to be near water, perhaps a river.

Later the memory of this experience faded and after the last injection of Ritalin, I had a feeling of disgust, followed by a dream-like sequence of lavatories, drains and rushing water.

Three days later, the patient said she felt very tense, that her experience of the assault was incomplete and pleaded for another session as soon as possible. She felt fairly certain that it was her uncle who had assaulted her. She had always known that, as a child, she used to stay with her uncle and aunt who lived on the Thames.

Her summary of the session four days later was as follows :

Fifth Session. 80 µg LSD, 30 mg, 20 mg, and 10 mg Ritalin.

I have put off writing this report because I am very reluctant to put down on paper the incident which I have remembered, and am so ashamed of.

I remember mostly the emotions which went with this incident. I remember the feeling of sexual excitement, of knowing what was happening and the feelings of disgust afterwards, but I cannot remember the actual physical contact. After the last injection, I could remember being held down and the uncontrolled lustful look on my uncle's face absolutely vividly. It was as though it had happened yesterday.

I think we were on the bank of a river under trees and I had a feeling we were disturbed, but it was not clear. I also think that my uncle may have got me in this state of excitement more than once because I seem to remember two separate occasions, once when I was sitting on something high up and once when I was lying down.

I have still only experienced partial release from my tension and sexual difficulties, and still feel rather shocked and depressed.

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At the next interview, she stated with embarrassment that she had remembered under treatment that her uncle had performed cunnilingus on her, a perversion of which she was totally unaware prior to the session. She agreed that the whole episode needed clarification with another session but was much less pressing than formerly, regarding immediate treatment. She felt the end of treatment was not far off now.

She stated that she had always known that there had been a violent quarrel between her father and her uncle about this time, and that she was never allowed to stay in her uncle's house again.

A further session was arranged in two weeks' time, of which the following is her summary :

Sixth Session. 80 µg LSD, 30 mg, 20 mg, and 10 mg Ritalin.

Under the drug I had the feeling that I was searching for an ideal, e.g., the first time I was sexually aroused, and the man who did it was a sort of god to me. Then things became blurred, but after the second injection of Ritalin I remembered with complete clarity that I had enjoyed my uncle playing with my privates. The enjoyment was brought to an abrupt end when he tried to rape me. I remember feeling a blow in the area of my vagina and a feeling of force, but he could not really enter me. There the memory ends. I cannot remember what the outcome of it all was.

I have felt much more tranquil after this last session than I did after the two various ones, and the physical effects have not been so severe as they were the time before.

Six weeks later the patient was seen again and reported as follows :

After the last treatment, I had my first intercourse with full orgasm internally, which was a completely new and wonderful experience. My sexual life is now completely different and I get a wonderful feeling out of it on most occasions. The marriage is now very much better, but I believe there is still room for improvement and for me to feel complete ecstasy on every occasion.

As she was improving steadily, it was agreed to leave further treatment in abeyance. Some patients may continue to improve and gain insight for weeks and occasionally months.

Six months later, the patient reported as follows :

Here are my latest views on my progress. My feelings towards sexual intercourse have undergone the greatest change. I can say with no reservations whatsoever that I have lost all my inhibitions regarding sex. I am completely free of all the feelings of distaste

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and guilt that I had, and am able to enjoy in a "down to earth" and healthy way.

In general I feel more confident and mature. I am now prepared to go more than half way to make friends with people. I am much happier about expressing my views.

I know my husband finds me much better company and I have a much more positive approach to him and life in general, and I have much more patience with the children.

I have scarcely given a thought to the incident with my uncle and when I have, I felt completely detached and unemotional about it.

During the interview, it transpired that she had had a full and completely satisfying vaginal orgasm on every occasion except once, when she felt particularly tired. She looked much happier and was now clearly at peace with herself and her surroundings.

Further treatment was considered unnecessary by psychiatrist and patient.

Conclusion

A case of complete frigidity without other neurotic features is reported which has been fully relieved after six sessions of LSD.

The patient re-experienced sexual excitement, rejection and guilt associated with her incestuous feelings and possible assault. She improved as a result of understanding that, early in her life, sex became associated with fear, violence and parental disapproval.

Her husband reports that the patient is a much happier and more relaxed person, and that their sexual life has been revolutionized so that the marriage is now outstandingly happy.

Apart from this case, the use of LSD and Ritalin, with appropriate psychotherapy, has cleared up frigidity occurring as part of a psychopathology in sixteen other selected cases. It appears more informative to report this one case in detail than to present a summary of all the other cases.

Summary

1. True frigidity is a common problem in gynaecology.
2. The specialities of gynaecology and psychiatry overlap in many syndromes. Psychological factors are solely responsible for true frigidity, which is a neurotic illness.
3. Other "symptom equivalents" often mask this "organ neurosis" since in the great majority of patients, there is some psychological cause for their physiologically expressed disturbances.

4. These cases are notoriously hard to treat by the traditional methods of gynaecology or psychiatry, since the causes are unconscious and deeply repressed.
5. Given good motivation, superior intelligence, a reasonably stable personality and a cooperative potent spouse, psychotherapy with LSD can help these cases by the recovery of early sexual fantasies or traumatic experiences responsible for the symptom formation.
6. Sixteen cases have been treated successfully in this way, and the facts of one such case are given in detail.
7. We would like to express our thanks to the Elmgrant Trust for their support and to Dr. J. Bierer for his cooperation and help. the Ritalin.
8. We would like to thank Ciba Laboratories for kindly supplying

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Shouted From the Housetops: A Peyote Awakening

JOYCE JAMES

Back at The House; three of us, with one other — Marolyn, a friend. It was the weekend of Easter, and the early evening of Good Friday. It was also just one year ago that we had commenced the deeper meditation of Yogananda's initiation into Kriya Yoga.

As Monty had recommended, we had eaten lightly, nothing more than an apple. From the jar of liquid he poured us each a thumbfull. Considering all the claims that were made for it the amount seemed scant enough, but holding that brown-green, soupy mud where once one could smell it, one's nose of itself would rear nostrils aback, with refusal. Oh but it was bitter! Unbelievably alien to the human taste. One's whole body was affronted. We thought that perhaps if mixed with honey and slowly rolled on the tongue, at least we should be able to swallow it. No sense of anticipation remained, there was no prelude to awe, but the act of sipping that brew was a total experience in itself — the reluctant gagging.

"Sure must need something pretty badly to endure this . . .," I thought. Slowly, and very surely, we extracted from our senses the condensed savor of all the bitterness there is in life, slow distilled to almost unassimilatable lees of taste. And the honey, with its polarity of sweetness merely seemed extension of the slow drip poison dreg of bitter.

Down at last. I was disappointed — phooey, there seemed nothing to this stuff. I might have known it wouldn't work on me. I felt no change. I do not know my expectation, something like champagne perhaps — a deeper sensing of beauty, an intensifying of color, and significance in form — less that dulling of perception that drunkenness can bring. Oh ignorant. Naive.

Bodies still, and waiting; after some time Don claimed some new sensation at the base of his skull. It seemed like idle conversation, for I myself was not aware of any change, except I did not feel so pleasant or indifferent as I had, and a light remark from Marolyn, with her usual mocking humor drew from me overweighted, snapped

rebuke. My contempt was quite apparent, surprising me at least, so unguessed its existence and extent before. But Don, in voice so thinned and cruel with answering disgust replied for her to me in accent from the gutter — "Jesus Myrtle! Aint you the little lady though?"

Some such thing, but his expression as he flung it, his lip a writhing of disdain, was a disproportioned, embittered consignment to derision. Never had I heard him speak that way in all our lives together. The cause I did not understand, but my response was immediate and frightful to me. That voice of his that darted venom hit like frozen falling into water. Shock rippled unsuspected depths of all my being, encountering underlying other shock of knowing that all along such hate had been before, never acknowledged, suppressed, denied; counterpointing, chording, leaping scales of expanding recognition. I knew such freezing anger, I could not describe; such indomitable, rigid anger, and cruel shock and pain that I was battered — and forever removed from ignorance of our relation. Why — he had only hated me as the woman, any woman — and had negated my rights to become one; suppressing me had practically turned me into a boy — neutered me in fact. Gone forever the humble pleading to God to try to reflect my husband's elevation, incorporate within myself the superior nature ascribed to him. Now I knew. He was an affront to nature while refusing of its existence should it manifest as woman. Oh, what the mother of such a boy? And who actually was this stranger with whom I'd ridden dreaming nightmare for so long?

Final and irrevocable, that anger loosed in me — and fatal — for it embodied death. Heart bursting into mind's reflected anguish the churning of my diaphragm lashing on torment, the sudden weakness of the knees under sickened, goaded body, I spoke :

"Aaagghh. I had better leave this place Don Naylor, or I'm afraid I would kill you. . . ."

And I groped out of the house, nauseous, wracked with the burgeoning vision of our state together. Unbelievable! Yet somewhere, somewhere, I had always known this. Oh why so unconscious that fear, that hate of him, smothered in guilt and delusion?

I left them in the warm hearth room, all firelit and calm — in just those few seconds an exile.

"Ah, I am really alone then. The outcast, the nonbelonger, and have I not always known it?"

And a subtle change in sense occurred. That hate was true, my

answering leap of violence real. Fear had always been. Now I saw the veils were lifting, and the view was black and wasted. Nausea mounted. Thirteen years' experience became as naught — or — cycled round again to that other night of life, when 'they' had told me I was not their own. Sickening as that shock had been, aftermath had brought relief — "at last the things that are, are seen as so, and desperate though they be, they are not so fearful as delusion." Now again that grimness of relief, with vision freeing from the webs stranded on mockery. My God! How that man did hate — and it wasn't even hate for me — only intervening phantoms interpolating image and reality. Ah, how blinded my poor, weak eyes. ("Jesus Christ". . . . I'd said it myself, that I would not marry any other than He!) And what of him, was he blind too, or did he really know? Oh dear God, NOW is upon me! Again! For I see as clearly. We are blind.

And helpless. These words that take a page and half an hour to write them take no motion of time for their living — lived as they are outside it. In less than the reach of a footstep, the fast racing knowing of how things have been for a lifetime!

Falling now, so weak with wrack and shame, but on up to the roof, "I'll be alone this night, whatever it should bring. At least is less danger apart."

