D.4 HALLUCINOGENS

The hallucinogens include a wide variety of organic and synthetic substances (see Appendix A.5 *Hallucinogens and Their Effects*), but, in this section, the discussion of factors associated with motivations for their use will be largely restricted to the most commonly used preparations: LSD, PCP and MDA, or to some combination of these drugs. Virtually all of the non-medical users of these drugs have also used cannabis, although only about one-quarter of those who have used marijuana or hashish (usually the most frequent users) have tried hallucinogens. Thus, contemporary hallucinogen use—as opposed to the ritual or sacramental use of these drugs in other cultures—must be seen in the context of North American cannabis use patterns, and, for most persons, can be considered as an extension of that use and subject to the same precipitating influences. Initial use of hallucinogens, then, can generally be viewed as a function of the availability of a source of supply and simple curiosity resulting from the enjoyment of cannabis and the comments of friends who have used hallucinogenic drugs.

Any attempt to understand the development of hallucinogen use in North American requires an historical analysis. Peyote, for example, was used by the American Plains Indians by 1870, and the use of this drug for religious purposes among North American Indians was generally established by the late 1920s.[203, 258, 353] Mescaline was used for psychiatric purposes soon after its synthesis in 1919, and there are reports of European non-medical use as early as 1931.[95] LSD was first recognized as a hallucinogen in 1943, and non-medical use was reported in California by the mid-1950s.[51, 166] It was not until the early or mid-1960s, however, that the use of these drugs—particularly LSD—became widespread in North America. This popularization of hallucinogens can be at least partially explained by two factors: increased availability and the arousal of popular interest in their effects.[7]

LSD was originally marketed by Sandoz Laboratories for clinical and research purposes. Experimentation with this drug (of both a medical and non-medical nature) soon resulted in published and word-of-mouth reports of its hallucinogenic effects. The public attention given to the early experiments with LSD conducted by Drs. Leary and Alpert certainly contributed to the growth of interest in this drug. The demand for the drug for non-medical use increased very sharply such that, by the time LSD was withdrawn from the licit market, the question of whether or not there was a legal pharmaceutical source was largely irrelevant; illicit laboratories were established in California in 1962 and sophisticated clandestine manufacturing and distribution networks soon followed. (See Appendix B.5 *Hallucinogens*, "Illegal Sources and Illegal Distribution".)

Individual Factors

The popular use of hallucinogens developed too late to attract the attention of classic psychoanalytic theorists. Some clinical studies have found

users of these drugs to suffer from a variety of psychological problems, but there is no evidence that the sampled groups are representative of the total using population, and most, if not all, of the subjects have also used other drugs besides hallucinogens. One study, of subjects who had answered an advertisement in an underground paper, found that most showed evidence of personality disturbance and were poorly adjusted; no specific types of psychosis, neurosis or organic damage were, however, reported.[38] Heavy multiple drug users (of predominantly cannabis and the hallucinogens) have been found to show abnormalities on a number of personality scales (including psychopathy, schizophrenia and social interest) to a greater extent than non-users or users of cannabis alone.[248] Another study, using data from psychiatric interviews of volunteer subjects, found major difficulties in the areas of sexual identification, dependency needs and aggression.[399]

A 1965 study of university students found different motives for hallucinogen use for those defined as 'stable' and 'unstable' users.[191] The latter, who had a wide variety of psychiatric diagnoses, were said to use hallucinogens in an attempt to solve their personal problems. The stable users, on the other hand, were more likely to be motivated by curiosity and the influence of their friends. It should be noted, however, that members of the unstable group were also more likely to have had unpleasant drug experiences, and thus to have discontinued use.

Other data fail to support an individual problem theory, showing users either not to differ from non-users or to differ in respects which are not problem-related.[51] One extensive study, covering 91 persons in ten different groups, found users to score in the average range on a variety of psychological tests, including indicators of psychopathology. The users were disproportionately high on esthetic and theoretical interests, and low on political and economic values.[75] In another study, users who were not psychiatric patients were compared with matched controls who had been offered LSD but had refused it.[51] The LSD accepters differed from those refusing on a number of social and attitudinal indicators, most of which were not related to any individual problems. The accepters were disproportionately young, male, religious, divorced or separated, expecting a pleasurable experience from the drug, not fearful of bad effects or losing self-control, and interested in changing themselves through drug use. The accepters were, however, more dissatisfied with life than those who declined to try LSD.

The most commonly cited individual factor in regard to the use of hallucinogens is alienation. One study cites an intense need for inter-personal closeness and lack of access to meaningful affective experiences, rather than the usual psychiatric diagnoses, as the cause of use.[83] Similarly, college students have been said to be motivated by a need "to gain access to themselves and others".[128] One author, in attempting to explain hallucinogen use, has referred to the traditional psychiatric diagnoses of psychosis, neurosis and psychopathy, but, additionally, has noted identity crisis, made more trau-

matic by the current rapid pace of change, and the search for religious experience and esthetic appreciation in his etiological analysis.[37]

All of the above studies share the same methodological problem: it is uncertain whether the samples used were representative of all hallucinogen users. In addition, standard psychological tests and diagnoses of young people whose orientations are toward subcultural or counter cultural values and behaviour may indicate maladjustment with regard to the dominant culture, but fail to measure what may very well be healthy integration in and adjustment to the smaller group. The final difficulty with interpretation of this psychological data revolves around the uncertainty as to whether a diagnosed pathological condition *preceded* hallucinogen use (and might, therefore, be hypothesized as a cause) or developed after use began and, consequently, may be a concomitant of a particular life style or a result of the use of LSD or other drugs. Although first use of LSD may be prompted by a desire to alter one's personality for the better, it appears that those with more serious personal problems are the least likely to persist in its use because of their greater likelihood of having unpleasant hallucinogenic experiences.[191]

Social Factors

Most theories which seek to explain hallucinogen use include at least some reference to the rejection of the values of the dominant society as a casual factor. Some authorities treat this rejection of conventional values in a positive fashion, emphasizing the need to create a better way of life, while others view the phenomenon negatively, indicating that this rejection reflects problems of alienation and social adjustment. It should be noted, however, that both of these perspectives are somewhat dated and may have only marginal relevance to the present situation as the contemporary meaning of hallucinogen use is, for many, very different from that of just a few years ago.

A number of authors, of whom Timothy Leary is perhaps the most prominent, have urged the use of hallucinogens as a means of altering the values of individuals and societies.[215, 216] Leary, in fact, treated the hallucinogens as the sacrament of a new religion. This new religion was seen as the religion of a distinctive new community of users, and while not constituting a society in the sense of having a geographical location, its members were regarded as a new people with distinctive values, norms, beliefs and knowledge, ultimately to become a new and improved species of the human race.

The espousal and wide publicization of this philosophy should not be underestimated in terms of its influence in affecting the decision to try hallucinogens by hundreds of thousands of persons. Hoffer has suggested that a social movement requires both a ripeness of time and a leader who is able to propound a philosophy that commands the attention of thousands of followers.[163] The mid-'60s, in many ways, represented the "right time" for the

widespread acceptance of hallucinogens and a psychedelic philosophy which rationalized their use. The social conditions of the previous few decades did not permit the life style experimentation and alternatives that developed during the 1960s. As McGlothlin has noted:

> When an adolescent grows up in a structured society which demands he assume adult responsibilities at a relatively early age, the alternative of turning on and dropping out is not available. An affluent society which allows prolonged periods of economic dependence and leisure greatly increases the possible choices as to life styles. Anything which leaves the individual without an established place in the social structure increases the likelihood for radical departures from the existing norms. Weakening of family and community groups, chronic social and technological change, and the lack of historical relatedness have been cited as [contributing factors]... Whatever the explanation, it seems likely that if Leary's psychedelic philosophy had been propounded in the depression years of the 1930's, or the war years of the 1940's, it would have gone unnoticed.[264]

In a sense, then, it was a lack of demand rather than a lack of supply that delayed the widespread use of hallucinogens until the 1960s. Leary and other LSD proponents used the media and their own charismatic qualities to publicize and advocate the use of these drugs and, concurrently, espoused a radical social philosophy that justified their use. The 'Turn-On, Tune-In, Drop-Out' philosophy was readily adopted by many persons, not only because of the social conditions mentioned above, but also because the increasing demand for hallucinogens coincided with the extension of higher education, especially in the social and behavioural sciences, and with a corresponding decline of conventional religious authority in intellectual spheres. The post-sputnik science boom subsided in the middle 1960s, and the social sciences became the fastest growing area of interest of higher education, and even began to be introduced into high school curricula. More people were seeking knowledge about human existence, and conventional sources of wisdom in this sphere became increasingly discredited. Interest in religion did not decline during this period, but the nature of this interest changed radically. The coincidence of a greater search for self-understanding with fewer sources of answers perceived to be reliable prompted the search for alternative means of attaining wisdom. For many, drug use, especially use of the hallucinogens, served these metaphysical interests.

The alienation-counter culture theories are particularly important as an explanation of the use of hallucinogens. These theories are described elsewhere in this appendix, but it should be noted that, in certain respects, they seem particularly applicable to the hallucinogens, or effectively to people who use cannabis heavily as well as take hallucinogens. Thus, a particular complex of social conditions, a decline in the credibility of traditional social institutions, and the publicity accorded to a "new religion" combined to pave the way for a kind of drug consumption that promised, through increased

awareness, to create an improved society, ameliorate social conditions, and put meaning into lives which were increasingly perceived to be meaningless.

A number of studies have revealed that hallucinogen use is, indeed, associated with the life styles and values of the 'counter culture'. Although these studies do not reveal whether these values existed prior to hallucinogen use or developed thereafter, it is evident that these two phenomena tend to occur together. For example, data collected by the Narcotics Addiction Foundation of British Columbia during a survey of Vancouver high school students showed that hallucinogen users disproportionately had unconventional career plans or plans to travel after high school, were more interested in music and art at school, had intentions of pursuing work in the arts afterwards, were not interested in sports or academic subjects at school, preferred 'acid rock' to other types of music, and claimed not to refer to parents or friends in making decisions about drugs, careers, dating or styles of dress. The users differed strongly from their parents in their views of the world, did not get along well with them, and were more likely to live on their own.[326] A more recent American study has found similar relationships between counter cultural attitudes and activities and hallucinogen use among college students.[148]

On the other hand, some authors do not think that counter cultural affiliation indicates a high degree of alienation or a radical departure from the conventional normative system. Rather, this style of life and the drug use that is concomitant with it is viewed as an extension of, but consistent with, such middle-class values as self-exploration and self-improvement.[101] Similarly, Janowitz has treated the use of hallucinogens as an exercise in consciousness expansion, without necessarily involving a departure from most of the other values and practices of the dominant society.[160] Esthetic enrichment, with simple curiosity about experimentation, has, in this case, been suggested as the cause. Indeed, it has been proposed that the hallucinogenic experience may prove useful for a person in enabling him to find a more meaningful place for himself within the existing order—by allowing him to see beyond it for a short time.[325] If there is any element of rejection here, it is perhaps more a rearrangement of priorities than a rejection of all dominant values—the promoting of sensation, emotion and immediacy with a down-grading of ordinary cognitive processes and instrumental styles of functioning.

While all of these theories may have been useful explanations of why some people used hallucinogens a few years ago, the recent attenuation of the psychedelic ethos has severely limited their applicability to contemporary use of these drugs. Some people, no doubt, continue to use the hallucinogens to promote or enhance self-knowledge, self-improvement, religious experiences and artistic creativity. And, for some, their use may well represent a search for real meaning in an alienating world. However, for most users today—particularly the new users who, in many cases, have not even heard of Leary—the use of hallucinogens is very similar in meaning to the use of cannabis,

devoid of spiritual significance or ritualized consumption patterns. As long ago as 1969, Fort suggested that hallucinogens, like most other drugs, were primarily used as a means for the promotion of immediate pleasure, not involving the enrichment of insight into self or others, the establishment of creative alternatives to conventional society or the edification of a new moral community.[127] While there are exceptions, Fort's hypothesis appears to have direct applicability to much of the contemporary Canadian situation in which hallucinogens are primarily used as a leisure or recreational activity, hedonism or simple pleasure having replaced the search for the transcendent experience.

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Appendix E

Conviction Statistics for Drug Offences

The tables appearing in this appendix provide data on convictions and sentences under the *Narcotic Control Act* and the *Food and Drugs Act*, Parts III and IV, for the years 1970, 1971 and 1972. The tables were presented to the Commission by the Bureau of Dangerous Drugs of the Health Protection Branch, Department of National Health and Welfare.

The sections of Part IV of the *Food and Drugs Act* creating the offences of possession, trafficking and possession for the purpose of trafficking were re-numbered in the Revised Statutes of Canada 1970. The B.D.D.'s conviction statistics for 1970 were released prior to publication of the Revised Statutes, with the result that they contained the previous numbering of these three sections. This is reflected in Tables E.48 to E.77 of this appendix in which these sections appear as 40(1), 41(1) and 41(2) respectively in 1970 and as 41(1), 42(1) and 42(2) respectively in 1971 and 1972.

