

Mr. ROUSH. That's correct.

Mr. GIORDANO. Under those circumstances, this would interfere with the operation of our agency. In other words, it would make the enforcement much more difficult because, as I say, you would have an individual with 200 pounds of marihuana, and it's a misdemeanor. This individual, I think it's obvious, is a trafficker.

Now, if you can't make a sale against him, then you can't charge him with a sale; and, therefore, all you can charge him with is possession and it's a misdemeanor. That certainly isn't in any way going to help control the traffic.

Mr. ROUSH. Wouldn't the quantity which was in possession carry weight in court as to whether it was for sale or whether it was for personal use?

Mr. GIORDANO. Well, to prove a sale you have to show a sale. The quantity would indicate to the court it was for sale, but the charge must be either transferring or acquiring, and you would have to charge the man with acquiring. If the acquiring were only a misdemeanor, that is all that he could be sentenced to. You couldn't charge him with transfer because there is no way you can prove it. You can assume it but you can't prove it.

Mr. ROUSH. Let's go back one step further, to executive seizure. Supposing all we had was authority for executive seizure with regard to marihuana. Now, what would this do to your operation?

Mr. GIORDANO. It would make our effort very difficult and would increase the marihuana problem tenfold.

Mr. ROUSH. Isn't this just exactly what we have in the case of LSD?

Mr. GIORDANO. Yes.

Mr. ROUSH. And isn't it also true that most people of medicine consider LSD a much more powerful, potent, and dangerous drug than marihuana?

Mr. GIORDANO. Yes.

Mr. ROUSH. Then we must have a gap here that should be filled by legislation so as to make the sale of LSD at least equally subject to penalty, possession, and sale, as in the case of marihuana.

Mr. GIORDANO. Mr. Chairman, you are so right. In fact, I think that is what we should have been talking about. Instead of talking about reducing marihuana penalties, we should have been talking about just what you mentioned.

Mr. ROUSH. I am not advocating reducing the penalty. I am merely trying to develop these hearings so we can put this whole matter of drug possession and drug use and drug sale in the proper perspective in order that those you serve here can tackle the problem and tackle it fairly and equitably.

Mr. GRAY. I think perhaps there is one thing that might be important to mention in connection with Mr. Roush's question about the quantity of drugs in ones possession. We raised the same question regarding LSD in prior hearings with the FDA. Apparently one difference in the Drug Abuse Act, as I understand it, is that it provides penalties for holding a drug for sale. In other words, the quantity, according to the testimony we received from the FDA, would be an important factor in any court case. If they could prove by the quantity that it was held for sale, they could make a conviction. From what you