And up the slow stairs, in utter aloneness, I stepped on the roof to the deck — reached the mattress — prostrate I was ill. Nausea flooded up the bitterness of down savored drug, throwing up the apple that had comprised my dinner. Oh poor, poor Eve! That apple choked her daughters all through time, so abysmally wretched with the good and evil phantasy. It bubbled like a fountain in my throat, the grief.

Body quietening, I lay with racing mind forming picture after picture of our 'marriage'. Came vision with new emphasis, informing as a dream, and I shuddered at the cruelties hidden but implicit. I could not weep — weeping is a part of the sad scenes that it mourns, an extension of the past with some hope for its future — but I saw only a past that had never existed, replaced by realities that had never been dreamed; crouched like a stone under the moon-deflecting screen. Like a sad, sad stone.

Laughter floated the roof, came drifting over the garden. They all seemed happy enough down there! I cannot tell you to what depths my spirit dropped — deep, deep fathom-plummet beyond all reach

of feeling. Anger and sadness, hot-lipped words; they were so far away. They were of the living and no life moved in me except for my body breathing the life of its own. I was nearly shocked to death and beyond characteristic of the living.

The night drew on and their voices murmured above the trees. Sometimes music played, and I alone — on the top of the house — was a part of the house for all the feeling left to me. I do not know how long I sat, and after a while found my legs of themselves had folded into lotus, seat of many a morning's quiet, and that I was not so sad as then. Dropped away the daily life that had distracted so — little but the moment and the knowledge that I had no life, and likely never did, was peace enough. It was a certain knowing — and that is all we pray for: certainties. I raised my head to the moon sky and met the silent core of Self inside on which all things turn, but is lost to the mundane vision by overflow of dream. It is itself the dreamer also, and not the one in dream. Self is a quiet thing, a strong thing, and it is all there 'is'. Free of dreams, free of the see-saw of the thoughts of them, it is neither good or bad. It just is.

And for a while, it was.

I heard the slow walking of someone under the trees, and although it was quite distant the hearing was acute, as I had not experienced hearing in years. Someone moving nearer to me and on up the stair. In the doorway, head against the moonlight and looking as I had seen him look the last time he was 'He' and real, there stood my old friend Monty.

He quietly sat himself beside me — understanding in his manner, and in his self-containedness was reflection of my own.

"Oh" (In my everyday mind — like a mind going on at the foot of the stair.) "Then I must seem as he. This is the answer to that question of how must he have felt? Ah, it is a far country that manifests so."

A sense of shock for myself this time, in the little conscious mind that existed with this other Self, for now I also knew the distance travelled from that daily world existence. As if the outer skin purports to be the person, but when the skin is made transparent and the Being inside is seen, one learns what was the skin only, with a pockmark seam of pain of unguided belief that has nought to do with the inner self, and is merely a record of the dream — and that the Self was never known.

There is the split in the mind.

"Are you well?" he asked, and I answered,

"No, my soul is sick to death."

He looked very kind there in the moonlight, and utterly remote. As remote as anyone actually is, and as he had formerly appeared to me, when I adored what had then been far beyond me. I understood. In the quiet of my soul before it plunged hell-bound on the soaring way to heaven, I understood, regarding him without the love which he evoked before — for I was far away from love.

Bard-oh! Bard. Sing to him who passes now quietly slipped from mooring of his clay.

Bardo! Bard pray now. Pray forever that he may, now and forever bridge the stream from life to death, unslain by knowledge of his own lie in breath-taking pictures constantly pray for him now all is one.

Now he descends into Bardo! Bard, oh pray!

And the sound of my own voice astounded me. A deep booming ring from the bottomless tomb. It was myself, that tomb! — with voice as low and endless as all the bounded earth that comprised my form; a voice that used up ravening strength to merely utter of itself. I observed its force of travel in every muscle, nerve and tissue, before it transformed the ether into corresponding sound. God! What a journey. Each sound, each thought, each word was the echo of a lifetime of existence, choice and action. All history went to form one sound! No utterance is made but it employs totality. A fact existing without our notice in our usual slow-body-consciousness. My own voice frightened me come issuing from the grave. I had never heard my voice before! Buried in my body! So obvious a state I did not know how I had so long successfully evaded it. The days of my life had been mostly death! Was I now alive?

Implication of a judgment yawning now before me as the soul stands free of its tomb, this which was happening to me: for great changes are taking place in this little structural universe of myself. . . .

Sitting rapt as lotus, there before me was the person calling himself 'Monty'. No one I had ever known! Oh God, the world as I know it is slipping from me, what is taking place? This . . . this form beside me, who was he, and ahhhhh . . . who am I? So long I have asked that

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question, gone the years I thought I knew. Just another dream-filled period obscuring deep issues that have those few times caused me to ask it. . . . Heaven above, I ask you now! WHO AM I?

For fearful was my vision, racing was my vision. The moon and stars were nearer and leaping on the sky. Centuries were flashing in those sky journeyings. Light was changing now for me, the light that was in things. Encountered central core blue flame, my eye that struck the wood beam, and up to the stones that, glowing too, filled me with rising horror of recognition — the world of dream was loosed from sleep and the world of dream was real! I could not jump to the sleep of the day and flee it all behind. In every thing the cold blue fire — moving, moving on itself. Appalled, I felt the mounting rushing speeds inside, far below was my plodding mind, duly recording the doings of a consciousness far beyond itself; still down there in a familiar world. I had left that world behind for another and another and even then another. . . .

"Shouted from the housetops" that were our own heads.

Christ told us, long ago.

"Oh, I'm afraid," I moaned to him beside me. "Please don't leave me now."

"I shall stay with you, but don't you know you're cold? Let me fetch you a blanket."

"No! No, please don't go. Cold! What is that to me?"

I shrugged a shoulder and it seemed an hour, so complex and lengthy that procedure.

I was beyond the hold and protection of a body. I raised my head to look at the town, and the lights were demon's eyes. Hell-firelit evil holes, burning in the night that did not veil the pit beyond.

"Oh God! . . . Does no one know how things really are? Doesn't any one see the terror and the evil?"

Wherever vision turned, eyes. Everywhere were eyes, and things were contained within the eyes; not the eyes contained in them. Everything had vision, saw with the countless sights — of thousand-eyed gods.

"You experience yourself," he said, "there is only you."

But I could endure no longer and lowered lids to turn their vision into encounter loathsome horror at the pictures spawning, swarming in towards me. They opened with a bang! my eyes. I was wearied to death and broken-hearted.

Shouted from the Housetops . . .

"I should never have done this, never have come."

"Perhaps it is a good thing" was his only answer, and our voices sounded as thunder, and as timeless.

Now I was approaching another effect. I will not waste words defining terror. Terror is at least this side of life, and I had ventured far beyond it and all antidote. Now I was alone and adrift in infinities — lost in the universe of myself, vast and teeming, and in no thing different from the one we call outside. There is no outside.

"Speak. Speak. Confess before it is too late."

The harrowing vision and the overwhelming realization that all around were other worlds, other beings, other kinds, became too much for me — and inner resources overtaxed, I moaned again,

"I should never have come."

I was in another place. Vistas opened on new world terrors in the ether, showing infinite departures of various heavens and gaping hells, either kind inspiring dread and none of which I had the freedom to avoid — not while their maddening interpenetrations had their way with me.

"Look at me!" he said, for desolation was covering the end of the earth.

"Look at me, and be still."

And I looked. Looked and took measure of his calm. Yes, it reassured me for the instant. His face was the most beautiful thing I had ever seen, scarcely known in its perfection, and certainly it was a beauty betokening little of the human. What there was seemed only signature of the way that he had come, a mapped indication of his forces. I saw the face that had walked with me the desert — but now I saw with an inside view! No more a girly-worly-worldly eye titivated by the vision of a beautiful young man. This was the ageless perfection of a very old 'soul', in a body held perfect, unmarred by the ravage of timing passion. This was impersonal face, and so it had been before. It shamed me what I had made of it only so recently. He . . . he had been kind, in the face of that blind, angry figure. So blind, so angry, and empty. Incredible, that one could be so sightless and so hungry! Then, possessed by his calm, by his utter repose, I gazed at him as if to meditate.

And there on the roof, and out of my head, the heavens rent their veils and vision came clear. I saw Monty (as he must have meant it previously when he said he 'saw' me) and I sobbed afresh at the

sight. Cleansed my eye, released from the clutches of corpus that had only thought to interminglemangle, there was the hope — the human encounter with the human soul. (Pandora stalks eternal fruit sawn seed of Hope. Ageless Pandora walks the heart. There will always be the baulks to open.) I gazed and was humbled forever as I saw the un-sheathed face of the Being cleared of all his veils. A great one. An old one — and I bowed before him. He smiled. He knew, and raised the tear-stained head. Light was truly all round him. For an instant my gaze held clear, but shame overcame and I hung my head. The light was a great wide halo — from toe to the head to the sky, and the light was myriad rays *divided*, and each pulsing ray was the soul of a man. The multiple light of all men's souls was forming the halo, like great shimmering wings, converging his center which held them contained.

"Everyman must come through Me. For I am the Way, and The Light of the World."

Thundering, awestruck recognition of the Christ spirit, resident within him. That is the path that Everyman must travel!

I know why people grovel and touch the head to the ground before the radiance of The Light made human. One knows one's humblest state on the scale of spirit married to form.

And as I, humble, worshipping, was ready to prolong, from every part of consciousness the words blared forth as trumpet:

"DO YOU SEEK TO WORSHIP ME IN ONE OF MY CREATURES? OPEN YOUR INNER EYE!"

I lowered lids, and there with the completest understanding saw the center of creation — The Light of The World issuing from Itself the Center, eternally departing triad, like a universe of fleur-de-lys, golden moving of the lotus which is ever a becoming.

"I AM NO ONE, BUT ALL. . ."

And light was sound, issuing forth to penetrate the ether, welding sound to thought, and thought to form, apprehended by the impact of any eye. And as the sun to earth is, to the sun is this inner model of a universe.

I opened my eyes to look at the one I'd called 'my friend', as had Arjuna called Krishna, while unseeing and deluded. So recently with the eye of woman had I yearned for his form, now 'I' saw — not with the web of circumstance that calls itself Joyce, but 'I', my Self. (Joyce is of the world, and time. Perhaps 'I' should not have been so hard

on her, had 'I' not just then learned of her separate existence, to our mutual embarrassment. One need not negate the other, for both are quite dependent. Perhaps always at the first, it is that movement from one state causes shame in another — but the novelty of one cannot deny the old, else one has not conjoined one's understanding.)