In the fall of 1972 the Bureau of Dangerous Drugs, at the request of the Commission, prepared tabulations of convictions involving LSD and MDA during 1970 and 1971 by type of offence. These special tabulations reflected an increase in the total number of convictions involving these drugs over the totals presented in the Bureau's annual conviction statistics for those years. This increase is the result of convictions reported to the Bureau subsequent to the publication of its annual statistics. The Bureau's annual statistics of convictions involving LSD and MDA are presented in Tables E.48 to E.53; the special tabulations prepared at the request of the Commission are presented in Tables E.54 to E.77.

TABLE E.1

Statement Showing Convictions Recorded Under the Narcotic Control Act in 1970

Province	Section of Act						TOTAL													TOTAL
	3(1)	4(1)	4(2)	5(1)	6(1)	3(3) Reg'ns		Marihuana	Heroin	Morphine	Codeine	Oxycodone	Pethidine	Piminodine	Dilaudid	Methadone	Anileridine	Opium	Cocaine	
Nfld.	20	3	1	—	—	—	24	24	—	—	—	—	—	—	—	—	—	—	—	24
P.E.I.	9	1	—	—	—	—	10	9	—	—	1	—	—	—	—	—	—	—	—	10
N.S.	91	12	9	—	—	—	112	109	—	—	—	—	—	—	—	—	2	—	1	112
N.B.	66	13	10	—	—	—	89	85	1	1	1	—	—	—	—	—	—	—	1	89
Que.	894	26	78	25	—	4	1,027	1,001	12	4	—	1	—	—	2	4	—	—	3	1,027
Ont.	2,254	123	147	2	4	3	2,533	2,426	92	1	4	—	2	5	—	1	—	1	1	2,533
Man.	145	49	14	—	4	—	212	189	10	3	2	—	6	—	—	—	—	—	2	212
Sask.	281	24	13	—	6	3	327	317	—	—	3	—	3	3	—	1	—	—	—	327
Alta.	455	94	37	1	—	1	588	568	5	5	4	—	3	—	—	—	—	1	2	588
B.C.	1,415	257	88	—	29	1	1,790	1,509	263	—	6	—	—	—	—	8	1	1	2	1,790
Yukon	27	4	2	—	—	—	33	33	—	—	—	—	—	—	—	—	—	—	—	33
TOTAL	5,657	606	399	28	43	12	6,745	6,270	383	14	21	1	14	8	2	14	3	3	12	6,745

Section 3(1)—Possession.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.
Section 5(1)—Importing.
Section 6(1)—Cultivating.
Section 3(3) Reg'ns—Obtaining drugs from more than one physician.

TABLE E.2

STATEMENT SHOWING CONVICTIONS RECORDED UNDER THE NARCOTIC CONTROL ACT IN 1971

Province	Section of Act						TOTAL	Marihuana	Heroin	Morphine	Codeine	Oxycodone	Pethidine	Piminodine	Methadone	Opium	Alleged Narcotic	Cocaine	TOTAL
	3(1)	4(1)	4(2)	5(1)	6(1)	3(3) Reg'ns													
Nfld.	81	11	8	—	—	—	100	100	—	—	—	—	—	—	—	—	—	—	100
P.E.I.	19	4	—	—	—	—	23	23	—	—	—	—	—	—	—	—	—	—	23
N.S.	182	6	10	1	—	—	199	198	1	—	—	—	—	—	—	—	—	—	199
N.B.	105	8	14	—	—	—	127	127	—	—	—	—	—	—	—	—	—	—	127
Que.	1,218	21	89	17	13	16	1,374	1,341	6	4	—	1	3	—	18	1	—	—	1,374
Ont.	3,764	148	247	3	13	1	4,176	4,046	90	13	1	1	4	1	13	2	—	5	4,176
Man.	236	71	28	3	—	2	340	324	14	—	—	—	—	—	2	—	—	—	340
Sask.	378	26	30	—	1	—	435	418	1	—	4	—	4	—	3	3	1	1	435
Alta.	642	46	47	1	3	—	739	695	28	2	2	—	1	—	4	—	—	7	739
B.C.	2,178	222	126	1	28	27	2,582	2,165	361	3	1	—	2	2	42	—	—	6	2,582
Yukon & N.W.T.	37	2	3	—	—	—	42	41	1	—	—	—	—	—	—	—	—	—	42
TOTAL	8,840	565	602	26	58	46	10,137	9,478	502	22	8	2	14	3	82	6	1	19	10,137

Section 3(1)—Possession.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.
Section 5(1)—Importing.
Section 6(1)—Cultivating.
Section 3(3) Reg'ns—Obtaining drugs from more than one physician.

TABLE E.3

Statement Showing Convictions Recorded Under the Narcotic Control Act in 1972

Province	Section of Act						TOTAL	Marihuana	Heroin	Morphine	Codeine	Oxy-Codone	Pethidine	Diphenoxylate	Methadone	Opium	Anileridine	Cocaine	TOTAL
	3(1)	4(1)	4(2)	5(1)	6(1)	3(3) Reg'ns													
Nfld.	95	20	10	—	—	—	125	125	—	—	—	—	—	—	—	—	—	—	125
P.E.I.	31	1	1	—	—	—	33	33	—	—	—	—	—	—	—	—	—	—	33
N.S.	266	8	28	—	2	—	304	298	1	1	—	—	2	—	—	—	1	1	304
N.B.	108	14	6	3	—	—	131	131	—	—	—	—	—	—	—	—	—	—	131
Que.	1,016	27	114	21	7	17	1,202	1,152	18	—	1	—	2	—	22	3	—	4	1,202
Ont.	4,738	143	274	8	20	1	5,184	4,968	161	6	1	1	7	—	15	3	—	22	5,184
Man.	414	19	35	—	3	—	471	450	20	—	—	—	1	—	—	—	—	—	471
Sask.	521	20	24	—	4	2	571	556	5	1	2	—	3	—	4	—	—	—	571
Alta.	1,052	95	75	3	9	—	1,234	1,091	133	3	—	—	—	—	—	—	—	7	1,234
B.C.	3,085	127	186	—	28	18	3,444	2,798	585	5	4	—	2	1	40	—	—	9	3,444
Yukon & N.W.T.	105	1	4	—	2	—	112	111	—	—	—	—	—	—	—	—	—	1	112
TOTAL	11,431	475	757	35	75	38	12,811	11,713	923	16	8	1	17	1	81	6	1	44	12,811

Section 3(1)—Possession.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.
Section 5(1)—Importing.
Section 6(1)—Cultivating.
Section 3(3)Reg'ns—Obtaining drugs from more than one physician.

TABLE E.4

STATEMENT SHOWING SENTENCE AWARDED BY PROVINCE UNDER THE NARCOTIC CONTROL ACT IN 1970

Province	Fine Only	Proba-tion or S/S*	Inde-finite Period	Under 6 mos.	6 mons. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Newfoundland	20	—	—	1	—	1	2	—	—	—	—	—	—	—	—	24
Prince Edward Island	9	—	—	—	1	—	—	—	—	—	—	—	—	—	—	10
Nova Scotia	78	16	—	11	5	—	2	—	—	—	—	—	—	—	—	112
New Brunswick	59	3	2	7	3	10	3	1	—	1	—	—	—	—	—	89
Quebec	618	179	6	141	22	1	17	10	1	—	—	24	4	—	4	1,027
Ontario	1,634	481	21	199	85	51	7	6	12	32	1	3	—	—	1	2,533
Manitoba	101	37	3	11	10	17	15	10	4	1	3	—	—	—	—	212
Saskatchewan	205	51	—	42	8	19	1	—	1	—	—	—	—	—	—	327
Alberta	277	156	—	42	22	75	7	5	1	—	—	2	—	—	1	588
British Columbia	713	519	—	246	120	80	47	25	14	9	—	6	4	—	7	1,790
Yukon	16	3	—	10	—	3	1	—	—	—	—	—	—	—	—	33
TOTAL	3,730	1,445	32	710	276	257	102	57	33	43	4	35	8	—	13	6,745

*Probation or Suspended Sentence.

TABLE E.5

STATEMENT SHOWING SENTENCE AWARDED BY PROVINCE UNDER THE NARCOTIC CONTROL ACT IN 1971

Province	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Nfld.	74	5	—	8	4	6	3	—	—	—	—	—	—	—	—	100
P.E.I.	19	—	—	3	1	—	—	—	—	—	—	—	—	—	—	23
N.S.	147	28	—	10	5	—	8	—	—	—	—	1	—	—	—	199
N.B.	92	5	—	8	3	17	1	1	—	—	—	—	—	—	—	127
Que.	961	214	2	118	18	23	13	5	1	—	—	14	—	—	5	1,374
Ont.	2,999	579	10	333	156	59	12	11	8	4	1	1	1	—	2	4,176
Man.	182	55	—	28	23	27	15	6	—	1	—	—	—	—	3	340
Sask.	261	86	—	46	17	20	—	—	—	5	—	—	—	—	—	435
Alta.	485	115	—	32	38	47	3	10	3	2	—	3	—	—	1	739
B.C.	1,412	584	1	251	134	97	26	33	15	11	2	3	2	1	10	2,582
Yukon & N.W.T.	25	3	—	11	1	2	—	—	—	—	—	—	—	—	—	42
TOTAL	6,657	1,674	13	848	400	298	81	66	27	23	3	22	3	1	21	10,137

*Probation or Suspended Sentence.

TABLE E.6

STATEMENT SHOWING SENTENCE AWARDED BY PROVINCE UNDER THE NARCOTIC CONTROL ACT IN 1972

Province	Fine only	Probation or S/S*	A/D†	C/D‡	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 12 yrs.	12 yrs. to 15 yrs.	15 yrs. to 20 yrs.	20 yrs. and over	Life	TOTAL
Nfld.	77	5	—	16	—	13	8	2	3	1	—	—	—	—	—	—	—	—	—	—	125
P.E.I.	31	—	—	—	—	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	33
N.S.	206	41	16	8	1	14	4	6	8	—	—	—	—	—	—	—	—	—	—	—	304
N.B.	89	5	7	1	—	3	4	12	1	3	—	1	—	—	2	3	—	—	—	—	131
Que.	694	220	33	41	—	126	21	27	8	2	—	3	—	17	—	3	—	1	6	—	1,202
Ont.	3,271	412	453	458	1	326	106	65	25	13	14	17	4	12	2	2	1	—	—	2	5,184
Man.	281	52	59	23	—	23	12	10	4	—	2	1	1	—	1	—	—	—	1	1	471
Sask.	317	95	42	42	—	44	18	11	1	—	—	1	—	—	—	—	—	—	—	—	571
Alta.	784	141	10	20	—	60	61	53	14	18	12	8	4	26	4	17	—	1	1	—	1,234
B.C.	1,942	597	75	107	—	338	149	122	32	28	11	12	2	8	3	6	6	2	1	3	3,444
Yukon & N.W.T.	96	2	1	1	—	8	2	2	—	—	—	—	—	—	—	—	—	—	—	—	112
TOTAL	7,788	1,570	696	717	2	956	386	310	96	65	39	43	11	63	12	31	7	4	9	6	12,811

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.7

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE NARCOTIC CONTROL ACT IN 1970

Province	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		70 and over		Not known		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Nfld.	1	—	10	—	9	—	3	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	24	—
P.E.I.	1	—	1	—	7	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	9	1
N.S.	20	1	40	4	27	3	7	1	2	—	1	1	—	—	—	—	—	—	—	—	—	—	97	9
N.B.	7	4	33	2	23	3	5	2	2	—	—	—	2	—	—	—	—	—	—	—	—	—	72	11
Que.	94	11	367	32	290	21	105	11	21	4	15	2	3	1	2	—	—	—	—	—	—	—	897	82
Ont.	322	29	826	79	716	53	178	16	39	5	18	6	9	4	4	1	—	—	—	—	7	—	2,119	193
Man.	22	3	62	9	62	3	11	—	5	2	—	—	—	—	—	—	—	—	—	—	—	—	162	17
Sask.	40	4	83	11	113	10	27	1	7	—	3	—	1	—	—	—	—	—	—	—	—	—	274	26
Alta.	68	10	183	23	159	6	36	2	13	—	3	—	2	—	—	—	—	—	—	—	1	—	465	41
B.C.	191	25	488	53	431	45	198	21	54	16	31	2	36	2	4	—	1	—	—	—	—	—	1,434	155
Yukon	1	—	8	2	12	—	7	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	30	2
TOTAL	767	87	2,101	215	1,849	145	577	54	144	27	72	11	54	7	10	1	1	—	—	—	8	—	5,583	547

TABLE E.8

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE NARCOTIC CONTROL ACT IN 1971

