

January 30, 1970

We, the undersigned, as members of the Scientific Review Committee of the Center for the Studies of Narcotics and Drug Abuse have carefully reviewed the provisions of S.3246 as reported out by the Senate Committee of the Judiciary. We feel that it is imperative that we bring to the attention of the Congress a series of concepts and specific provisions which are greatly disturbing to us as members of the scientific community.

1. First, and most important, we object to the basic concept of the Bill which approaches the subject of drug abuse from a law enforcement point of view rather than from a public health standpoint. If we have learned anything from the lessons of the past fifty years, it is that a punitive law enforcement approach to problems such as drug and alcohol use and abuse is doomed to failure. The Bill places the ultimate decision making power in every key area in the hands of the Attorney General and relegates the Secretary of Health, Education and Welfare to a weak advisory position. The law enforcement orientation of S.3246 is perhaps best typified by Section 702 (b) which sets up the machinery by which a police officer may enter a private dwelling or laboratory without even announcing his presence. As scientists and as citizens, we wish to express our displeasure with the law enforcement orientation of this Bill in general and the "no-knock" provision in particular.

2. A second basic concept with which we are in basic disagreement is the criteria which are used in categorizing the various substances which are controlled by the Bill. The dominant criteria appear to be the medical usefulness of the substance and the potential for abuse, rather than the more realistic criteria of the danger of the substance to the individual and/or to society in general. The criteria used in the Bill lead to the absurd result of the

classification of marijuana in the same schedule as heroin, with amphetamine, among the most dangerous of all abused substances, being placed much further down, in Schedule III. We submit that the basic concepts by which drugs are classified be carefully re-examined and replaced by more realistic criteria.

3. One of our most specific objections is the fact that the Attorney General is given in Section 201 the final authority to classify substances. He is enjoined to seek the advice of the Secretary of Health, Education and Welfare and the Scientific Advisory Committee, but the final decision is his. We submit that the very criteria which the Attorney General must by law consider in reaching his decision, prove beyond a reasonable doubt that the final decision in the matter of classification should rest with the Secretary of Health, Education and Welfare. These criteria include the "actual or relative potential for abuse", the "scientific evidence of its pharmacological effect, if known", the "state of current scientific knowledge regarding the substance", and other similar criteria which are peculiarly a matter of health and research, not of law enforcement. We urge that the Secretary of Health, Education and Welfare be given the power of classification, with advice sought from the Attorney General if a substance presents a particular law enforcement problem.

4. We note with concern that S.3246 gives to the Attorney General the sole power to license those who will be distributing controlled substances. It is true, however, that the Attorney General must so license practitioners to dispense substances in Schedules II (i.e., morphine, methadone), III (the amphetamines) and IV (small amounts of codeine, etc.) if they are "authorized to dispense under the law of the state in which they practice." This means that any doctor who has a state license must be licensed by the Attorney General to dispense amphetamines, drugs which should be under much stricter controls. Yet, to dispense marijuana in a research project, the doctor must not only be licensed by his state, but must secure a special license from the Attorney General. The same is true for other Schedule I drugs, which include Lysergic Acid Diethylamide, Mescaline and Peyote. In granting or withholding such special registration, the Attorney General is required to seek the advice of the Secretary of Health, Education and Welfare. If the applicant is found to be acceptable by the Secretary of Health, Education and Welfare, the Attorney General may still deny the registration if he finds that the registrant has falsified

his registration application, has been convicted of a drug-related felony, has had his state license or registration suspended or revoked or "on the ground that the applicant's past practice or proposed procedures furnish ground for the belief that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately his supply of such substances against diversion from legitimate medical or scientific use."

We submit that the italicized language is so broad that it may serve to unduly delay a researcher or may serve to deny a research application on vague and uncertain grounds. We are aware that there is the possibility of Judicial review of such a denial of the decision of the Attorney General, but the procedure is cumbersome and expensive and presents the researcher with many difficult hurdles. Such a provision also gives to the Attorney General the implied right to review all research protocols involving Schedule I substances, a power which should be given only to the Department of Health, Education and Welfare. Research with Schedule I substances such as marijuana is desperately needed and we urge that the decision of the Secretary of Health, Education and Welfare should be final with regard to registration for dispensing controlled substances, particularly where research is concerned.

5. We note that Section 602 (a) authorizes and directs the Attorney General to carry out "educational and research programs", including the accurate assessment of controlled dangerous substances and identification and characterization of controlled dangerous substances with potential for abuse. We submit that this section presents a potentially dangerous dilution of the government sponsored research effort, and that the primary responsibility for research involving the controlled substances should remain with the Department of Health, Education and Welfare.

6. Section 604 (a) provides for the establishment of a Scientific Advisory Committee to be appointed by the Attorney General. We are pleased to note that the appointments are to be selected by the Attorney General after consultation with the Secretary of Health, Education and Welfare and that candidates will be selected from a list drawn by the National Academy of Sciences. We do feel, however, that there should be a more explicit description

of the term "expert" so that a balanced and diversified team, representing many disciplines, will be assured and that no one interest will have a dominant majority. We note that Title VIII of the Bill provides for the establishment of a committee on marijuana under the joint sponsorship of the Attorney General and the Secretary of Health, Education and Welfare. We suggest that this committee be under the exclusive jurisdiction of the Department of Health, Education and Welfare in that this is the appropriate governmental organ to provide the most impartial and unbiased study of a substance which has historically evoked great partiality, bias, and irrational comment.

In summary, we are pleased to note that more realistic penalty provisions have emerged in the Bill and are particularly pleased with the first offender treatment section and that which distinguishes between the professional criminal and the casual dealer, a distinction long overlooked. However, we sincerely hope that the comments made above will be heeded and that we can make greater strides in understanding and dealing with the problem of drug abuse which has received so much attention, yet so little effort which can be termed positive and constructive. The young people, who are most often touched by this social problem, deserve better than we have given.

Henry F. Brill, M. D.
Jerome H. Jaffe, M. D.
Helen H. Nowlis, Ph. D.
John E. Overall, Ph. D.

Neil L. Chayet
William H. McGlothlin, Ph.D.
John A. O'Donnell, Ph. D.

Bernard C. Glueck, Jr., M. D.
Chairman

