

have said to us, it appears this is not the case with respect to marihuana; that you can't convict someone of holding it for sale. Since the violation is the illegal transfer, even if someone is caught with a large quantity of marihuana in his possession without evidence of having paid the transfer tax, so you can't prosecute him for holding it for sale. You can only prosecute him for possession. So if you reduce the penalty for possession, although you feel he intended to sell, some would-be sellers may also get off lighter. Does the distinction I have described have some validity?

Mr. GIORDANO. Yes; I am not fully acquainted with the Drug Abuse Control Act in this particular area, but what you have just said, I think, is exactly what I had hoped to get across.

Mr. ROUSH. Yesterday we discussed a UPI story of October 15 of this year, which stated that for several months HEW had been conducting an investigation aimed at determining whether the present stringent restrictions on use of marihuana and the accompanying criminal penalties should be revised. Were you aware of this investigation and has the Narcotics Bureau participated in it?

Mr. GIORDANO. An investigation by FDA?

Mr. ROUSH. That was HEW.

Mr. GIORDANO. HEW.

Mr. ROUSH. The FDA would have been involved in the investigation, I believe, together with the Public Health Service and the legal office of HEW.

Mr. GIORDANO. No; we were not involved.

Mr. ROUSH. If such an investigation is being conducted, do you feel you should have been involved?

Mr. GIORDANO. Certainly.

Mr. ROUSH. The President's Advisory Commission on Narcotics and Drug Abuse, in its 1963 report, recommended that the functions of the Bureau of Narcotics, relating to the narcotic drugs and marihuana, and FDA's responsibility for investigation of the illicit traffic in dangerous drugs, both be transferred to the Department of Justice. Now, has your Bureau taken any position with respect to this recommendation which would affect your agency?

Mr. GIORDANO. Yes, Mr. Chairman, the Treasury Department opposed that recommendation. Former Attorney General Kennedy opposed the recommendation as well as former Attorney General Katzenbach. In fact, that point was developed during the course of the hearings on the Narcotics Rehabilitation Act.

Mr. ROUSH. Commissioner Goddard stated yesterday that when the FDA's agents find marihuana in the course of one of their investigations they refer the case either to the State or local narcotics agency or to your Bureau. Would you tell us how many cases have been referred to your agency each year since the drug abuse law went into effect?

Mr. GIORDANO. I wouldn't have that figure available. I could try to determine it, Mr. Chairman, but it's very small.

Mr. ROUSH. Very small?

Mr. GIORDANO. Yes.

Mr. ROUSH. Would you be able to supply that for the record?

Mr. GIORDANO. Yes.