Province	Under 18		18-20		21-24		25-29		30-34		35-39		40-49		50-59		60-69		70 and over		Not known		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Nfld.	7	3	44	2	30	2	6	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	87	8
P.E.I.	—	—	11	1	8	2	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	20	3
N.S.	19	3	83	5	57	5	11	1	1	—	1	—	—	—	—	—	—	—	—	—	—	—	172	14
N.B.	20	—	48	4	41	—	7	2	3	—	—	—	1	—	—	—	—	—	—	—	—	—	120	6
Que.	40	18	419	33	400	34	153	19	43	6	10	—	17	1	3	—	2	—	—	—	—	—	1,187	111
Ont.	601	57	1,377	142	1,159	95	380	49	87	12	25	2	19	4	4	—	2	—	—	—	5	—	3,559	361
Man.	18	6	93	12	106	12	38	3	4	—	—	—	1	—	—	—	—	—	—	—	—	—	265	33
Sask.	38	6	139	12	137	10	43	5	7	—	1	—	1	—	—	—	—	—	—	—	—	—	366	33
Alta.	84	5	249	33	201	17	64	3	17	1	5	—	3	1	1	—	—	—	—	—	3	—	627	60
B.C.	254	26	669	70	620	73	328	32	91	18	35	5	33	1	8	—	2	—	—	—	6	1	2,046	226
Yukon and N.W.T.	1	1	9	—	11	1	8	1	4	—	—	—	—	—	—	—	—	—	—	—	—	—	33	3
TOTAL	1,082	125	3,146	314	2,770	251	1,039	115	257	38	77	7	75	7	16	—	6	—	—	—	14	1	8,482	858

TABLE E.9

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE NARCOTIC CONTROL ACT IN 1972

	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		70 and over		Not known		TOTAL	
Province	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Nfld.	13	3	58	5	27	3	8	1	1	—	—	—	—	—	—	—	—	—	—	—	1	1	108	13
P.E.I.	3	1	19	—	6	1	2	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	31	2
N.S.	29	7	94	16	82	7	34	3	10	—	—	—	3	—	—	—	—	—	—	—	2	—	254	33
N.B.	10	1	42	1	35	2	19	3	2	1	1	—	1	—	—	—	—	—	—	—	2	—	112	8
Que.	153	16	497	41	503	41	177	19	65	6	18	—	14	—	1	1	1	—	—	—	5	—	1,434	124
Ont.	539	61	1,694	168	1,470	146	493	63	122	17	47	6	22	5	3	1	1	—	—	—	58	4	4,449	471
Man.	31	3	159	17	149	18	56	8	7	—	1	—	—	—	1	—	—	1	—	—	—	—	404	47
Sask.	70	6	195	12	164	15	57	2	9	1	1	1	1	—	—	—	—	—	—	—	—	—	497	37
Alta.	124	12	438	45	317	27	100	13	12	—	7	1	8	2	1	—	—	—	—	—	13	1	1,020	101
B.C.	294	38	991	125	814	89	340	49	110	20	59	10	37	4	4	—	3	—	—	—	88	7	2,740	342
Yukon	10	1	25	1	41	4	19	2	2	—	—	—	—	—	—	—	—	—	—	—	—	—	97	8
TOTAL	1,276	149	4,212	431	3,608	353	1,305	163	340	45	134	18	86	11	10	2	5	1	—	—	170	13	11,146	1,186

TABLE E.10

STATEMENT OF CONVICTIONS INVOLVING HEROIN IN 1970

Province	Section of Act				TOTAL
	3(1)	4(1)	4(2)	5(1)	
Newfoundland	—	—	—	—	—
Prince Edward Island	—	—	—	—	—
Nova Scotia	—	—	—	—	—
New Brunswick	—	—	1	—	1
Quebec	5	—	5	2	12
Ontario	23	63	6	—	92
Manitoba	2	6	2	—	10
Saskatchewan	—	—	—	—	—
Alberta	4	1	—	—	5
British Columbia	167	75	21	—	263
Yukon	—	—	—	—	—
TOTAL	201	145	35	2	383

Section 3(1)—Possession.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.
Section 5(1)—Importing.

TABLE E.11

Statement of Convictions Involving Heroin in 1971

Province	Section of Act				TOTAL
	3(1)	4(1)	4(2)	5(1)	
Newfoundland	—	—	—	—	—
Prince Edward Island	—	—	—	—	—
Nova Scotia	1	—	—	—	1
New Brunswick	—	—	—	—	—
Quebec	3	1	—	2	6
Ontario	66	14	9	1	90
Manitoba	12	—	2	—	14
Saskatchewan	1	—	—	—	1
Alberta	21	—	7	—	28
British Columbia	273	59	29	—	361
Yukon & North West Territories	1	—	—	—	1
TOTAL	378	74	47	3	502

3(1)—Possession.
4(1)—Trafficking.
4(2)—Possession for the purpose of trafficking.
5(1)—Importing.

TABLE E.12

Statement of Convictions Involving Heroin in 1972

Province	Section of Act				TOTAL
	3(1)	4(1)	4(2)	5(1)	
Newfoundland	—	—	—	—	—
Prince Edward Island	—	—	—	—	—
Nova Scotia	1	—	—	—	1
New Brunswick	—	—	—	—	—
Quebec	8	4	4	2	18
Ontario	89	43	29	—	161
Manitoba	15	—	5	—	20
Saskatchewan	4	—	1	—	5
Alberta	54	55	24	—	133
British Columbia	459	72	54	—	585
Yukon & North West Territories	—	—	—	—	—
TOTAL	630	174	117	2	923

Section 3(1)—Possession.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.
Section 5(1)—Importing.

TABLE E.13

Age Group and Sentences Awarded in Cases Involving Heroin in 1970

Section 3(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	3	—	1	—	—	—	—	—	—	—	—	—	—	—	4
18–20	—	11	—	5	4	—	—	—	—	—	—	1	—	—	—	21
21–24	4	10	2	6	11	2	2	2	1	—	—	—	—	—	—	40
25–29	1	14	—	11	13	6	6	1	—	—	—	—	—	—	—	52
30–34	—	7	—	2	10	4	4	3	—	—	—	—	—	—	—	30
35–39	1	5	—	2	2	3	7	2	—	—	—	1	—	—	—	23
40–49	1	6	—	3	9	2	5	—	—	—	—	—	—	—	—	26
50–59	—	1	—	—	1	—	1	1	—	—	—	—	—	—	—	4
60–69	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	1
TOTAL	7	58	2	30	50	17	25	9	1	—	—	2	—	—	—	201

*Probation or Suspended Sentence.

TABLE E.14

Age Group and Sentence Awarded in Cases Involving Heroin in 1971

Section 3(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	6	—	1	1	—	—	—	—	—	—	—	—	—	—	8
18–20	10	24	—	9	5	3	—	1	—	—	—	—	—	—	—	52
21–24	19	36	—	33	18	15	3	1	—	—	—	—	—	—	—	125
25–29	16	22	1	16	19	11	4	1	1	—	—	—	—	—	—	91
30–34	7	11	—	5	15	8	5	1	—	—	—	—	—	—	—	52
35–39	3	3	—	2	8	4	2	1	—	1	—	—	—	—	—	24
40–49	—	7	—	—	4	4	3	3	—	—	—	—	—	—	—	21
50–59	—	1	—	1	1	—	—	—	—	—	—	—	—	—	—	3
60–69	—	—	—	—	—	1	1	—	—	—	—	—	—	—	—	2
TOTAL	55	110	1	67	71	46	18	8	1	1	—	—	—	—	—	378

*Probation or Suspended Sentence.

TABLE E.15

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING HEROIN IN 1972

Section 3(1)—Possession

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	18	—	1	2	4	—	1	—	—	—	—	—	—	—	26
18–20	35	33	1	4	39	20	11	3	—	—	—	—	—	—	—	146
21–24	34	39	1	1	60	36	27	10	2	—	—	—	—	—	—	210
25–29	12	22	—	—	39	26	13	3	1	1	—	—	—	—	—	117
30–34	7	9	1	—	11	12	12	2	1	1	2	—	—	—	—	58
35–39	9	12	—	—	5	5	6	—	2	—	1	—	—	—	—	40
40–49	3	6	—	—	1	3	6	2	2	2	—	—	—	—	—	25
50–59	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	2
60–69	—	—	—	—	1	—	1	—	—	—	—	—	—	—	—	2
Unknown	—	3	—	—	1	—	—	—	—	—	—	—	—	—	—	4
TOTAL	100	144	3	6	159	106	76	21	8	4	3	—	—	—	—	630

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.16

Age Group and Sentences Awarded in Cases Involving Heroin in 1970

Section 4(1)—Trafficking

Age group	Fine only	Probation or S/S*	Indefinite Period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	1
18–20	3	2	—	1	—	5	—	1	1	—	—	—	—	—	—	13
21–24	—	—	14	—	—	4	11	6	7	—	3	—	—	—	—	45
25–29	—	—	—	—	1	5	5	—	9	7	—	—	3	—	—	30
30–34	—	—	—	1	—	2	2	—	2	—	—	—	—	—	—	7
35–39	—	—	—	—	—	1	—	1	3	1	—	3	—	—	2	11
40–49	—	—	—	—	—	—	1	3	—	27	—	1	—	—	—	32
50–59	—	—	—	—	—	—	—	1	—	3	1	—	—	—	—	5
60–69	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Not known	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
TOTAL	3	3	14	2	1	18	19	12	22	38	4	4	3	—	2	145

*Probation or Suspended Sentence.

TABLE E.17

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING HEROIN IN 1971

Section 4(1)—Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	—	—	—	—	—	—	2	—	—	—	—	—	—	—	2
21–24	1	—	—	1	—	—	3	4	2	1	1	—	—	—	—	13
25–29	—	1	—	—	1	3	2	9	2	2	—	—	1	—	1	22
30–34	—	—	—	—	—	4	2	3	3	—	—	—	—	—	2	14
35–39	—	—	—	—	—	4	—	4	—	1	—	2	—	—	—	11
40–49	—	2	—	—	—	1	1	4	1	2	—	—	—	—	1	12
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
60–69	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	1	3	—	1	1	12	8	26	8	6	1	2	1	—	4	74

*Probation or Suspended Sentence.

TABLE E.18

Age Group and Sentences Awarded in Cases Involving Heroin in 1972

Section 4(1)—Trafficking

Age group	Fine only	Probation or S/S*	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 12 yrs.	12 yrs. to 15 yrs.	15 yrs. to 20 yrs.	20 yrs. and over	Life	TOTAL
Under 18	—	3	—	—	1	1	—	—	—	—	1	—	—	—	—	—	—	6
18–20	—	1	—	3	12	6	5	2	2	2	5	2	—	—	—	—	—	40
21–24	—	—	—	3	12	3	6	7	7	1	11	3	—	—	—	—	—	53
25–29	—	—	—	—	—	5	1	4	4	1	1	—	2	—	—	1	—	19
30–34	—	—	—	3	—	—	4	—	1	—	3	1	1	5	—	—	—	18
35–39	—	—	—	—	—	4	2	2	—	—	2	—	—	—	—	1	1	12
40–49	—	—	—	—	—	—	1	—	1	3	—	—	14	—	—	1	2	22
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1
60–69	—	—	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	1
Unknown	—	—	—	—	—	—	—	—	—	—	2	—	—	—	—	—	—	2
TOTAL	—	4	—	9	25	19	19	15	16	7	25	6	17	5	—	3	4	174

*Probation or Suspended Sentence.

TABLE E.19

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING HEROIN IN 1970

Section 4(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	1
18-20	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
21-24	—	—	—	—	—	2	1	1	1	1	—	1	—	—	—	7
25-29	—	—	—	1	1	1	—	1	1	—	—	2	2	—	1	10
30-34	—	—	—	—	—	—	2	—	1	2	—	—	—	—	1	6
35-39	—	—	—	—	—	—	—	—	1	—	—	—	—	—	4	5
40-49	—	—	—	—	—	1	—	—	1	1	—	—	—	—	2	5
50-59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
60-69	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Non known	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	1	—	1	1	5	3	2	5	4	—	3	2	—	8	35

*Probation or Suspended Sentence.

TABLE E.20

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING HEROIN IN 1971

Section 4(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	1	—	—	—	2	—	—	1	1	—	1	—	—	—	6
21–24	—	—	—	1	1	—	1	3	1	—	—	1	—	—	—	8
25–29	1	—	—	1	1	1	1	3	3	1	2	—	1	1	5	21
30–34	—	1	—	—	—	—	1	1	—	—	—	—	1	—	—	4
35–39	—	—	—	—	—	1	1	—	1	—	—	—	—	—	1	4
40–49	—	—	—	—	—	—	1	—	—	2	—	1	—	—	—	4
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
60–69	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	1	2	—	2	2	4	5	7	6	4	2	3	2	1	6	47

*Probation or Suspended Sentence.