Gaze shifted once again — his form was changing there before me.

Strange sound issues forth from me. Blue core flame in him reveals to me the skull. Gone the face, gone the being I know somewhat.

"I'm looking through you! I see your skull, your fleshless eyes. Now too they vanish. I look beyond. I'M LOOKING THROUGH YOU! Through a hole in the web of our world. The world is gone. I pass through you and see . . . the universe! The galaxy! The All There Is in motion, orderly, predictable. The vague shadow of your circumscribing skull is as easily a world. Gods, demons, fathers, mothers, devas, prophets, angels, worlds and stars; landscapes, saints and deities of oceans — all the forms of every kind that have inhabited the mind of man on earth, all slowly suspended in the world dance of an atom of infinity, turning on the spheres of themselves. Forms their total composition the features of a Being, eyes of distant suns and moons, gaseous clouding forehead, upholding all the stars of ever were or shall be; the atoms of the galaxies form gigantic head and mouth that terrifies with appetite spewing forth and gathering in all the hordes of souls and men and god and planet.

Not so much The Lord of All — for He Is All There Is, cosmic man or cosmic mountain, the many levels of existence through which all must climb.

"A god."

"A God? The God?"

"No. He Is All. Nameless, formless and terrible, composed of nought but all there is, and isn't — slowly interweaving the traces of its forms. A mountain of being in your head! Monty! A mountain are you!"

Awe-struck my gaze sped on, in this moment of my life taking place outside of time. Looking through the 'whole' in the universe. (As Thomas before me had looked at the hole in his God and saw the whole of everything. I do not play with words — do you see how the words do play with us — and the sleepy minds that do confuse their meanings?)

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And with all my being transfixed in the moment that answered the quest of my life, I shuddered in my soul, for Grace carried even further and with new velocities of divining sight I saw our universe sphering on its destiny, dissolving in the ether of some inconceivable infinity of future, and then another vortexing of itself in the place made absent — then another, and another. . . .

Deeply my warning spirit chastised :

“WHEN WILL YOU OF THE UNCLEAN EYE BE SATISFIED? YOU ARE TOO BOLD. IN THE BEGINNING WAS THE WORD, AND THE WORD WAS WITH GOD !”

Shame anguished me. . . . “I haven’t the right,” I whispered, “I haven’t the right, I know,” and turned away the paltry gaze that faltered on eternity. The Word was not mine. My own word had never been with God.

But I had ! *seen* the Beginning.

Not of earth, my spirit sang,

“This you will always know. This you will take with you back to earth and you will always remember. Now that you have seen — let thine eye soon become holy !”

Humble, vision focused swiftly back to earth before me, and my spirit bowed me low to the one who had led me on the journey.

“Who are you?” I breathed, “And why have I not known these things before? Why have I scorned and tried to teach you? Why do you use that accent and act like a boy?”

“It’s only a body, and is a boy,” he states.

“Oh, forgive me, please. . . . Henceforth, I am your servant !” But as the soul ascends to heaven, it must descend to hell, if hell there be within. Shame had been of grace for me, but shame indicates that the soul is split — what one is, and what one was not — knowledge of fission, not simple duality. So I was not holy at home in “heaven” (a word that applies to state, not place, unless one begets the other), hence I must fall to the home of shame. Had I known this earlier there might not have been such far-flung fall — for now the depths rose up and over me — everywhere — appalling me with heartbreak, horror, and the sickness in my soul.

Vastnesses of evil forms (inside and out : no difference), coupling every aspect of perverted attribute with eternal variation and mocking dissolution — all comprise a total Being, enormous and blasting, a shift-

Shouted from the Husetops . . .

ing containment of chaos, with foul, obscene intent — engulfing heaven and galaxy threshing, the typhonic tails suspending organ, form and visage of every beast and demon, animate plant and wasted angel, all engaged in blasphemous conjunction, creating ever new genesis of mutations that shatter in the comprehension — all in gaseous revolution about the form that was Itself. Framing deceptive, dizzying transformation, servitors all, of It’s will, The Merciless Affliction, was ravishing the sky.

A paralysis of shame held me in helpless captivation to the leering serpent-dragons, help meets to demons, darting incessantly as substance from the mist, infinitely vortexing in repetitive horror. Sky high devils formed only of evils, searing in their signs and attributes of unacknowledged lusts; significances unfamiliar but put to abhorrent usage — angel faces peering from immensities of nether generative organs, with mask of frozen beauties incommensurable and shattering in the horror of their context; heads of dripping, watering forms, unknowable but for a recognizable orb of an eye goggling the inconceivable tails rearing up from their slime — converging all upon me, rushing in and out of me, making free of my form with delirious authority. There was no place to close my vision of inner and outer life of teeming pit, to close an “aye” (no misspelling, that !) open to all sight, no flesh curtain shading me from what was the sight of the soul. The world of symbol, dream and madness is *no less* real than any other when our insulation is removed — (the insulation of the flesh combined with loving spirit) no less real than the daily world, differing only in that one could not flee to curtaining sleep. These creatures, beings, elements, call them what you will, manifest and live as any others in realms only more tenuous and molecular than those we apprehend in our usual range of vision. The break-through called as dream or madness merely means the opened door onto another realm of all creation. (Was this the opened door I’d prayed?) What is symbol to us is reality there. All penetration of one’s sight is dependent on the speed of vision. Each speed has a differing view of the worlds, the realities of each are but symbols of another. And all is but symbol to another speed of vision, when all is seen to converge as one. But the sickness of the soul was mine — for no matter what I gazed upon I turned it into chaos and extremity.

To my guide I turned soul’s eyes, befouled, besmirched with their knowledge of hell, dropped my gaze in anguish as I found I could not

even see his form through my every corruption which transformed him into hideous loathsomeness.

"I can not look at you . . ." my soul groaned speech.

"I make of you such dirty things. Forgive me. Forgive me. Oh my God!"

Wherever turned, my gaze obscured with demon resident. There was only for me to look at the sky.

All the while, my mind of earth had watched and strained and sickened at its post, somehow waited and held on in hope it could reclaim me, teach, interpret, make coherence of that death in the night. Now that mind was wracked and wrenched as it watched new consciousness approach a state so swift it must crack!

A drayhorse and a comet — the mind and the vision.

For the first time I saw that I might die. Death was my possibility for such energies as these could shatter their container.

"I think my mind will break. I don't think I can hold on, Dear Father! I should never have come. I did not know and I am not fit. I am not ready to be born — and oh, Father! I am not fit to die!"

I bowed my head. I could only endure. And silent, broken, I let them have their way with me the distorted fragment writhings of hell. Bosch and Breughel, Dante Alighieri (allegory is not meant at all except as human mind can not convey the limits of endurance.) With hanging head of blaspheming knowledge I became the worm of symbol, as coming round full circle, chokes and bites the venomous tail of itself.

"Forgive me. Forgive me. God, I am unclean, unbearable. Monty, I think I shall die. I cannot contain any more."

He puts his arms around me a million miles away, but spirit of his body flew to mine and held me, sore afraid but conscious, conscious all the way in every view.

To whatever depth of consciousness extant in a person, to whatever height of longing his soul has ever yearned — his obscuring veils will be removed and all will be revealed to the end that nothing of ignorance will be left remaining — nothing of himself unlearned. That is the state of death.

All that was hidden is opened and exposed to the view of one's widest Eye — resolved and fused as one single note of a greater harmonic, one golden sphere that is truth. Truly, "the veils of the temple

are torn and rent" and usurers must surely go — a temple is for worship.

"Sore afraid, but unto you is born? this day? A saviour? Who? Is Christ the Lord?"

I am sorry about the words that so long have seemed to have their meaning. Revelation of the meaning shows how empty was the concept. And if I wrote words *solely* of the times of that night, I might convey to you my friend their most unholy fright with nothing for your succor — for watching those flocks by night, seated, grounded in one's body — is the shock of awakening. A new testament of a new possibility.

But on and on again, the panoply of planet's hosts of Lucifer; visions of the sight that has fallen from its high estate to this dark abomination. Everyman is Lucifer, Everyman is Christ, but to Light alone is it given to create an expansion within the soul. Darkness is The Vanquished-In-The-Ultimate.

I do not know what strength it is that can bear those sights. I do not know That which held me anchored to my body — unwilling host to monsters, that penetrated each and every body organ as their seats of generation as well as that of my own — (such imperfect generation if these had been the dwellers heretofore!) instead of angelic life for organic balance of the instrument I had called "me". Heart, breath, head and belly; the seats of all creation, be it man or god — the realms of the nether world exist in all of them as well as those celestial — but in the lifelong, blind misuse is spawned mean dropping, recognizable even now as offshoot, composed of anything and everything associate to them. A universe of forms, repressed, undreamed; cruel and fierce and ghostly mocking; evil-winged and twisting slithering slimes, goading to agony with deathly shame, benumbing me as the sport of hell's tormentors, familiar with and all at home in me. For they are in us — archangel to demon; creating forms of beings — and all employ one's power of loving or not-loving consciousness as their medium of expression and that power of love or not-love is the energy of their animation. And the One who knows them all, uses them and draws one, that One is the Angel; unobstructed by the shadows that imprison demons, freed by the Light of that knowing All.

Hell is delusion and darkness — no Light.

Then, out in the heavens, out by the planets, beings of similar intent, but *actual*, more ethereal, diffused — thus closed to daily view

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of corporeal, non-ether-seeing human eye, revealed what were the principal forces ever deflecting into the human world. Whatever they were — they were only that — a pure and perfect principle of some force. Mixed and admixed to a soul-sick eye they could mean only terror: of themselves and without that blending of a watery vision, they merely represented other order, other world-force harmony. Beyond them was the universe-womb of every seed. Angel, human, devil, interminably inhabiting their different speeds of form. All influential to men and struggling for conjunction into absolute-with-their-father-spirit, whichever one he might be, but who were ultimately The Only One.

Hierarchies angelic, hierarchies demonic, as much a part of human as the expression that he wears; leaving their subtle markings on his form, and all he uses, touches, gathers to him, imprinting their signs on all he makes. Subtle are the forces that do comprise a human: divinities and builders, and doers of destruction.