TABLE E.21

Age Group and Sentences Awarded in Cases Involving Heroin in 1972

Section 4(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 12 yrs.	12 yrs. to 15 yrs.	15 yrs. to 20 yrs.	20 yrs. and over	Life	TOTAL
Under 18	—	1	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	2
18–20	—	3	2	—	3	1	2	1	1	1	—	—	—	—	—	—	—	14
21–24	—	3	1	1	4	1	4	5	6	1	5	1	1	—	—	—	—	33
25–29	—	1	—	—	3	1	2	4	4	2	4	1	3	—	—	1	—	26
30–34	—	—	1	1	4	1	2	2	1	—	1	—	4	1	—	—	—	18
35–39	—	—	—	—	—	—	—	1	2	—	1	1	1	1	1	—	—	8
40–49	—	—	—	—	—	5	—	—	1	—	1	—	—	—	—	3	1	11
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	2
60–69	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	1	—	2
Unknown	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1
TOTAL	—	9	4	3	14	9	11	13	15	4	12	3	9	2	2	5	2	117

*Probation or Suspended Sentence.

TABLE E.22

Age Group and Sentences Awarded in Cases Involving Heroin in 1970

Section 5(1)—Importing

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18-20	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
21-24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1
25-29	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
30-34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1
35-39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40-49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50-59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
60-69	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	2

*Probation or Suspended Sentence.

TABLE E.23

Age Group and Sentences Awarded in Cases Involving Heroin in 1971

Section 5(1)—Importing

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	—	—	—	—	—	—	—	—	—	—	1	—	—	—	1
21–24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
25–29	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1
30–34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
60–69	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	—	—	—	—	—	—	—	—	—	—	1	—	—	2	3

*Probation or Suspended Sentence.

TABLE E.24

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING HEROIN IN 1972

Section 5(1)—Importing

Age group	Fine only	Probation or S/S*	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 12 yrs.	12 yrs. to 15 yrs.	15 yrs. to 20 yrs.	20 yrs. to 25 yrs.	Life	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18-20	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
21-24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
25-29	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	—	1
30-34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35-39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1
40-49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50-59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
60-69	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1	—	2

*Probation or Suspended Sentence.

TABLE E.25

Statement of Convictions Involving Methadone in 1970

Province	Section of Act				TOTAL
	3(1)	4(1)	4(2)	3(3)	
Newfoundland	—	—	—	—	—
Prince Edward Island	—	—	—	—	—
Nova Scotia	—	—	—	—	—
New Brunswick	—	—	—	—	—
Quebec	1	—	—	3	4
Ontario	1	—	—	—	1
Manitoba	—	—	—	—	—
Saskatchewan	1	—	—	—	1
Alberta	—	—	—	—	—
British Columbia	5	2	—	1	8
Yukon and Northwest Territories	—	—	—	—	—
TOTAL	8	2	—	4	14

Section 3(1)—Possession.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.
Section 3(3)Reg'ns—Obtaining drugs from more than one physician.

TABLE E.26

Statement of Convictions Involving Methadone in 1971

Province	Section of Act				TOTAL
	3(1)	4(1)	4(2)	3(3)	
Newfoundland	—	—	—	—	—
Prince Edward Island	—	—	—	—	—
Nova Scotia	—	—	—	—	—
New Brunswick	—	—	—	—	—
Quebec	2	—	—	16	18
Ontario	12	—	1	—	13
Manitoba	—	—	—	2	2
Saskatchewan	3	—	—	—	3
Alberta	2	1	1	—	4
British Columbia	16	2	—	25	43
Yukon and Northwest Territories	—	—	—	—	—
TOTAL	35	3	2	43	83

Section 3(1)—Possession.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.
Section 3(3)Reg'ns—Obtaining drugs from more than one physician.

TABLE E.27

Statement of Convictions Involving Methadone in 1972

Province	Section of Act				TOTAL
	3(1)	4(1)	4(2)	3(3)	
Newfoundland	—	—	—	—	—
Prince Edward Island	—	—	—	—	—
Nova Scotia	—	—	—	—	—
New Brunswick	—	—	—	—	—
Quebec	5	—	—	17	22
Ontario	13	—	1	1	15
Manitoba	—	—	—	—	—
Saskatchewan	2	—	—	2	4
Alberta	—	—	—	—	—
British Columbia	18	3	1	18	40
Yukon and Northwest Territories	—	—	—	—	—
TOTAL	38	3	2	38	81

Section 3(1)—Possession.
Section 3(3)Reg'ns—Obtaining drugs from more than one physician.
Section 4(1)—Trafficking.
Section 4(2)—Possession for the purpose of trafficking.

TABLE E.28

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1970

Section 3(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18-20	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	2
21-24	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
25-29	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	2
30-34	1	1	—	—	—	1	—	—	—	—	—	—	—	—	—	3
35-39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40-49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50-59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	1	5	—	—	—	2	—	—	—	—	—	—	—	—	—	8

*Probation or Suspended Sentence.

TABLE E.29

Age Groups and Sentences Awarded in Cases Involving Methadone in 1971

Section 3(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	2
18–20	4	4	—	1	—	—	—	—	—	—	—	—	—	—	—	9
21–24	4	7	—	3	1	—	—	—	—	—	—	—	—	—	—	15
25–29	1	2	—	—	1	—	—	—	—	—	—	—	—	—	—	4
30–34	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
35–39	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	1
40–49	—	1	—	—	1	—	—	—	—	—	—	—	—	—	—	2
50–59	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	1
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	9	18	—	4	3	1	—	—	—	—	—	—	—	—	—	35

*Probation or Suspended Sentence.

TABLE E.30

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1972

Section 3(1)—Possession

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	4	—	1	—	—	1	—	1	—	—	—	—	—	—	—	7
21–24	7	6	—	—	3	—	1	—	—	—	—	—	—	—	—	17
25–29	1	2	—	—	2	1	1	1	—	—	—	—	—	—	—	8
30–34	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
35–39	1	—	—	—	—	—	1	—	—	—	—	—	—	—	—	2
40–49	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	2
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1
TOTAL	15	9	1	—	5	3	3	2	—	—	—	—	—	—	—	38

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.31

Age Groups and Sentences Awarded in Cases Involving Methadone in 1970

Section 4(1)—Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
21–24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
25–29	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
30–34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
TOTAL	—	—	—	—	—	2	—	—	—	—	—	—	—	—	—	2

*Probation or Suspended Sentence.

TABLE E.32

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1971

Section 4(1)—Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18-20	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
21-24	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
25-29	—	—	—	—	—	—	—	1	—	—	—	—	—	—	—	1
30-34	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	1
35-39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40-49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50-59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	—	—	—	—	1	1	1	—	—	—	—	—	—	—	3

*Probation or Suspended Sentence.

TABLE E.33

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1972

Section 4(1)—Trafficking

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	1	—	—	—	—	—	—	—	—	—	—	—	—	1
21–24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
25–29	—	1	—	—	—	1	—	—	—	—	—	—	—	—	2
30–34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	2	—	—	—	1	—	—	—	—	—	—	—	—	3

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.34

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1971*

Section 4(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S†	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
21–24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
25–29	1	—	—	—	—	—	—	1	—	—	—	—	—	—	—	2
30–34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	1	—	—	—	—	—	—	1	—	—	—	—	—	—	—	2

*No table presented here for 1970, as there were *no* convictions under Section 4(2) involving methadone in 1970.
†Probation or Suspended Sentence.

TABLE E.35

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1972

Section 4(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
21–24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
25–29	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
30–34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	1	—	—	—	—	—	1
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	—	—	—	—	1	—	—	—	1	—	—	—	—	—	2

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.36

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1970

Section 3(3) Reg'ns—Obtaining Drugs from More thanOne Physician

Age group	Fine only	Proba-tion or S/S*	Indefi-nite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18-20	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
21-24	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1
25-29	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
30-34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35-39	2	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2
40-49	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	1
50-59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	3	—	—	1	—	—	—	—	—	—	—	—	—	—	—	4

*Probation or Suspended Sentence.

TABLE E.37

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1971

Section 3(3) Reg'ns—Obtaining Drugs from More than One Physician

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	4	1	—	4	—	—	—	—	—	—	—	—	—	—	—	9
21–24	1	4	—	1	—	—	—	—	—	—	—	—	—	—	—	6
25–29	5	4	—	3	—	—	—	—	—	—	—	—	—	—	—	12
30–34	4	1	—	—	—	—	—	—	—	—	—	—	—	—	—	5
35–39	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1
40–49	—	—	—	5	—	—	—	—	—	—	—	—	—	—	—	5
50–59	1	—	—	4	—	—	—	—	—	—	—	—	—	—	—	5
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	16	10	—	17	—	—	—	—	—	—	—	—	—	—	—	43

*Probation or Suspended Sentence.

TABLE E.38

AGE GROUPS AND SENTENCES AWARDED IN CASES INVOLVING METHADONE IN 1972

Section 3(3) Reg'ns—Obtaining Drugs from More than One Physician

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	2	3	—	—	—	—	—	—	—	—	—	—	—	—	—	5
21–24	4	8	—	—	2	—	—	—	—	—	—	—	—	—	—	14
25–29	1	2	1	—	—	—	—	—	—	—	—	—	—	—	—	4
30–34	1	6	—	—	—	—	—	—	—	—	—	—	—	—	—	7
35–39	1	—	—	—	2	—	—	—	—	—	—	—	—	—	—	3
40–49	—	2	—	—	3	—	—	—	—	—	—	—	—	—	—	5
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	9	21	1	—	7	—	—	—	—	—	—	—	—	—	—	38

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge

TABLE E.39

CONVICTIONS UNDER THE FOOD AND DRUGS ACT, PART III, IN 1970

Province	Section of Act			TOTAL	Drugs involved					TOTAL
	32(1)	32(2)	G.03.001 Regulations		Amphet-amine	Metham-phetamine	Pento-barbital	Pheno-barbital	Seco-barbital	
Newfoundland	—	—	—	—	—	—	—	—	—	—
Prince Edward Island	—	—	—	—	—	—	—	—	—	—
Nova Scotia	1	4	—	5	2	2	—	1	—	5
New Brunswick	—	4	—	4	—	4	—	—	—	4
Quebec	3	7	1	11	3	2	1	1	4	11
Ontario	23	38	—	61	3	44	—	2	12	61
Manitoba	1	1	—	2	1	1	—	—	—	2
Saskatchewan	—	—	—	—	—	—	—	—	—	—
Alberta	8	1	—	9	1	6	—	—	2	9
British Columbia	17	4	—	21	3	5	—	1	12	21
Yukon	—	—	—	—	—	—	—	—	—	—
TOTAL	53	59	1	113	13	64	1	5	30	113

Section 32(1)—Trafficking.
Section 32(2)—Possession for the purpose of trafficking.
G.03.001 Regulations—Failure of pharmacist to prepare required records

TABLE E.40

CONVICTIONS UNDER THE FOOD AND DRUGS ACT, PART III, IN 1971

Province	Section of Act		G.03.001 Regulations	TOTAL	Drugs involved				TOTAL
	34(1)	34(2)			Phen-metrazine	Amphet-amine	Metham-phetamine	Barbiturates	
Newfoundland	—	—	—	—	—	—	—	—	—
Prince Edward Island	1	—	—	1	—	—	1	—	1
Nova Scotia	2	1	—	3	—	2	1	—	3
New Brunswick	1	1	—	2	—	—	1	1	2
Quebec	—	7	—	7	1	—	6	—	7
Ontario	39	73	—	112	—	—	102	10	112
Manitoba	1	—	—	1	—	—	1	—	1
Saskatchewan	—	4	—	4	—	3	—	1	4
Alberta	1	16	—	17	1	—	7	9	17
British Columbia	2	8	—	10	—	—	4	6	10
Yukon and Northwest Territories	—	—	—	—	—	—	—	—	—
TOTAL	47	110	—	157	2	5	123	27	157

Section 34(1)—Trafficking.
Section 34(2)—Possession for the purpose of trafficking.
G.03.001 Regulations—Failure of pharmacist to prepare required records.

TABLE E.41

Convictions Under the Food and Drugs Act, Part III, in 1972

Province	Section of Act		G.03.001 Regulations	TOTAL	Drugs involved				TOTAL
	34(1)	34(2)			Phen-metrazine	Amphet-amine	Metham-phetamine	Barbiturates	
Newfoundland	—	—	—	—	—	—	—	—	—
Prince Edward Island	1	—	—	1	—	—	1	—	1
Nova Scotia	—	4	—	4	—	—	4	—	4
New Brunswick	6	—	—	6	1	1	4	—	6
Quebec	1	23	—	24	10	—	13	1	24
Ontario	69	146	—	215	3	2	204	6	215
Manitoba	3	8	—	11	6	1	2	2	11
Saskatchewan	3	3	—	6	1	2	1	2	6
Alberta	3	4	—	7	—	—	6	1	7
British Columbia	7	13	—	20	1	1	13	5	20
Yukon and Northwest Territories	—	—	—	—	—	—	—	—	—
TOTAL	93	201	—	294	22	7	248	17	294

Section 34(1)—Trafficking.
Section 34(2)—Possession for the purpose of trafficking.
G.03.001 Regulations—Failure of pharmacist to prepare required records.

TABLE E.42

STATEMENT SHOWING SENTENCE AWARDED BY PROVINCE UNDER THE FOOD AND DRUGS ACT, PART III, IN 1970

Province	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Newfoundland	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Prince Edward Island	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Nova Scotia	—	1	—	—	2	1	1	—	—	—	—	—	—	—	—	5
New Brunswick	—	—	—	—	—	2	2	—	—	—	—	—	—	—	—	4
Quebec	2	2	—	3	2	—	—	1	—	—	—	—	1	—	—	11
Ontario	2	1	3	15	12	24	1	2	1	—	—	—	—	—	—	61
Manitoba	1	—	—	—	—	—	1	—	—	—	—	—	—	—	—	2
Saskatchewan	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Alberta	3	—	—	—	2	3	1	—	—	—	—	—	—	—	—	9
British Columbia	1	4	—	1	5	5	2	3	—	—	—	—	—	—	—	21
Yukon	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	9	8	3	19	23	35	8	6	1	—	—	—	1	—	—	113

*Probation or Suspended Sentence.

TABLE E.43

STATEMENT SHOWING SENTENCE AWARDED BY PROVINCE UNDER THE FOOD AND DRUGS ACT, PART III, IN 1971

Province	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Newfoundland	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Prince Edward Island	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	1
Nova Scotia	—	—	—	1	1	—	1	—	—	—	—	—	—	—	—	3
New Brunswick	—	1	—	—	—	—	—	1	—	—	—	—	—	—	—	2
Quebec	—	1	—	2	2	1	1	—	—	—	—	—	—	—	—	7
Ontario	6	4	—	41	35	17	5	2	2	—	—	—	—	—	—	112
Manitoba	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	1
Saskatchewan	—	1	—	—	2	1	—	—	—	—	—	—	—	—	—	4
Alberta	—	1	—	—	2	10	2	2	—	—	—	—	—	—	—	17
British Columbia	—	1	—	2	4	1	1	—	1	—	—	—	—	—	—	10
Yukon and Northwest Territories	—	—	—	—	—	--	—	—	—	—	—	—	—	—	—	—
TOTAL	6	10	—	47	46	30	10	5	3	—	—	—	—	—	—	157

*Probation or Suspended Sentence.

TABLE E.44

STATEMENT SHOWING SENTENCE AWARDED BY PROVINCE UNDER THE FOOD AND DRUGS ACT, PART III, IN 1972

Province	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Newfoundland	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Prince Edward Island	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
Nova Scotia	—	—	—	—	—	2	—	—	1	1	—	—	—	—	—	4
New Brunswick	—	—	—	—	—	—	3	—	3	—	—	—	—	—	—	6
Quebec	3	5	—	—	7	3	6	—	—	—	—	—	—	—	—	24
Ontario	3	13	2	—	64	58	54	14	4	—	3	—	—	—	—	215
Manitoba	2	1	—	—	2	2	3	1	—	—	—	—	—	—	—	11
Saskatchewan	1	—	—	—	—	2	3	—	—	—	—	—	—	—	—	6
Alberta	—	1	—	—	—	2	3	—	1	—	—	—	—	—	—	7
British Columbia	1	5	—	—	2	5	6	—	—	—	1	—	—	—	—	20
Yukon and Northwest Territories	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	10	25	2	—	75	75	78	15	9	1	4	—	—	—	—	294

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.45

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE FOOD AND DRUGS ACT, PART III, IN 1970

Province	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		70 and over		Not known		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Newfoundland	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Prince Edward Island	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Nova Scotia	—	—	2	—	2	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	5	—
New Brunswick	—	—	2	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	1
Quebec	1	—	1	—	2	—	—	1	1	—	4	—	1	—	—	—	—	—	—	—	—	—	10	1
Ontario	4	—	19	2	18	2	9	—	1	—	—	—	3	—	3	—	—	—	—	—	—	—	57	4
Manitoba	—	—	—	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	—
Saskatchewan	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Alberta	2	—	2	—	2	—	—	—	2	—	1	—	—	—	—	—	—	—	—	—	—	—	9	—
British Columbia	1	—	2	—	6	—	4	1	1	—	1	—	1	1	—	—	3	—	—	—	—	—	19	2
Yukon	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	8	—	28	3	33	2	14	2	5	—	6	—	5	1	3	—	3	—	—	—	—	—	105	8

TABLE E.46

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE FOOD AND DRUGS ACT, PART III, IN 1971

Province	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		70 and over		Not known		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Newfoundland	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Prince Edward Island	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—
Nova Scotia	—	—	—	—	1	—	1	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	3	—
New Brunswick	1	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	—
Quebec	1	—	1	—	4	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	7	—
Ontario	5	1	27	3	36	2	13	1	3	—	4	—	2	—	2	—	2	—	—	—	—	—	94	7
Manitoba	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—
Saskatchewan	1	—	1	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4	—
Alberta	—	—	4	1	5	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	10	1
British Columbia	—	—	3	1	—	—	1	—	1	1	1	—	—	—	—	—	1	—	—	—	—	—	7	2
Yukon and Northwest Territories	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	9	1	36	5	50	2	16	1	5	1	5	—	3	—	2	—	3	—	—	—	—	—	129	10

TABLE E47

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE FOOD AND DRUGS ACT, PART III, IN 1972

Province	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		70 and over		Not known		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Newfoundland	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Prince Edward Island	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—
Nova Scotia	—	—	—	1	2	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	3	1
New Brunswick	—	—	1	—	1	—	1	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	4	—
Quebec	—	—	5	—	7	—	5	—	1	1	1	—	2	—	—	—	—	—	—	—	—	—	21	1
Ontario	9	1	29	7	67	8	31	5	8	1	5	1	3	—	1	1	—	—	—	—	—	—	153	24
Manitoba	1	—	1	—	6	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	9	—
Saskatchewan	—	—	2	—	1	—	1	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	5	—
Alberta	—	—	2	1	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	6	1
British Columbia	2	1	2	1	4	—	4	1	1	—	1	—	2	—	1	—	—	—	—	—	—	—	17	3
Yukon and Northwest Territories	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	12	2	42	10	93	8	43	6	11	2	8	1	8	—	2	1	—	—	—	—	—	—	219	30

TABLE E.48

CONVICTIONS UNDER THE FOOD AND DRUGS ACT, PART IV, IN 1970

Province	Section of Act			Drugs involved			TOTAL
	40(1)	41(1)	41(2)	L.S.D.	S.T.P.	M.D.A.	
Newfoundland	5	1	—	6	—	—	6
Prince Edward Island	1	—	1	2	—	—	2
Nova Scotia	22	4	3	28	1	—	29
New Brunswick	8	8	13	29	—	—	29
Quebec	172	9	39	216	—	4	220
Ontario	386	59	93	496	2	40	538
Manitoba	50	30	10	85	1	4	90
Saskatchewan	57	10	15	82	—	—	82
Alberta	115	120	48	264	7	12	283
British Columbia	190	111	59	346	2	12	360
Yukon	3	1	—	4	—	—	4
TOTAL	1,009	353	281	1,558	13	72	1,643

Section 40(1)—Possession.
Section 41(1)—Trafficking.
Section 41(2)—Possession for the purpose of trafficking.

TABLE E.49

CONVICTIONS UNDER THE FOOD AND DRUGS ACT, PART IV, IN 1971

Province	Section of Act			TOTAL	Drugs involved				TOTAL
	41(1)	42(1)	42(2)		L.S.D.	S.T.P.	M.D.A.	L.B.J.	
Newfoundland	13	2	3	18	18	—	—	—	18
Prince Edward Island	—	4	—	4	4	—	—	—	4
Nova Scotia	24	6	6	36	34	—	2	—	36
New Brunswick	16	7	9	32	26	1	5	—	32
Quebec	209	10	41	260	245	—	10	5	260
Ontario	432	78	132	642	545	3	94	—	642
Manitoba	61	48	11	120	100	—	20	—	120
Saskatchewan	83	15	27	125	113	—	12	—	125
Alberta	136	87	38	261	196	1	64	—	261
British Columbia	277	65	78	420	302	—	118	—	420
Yukon	2	1	2	5	5	—	—	—	5
TOTAL	1,253	323	347	1,923	1,588	5	325	5	1,923

Section 41(1)—Possession.
Section 42(1)—Trafficking.
Section 42(2)—Possession for the purpose of trafficking.

TABLE E.50

CONVICTIONS UNDER THE FOOD AND DRUGS ACT, PART IV, IN 1972

Province	Section of Act			TOTAL	Drugs involved				TOTAL
	41(1)	42(1)	42(2)		L.S.D.	S.T.P.	M.D.A.	L.B.J.	
Newfoundland	5	1	3	9	8	—	1	—	9
Prince Edward Island	5	—	1	6	6	—	—	—	6
Nova Scotia	14	2	2	18	17	—	1	—	18
New Brunswick	16	5	3	24	19	—	5	—	24
Quebec	198	11	56	265	228	—	28	9	265
Ontario	478	56	90	624	403	2	216	3	624
Manitoba	45	11	18	74	55	—	19	—	74
Saskatchewan	57	14	15	86	62	—	24	—	86
Alberta	115	10	38	163	103	—	60	—	163
British Columbia	275	48	97	420	243	—	177	—	420
Yukon and Northwest Territories	8	5	7	20	17	—	3	—	20
TOTAL	1,216	163	330	1,709	1,161	2	534	12	1,709

Section 41(1)—Possession.
Section 42(1)—Trafficking.
Section 42(2)—Possession for the purpose of trafficking.

TABLE E.51

STATEMENT SHOWING AGE AND SEX GROUP BY PROVINCE OF PERSONS CONVICTED UNDER THE FOOD AND DRUGS ACT, PART IV, IN 1970

Province	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		70 and over		Not known		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Newfoundland	—	—	5	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	6	—
Prince Edward Island	1	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	—
Nova Scotia	3	—	14	1	6	1	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	27	2
New Brunswick	4	—	16	1	6	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	27	2
Quebec	29	1	97	10	48	5	13	1	4	2	1	—	—	—	—	—	—	—	—	—	—	—	192	19
Ontario	97	9	228	15	128	3	31	1	5	—	3	—	—	—	1	—	—	—	—	—	3	—	496	28
Manitoba	10	1	36	3	21	1	4	—	1	1	—	—	—	—	—	—	—	—	—	—	—	—	72	6
Saskatchewan	15	3	26	2	24	2	7	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	73	8
Alberta	61	5	95	12	55	1	9	—	1	—	—	—	—	—	—	—	—	—	—	—	1	—	222	18
British Columbia	74	4	131	8	79	4	32	1	4	—	3	—	—	—	—	—	—	—	—	—	—	—	323	17
Yukon	—	—	2	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4	—
TOTAL	294	23	650	52	370	18	102	4	16	3	7	—	—	—	1	—	—	—	—	—	4	—	1,444	100

TABLE E.52

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE FOOD AND DRUGS ACT, PART IV, IN 1971

Province	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		70 and over		Not known		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Newfoundland	1	—	12	1	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	17	1
Prince Edward Island	—	—	1	—	3	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4	—
Nova Scotia	9	2	14	1	8	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	33	3
New Brunswick	7	—	7	1	12	—	3	—	1	—	—	—	—	—	—	—	—	—	—	—	1	—	31	1
Quebec	34	5	66	5	88	7	28	1	10	1	1	—	4	—	—	—	—	—	—	—	1	1	232	20
Ontario	89	13	228	24	180	9	43	4	12	1	—	—	1	—	—	—	—	—	—	—	2	—	555	51
Manitoba	9	2	44	5	34	—	6	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	94	8
Saskatchewan	21	—	46	3	30	2	8	—	5	—	—	—	1	—	—	—	—	—	—	—	—	—	111	5
Alberta	36	3	71	7	52	3	15	1	2	2	2	—	—	—	—	—	—	—	—	—	1	—	179	16
British Columbia	59	1	139	14	113	10	52	1	5	—	2	—	2	—	—	—	—	—	—	—	1	—	373	26
Yukon and North-west Territories	—	—	2	—	—	—	2	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	5	—
TOTAL	265	26	630	61	524	31	159	8	37	4	5	—	8	—	—	—	—	—	—	—	6	1	1,634	131

TABLE E.53

STATEMENT SHOWING AGE AND SEX GROUPS BY PROVINCE OF PERSONS CONVICTED UNDER THE FOOD AND DRUGS ACT, PART IV, IN 1972

Province	Under 18		18–20		21–24		25–29		30–34		35–39		40–49		50–59		60–69		Not known		TOTAL
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
Newfoundland	2	—	3	1	2	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	9
Prince Edward Island	—	—	3	—	3	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	6
Nova Scotia	5	1	3	—	7	—	2	—	—	—	—	—	—	—	—	—	—	—	—	—	18
New Brunswick	7	—	6	—	6	1	4	—	—	—	—	—	—	—	—	—	—	—	—	—	24
Quebec	19	2	98	7	78	5	27	3	4	1	1	—	3	—	1	—	—	—	3	—	252
Ontario	77	13	195	22	161	14	65	7	21	2	7	2	3	—	—	—	—	—	13	—	602
Manitoba	10	2	26	2	22	—	5	1	2	—	—	—	—	—	—	—	—	—	1	—	71
Saskatchewan	10	4	30	3	24	1	5	1	1	1	—	—	—	—	2	—	—	—	1	—	83
Alberta	18	1	53	8	49	4	12	1	3	1	—	—	—	—	—	—	—	—	5	—	155
British Columbia	48	7	135	21	85	11	49	5	15	1	5	1	1	—	—	—	—	—	10	1	395
Yukon and Northwest Territories	2	1	5	3	5	—	2	—	1	—	—	—	—	—	—	—	—	—	—	—	19
TOTAL	198	31	557	67	442	36	171	18	47	6	13	3	7	—	3	—	—	—	34	1	1,634

TABLE E.54

STATEMENT OF CONVICTIONS INVOLVING LSD IN 1970

Province	Section of Act			TOTAL
	40(1)	41(1)	41(2)	
Newfoundland	5	1	—	6
Prince Edward Island	1	—	1	2
Nova Scotia	21	4	3	28
New Brunswick	10	8	13	31
Quebec	171	9	38	218
Ontario	359	57	92	508
Manitoba	46	31	10	87
Saskatchewan	57	10	14	81
Alberta	105	119	47	271
British Columbia	173	115	59	352
Yukon	3	1	—	4
TOTAL	956	355	277	1,588

Section 40(1)—Possession.
Section 41(1)—Trafficking.
Section 41(2)—Possession for the purpose of trafficking.