They had their will with me, the hierarchies. Their infinite appearances assumed in all of their dimensions, transformed earth and sky to homeland, the playground of their action. Enormous gross backdrops to the finer formal lines of heaven and hell — stately crescendoes of vibrato-pulse light, heart-straining beauty of quivering geometries, ultimate equations creating their forms — endless symbolic answers to questions new arising as to expansion of creation which was itself just born of them — endless constructs of heaven's new arising — endless action in destruction, encroachment of a form, a soul or anything: shambles, chaos, seemingly — but with a strange new energy released, directly formed another symbol issuing out from heaven. Seen on circle — hell was a source of all arising and not its dissolution.

I recalled myself to myself from the miracles revealed — revelation was not necessarily salvation and my flashing brain seemed fire recording the open skies — only illusion, the empty sky? Only a dream, the quiet earth?

"Ah . . ." I cracked on grief.

"I am not sure that I can hold on . . . I can become insane. Is peace gone forever and has my world gone with it? Shall I never see the earth like that again?"

Monty, the chameleon phantom beside me told me, "Yes, there will be peace. Come downstairs to the light, for it will be better in the warmth and firelight."

Shouted from the Husetops . . .

"Oh no. No, I cannot. I do not dare encounter 'him'. I do not know with whom I have lived. I cannot bear to know! And you. Why are you so kind to me? What do you want, my body? You always have!"

Jesus! I stopped — revolted by my Self's betrayal.

"I'm sorry. I see it is I who have wanted you. I can stand no more. Will you go? I am ashamed, unclean. Not fit."

Somehow he understood the agony of a self that to itself was so untrue. He left, and I was alone with that self! A fate that is death! I lifted a hand and examined it. Mine? How strange. Each finger, thumb, and palm, intelligent beings all, and perfectly conscious. A struggle for will with the hand. Conscious, it wished to live of itself. No! Damn you, you're mine to rule, control and use aright! And the anger in the hand that seemed to know of magic, wished its use, showed me the transgression of some other unknown time, (for I was aware of myriad lives) and left me unhande of right hand's use. Left-handed by Right. (Words, words that hide from us their meanings.) Emotions, feelings, crystal, plant, animal and angel rotating in my hand; quick spiral tracings weaving form, the pattern of their movement. Skeletal and flesh, muscle, nerve and bone, the disposition of the fold of knuckle, all were seen and read as the lives of those composing them — me and mine unearthly hosts.

There was great silence in this eternal night, and my turncoat mind, untrue to itself and befouling, remembered the name of my friend, downstairs. Eeeee . . . what is happening to her? Oh great heaven, is she all right? She could be dead. She could be raped? She could be in ecstasy for all I knew, whatever it was I was responsible, for she knew nothing. Nothing at all. How would she fare?

She's prone to rape! With Don? Ah, ghastly thought, but may it not be so, and likely?

"Well," reason counters, "it's what she's always wanted." But daily life remembers something different than unadmitted desire. Will it ever be that way again when and if this is ever over? Oh, I do not know. I do not know what is right and what is wrong, and yet I cannot leave her unprotected, inadequate helper though I am.

She and Don! She might become pregnant. So deeply I knew the ways of this sister! How had I never thought of those two before that way? I had. I had, but consciousness had not ventured further than a

jest. Of course she would go to Don, who might ask her, if never me. Oh no! The doings of this night cannot be left to work their ills across our lives. If these be desires, then at least let them take place in the daily world of thickened dream again, for that is where we live and do comport ourselves.

Here, is the world of judgment. One dare not act in that!

I proceeded to stand; and the effort! Hercules would stagger at the weakness in the limbs that needed superhuman strength to move them. An eternal effort of my rising — and pushing up and down of leg and foot on stair; long years of minutes and the effort was supreme. Ached and bruised for many days the muscles that actualized that walk. I reached the ground, and slowly, faultily walked the walls of The House to where I thought they were — but I could not go in! I could not face them, so ashamed and appalled in extremity.

"Marolyn! Marolyn!" A voice from the outer world issued from my head. A voice to terrify the living, so sepulchral and ghastly up the open column of sound of despairing and desolate body.

"Marolyn. . ."

I could think of no word to say or what to ask — but ultimately, "Are you all right?" Oh inadequacy of inadequacy! What was I to do? Suddenly came certainty — she would do what she would. She was subject neither to me or my molding, no matter my previously mistaken thoughts. No, this night would have its way, whatever it might be. It would be done. I got back to the roof, alone and unanswered.

Red, the cat, was there, and brokenly I called to him, "Red. Red. Little friend."

The gratitude with which I saw him! The great relief to see this little being. He in all the universe did not dissolve before my eyes into every other simulacrum. He stayed as he was, beautifully centered between the worlds, poised and unsurprised. Only the striping of his coat glowed with a greater light — those markings in his fur were in some way antennae of perception. A magic creature, a cat — and good friend to a human. I sat there with some slight relief afforded. The hierarchy was changing forms, and while the spirits in forming showed no differing of intent, at least their posturings and sculptures were of more familiar things — not the mad-inducing terrors of creature unimaginable but known and loathesome in its thousandth dimension, twisting in and out of light. I do not make this plain, this leaping in

and out of multiple being, the voids and dementias of infinity, repetitive, eternal as endless mirrors of distortion, the courtier forces of the being we project, called Satan — Natas backside mirror of the born.

But enough of hell!

God was in his heaven and I would have to find him — wend the way through horror, back up the path of the loins, through the bowel, past mid-rift the guardian of the pit, guarding well the hell from upper heaven-breast heart-breath-of-God. Paradise and Eden, guarded by the serpent eating of the tale of the serpent slain by its end. Yes, just as they tell you, it's all in the mind . . . but — how does one get out?

In the force of conscious turning came the choice — and God turned love. Spirit fearfully wrought now lightened, flew the space — up past the demon spirits guarding threshold — on up the air of peace.

All was still and calmed and poised in sweetest order. Angels, heavens, I did not wish them, knowledge of their existence could have also formed their presence, but God's own earth *was* the most gracious formation of them all and I yearned for nothing else than that, that earth which was so freely given.

The moon had three quarters crossed the sky, and I knew I had not succumbed to the temptation of the unconscious. I see that death of consciousness of life is great temptation to the spirit. In that awful knowing in my weak and helpless soul, there had also been proffered grace. Although I had not thought to ask for mercy, I had thrown my lot on God, and in the helplessness of soul that shattered on its contents I could only bow the head, endure — and in the bowing resign myself with yet no wish to deny, go mad, retreat to the womb of unconsciousness in the final and complete rejection of a soul that needs must acknowledge and regenerate itself.

No. No refusal. My God no!

No pride, that shell was broken, and in the breaking, freed?

Fearful! Fearful the hold of imagination! What had it not taken to break me loose?

I lay in the moonlight, emptied, but clean. Clean! That vomit of the apple. I must clean the stinking mess. Miles of steps and volcanic will to bring the bowl of water. I washed it away, on cracking notes of gratitude that I was alive and sane — and whole!

Yet death would not have been too great a fee for such a house-cleaning!

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Came voices — Don's and hers — rising on up to the roof. Then all three of them confronting — laughing, he and she. And came the moment that must occur in death — the facing of the enemy. I buried my face — my appalling face, covered it with my hands — that mask of furies spent and wayward, blasted out of order, not yet recomposed in new birth.

"Ha!" Incredibly gentle, Don's voice. He bent and took my hands, and forced my head to meet his gaze.

"Oh!", he murmured, and for the first time in my life (or death?), I saw and knew his pity. And he? Oh how can I describe the blazoned flame that licked the skies around his head, the broken arch of running gold, the flaring blazing fire? A god. Familiar and terrible.

"I KNOW YOU!" I cried aloud, "BUT I DO NOT KNOW YOUR NAME! DO NOT RAVAGE ME WITH THOSE GLARING EYEBALLS! I CAN NOT BEAR YOUR UNEARTHLY FLAME!"

Oh God! The beauty and the terror of him to me — The Angry Buddha! And I shuddered. Mortal pain burst spearing, burning, wracking into sobs of eternal pain. I had always known the truth of him; the love that burns, destroys — the beauty and the terror of the flame turned demon. Demon-mocker of the questing spirit that does but lead it to its freedom — but through such torture of a way! I knew him! And I always had — I had worshipped demon wearing human angel. God forgive me — for there are no Others, but You! The cry of my spirit wounded by the hopeless pain — with head sunk in my knees I sobbed to the ends of my earth.

He laughed, and said, "Come old girl. It's not that bad!"

Did he not know as I knew then? Evidently not — until I really looked into his eyes with the stripping sight of my own.

"JESUS!" He exclaimed and mirrored my agony.

His voice was familiar, but his face was composed of only ball and bone — jaw slap-hanging, hung by nondescript thread of tendon, flapping — flapping. A skeleton. No more. No less.

Shudder after shudder tore my form. My vision had free passage, in and out, through, beyond and on the surface of form — nothing resisted the penetration of the sight that knew its arising in solar fire (for that light is in us, too.) So many levels of perception any one of

Shouted from the Housetops . . .

which could place its vision where it willed — but oh, one might fall through the things one saw so very easily.*

Marolyn came forward.

"Joyce . . . Look at me," she said, and laughing. I turned my gaze to hers; she shuddered and tried to turn away, but not before my hand had covered her eyes shading what I saw there. Each and every line of iris like a camera shutter, opened on a life vignette — her eyes were like the kachinas, the pupils telescoped, projecting to the foreground animated vision of imagery that was within her — as if the eye was also a container of rolls and rolls of film — any one of which could be run in full life-like dimension. (Presumably they exist in everyone, and the external pictures that fall on the eye — subject to each varied lens never quite reach the Self — "Let thine eye be single," should there be one to offend ye, then pluck it out. . . .) She shot out a powerful picture, it revealed an early death of mine. She was a Candace, an early queen of Ethiopia — older in that scene than now she was — an older and more conscious ruler. Two men held me captive before her, hearing her direction to "Take that one away". I knew it was for death. An offense of love and sexuality — jealousy caused her deathly insult.

My voice still issued from below my ankles — as I used it, it took the hoarse strength for scarcely more than a whisper —

"Marolyn? Have we then been only enemies?"

The part of her unconscious, effecting her misunderstanding, laughed high, laughed light —

"Ha. Ha. Oh what problems for these humans! You do have a beautiful voice."

No perhaps she did not understand my sight. Only the heartless cold of her smile expressed the long insult and animosity.

Marolyn and I had mistaken the old wounds for friendship!

Karma, coma, comic.