TABLE E.55

Statement of Convictions Involving LSD in 1971

Province	Section of Act			TOTAL
	41(1)	42(1)	42(2)	
Newfoundland	12	3	3	18
Prince Edward Island	—	4	—	4
Nova Scotia	24	6	4	34
New Brunswick	14	4	8	26
Quebec	189	10	46	245
Ontario	393	79	116	588
Manitoba	55	40	9	104
Saskatchewan	75	13	25	113
Alberta	122	53	31	206
British Columbia	179	57	65	301
Yukon	2	1	2	5
TOTAL	1,065	270	309	1,644

Section 41(1)—Possession.
Section 42(1)—Trafficking.
Section 42(2)—Possession for the purpose of trafficking.

TABLE E.56

STATEMENT OF CONVICTIONS INVOLVING LSD IN 1972

Province	Section of Act			TOTAL
	41(1)	42(1)	42(2)	
Newfoundland	4	1	3	8
Prince Edward Island	5	—	1	6
Nova Scotia	13	2	2	17
New Brunswick	12	4	3	19
Quebec	174	8	46	228
Ontario	306	39	58	403
Manitoba	35	7	13	55
Saskatchewan	38	11	13	62
Alberta	79	5	19	103
British Columbia	160	28	55	243
Yukon and Northwest Territories	5	5	7	17
TOTAL	831	110	220	1,161

Section 41(1)—Possession.
Section 42(1)—Trafficking.
Section 42(2)—Possession for the purpose of trafficking.

TABLE E.57

Age Group and Sentences Awarded in Cases Involving LSD in 1970

Section 40(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	64	119	1	14	4	1	—	—	—	—	—	—	—	—	—	203
18–20	218	103	4	91	8	3	3	—	—	—	—	—	—	—	—	430
21–24	131	39	1	46	8	6	1	1	—	—	—	—	—	—	—	233
25–29	42	10	—	17	2	2	4	—	—	—	—	—	—	—	—	77
30–34	8	—	—	—	—	—	—	—	—	—	—	—	—	—	—	8
35–39	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—	2
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	3	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3
TOTAL	467	271	6	169	22	12	8	1	—	—	—	—	—	—	—	956

*Probation or Suspended Sentence.

TABLE E.58

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING LSD IN 1971

Section 41(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	59	118	1	11	3	—	—	—	—	—	—	—	—	—	—	192
18–20	265	99	—	45	16	5	—	—	—	—	—	—	—	—	—	430
21–24	167	31	—	36	10	2	—	1	—	—	—	—	—	—	—	247
25–29	104	24	—	23	7	3	1	—	—	—	—	—	—	—	—	162
30–34	16	1	—	3	—	1	—	—	—	—	—	—	—	—	—	21
35–39	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—	2
40–49	5	—	—	—	1	—	—	—	—	—	—	—	—	—	—	6
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	4	1	—	—	—	—	—	—	—	—	—	—	—	—	—	5
TOTAL	621	274	1	119	37	11	1	1	—	—	—	—	—	—	—	1,065

*Probation or Suspended Sentence.

TABLE E.59

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING LSD IN 1972

Section 41(1)—Possession

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 15 yrs.	15 yrs. and over	TOTAL
Under 18	41	65	1	4	3	2	1	—	—	—	—	—	—	—	—	—	117
18–20	217	60	4	6	32	4	4	—	—	—	—	—	—	—	—	—	327
21–24	163	27	4	5	24	8	4	—	—	—	—	—	—	—	—	—	235
25–29	68	17	1	1	13	—	—	—	—	—	—	—	—	—	—	—	100
30–34	22	1	—	3	3	—	1	—	—	—	—	—	—	—	—	—	30
35–39	3	—	—	1	1	1	—	—	—	—	—	—	—	—	—	—	6
40–49	2	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—	4
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	8	1	—	—	2	—	—	—	—	—	—	—	—	—	—	—	11
TOTAL	524	172	10	20	79	15	10	—	—	—	—	—	—	—	—	—	830

*Probation or Suspended Sentence.

†Absolute Discharge.

‡Conditional Discharge.

TABLE E.60

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING LSD IN 1970

Section 41(1)—Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	1	35	2	12	3	12	—	—	—	—	—	—	—	—	—	65
18–20	8	32	—	32	29	65	7	5	—	1	—	—	—	—	—	178
21–24	—	8	—	15	13	31	7	10	—	—	—	—	—	—	—	84
25–29	—	1	—	—	2	10	6	1	—	—	—	—	—	—	—	20
30–34	—	—	—	—	1	—	—	2	—	—	—	—	—	—	—	3
35–39	—	—	—	1	1	—	—	—	1	—	—	—	—	—	—	3
40–49	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	1
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
TOTAL	9	75	2	60	50	119	20	18	1	1	—	—	—	—	—	355

*Probation or Suspended Sentence.

TABLE E.61

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING LSD IN 1971

Section 42(1)—Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	7	13	1	9	7	4	—	—	—	—	—	—	—	—	—	41
18–20	6	20	3	25	23	19	5	1	—	—	—	—	—	—	—	102
21–24	3	3	—	25	12	27	1	—	—	—	—	1	—	—	—	72
25–29	4	4	—	4	15	12	8	1	1	—	—	—	—	—	—	49
30–34	—	—	—	—	—	2	—	1	—	3	—	—	—	—	—	6
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	20	40	4	63	57	64	14	3	1	3	—	1	—	—	—	270

*Probation or Suspended Sentence.

TABLE E.62

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING LSD IN 1972

Section 42(1)—Trafficking

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 15 yrs.	15 yrs. and over	TOTAL
Under 18	1	15	—	1	4	6	—	—	—	—	—	—	—	—	—	—	27
18–20	9	2	—	—	7	7	6	3	—	—	—	—	—	—	—	—	34
21–24	1	—	1	—	7	11	7	—	1	—	—	—	—	—	—	—	28
25–29	—	—	—	—	7	3	5	1	—	—	—	—	—	—	—	1	17
30–34	—	—	—	—	2	—	—	—	—	—	—	—	—	—	—	—	2
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
Unknown	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	1
TOTAL	11	17	1	1	27	28	19	4	1	—	—	—	—	—	—	1	110

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.63

Age Group and Sentences Awarded in Cases Involving LSD in 1970

Section 41(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	9	32	1	9	6	7	—	—	—	—	—	—	—	—	—	64
18–20	8	16	—	30	24	24	3	3	1	2	—	—	—	—	—	111
21–24	3	3	—	16	21	20	6	5	1	—	—	—	—	—	—	75
25–29	1	—	—	2	5	8	4	1	—	—	—	—	—	—	—	21
30–34	3	—	—	—	—	2	—	—	—	—	—	—	—	—	—	5
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	1
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	24	51	1	57	57	61	13	9	2	2	—	—	—	—	—	277

*Probation or Suspended Sentence.

TABLE E.64

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING LSD IN 1971

Section 42(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	4	29	—	4	3	5	—	—	—	—	—	—	—	—	—	45
18–20	8	19	—	29	34	31	6	1	—	—	—	—	—	—	—	123
21–24	10	2	—	25	20	24	3	3	—	1	—	—	—	—	—	88
25–29	4	2	—	5	4	9	2	1	—	3	—	—	—	—	—	30
30–34	—	1	—	—	—	8	2	—	—	3	—	—	—	—	—	14
35–39	—	—	—	—	—	—	—	1	—	—	—	—	—	—	—	1
40–49	—	—	—	—	—	2	—	—	—	—	—	—	—	—	—	2
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1
TOTAL	27	53	—	63	61	79	13	6	—	7	—	—	—	—	—	309

*Probation or Suspended Sentence.

TABLE E.65

Age Group and Sentences Awarded in Cases Involving LSD in 1972

Section 42(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 15 yrs.	15 yrs. and over	TOTAL
Under 18	1	15	—	—	6	4	1	—	—	—	—	—	—	—	—	—	27
18–20	18	12	—	1	32	27	7	—	—	—	—	—	—	—	—	—	97
21–24	6	6	—	—	16	7	22	6	2	—	—	—	—	—	—	—	65
25–29	5	—	—	—	4	1	4	3	1	—	—	—	—	—	—	—	18
30–34	—	2	—	—	2	4	2	—	—	1	—	—	—	—	—	—	11
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	1	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	2
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
TOTAL	31	35	—	1	60	44	37	9	3	1	—	—	—	—	—	—	221

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.66

Statement of Convictions Involving MDA in 1970

Province	Section of Act			TOTAL
	40(1)	41(1)	41(2)	
Newfoundland	—	—	—	—
Prince Edward Island	—	—	—	—
Nova Scotia	—	—	—	—
New Brunswick	—	—	—	—
Quebec	3	—	1	4
Ontario	32	5	3	40
Manitoba	5	—	—	5
Saskatchewan	—	—	—	—
Alberta	7	2	5	14
British Columbia	11	—	2	13
Yukon	—	—	—	—
TOTAL	58	7	11	76

Section 40(1)—Possession.
Section 41(1)—Trafficking.
Section 41(2)—Possession for the purpose of trafficking.

TABLE E.67

STATEMENT OF CONVICTIONS INVOLVING MDA IN 1971

Province	Section of Act			TOTAL
	41(1)	42(1)	42(2)	
Newfoundland	—	—	—	—
Prince Edward Island	—	—	—	—
Nova Scotia	—	—	2	2
New Brunswick	1	3	1	5
Quebec	9	—	2	11
Ontario	77	10	16	103
Manitoba	10	8	2	20
Saskatchewan	8	1	3	12
Alberta	44	12	10	66
British Columbia	102	8	17	127
Yukon	—	—	—	—
TOTAL	251	42	53	346

Section 41(1)—Possession.
Section 42(1)—Trafficking.
Section 42(2)—Possession for the purpose of trafficking.

TABLE E.68

Statement of Convictions Involving MDA in 1972

Province	Section of Act			TOTAL
	41(1)	42(1)	42(2)	
Newfoundland	1	—	—	1
Prince Edward Island	—	—	—	—
Nova Scotia	1	—	—	1
New Brunswick	4	1	—	5
Quebec	21	1	6	28
Ontario	169	16	31	216
Manitoba	10	4	5	19
Saskatchewan	19	3	2	24
Alberta	36	5	19	60
British Columbia	115	20	42	177
Yukon and Northwest Territories	3	—	—	3
TOTAL	379	50	105	534

Section 41(1)—Possession.
Section 42(1)—Trafficking.
Section 42(2)—Possession for the purpose of trafficking.

TABLE E.69

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING MDA IN 1970

Section 40(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	2	4	—	—	—	—	—	—	—	—	—	—	—	—	—	6
18–20	14	6	—	3	1	—	—	—	—	—	—	—	—	—	—	24
21–24	13	1	—	7	2	—	—	—	—	—	—	—	—	—	—	23
25–29	2	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2
30–34	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	2
35–39	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	33	12	—	10	3	—	—	—	—	—	—	—	—	—	—	58

*Probation or Suspended Sentence.

TABLE E.70

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING MDA IN 1971

Section 41(1)—Possession

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	10	14	—	1	2	—	—	—	—	—	—	—	—	—	—	27
18–20	61	28	—	7	5	3	—	—	—	—	—	—	—	—	—	104
21–24	44	7	—	6	6	1	—	—	—	—	—	—	—	—	—	64
25–29	24	13	—	5	1	2	1	—	—	—	—	—	—	—	—	46
30–34	3	—	—	3	—	—	—	—	—	—	—	—	—	—	—	6
35–39	1	1	—	—	—	—	—	—	—	—	—	—	—	—	—	2
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—	2
TOTAL	143	64	—	23	14	6	1	—	—	—	—	—	—	—	—	251

*Probation or Suspended Sentence.