They had asked for me when Monty had descended. He told

* Since this experience, I have noted Bosch's "Ascent to the Empyrean" and it would indicate something of the lens structure I have described — the returning in from the surface to the inner 'pupil'. Perhaps the analogy between a telescope and its lens structure of 'greater powers' might hold. Bosch painted as an allegory of angelic beings returning — but cosmically or microcosmically — it is the same.

them that I was not well. Now with a blanket on my sagging shoulder they led me down the stair — so cold. Marolyn and Monty proceeded on indoors leaving Don and I alone together. He held me by the shoulder, deeply tender, smiling —

"It's my old friend Li Po," he said . . . referring to my masklike face.

"Paul," I thought I heard him say.

"Yes, I am like Paul. And you — you are the one I always thought you were: Jesus. I do not like you. Yet this is the bargain and I will keep it. I will call Monty, John, henceforth, harbinger of Christ and what is yet to come." It seemed our passion had become eternal, and daily life a dream. This was real, the story of the crucifixion of the soul — but to whom was assigned the various roles had not been seen quite clear — it seemed a changing constellation. Mary Magdalene, unchastened; Christ not born of Jesus yet — only John come forth — and I — I seemed never to have existed!

The instantaneous knowing — of:

Twelve apostles to serve — intermediaries of twelve great angels.

Everyone in human flesh partakes of them, their archetype angel. So mixed, confused and bastardized, their features almost lost, except as they are clarified, embodied in a human nearing consciousness, and them.

Then are the angels seen, with the markings of their planet on every beast and human, flowering and mineral. The lost tribes still roam the earth, lost only in miscegenation — not to the eye of God. As the heart approaches center, it knows something of from whence we come, feeling fewer, ever fewer differences of Self's and others' Selves. Outer signatures fall away and the purer integrated countenance shines out, the incarnated atom of an angel. The goal is to know and return — and the play goes on forever in the soul until all duality of consciousness has vanished, and what was seen as outer has become the inner. Living this passion as we were, it seemed all there was or had ever been — an eternal now, forever renewing the intensity of the ever-present drama — only illusion to the Self, the dog-tag of identity.

I learned that time is not. Not — to the soul, not — to the spirit. Action is. Action is of bodies, form — that which we have called time is the release and expression in process, of the possibilities of experience inherent within a life-form. From its first arising to its last dissolution — that which is designated as the life-time-of-an-object, is life-action,

in and upon it — action of its possibilities that have themselves determined its form. Without a form there is no time, for neither is there action. Possibilities and Qualities are not of forms, but are signatures of the force inhabiting — call it what you will. Form falls back to earth, but qualities endure. And on a level other than that apprehended by the common means of perception, all things cohere. What seems separate, is separate no more. Only apparent is division, and division is in the divided beholder. Underlying daily vision ARE the same forces, of all and everything, more fine, more subtle and swift than mundane sight. Generating form and substance we perceive their manifest creations and shapings which are but their imprints, the bridgings of an apparent duality. What we call the "object" in our perception, is as an island emerging, suspended in the mother river of that which cannot be seen. The shape of one level of perception is symbol to another less gross, more fine. A thought at one speed, then in continuance, of slower process through matter, a form of that thought, but it is still a thought as well.

All things are suspended in the hierarchy of forces, culminating in the highest archangel (for what else can I call them?) passing thence beyond the realm of vision into the force of Purest Light. (The Light that enters the world and IS in darkness, and not necessarily known to the darkness of the clay inhabited — The Light that is consciousness and will make The Self known to Itself.) All the forms, from the veriest stone to the greatest god, all escalate in a spindling dance, whose webbing tracteries weave and form the being of a Greater One, and whose patterns while most solid, to us seem as only thought. Subtly indicating all His creatures with His signatures' glyphs as they separate into emerging form, their whirling patterning becomes as solid: faster and faster, they now seem dense, have taken on shape as an object. As high pitch of sound escapes our ears, so does ethereal light, but in those unapprehended realms, there is seen The Beginning, for that of every thing.

All is connected to everything else, and all will merge as One; The All, The Everything. "In the Beginning . . ." where all creation IS.

Mark you the cathedral, Mont Saint Michele. From amorphous, cumbered, undifferentiated rock, inertia rises, separates, divides and lightens, soars to pinnacle of ethereal, fragile spear — converging as great Angel Michael, out of time and space; creating and created out of everything. The experience of the One is the experience of all, the

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composing atom creatures of His Being. Separate to themselves, their lives and consciousness all blend in Him as field of total consciousness and Light of all of them. There is no one person. One is all. I am you. All is inside you. All is in me. Nothing IS outside, really.

And that was only a moment.

We stood there, Don and I. He was near, yet further than the day. Still proud and sure, indifferent, much as he usually was. Untouched. Yes, that is the word, and standing in the moonlight with his changing head, its spirits hovering over, making free of his form, he seemed to need protection, unaware of his subjection and his need. He who now has eyes and ears, let him see and hear. It is very hard to bear.

We spoke no more and went inside, to the warmth of a fire incredibly beautiful. Everything glistened as new washed crystal; hues were fresh, new born to my sight. Only the flame leaped unchanged, but with a deepened life. As it leaped my heart leaped — the flame and my heart were akin.

I had come through! At least I had gained the outskirts of that land, promised, promised in so many ways. At least I knew it was there, there where the twins will meet their father, the split silent halves of Self who rarely suspect they are twain.

I sat by the fire, gazing on flame and silent. Spent, apart, there were no words left in me. Here in the light that glazed the stones of the walls and wood beams the same ceaseless activity of their matter, the same incessant whorling of their atoms in ether, that did not hide the space beyond. With me, there was no comfort.

An urge to see my face.

I rose and went to the mirror in the small stone cell of the bathroom:

Gazed in horror at that which I beheld.

The wall alone supported, as with boneless knees I encountered the hydra-headed host of — My Self. The Medusa of the many tales of flesh unvanquished.

Ah! . . . one is ashamed to know the facts that words can scarcely bare.

The faces. The faces!

People by the thousand — a motley, murderous, loathesome crew of people — and all of them were "I". Every one a variation on the theme of plastic instability — unless vice can prove the constant! There

Shouted from the Housetops . . .

they were — within the watery outline of my sliding head, hundreds of people, things and creatures, come to give their ugly vision to my sight. Shifting, shifting endlessly as things seen under water, the interminable variants of Self — profuse and fearsome prodigies of subtle distortion. Oh, the ugly crippled, misshapen wretches: the slobber lips, harelips, one and all with writhen mouth; some near eyeless, or else with eye of fearful grape of swollen lechery — sucking, monstrous, lascivious and lewd, or quickly slithering into snakelike, closed and undeveloped, cruelty — enamored flesh. Heads that took in a world of vice and which still could feel no tremor. Frozen creatures of the greatest incapacity to know or receive love — given to excess, for naught was felt but infernal cold. Rolling eyes, leprous snout, foreheads from simian and neanderthal to the highest, proudest, noblest; but one and all marked with their inherent deviation. Tenuous vicious tenants within the framing of my head, struggling for the stable vision to dominate their mouthpiece — me.

The faces — the many "I's" of personality — Yes, Gurdjieff, it's just as you said.

Stony with horror, aching with fear, now this tribulation was bringing on despair. I could not bear it.

Was there nothing, nothing clean or pure of heart in me?

No. Nothing.

And could one never reach the end of these dregs of the Self — was one only the dregs? (Yes, Gurdjieff, you said that too.) But was there no voice to speak for me, my Self, ever? Or was this all there was to my self? And had I always been the pawn of whatsoever chose to speak through me — no goal, no dream, no vision not born of them? Was there nothing done or thought or suffered, struggled for of me or of my own?

Ah God! What bitterness is in that cup!

Only a dreary conjunction of ancestral wantonness battering on the living sleeper who cannot know she has no life. Foul compost only of the leavings of generations of appetite unsated, living on in this one, endlessly.

Was flesh only sin?

Agh. Disgust. Burning, searing, painful disgust at the flesh whose dreary features expressed only tempests of lusts. Murderers, blackguards, in sorcery and sodomy, betrayal and deceit — vast vanities of

coxcomb, effeminate, perverse, thieves and freak and hunchback, and even a ravening lion! Treacherous pretenders all, and some of greatest beauty, but all impure and rotted in venery always in implacable abuse of the given talent. Traced on that face were all the crimes of the human race — from trivial to damnation and I knew them — one and all.

Bitter tears I wept for what I was and for my hopelessness — for desolation at the pit. I wept, bereft of God. Abandoned, rigid, eyes cast down before the overwhelming impurities faceted in death, before ancestral appetite gone wild and rampant, hidden only by the custom veil of blindness, here before this mirror, the thoughts had burst their deceptive, flattering sheath — it was ripped asunder by the gaze of spirit, revealing all the hidden fathers of their being.

Tentacle and tentacle of the history of the drag-on flesh rampant.

I raised my eye again — perhaps to forever abandon the home of these creatures in death, but the amplified confusions fused together, making form of one more singular, but ghostly, lucid face. A leprous corrosion of power's abuse, the face of a beast that was human still — but damned: damned by rejection of examining Light.

A colossal face of concentrated vice. The complete and total misapprehension of the goal — THE DEVIL.

I shrieked.

At the betrayal of Self by the Beast.

And in the shrieking, in that final stroke —

the faces halted, vanished.

And my own visage, awestruck, ravaged, faced me —

suffused in anguish of the damned.

Just once again the vision wavered,

Swam into another shape.

And as it seemed I must collapse. . . .

I saw. . . .

A shining, shining being —

Seated cross-legged and perfect —

poised and radiant in a shining, golden garment.

Smiling, godlike and immaculate —

Golden-arch-haloed vision of My Self!

The Beginning and the End.

The goal towards which we travel

And that from which we come.

Our Holy, Holy, Self!

I have come through! The past, the present and the future. I AM UP TO DATE! And for now I am free of time.

HOLY. HOLY. HOLY.

I am free of the long, long tail.

I love you. I love you. I love you. God. I love You!

I have come through. That face — that utterly radiant, unspeakable face was smiling there at me — and it was only My Self, who was Joyce. Profound and simple, of heaven and earth, peasantlike and godlike — far and near, serene in the balancing every opposite suspended in Now. Yes, it was Joyce. But I had never seen Her before.

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BOOK REVIEWS

LYSERGIC ACID (LSD 25)
AND RITALIN IN THE
TREATMENT OF NEUROSIS

By Thomas M. Ling & John Buckman. London: Lambarde Press, 1963. Pp. 172. (Distributed in the U.S. by Medical Examination Pub. Co., Inc., Flushing 65, N.Y., \$5.00.)

This book is a collection of case studies by two English Harley Street psychiatrists, who have been using LSD in an outpatient facility under National Health Service arrangements in a hospital in London. Their method consists of giving small doses of LSD (50-150 gamma) combined with intravenous Ritalin, sometimes twice or three times during the course of the session. They believe that Ritalin (a central nervous system stimulant) potentiates the LSD effect and serves to reduce some of the anxiety concomitant with the release of unconscious material. They experimented previously with Methedrine instead of Ritalin, and found this much less satisfactory.

Their outlook is pragmatic and their choice of procedures apparently based on common sense considerations. In this way they avoid some of the pitfalls of the more strictly theory-oriented psychotherapists. Usually six to ten sessions are given, as part of regular psychotherapy, spread out over several months. (One of their cases was described in detail in *The Psychedelic Review*, this issue). They point to speed as one of the advantages of the system over other forms of therapy, as well as the fact that "the patient does not hand himself over to an omnipotent therapist but

participates actively in his recovery" (p. 16). They see the drugs as producing a "regression" and are sensitive to the importance of the therapist-patient relationship during and between sessions. A nurse is always in attendance, but in general they seem to use very little interpretation, leaving the patient to follow his own fantasies. They have treated 350 outpatient cases in a period of four years, "of whom one attempted suicide and three had to be admitted to hospital for a variable time" (p. 26). Rorschach and intelligence tests are used to screen out patients with weak ego-strength.

Their approach is strictly medical and they give no hint of interest in some of the other dimensions of the LSD experience, even though some of their patients clearly do. They compare LSD treatment to surgery as the most apt analogy: "It is suggested that deep treatment of this type should be considered in the same light a careful surgeon approaches operating on the abdomen. LSD provides the means of opening the unconscious and exposing it primarily to the patient in co-operation with the psychiatrist; the surgeon has the ability of opening the abdomen and then making changes or removing organs while the patient is unconscious."

This book does not provide a statistical evaluation of the 350 cases, and no success rates are given. Instead, a series of detailed case studies is presented, covering migraine, writer's block, frigidity, sexual perversion, pathological gambling, emotional immaturity, character disorder, excessive

anxiety and psoriasis (a psychosomatic skin-condition). These are all conditions that have proved fairly resistant to other forms of therapy. The case studies have the outstanding merit of being mostly direct quotations from the patients themselves, in their follow-up reports, with a minimum of psychiatric commentary. LSD session reports of this kind could provide the basic data for a truly empirical study of the subjective aspects of neurosis (as opposed to the inferences of theory-blinkered therapists).

One may question the authors' use of small doses and suggest that the use of larger doses could shorten the treatment even more, as is indicated by work in some other centers. However, given the need to remain within the framework of an out-patient clinic, with no work interruptions, their method is probably the most feasible. Shorter-acting, equally powerful drugs such as psilocybin could be used to circumvent the time problem.

In sum, this book may be recommended to therapists interested in the use of psychedelic drugs in the treatment of neurosis.

—R.M.

THE MAKING OF MAN

By Kenneth Walker. London: Routledge and Kegan Paul, 1963. Pp. 163

The influence exerted by that remarkable visionary and teacher, G. I. Gurdjieff, continues to spread and deepen. Since his death in 1949, perhaps a dozen or so books have appeared related to his work. During 1963-4, no less than six new books have appeared dealing with some aspect of his life or teaching. Daly King's *States of Human Consciousness*, Kenneth Walker's *Making of*

Man are excellent expositions of his teachings; Thomas de Hartmann's *Our Life with Mr. Gurdjieff* and Fritz Peters' *Boyhood with Gurdjieff* give fascinating glimpses of his character as a man and his personal style; Louis Pauwels' *Gurdjieff* is a somewhat negatively biased selection of pupils' testimonies; finally Gurdjieff's own second book *Meetings with Remarkable Men* gives some account of his travels in Central Asia and the experiential background of his teachings, as well as much else besides.

Kenneth Walker, a Harley Street surgeon, has written three other books about Gurdjieff and his pupil Ouspensky, and this short volume is probably the best short introduction to the whole system and the principal characters.

In this book Walker writes directly and frankly of his own first acquaintance with Gurdjieff's teachings, through Ouspensky's lectures in London. He discusses the idea of men experimenting with their own lives, to make themselves more conscious; the idea of levels of consciousness higher than the normal level, which can be attained through disciplined effort; the distinction between *essence* (inherited characteristics, dispositions and physical attributes) and *personality* (artificial and accidental acquisitions, context-determined, dominant in most people).

If your name is Smith or Brown you will often have to work against "Smith" or "Brown" in order to develop your Essence. At first you will have great difficulty in distinguishing between what belongs to your Essence and what belongs to your Personality, and at the start it will be better for you to attribute almost everything you discover in yourself to your Personality. There are certain narcotic drugs which

have the special property of putting Personality temporarily to sleep, and of thus allowing a man's Essence to reveal itself more clearly.

Ouspensky's cosmological theories are also described, as are some of the relations of the Gurdjieff system to Eastern philosophy and to neurology.

The particular excellence of this book as an introduction to this system lies not only in the lucid presentation of basic ideas, but even more in the concrete descriptions of Ouspensky and Gurdjieff as teachers and the detailed operation of their "school" methods. He describes also the very ancient music that Gurdjieff brought back from Central Asia and the system of sacred dances and special movements which were used to train pupils in self-awareness.

In describing Gurdjieff as a teacher, Walker writes:

The more I saw of Gurdjieff, the more convinced I became of my teacher's uniqueness. I had met famous and unusual men before, but I had never come across anybody who resembled him. He possessed qualities that I had never seen before. Insight, knowledge, control and "being" are the words that flow into my mind when I begin to think what those qualities actually were.

The book ends with a brief commentary on *All and Everything*, or *Beelzebub's Tales to his Grandson*, Gurdjieff's cosmic allegorical epic, which was designed to clear the mind of all false preconceptions and prepare it for a new development of consciousness and knowledge. There is, in the writings of Gurdjieff, and his disciples, including Kenneth Walker, a kind of calm rationality, a cool, intense, clarity combined with almost passionate singleness of pur-

pose. One senses a justified optimism in their quest for the expansion of consciousness. —R.M

THE STATES OF HUMAN CONSCIOUSNESS

By C. Daly King. New Hyde Park, N.Y.: University Books, 1963. Pp. 176. \$7.50

This book stands in the tradition of Gustav Fechner and William James. It is an attempt to work out a systematic psychological theory of consciousness. Consciousness has received scant attention in modern psychology because it is hard to measure. The normal fluctuations of consciousness are too small for our crude current measurement techniques. You cannot measure something unless it varies in clearly predictable ways. Therefore students of consciousness have always focussed their attention on *changes* in consciousness. Fechner studied changes in subjective sensation as a function of changes in stimulus properties. James and his modern followers study drug-induced changes of consciousness. Hypnosis, sensory deprivation, psychoanalytic free association, sleep and dreaming—through such alterations have psychologists attempted to approach the study of consciousness.

The method of altering consciousness which provides the empirical backing for King's theories is the training in self-awareness developed by Gurdjieff and his school. In particular, King, who obtained a Ph.D. from Yale University in 1946 for electromagnetic studies of sleep, studied with Alfred Richard Orage, who was teaching Gurdjieff's ideas in New York. King regards Orage as more "scientific" and "rational" than

Gurdjieff and less tainted by any hint of "mysticism" or "occultism".

The thesis of this book may be summarized as follows: in addition to the forms of consciousness known to all human beings (here called Sleep and Waking) there exist two further forms, not widely known (called Awakeness and Objective Consciousness). Consciousness is defined as a relation between the subjective experiencer on the one hand and the end-products of the organism's neural functions on the other. In other words it is not identical with sensing, thinking, feeling, etc., which are defined neurologically. Normally the subjective entity registers passively whatever end-products are provided by the organism. This is why the subjective entity seems so elusive: it doesn't *do* anything.

But it *can* become an entity, consciousness *can* be activated. The difference between ordinary Waking and Awakeness (rarely found) lies precisely in this: when "Awake", consciousness is active; thinking, feeling and acting are initiated by the experiencer, instead of by the organism.

This process of activating consciousness can be accomplished (though it is not easy and requires guided practice) by the technique of active awareness. This technique consists in trying to become aware of one's own physical behavior and sensory input according to seven rules: (1) no criticism or approval, (2) no attempt to change, (3) no thinking or logical analysis, observations only, (4) no identification with the body—observation must be as if of a stranger, (5) exclude external phenomena known only indirectly, (6) no selection among sensations to be observed, (7) no con-

finement to particular times and places.

The defining characteristics are all negative: don't think, don't select, don't criticize, don't infer, don't identify with the "skin-encapsulated ego". In simplest terms: turn off the mind, and just become aware of what is going on, in your body, at your sensory receiving stations.

King's evidence for the possibility of another state of consciousness is (1) his acquaintance with Gurdjieff and (2) his personal experiences. At the beginning of Chapter VI of this book he writes

Gurdjieff manifested himself in ways never elsewhere encountered by the writer, in ways so different from those of others that they constituted a plain and perceptible difference in level of existence upon his part. . . . He is the only person ever met by the writer who gave the indubitable impression that all his responses, mental, emotional and practical, were mutually *in balance* and thus the further impression that everyone else was out of step, but this man himself. It is just what would be expected, though unpredictable, by a sophisticated Waking person when confronted by someone else in the state of Awakeness. (Pp. 100-101.)

In describing his own experiences resulting from the practice of the Gurdjieff-Orage method he writes (page 122) that some dun-colored bricks he was looking at "all at once . . . appeared to be tremendously alive; without manifesting any exterior motion they seemed to be seething almost joyously inside. . . ." On another occasion King states that "now it was chiefly the other people who held the focus of attention. They looked dead, really dead. One expected to see signs of decay but of course there were none. What one did

see was stark unconsciousness, scores of marionettes not self-propelled but moved by some force alien to themselves, proceeding along their automatic trails mechanically and without purpose." (Page 123.)

Both these accounts are strongly suggestive of psychedelic experiences and it seems clear to this reviewer that, in terms of King's scheme, psychedelics move the subject from Waking to Awakeness, simply through biochemical changes. The LSD literature provides ample confirmation of King's central thesis that consciousness may be "activated".