TABLE E.71

Age Group and Sentences Awarded in Cases Involving MDA in 1972

Section 41(1)—Possession

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 15 yrs.	15 yrs. and over	TOTAL
Under 18	13	24	—	8	1	—	—	—	—	—	—	—	—	—	—	—	46
18–20	93	22	—	6	14	4	1	—	—	—	—	—	—	—	—	—	140
21–24	71	12	3	5	15	3	4	—	—	—	—	—	—	—	—	—	113
25–29	33	2	—	1	10	2	1	—	—	—	—	—	—	—	—	—	49
30–34	8	—	—	—	2	—	1	—	—	—	—	—	—	—	—	—	11
35–39	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	1
Unknown	11	2	—	2	—	—	—	—	—	—	—	—	—	—	—	—	15
TOTAL	233	62	3	22	42	10	7	—	—	—	—	—	—	—	—	—	379

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.72

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING MDA IN 1970

Section 41(1)—Trafficking

Age group	Fine only	Proba-tion or S/S*	Indefi-nite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
18–20	—	—	—	2	4	—	—	—	—	—	—	—	—	—	—	6
21–24	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
25–29	—	—	—	—	—	—	—	1	—	—	—	—	—	—	—	1
30–34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	—	—	—	2	4	—	—	1	—	—	—	—	—	—	—	7

*Probation or Suspended Sentence.

TABLE E.73

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING MDA IN 1971

Section 42(1)—Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	1	—	3	—	—	—	—	—	—	—	—	—	4
18–20	1	4	—	1	2	3	1	—	—	—	—	—	—	—	—	12
21–24	1	—	—	8	4	4	—	1	—	—	—	—	—	—	—	18
25–29	—	—	—	1	1	2	1	1	—	—	—	—	—	—	—	6
30–34	—	—	—	—	1	—	—	1	—	—	—	—	—	—	—	2
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	2	4	—	11	8	12	2	3	—	—	—	—	—	—	—	42

*Probation or Suspended Sentence.

TABLE E.74

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING MDA IN 1972

Section 42(1)—Trafficking

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 15 yrs.	15 yrs. and over	TOTAL
Under 18	1	4	—	—	1	—	—	—	—	—	—	—	—	—	—	—	6
18–20	1	2	—	—	4	3	2	3	—	—	—	—	—	—	—	—	15
21–24	3	4	—	—	6	4	1	1	—	—	—	—	—	—	—	—	19
25–29	—	—	1	—	1	2	3	—	1	—	—	—	—	—	—	—	8
30–34	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
35–39	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	1
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1
TOTAL	6	10	1	—	12	9	8	4	1	—	—	—	—	—	—	—	51

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

TABLE E.75

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING MDA IN 1970

Section 41(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	—	—	—	—	2	—	—	—	—	—	—	—	—	—	2
18–20	1	1	—	—	1	—	—	—	—	—	—	—	—	—	—	3
21–24	—	—	—	—	1	1	—	—	—	—	—	—	—	—	—	2
25–29	—	—	—	—	—	2	2	—	—	—	—	—	—	—	—	4
30–34	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	1	1	—	—	2	5	2	—	—	—	—	—	—	—	—	11

*Probation or Suspended Sentence.

TABLE E.76

AGE GROUP AND SENTENCES AWARDED IN CASES INVOLVING MDA IN 1971

Section 42(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	Indefinite period	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 9 yrs.	9 yrs. to 10 yrs.	10 yrs. and over	TOTAL
Under 18	—	4	—	3	1	—	—	—	—	—	—	—	—	—	—	8
18–20	2	1	—	4	1	2	—	—	—	—	—	—	—	—	—	10
21–24	2	2	—	4	6	8	1	—	—	—	—	—	—	—	—	23
25–29	1	—	—	1	—	3	2	—	—	1	—	—	—	—	—	8
30–34	—	—	—	1	1	2	—	—	—	—	—	—	—	—	—	4
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL	5	7	—	13	9	15	3	—	—	1	—	—	—	—	—	53

*Probation or Suspended Sentence.

TABLE E.77

Age Group and Sentences Awarded in Cases Involving MDA in 1972

Section 42(2)—Possession for the Purpose of Trafficking

Age group	Fine only	Probation or S/S*	A/D†	C/D‡	Under 6 mos.	6 mos. to 1 yr.	1 yr. to 2 yrs.	2 yrs. to 3 yrs.	3 yrs. to 4 yrs.	4 yrs. to 5 yrs.	5 yrs. to 6 yrs.	6 yrs. to 7 yrs.	7 yrs. to 8 yrs.	8 yrs. to 10 yrs.	10 yrs. to 15 yrs.	15 yrs. and over	TOTAL
Under 18	1	4	—	—	—	—	2	—	—	—	—	—	—	—	—	—	7
18–20	4	6	—	1	8	8	11	1	—	—	—	—	—	—	—	—	39
21–24	4	2	—	—	5	8	10	1	2	2	1	—	—	—	—	—	35
25–29	4	1	—	—	1	2	2	1	1	—	—	—	—	—	—	—	12
30–34	1	1	—	—	—	2	2	—	—	—	—	—	—	—	—	—	6
35–39	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
40–49	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
50–59	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unknown	2	—	—	—	1	—	—	—	1	—	1	—	—	—	—	—	5
TOTAL	16	14	—	1	15	20	27	3	4	2	2	—	—	—	—	—	104

*Probation or Suspended Sentence.
†Absolute Discharge.
‡Conditional Discharge.

Some Legal Considerations

F.1 THE CONSTITUTIONAL FRAMEWORK

The Criminal Law Basis of Federal Legislation

Federal drug legislation is presently based upon the criminal law power.[1] The protection of health from injurious substances and the prevention of adulteration, both as a threat to health and a species of fraud, have been held to be valid criminal law purposes.[2] Both the *Narcotic Control Act*[3] and the *Food and Drugs Act*[4] create criminal offences. There is no essential difference between them in this respect. The maximum penalties for offences under the *Food and Drugs Act* are less severe than those under the *Narcotic Control Act*, and there is a greater opportunity to proceed by summary conviction rather than indictment but the effect of conviction under the two statutes is the same. There was a misapprehension in the course of our inquiry that conviction under the *Food and Drugs Act* was somehow not as serious as conviction under the *Narcotic Control Act*. This impression may have resulted from the fact that the *Food and Drugs Act* appears to be more of a regulatory than a criminal law statute. It regulates a whole range of food and drugs by a system of standards, inspection, and, in some cases, licensing. At the same time, however, it prohibits unauthorized distribution and possession of certain substances with penal consequences. The same is essentially true of the *Narcotic Control Act*. Both statutes are cast mainly in the form of prohibitions—no doubt to emphasize their criminal law character—and the licensing regulations made under them indicate the scope and conditions of permitted conduct. In effect, the regulations complete the definition of the conduct that is prohibited.

There is no doubt that federal penal offences vary considerably in their relative seriousness, and the stigma which will attach to conviction in any case will depend on the nature of the offence and the law under which it arises. Apart from its independent power to create criminal offences, the Parliament of Canada has a regulatory jurisdiction in many areas in which it may create penal offences to enforce its legislation. In many cases these penal offences will be viewed as of relatively much less seriousness than the ordinary criminal law offence. In many cases there may not be a requirement of *mens rea* or criminal intent as a condition of liability.

Thus, for example, it was held by the Supreme Court of Canada in *The Queen v. Pierce Fisheries Limited*[5] that *mens rea* or guilty knowledge was not an essential ingredient of the offence of being in possession of short lobsters contrary to the *Lobster Fishery Regulations* under the federal *Fisheries Act*. It was held that the common law presumption that *mens rea* is an essential ingredient of a criminal offence only applies to "cases that are criminal in the true sense", and that this was not such a case. Ritchie J., speaking for the majority of the court, said:

> I do not think that a new crime was added to our criminal law by making regulations which prohibit persons from having undersized lobsters in their possession, nor do I think that the stigma of having been convicted of a criminal offence would attach to a person found to have been in breach of these regulations. The case of *Beaver v. The Queen, supra*, affords an example of provisions of a federal statute other than the *Criminal Code* which were found to have created a truly criminal offence, but in the present case, to paraphrase the language used by the majority of this Court in the *Beaver* case I can discern little similarity between a statute designed, by forbidding the possession of undersized lobsters to protect the lobster industry, and a statute making it a serious crime to possess or deal in narcotics.

This distinction between offences which are truly criminal and those which are not has been drawn for the purpose of determining whether *mens rea* should be a requirement of liability. This is a matter which goes to the protection of the accused rather than the effect of conviction, although the absence of a requirement of *mens rea* may certainly be reflected in the stigma which attaches to conviction. In any event, the offences under the *Narcotic Control Act* which apply to cannabis as well as the opiate narcotics are clearly criminal offences "in the true sense", and knowledge that one is in possession of a prohibited drug is essential for the offence of simple possession. Similarly, the offences of trafficking, possession for the purpose of trafficking, and simple possession under Parts III and IV of the *Food and Drugs Act* with respect to controlled drugs and restricted drugs are "truly criminal" offences. There is no doubt that the general approach of the legislation and law enforcement towards a particular offence, and especially the relative seriousness of the penalties imposed, will, together with public attitudes, determine the degree of stigma resulting from conviction. But if a person who was convicted of simple possession of cannabis were asked if he had been convicted of a criminal offence he would have to answer yes. The same is true of conviction of simple possession of LSD under Part IV of the *Food and Drugs Act*.

Other Possible Bases of Federal Jurisdiction in Relation to Non-Medical Drug Use

There is a question as to whether the federal government has any constitutional basis, other than the criminal law power, for a comprehensive regulation of non-medical drug use. The question becomes one of some practical interest in connection with any proposal to replace the criminal

law prohibition of cannabis by a regulatory system that would make it legally available under licence or through a government monopoly of distribution. Two possible alternative bases of jurisdiction have to be considered: the trade and commerce power[6] and the general power, or "peace, order and good government" clause.[7]

The federal government has had to rely on its criminal law power as the basis of its food and drug legislation because of the limited nature of its power to regulate trade and commerce. The trade and commerce power would at first sight seem to be the logical basis for a licensing system to regulate the distribution and use of drugs which have to be made legally available for medical or non-medical purposes. But this power has been restricted by judicial decision to interprovincial and international trade and commerce.[8] Transactions which take place wholly within a province fall, as a general rule, under provincial jurisdiction. Exceptionally, the federal government may regulate intraprovincial transactions if such regulation is necessarily incidental to the effective regulation of extraprovincial trade and commerce. The case that would have to be made for a comprehensive federal drug regulation based on the trade and commerce power would be that Parliament cannot effectively regulate the extraprovincial trade in drugs without controlling intraprovincial transactions as well, or that the trade in drugs must be considered as a whole to be interprovincial and international in character. It is highly unlikely that this would be accepted by the courts. The regulation of local transactions at retail is not necessary to the regulation of the trade in its extraprovincial aspects, as the regulation of certain local operations, such as delivery of grain to elevators for intraprovincial consumption, has been held to be necessary to the effective regulation of the extraprovincial grain trade.[9]

The other possible basis for the federal jurisdiction to regulate the use of drugs is the general power. A matter falls within the general power if it does not fall within provincial jurisdiction or within the specific heads of federal jurisdiction. It has also been held that a matter originally under provincial jurisdiction may acquire such national importance as to bring it under the general power. There have been several examples of the first application of the general power, but virtually none of the second outside of a state of national emergency. In the first category are such matters as aeronautics,[10] radio,[11] atomic energy[12] and the national capital development.[13] They are not considered to be matters which at one time were under provincial jurisdiction but subsequently changed in relative importance; they are deemed to have always been matters of national concern. In the second category are the cases holding wartime emergency legislation to be valid on the basis of the general power.[14] Such legislation clearly dealt with matters normally within provincial jurisdiction, such as the fixing of prices and wages. Attempts in peacetime, in some cases in a period of economic depression, to justify federal legislation on the basis of the general power in such fields as labour relations,[15] industrial standards,[16] marketing[17] and

restraint of trade,[18] have all failed. The regulation of these matters within the provinces, in a non-criminal law aspect, was held to fall within provincial jurisdiction with respect to property and civil rights. They were held not to be matters of national importance for purposes of the general power. In deciding the cases the courts applied what has come to be known as the "emergency doctrine" of the general power—that it can be applied to matters normally of provincial jurisdiction only to meet some emergency. Examples suggested have been war (or similar national emergency, such as insurrection) and pestilence. Economic depression has not been considered a sufficient emergency.