Two further points remain to be discussed briefly. The first is the physiological theory of consciousness propounded by the Gurdjieff institute. This theory concerns the derivation of electrical (neural) energies in the organism from a seven-step anabolic sequence, organized like an octave, with reinforcement "shocks" necessary at step 3 and step 7. The air breathed and sensory input are regarded as two other types of "food", nasal and neural respectively, which also follow the octave pattern. The activation of consciousness takes place allegedly at the cerebellum, which normally receives impulses from the cortex but "does nothing" with them. In Awakeness the cerebellum functions as an integrating and harmonizing center.

This theory is fascinating and deserves empirical checking. In this reviewer's opinion it does not take sufficient account of modern findings on the selectivity of the sensory systems themselves (see e.g. J. S. Bruner's article on "Perceptual Readiness" in the *Psychological Review*, 1957), but this does not invalidate the octave theory, nor the psychological theory of consciousness.

The second point concerns King's fourth state of consciousness, Objective Consciousness, which is defined as clear active awareness akin to that of Awakeness, but directed upon a wider class of objects, namely the whole environment.

In the state of Objective Consciousness the relation of the subject to cosmic phenomena (the genuine physics and chemistry of the Universe, for example, and the real nature of sidereal phenomena) is the same as is his relation to his own organism in Awakeness.

To illustrate this state King draws upon ancient Egyptian religion. "Their whole culture was built around the concept of the fully developed human being." King maintains the Egyptians knew and used the method of active awareness, called by them "Scrutiny" or the method of the Eye of Hur. "These same techniques often have been employed by others under a somewhat different nomenclature, possibly by every genuine world-religion at the time of its original founding."

King gives an excellent summary of the Egyptian world view. From this he infers what Objective Consciousness involves.

Its primary characteristic . . . appears to consist in a direct awareness of phenomena external to the body, of both planetary and cosmic kinds, which provide a perception of physical and psychic reality much more clear and direct than that given in the state of Awakeness, and far beyond that of the Waking State. This view includes psychic as well as physical qualities but it appears also that these psychic qualities themselves are defined in purely physical terms, including those of mass, weight and vibration-rate. (Page 152.)

One may compare these descrip-

tions of the state of Objective Consciousness with Leary's hypothesis (*Psychedel. Rev.*, I, No. 3, p. 330) "that those aspects of the psychedelic experience which subjects report to be ineffable and ecstatically religious involve a direct awareness of the processes which physicists and biochemists and neurologists measure."

The question of course remains: what is one to make of these assertions? What is the evidence for them? How do they fit into our current psychology?

It was one of the rules of the Gurdjieff school that no one had the right to make statements about states of consciousness and their relation to "reality", who could not confirm them from his own personal experience. Scepticism was required, until one had, through one's own conscious efforts, so altered one's level of consciousness that these propositions were appropriate descriptions. In this sense Gurdjieff was far more strictly scientific and *experimental* than all current academic psychology, which ignores him completely.

The writing in this book is throughout lucid, the presentation of ideas completely rational and cogent. The book can be unreservedly recommended as an excellent contribution to the major scientific puzzle of the 20th century—the nature of consciousness. —R.M.

THE YAGE LETTERS

By William Burroughs & Allen Ginsberg. San Francisco: City Lights Books, 1963. Pp. 68. \$1.25

In 1953 William Burroughs, author of *The Naked Lunch*, *The Soft Machine* and *The Ticket That Exploded*, went to the South Ameri-

can jungle in search of yage (ayahuasca or Banisteriopsis Caapi), a hallucinogenic plant-drug. In letters to his friend Allen Ginsberg he describes a series of incidents in what appear to be the last outposts of humanity. The letters contain seeds of what was later to develop into *Naked Lunch*. His yage session was an overdose vomit nightmare, but with lonely courage and sardonic humor unabated he continued his search. Seven years later the poet Allen Ginsberg writes to his friend of his own terror visions under yage in Peru and asks for advice. The reply comes back in "cut-up" form. The "cut-up" was invented by Brion Gysin and Burroughs—it is the application of 20th century painters' techniques—the collage—to written composition. These letters are impressive testimony to the extremes to which American bards of the 20th century were prepared to go to find the chemical exit from their minds.

LIGHT THROUGH DARKNESS

By Henri Michaux. Translated by Haakon Chevalier. New York: Orion Press, 1963. Pp. 230. \$5.00

(To present this book to our readers we are taking the unusual step of reprinting a review that has already appeared in another journal. The review was written by Anita Kohsen and appeared in issue No. 34 of *Cosmos*, a highly original and provocative journal. *Cosmos* is a monthly publication of the Institute for the Study of Mental Images, located in Church Crookham, Hampshire, England. ISMI is "a private non-profit research institute". "*Cosmos* is devoted to the study of man and his world in a cosmological setting." It is edited, printed and mostly written by

C. C. L. Gregory and A. Kohsen. This same issue No. 34 also contains a discussion of Alan Watts' paper "The Individual as Man/World", published in *Psychedelic Review*, I, No. 1.—*The Editors.*)

For William James the phenomena of mysticism "strengthen monism and optimism". For many, indeed this has been the effect of drug experiences. Recently this feeling has once more been given expression—for example in many articles in the *Psychedelic Review*. Dr. Nandor Fodor was so impressed with his own mescaline experiences that he says he now refuses to repeat them for fear that he would commit suicide as a means of permanent entrance into that state of bliss ("At-oneness—a new phenomenon for parapsychology" in *Research Journal of Philosophy and Social Sciences*, Vol. 1, "Parapsychology and Yoga", 1964). The reaction of others has been very different. Dr. Peter Ringger ("Psychische Erlebnisse bei eigenen Meskalinversuchen", *Der Psychologe*, 1963, XV, 12) describes his own horrible experiences, and incidentally imparts the interesting piece of information that a certain American Foundation had consulted Jung as to whether he would favour putting mescaline on the open market, stating that they proposed making available a million dollars for this purpose: Jung declined to have anything to do with it.

M. Henri Michaux's book *Connaissance par les Gouffres* was published in Paris in 1961, and its translation, *Light Through Darkness* appeared in London this year (1964). M. Michaux is famous both for his writing and painting, and he has made a great many experiments on himself over long periods using various

drugs, particularly psilocybine, mescaline and *cannabis indica* (hashish). The book is a consummate work of art. Not that it is pleasing or pleasant—if we want to see nice pictures there are plenty of chocolate boxes about. Rather it is like some of the late Epstein sculptures, in that it haunts the memory, infests the imagination, makes many other works seem tawdry and thin. I have not read the French original text, but the verbal virtuosity of the English version (with one or two slight reservations) is such that special mention should be made of the translator's skill—he too must be a creative artist in the realm of language.

Anyone who has tried to capture and record subjective experiences, one's own and other people's, knows well the point at which the subject says something like: "There's a—well, I can see a . . . Well, I can't describe it. It's sort of—if only I could paint . . .", etc. Because of his almost unbelievable verbal fertility and subtlety Michaux has overcome this barrier, which is, of course, only one of many. The work is an affirmation of the worth of experience, any amount of it, good, bad, indifferent, beautiful, ugly, soothing, disturbing, uplifting, irritating, glorious, stultifying, crazy, exalted, an oblique rejection of the assumption that it is proper for man to devote his best talents to striving for what is pleasurable and eschewing what is unpleasant. It is an account of a quest, and a lust for the life abundant, and a repudiation of the life agreeable.

It is, however, a good deal more than this. The book will be exquisitely infuriating to a great many scientists, psychiatrists, philosophers and religious people (a sound reason why they

should read it). Why? Freud once wrote that science (whose interests he rather rashly equated with those of psychoanalysis) had three enemies—philosophy, art, religion; and of these he thought only religion counted in practice. This attitude, if carried to its logical conclusion, (which is much better done by petty literary nonentities than by men of Freud's stature), is the doctrine of philistinism victorious, the creed of our age. Artists, philosophers and prophets are tolerated only to the extent to which they help make things more comfortable for the particular sector of humanity to which the particular philistine belongs—otherwise: *out!* Now the artists have, by and large, taken one of two paths: the way of compliance, giving pleasure, selling what is wanted, on the one hand, and the way of mirroring bankruptcy, chaos and despair on the other. M. Michaux sounds quite a new note—a triumphal, unapologetic clarion call, unexpressed, perhaps not even thought, and yet pervading this unusual book: the claim of the artist as saviour.

Saviour from what? From insanity, from too much sanity, from the mechanisation of man, from the intolerable hell of isolation to which, (according to Swedenborg at any rate) man is condemned if the mainsprings of his actions are the maximisation of his own social and individual pleasures. Michaux has brought the discipline of self-observation and its expression to a high art, and his seemingly insatiable inward curiosity is a drive so merciless that one hesitates to speak of high courage—though one should. Moreover, his explorations have, if not a mission—that is too pedantic and purposive a term—at any rate a major incidental appli-

cation, in sketching, portraying, getting under the skin of, understanding *insanity* and, in the light of madness, the precarious razor's edge balance that is *sanity*.

"For centuries, for thousands of years, in all places, in all countries, the lunatic has complained. He says he is beside his body. That his body is elsewhere. That someone has stolen it from him. . . . He says as best he can, with means that are often meager, by no means prepared for introspection, an introspection which has suddenly become indispensable . . . he says that he no longer weighs anything . . . that he is transparent . . . that he is empty . . . that he is artificial, that he is a fake, that another occupies his body . . . and so forth.

He tells the absolute truth to people who are unable to recognise the truth, trying vainly to convince them. As we all know, there are none so deaf as those who have. In every realm, privation is the thing most difficult to convey to those who are well provided. To make things worse, he uses a poetic style, a basic language, to which his disastrous state has made him revert, but which others do not understand, tolerate only exceptionally, only as a 'speciality'" (pp. 134-5).

This passage occurs near the beginning of Chapter V, "Chasm Situations", which traces the similarities between drug experiences and insanities, and in which an attempt is made to grapple with madness from within. Michaux is not afraid of mental suffering, the easiest to ignore of all the world's great miseries, and he has the artist's sublime and unembarrassed shamelessness in portraying it, like a Goya of insanity.

"Unendurable mechanism of prolongation of the images, the suction-grip images, of which he becomes the powerless prey, like a bare belly offered to gadflies, bloodsuckers or

rodents. . . . How [can he] prevent the evocation, the fatal 'imagification'? How dispel the images once there?

What would he not give to detach them! But he no longer can. The operation which is so easy, known to children, old people, the sick, probably to the most modest mammals, is one which he can no longer perform. . . ." (pp. 141-2).

One fears, in discussing a book like this, which is a deliberate and provocative work of art, rather than a text book or a biography or an exposition, to do much more than write round it, so to speak, for fear of falsifying it by words too crude and overlaid with the wrong overtones: he imparts his shocks artistically and economically, sometimes by eccentricities of style, sometimes in a parenthesis. For example: "Mental athletes that they are, normal men are quite unsuspecting, think they are tired, without strength!" (he had just rung up a friend in the middle of a mescaline session whose "crafty deliquescence" he was trying to shake off, and the contact with a "normal" person had served as "a model of non-enchantment"—while telephone contact lasted.)

But by no means all of Michaux's experience was catastrophic. He describes a state

"which is without alternation, as well as *without combination*, in which consciousness in unparalleled totality reigns *without the slightest antagonism*. Ecstasy (whether cosmic, or of love, or erotic, or diabolic). Without an extreme exaltation one cannot enter into it. Once in it, all variety disappears in what appears an independent universe. . . . A pure universe, of a total energizing homogeneity in which the absolutely of the same race, of the same sign, of the same orientation, lives together and in abundance" (p. 17).

His reactions to the experience of ecstasy are divided:

"That, and only that, is 'the great venture', and little then does it matter whether or not a wave helps this autonomous universe, in which a rapture, comparable to nothing that is of this world, holds you lifted, beyond mental laws, in a sea of felicity" (p. 17).

Yet:

"I was entering, clearly, a current which others would have called beneficent. . . . I said aloud: 'I don't want to swallow that big caramel'; 'I don't want what comes to me with preaching' . . . for I didn't forget not to want.

In a wholly different form from the one I knew, it was still a drug, that is to say an offering of poison which proposes 'Paradise for you if you accept!' This paradise—for each drug has its own—was a paradise of obedience to become ideally normal, submissive to the group spirit (or obedience to conventional education?)" (p. 24-5).

Again:

"The world, perhaps, presents itself as varied, is felt as varied, only if our nervous influx is incessantly varied, uneven, modulated. . . . others in Mexico, venturing to the end of detachment, find ecstasy. Found it a long time ago. 'They called these mushrooms *teonanacatl*, which means "God's flesh", or flesh of the devil they worshipped, and in this way, with this bitter food, they received their cruel God in communion'" (p. 40).

The drugs are described as characteristically different in their effects. Hashish was the least disorientating, helped to conjure up life-like images of people more or less at will and also had the interesting effect on M. Michaux of speeding up and deepening his powers of insight.

"Treacherous hashish, hashish as hunting dog, instructive hashish. It sees quicker than we do, pointing to what we have not yet understood. At the outset, and each time, there is an effort to be made. . . .

It is doing violence to the hashish smoker to call on him to make an effort. . . . He has to force himself to make the contact. . . . But once the contact has been made in depth, what an experience!

One day, when during one of these moments I was looking at a study in a review with a limited, almost secret, circulation, the study by an erudite young philosopher, I heard something that sounded like the murmur of crowds, gathered to listen to these words. Well, well! The sentence, even when later I read it cold, philosophic though it appeared, was a model of that type of false thinking that is trying for effect, a sentence that could never have come from the pen of one who had not caressed the idea of multiple approbations and . . . appearing on a platform.

Thus, by virtue of a succession of short circuits, I heard the applause with which this writer had felt himself surrounded, having without the slightest doubt sought it. . . .

Hashish opens the inner spaces of sentences, and the concealed preoccupations come out, it pierces them at once. It is curious that this hashish, when I used it to test a few authors, never proved vain, or eccentric. Set at the quarry, it never faltered. It was diligent as a falcon. The author thus unmasked never altogether recovered his mantle or his former retreat" (pp. 126-7).

Michaux seems to repudiate any kind of reality as animating the hashish imagery: "It would be an illusion to bring forward for the sake of explanation some soul or some emanation animating all this" (p. 189). He gives as his reasoning to support this contention his experience of looking at a picture of a skull—which promptly began to work its jaws. But then he continues, "Perhaps. Perhaps not. Darkness in full brightness, the drug is a petting party. You don't know what nor whom you have hold of".

What, according to Michaux, makes the difference between reality and the world of images and dreams?

"Objects, you who stand against, you who resist, who have no truck with music, stubborn, hard, immobile, material, resisting us, who are also material—objects, I found you again. I found again our happy opposition. Materiality had returned like a Christmas present" (p. 56).

It is the relationships between the self and material objects, and the feeling of the self as a material object, that are disturbed: in Michaux's view it is this latter, the loss of the sense of the person as a solid uniquely located *thing* that leads to a sense of unreality of the objective world.

"With the feeling of *his mass*, he has lost *their mass*, the imagination and feeling of all masses. *Alienated from himself*, he is *alienated from objects*, objects are *alienated from him*" (p. 137).

And yet, insanity is not regarded as a state wholly pitiful and to be abolished at all costs. There is a curiously elusive undercurrent of almost conspiratorial understanding throughout.

"Recent medications prevent the insane from following their alienation through. They have thereby lost their own 'liberation'. Even when they cannot really be cured they are damped. Strange, dull, 'improved' cases, which one encounters at present in the asylums, or outside, madmen frustrated of their madness" (p. 190).

And what is the pathos of madmen that do follow through their madness?

"Rare indeed are the madmen equal to madness. It is as though they did everything to discredit it" (p. 181).

What would he have us do, then?

"Give a holiday to the conscious. Give up the deplorable habit of doing everything ourselves. . . . Sacrifice the 'first' man who makes

us live like cripples. Bring back the *daimon*. Restore relations." (Pp. 197-8.)

This may, of course, be bad advice. And then, read quite another way, it may be good advice. Bad advice for some, good advice for others. No advice at all but a programme. Or a provocation. An astonishing book—not to be missed.

—A.K.

THE COCAINE PAPERS

By Sigmund Freud. Vienna: Dunquin Press, 1963. Pp. 62. \$3.95. (Obtainable through: Schoenhof's Foreign Books, Inc., 1280 Massachusetts Ave., Cambridge 38, Mass., and Blackwell's, Broad Str., Oxford, England)

This interesting, but overpriced monograph is one of a series of "translations and monographs on depth psychology, symbolism and related subjects", published in Freud's home town. This is a reprinting and first English version of five papers on coca and cocaine, which Freud wrote between the years 1884 and 1887, before the invention of psychoanalysis. The papers have not appeared in the *Collected Works of Freud* in either the English or the German versions and have hitherto been available only in extremely scattered archives.

The papers are: (1) a very thorough survey of the existing state of knowledge on coca, historical, pharmacological, therapeutic; (2) a report on self-experiments with cocaine, including the use of a dynamometer to measure the effect of cocaine on muscular strength; (3) a lecture summarizing the above; (4) a brief discussion of different cocaine preparations; (5) an article on the alleged dangers of cocaine.

These papers are, as so many of

Freud's writings, masterpieces of lucid presentation.

The psychic effect of cocaine . . . consists of exhilaration and lasting euphoria, which does not differ in any way from the normal euphoria of a healthy person. The feeling of excitement which accompanies stimulus by alcohol is completely lacking; the characteristic urge for immediate activity which alcohol produces is also absent. . . .

One may perhaps assume that the euphoria resulting from good health is also nothing more than the normal condition of a well-nourished cerebral cortex which "is not conscious" of the organs of the body to which it belongs. . . .

Long-lasting, intensive mental or physical work can be performed without fatigue; it is as though the need for food and sleep, which otherwise makes itself felt peremptorily at certain times of the day, were completely banished.

In discussing the therapeutic values of cocaine Freud mentioned seven possible uses: (1) to increase the physical capacity of the body for a given short period of time and to hold strength in reserve to meet further demands—in wartime, on journeys, during mountain climbing and other expeditions etc., (2) in digestive disorders of the stomach, (3) in cachexia, (4) to counteract morphine withdrawal reactions, (5) in asthma, (6) as a sexual stimulant and (7) in local anaesthesia, especially of mucous membranes. Of these, only the last gained any widespread acceptance as a therapeutic application of cocaine, though even here it is being replaced by synthetic agents.

In his self-experiments Freud showed that cocaine increased muscular power as measured by hand dynamometer. He also pointed out that

The effectiveness of cocaine depends to a great extent on the disposition of the individual, perhaps to an even greater extent than is

the case with other alkaloids. Subjective symptoms after taking cocaine vary in different people; only a few experience, as I did, an unadulterated feeling of well-being without intoxication. After identical doses of cocaine, I have observed that some people show signs of slight intoxication, a compulsion to move and garrulousness; in yet other cases subjective symptoms are absent altogether.

The issue of individual variability came up again when Freud discussed the alleged dangers of cocaine. Freud pointed out that addiction to cocaine had occurred only in former morphine addicts, and that in normals it did not produce withdrawal symptoms. The toxic effects occasionally produced when it was used in eye-surgery were attributed to vascular collapse and Freud pointed out the great individual variability in vasomotor excitability. It was this occasional toxicity which lead to the abandonments of the use of cocaine as a general stimulant, and terminated Freud's active research in this field.

Apart from Freud's papers, the Dunquin monograph contains a foreword by A. K. Donoghue and James Hillman, which presents some rather extraordinary speculations and generalizations. Only one of these will be cited here:

The study of drug experiences

tends to show that highly varied observers in different centuries and places, and with different substances report similar phenomena. These experiences are principally euphoric. The same enthusiasm attended the discovery of tobacco and coffee as mescaline; the same magical properties were "found" in chloral hydrate and bromides as in tranquilizers; the same rituals surrounded the processing and dispensing of tea and alcohol as heroin and LSD. This similarity points to a common factor, which is not in the substances, but is in the experiences.

The authors are led to conclude that Freud, during this period, was "under the spell of archetypal factor constellated by the drug." In view of the facts (1) that Freud himself put a very strong emphasis on individual variability in cocaine reactions, (2) that tobacco, bromides, heroin or LSD have certainly never been said to increase physical power or endurance and (3) that the subjective effects of all these substances, in the almost universal opinion of scientific investigators are extremely dissimilar (they may all produce euphoria sometimes—but so may travel, work, sex, games, and even psychoanalysis), it would seem that the authors themselves are perhaps under the spell of some archetypal factor constellated by the word "drug". —R.M.

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