In two leading cases the federal Parliament was held to have jurisdiction, in virtue of the general power, to suppress the traffic in liquor, and it was suggested that it would have the same power with respect to the drug traffic, but a closer examination of these cases, and other related decisions, leads to the conclusion that all that was contemplated in effect was a criminal law exercise of the general power. In the first of these cases—*Russell v. The Queen*[19]—the Privy Council held a federal liquor prohibition statute to be valid on the basis of the general power but the language clearly indicates that they saw it essentially as a measure of criminal law. Indeed, the criminal law power was sufficient to support the legislation, and it was unnecessary to invoke the general power in other than its criminal law aspect. The essence of the federal statute was the prohibition of conduct with penal consequences. Speaking of laws having a criminal law purpose, the Privy Council said:

> Laws of this nature designed for the promotion of public order, safety or morals, and which subject those who contravene them to criminal procedure and punishment, belong to the subject of public wrongs rather than to that of civil rights. They are of a nature which fall within the general authority of Parliament to make laws for the order and good government of Canada, and have direct relation to criminal law, which is one of the enumerated classes of subjects assigned exclusively to the Parliament of Canada.

This was the way in which the relationship between the specific heads of federal jurisdiction and the general power was originally conceived: the specific heads were thought of merely as examples or aspects of the general power. What seems to have happened in the *Russell* case is that counsel who challenged the validity of the federal legislation conceded that if the matter to which it related did not fall under provincial jurisdiction then it could be deemed to fall under the general power of Parliament. Having found that it did not fall under provincial jurisdiction, the Privy Council did not concern itself particularly with the specific head of federal jurisdiction to which it should be related.

In the *Canada Temperance Federation* case,[20] some sixty-four years later, the Privy Council reaffirmed the general power as the basis for the *Canada Temperance Act*, and cited the suppression of the drug traffic as a matter for which Parliament could probably invoke the general power, but the whole history of judicial decisions on the subject raises a very serious

doubt as to whether it is the general power in other than a criminal law aspect that can be relied upon. The issue is not whether the drug traffic can be prohibited with penal consequences like the liquor traffic. Obviously it can. The issue is whether there is a more comprehensive basis of federal jurisdiction for legislating in relation to non-medical drug use than the criminal law power—one that would support the full range of legislative options. When we speak of the general power we think of the full scope of legislative power which Parliament considers to be necessary to effect its purposes, such as that which it has been held to possess in time of war or other national emergency. The real issue is whether Parliament has the constitutional basis for the introduction of legislative controls for which the criminal law power cannot be invoked.

Within a few years of the *Russell* case the Privy Council rendered two decisions concerning jurisdiction to regulate the sale of liquor by a system of licensing. In *Hodge v. The Queen*[21] they held that the provinces had the power to introduce such a system of regulation, and two years later in the unreported *McCarthy Act* decision[22] they held that the federal Parliament did not. The implications of this second decision are that Parliament does not have a true general power with respect to liquor legislation. The *McCarthy Act* provided for a licensing system to operate in municipalities according to local option. Subsequent judicial references to the *McCarthy Act* decision have indicated that the Privy Council's reason for judgment was that the federal act was considered to be an attempt to regulate trade and commerce within the provinces.

The *McCarthy Act* clearly showed a concern with restrictions on availability in the form of limitations on the number of licenses, and on days, hours and places of sale and consumption. It also contained prohibitions against sale to minors and against adulteration. And, of course, it prohibited all unauthorized sale. It is difficult to see why it could not have been supported on the same basis as that on which federal legislation to control the quality and availability of harmful substances rests today. There would seem to be a contradiction between upholding federal liquor prohibition in the *Russell* case, on the ground of a general power to suppress the distribution of an injurious substance, and denying a similar power in the *McCarthy Act* decision to control the availability of this substance by a system of licensing. The *McCarthy Act* seems to have been regarded, not as an alternative system of controlling an injurious substance, but as an ordinary regulation of trade and commerce within the provinces. It may be that the Privy Council had regarded the "evil" of the liquor traffic in the *Russell* case, not so much as a matter of danger to health as a matter of morality. In any event, the impression is that the Privy Council's perception of the liquor problem had changed radically in the intervening years. There are two explanations which suggest themselves: first, they had previously had to consider a provincial liquor licensing scheme in the *Hodge* case, and having affirmed this, they could not see how they could reasonably recognize a comparable federal

jurisdiction; and secondly, because of the somewhat vague reference to the general power in the *Russell* case (which, as we have suggested, was not a true general power at all), they had not really focussed on the full implications of the criminal law power as a general basis for federal control of dangerous substances, including control by licensing. The fact is that the federal criminal law power was not properly considered in the liquor cases, either as a basis for federal regulatory legislation or as an obstacle to provincial liquor prohibition. (Among the early decisions was one affirming provincial jurisdiction to prohibit the liquor traffic as a "local evil" in the province.[23]) The issues were argued more from a trade and commerce perspective. The head of federal jurisdiction around which the discussion mainly turned was regulation of trade and commerce under section 91(2) of the *British North America Act.*

The decision in the *McCarthy Act* case raises a question as to whether Parliament could validly introduce a licensing system to allow a controlled availability for non-medical purposes of a substance that has hitherto been completely prohibited. It is difficult to see why it should be distinguishable from the licensing of drugs for medical purposes. The issue must be whether the legislative purpose is control of a harmful substance for the protection of health or whether it is simply a regulation of trade and commerce for revenue and other non-criminal purposes. The issue is that which was presented in the *Margarine case*[24] where a federal prohibition of the manufacture and sale of margarine in the provinces was held to be invalid as a colourable use of the criminal law power. The purpose was not to protect the public health from a dangerous substance, since margarine was admitted to be a harmless substance, but to protect the dairy farmers from the competition of substitutes for butter. It was an attempt to regulate trade and commerce within the provinces—a matter which, as we have said, falls within exclusive provincial legislative jurisdiction, except to the extent that it can be shown in a particular case to be necessary to the effective exercise of federal jurisdiction with respect to extraprovincial trade and commerce. In a change from complete prohibition to legal availability through license or government monopoly the issue of validity—insofar as the criminal law power is concerned—would turn on whether the substance to be made available would continue to be regarded as a harmful substance for which controls are necessary. If it were, then there should be no reason, notwithstanding the *McCarthy Act* decision, why a federal system of distribution by licensing should not be valid. A federal monopoly of production and distribution might tend to obscure the legislative purposes somewhat, as suggesting an attempt to secure a trade monopoly for revenue purposes, but a good case could be made for government monopoly as an added safeguard in the control of quality and availability of a harmful substance. However, the *McCarthy Act* decision and the issue in the *Margarine* case were the reasons we raised a question in the *Interim Report* as to the validity of a federal system of distribution of cannabis, involving government monopoly, particularly if cannabis were to be made available on the basis of a judgment as to relative absence of potential for harm.

It is because of this doubt, however, that it is necessary to return to the possibility of the general power (as distinct from the criminal law power) as a possible basis for federal legislation in relation to non-medical drug use. In several decisions rejecting the general power as a basis for federal legislation, the Privy Council attempted to rationalize its decision in the *Russell* case by the suggestion that the consumption of liquor must be presumed to have been regarded as a national emergency. Later, in the *Canada Temperance Federation* case, the Privy Council abandoned this view of the matter, holding that the test of whether a matter falls within the general power is not the existence of an emergency, although that may be the occasion for the legislation, but whether "it is such that it goes beyond local or provincial concern or interests and must from its inherent nature be the concern of the Dominion as a whole...." But the examples given were aeronautics and radio, which, as suggested above, must be considered to have always been matters of national concern. Thus, the *Canada Temperance Federation* case, in which much hope has been placed for a broader application of the general power, does not really throw light on the circumstances in which a matter normally under provincial jurisdiction might be considered to have changed in character sufficiently to come within the general power. It does suggest, however, that the drug traffic may be regarded as such a matter quite apart from the notion of emergency.

The case that would have to be made in favour of the general power is that non-medical drug use has changed in character and become a matter of overriding national concern. This may appear to be so obvious to the layman as to make him wonder how a court could fail to agree. There are, however, many matters falling to some extent under provincial jurisdiction which could be regarded as matters of national concern. If all matters of widespread concern to Canadians are to be deemed to fall under the plenary legislative jurisdiction of Parliament then we should soon have little left in the way of provincial jurisdiction. If non-medical drug use has been considered in the past to be a provincial matter, apart from the criminal law power, then we should have to ask when it changed in scope so as to become a matter of overriding national concern and when, if ever, it would be likely to cease to have this character. A declaration in the present circumstances that it has this character might be tantamount to affirming that it has always had it. A persuasive case could no doubt be made that non-medical drug use has so changed in character as to come under the general power, and the courts could be expected to pay great respect to a solemn declaration by Parliament that it had now become a matter, not merely of national concern, but of national emergency. But the appropriateness of such a declaration would depend on the legislative purpose to be served and the nature of the particular non-medical drug use to which it was directed. It is difficult to see how such a declaration would be appropriate to support federal legislation to make cannabis legally available under license or through government monopoly. The misuse of alcohol remains the most serious non-medical drug use problem in Canada; yet it is inconceivable that Parliament would consider declar-

ing it a national emergency in order to assert a general jurisdiction beyond that which it can assert on the basis of the criminal law power.

Jurisdiction With Respect to Health

This view of the possibility of the general power as a basis for legislation of a non-criminal law nature in relation to non-medical drug use is reinforced by the view which has generally been taken of the distribution of jurisdiction with respect to public health. There has been some expression of judicial opinion that the general or residuary jurisdiction with respect to health rests with Parliament, on the basis of the general power;[25] but the weight of opinion,[26] and the assumption on which governments have acted,[27] is that it rests with the provinces. It is recognized, however, that Parliament may invoke the general power to cope with real emergencies.

Two important functions in respect of health are treatment and quarantine. In each case the general jurisdiction would appear to be provincial. The primary jurisdiction with respect to medical treatment lies with the provinces by virtue of section 92(7) of the *British North America Act* which confers upon provincial legislatures exclusive jurisdiction with respect to "The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals". The federal jurisdiction with respect to the establishment of treatment facilities is a restricted one. The only express power is section 91(11), which gives Parliament jurisdiction with respect to "Quarantine and the Establishment and Maintenance of Marine Hospitals". In addition, Parliament may establish and manage treatment facilities in other areas of federal concern, such as the armed forces, the Indian population on reservations, the prison population in federal institutions, and immigration.

It is necessary to distinguish between the regulatory jurisdiction with respect to hospitals and other treatment facilities which, as a general rule, lies with the provinces, and the capacity of the federal government, through the exercise of its spending power, to provide financial assistance for the establishment of such facilities in the provinces. The use of the federal spending power in areas beyond federal legislative jurisdiction is a controversial issue, as a matter of policy, but it has not yet been ruled to be constitutionally invalid. By this device the federal government may impose conditions upon grants of financial assistance which will assure the implementation of certain policies and standards.

Federal jurisdiction with respect to "Quarantine and the Establishment and Maintenance of Marine Hospitals" in virtue of section 91(11) of the *BNA Act* has not been the subject of much judicial commentary. Most of this commentary has been unnecessary to the decision of the cases, but it has tended to affirm a general provincial jurisdiction on the subject of quarantine.[28] The most reasonable interpretation to apply to the word "quarantine" in section 92(11) is that it refers to port of entry or ship's quarantine.[29] This results from its juxtaposition with the subject of marine hospitals and the fact

that it falls in the sequence of specific heads of jurisdiction dealing with what might collectively be described as maritime matters: "9. Beacons, Buoys, Lighthouses, and Sable Island; 10. Navigation and Shipping; 11. Quarantine and the Establishment and Maintenance of Marine Hospitals; 12. Sea Coast and Inland Fisheries; 13. Ferries between a Province and any British or Foreign Country or between two Provinces . . . ." It would be highly incongruous to insert a general power of quarantine in this grouping of subject matters. Moreover, if, as the weight of opinion seems to indicate, the general jurisdiction with respect to public health lies with the provinces, it would be a serious qualification of that jurisdiction to deny it a general power of quarantine. We seem to have a case, similar to that of the federal power to regulate trade and commerce, where it is necessary to read a qualification into an apparently unqualified term in order to reconcile it with the legitimate requirements of provincial jurisdiction.

Whether the federal government has a true general power in relation to non-medical drug use, and the scope of the federal power with respect to matters of health, are particularly relevant in view of the non-penal alternatives suggested by article 22 of the *Convention on Psychotropic Substances,* 1971, which provides:

> . . . . when abusers of psychotropic substances have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to punishment, that such abusers undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 20.

It is clearly established that the provinces have jurisdiction to provide for civil commitment or compulsory treatment. There is legislation for the involuntary confinement of mentally disordered persons in all of the provinces. The statement of the grounds for such confinement varies but generally speaking it is that the patient suffers mental disorder in such a degree that hospitalization is required "for his own protection or welfare or that of others" or "in the interest of his own safety or the safety of others". There is also legislative provision in some provinces for the compulsory treatment of drug dependent persons, including alcoholics, either under the mental health legislation or some special statute. The constitutional basis for compulsory treatment legislation in the provinces would appear to be section 92(7) of the *BNA Act* respecting the establishment of hospitals and asylums, section 92(13) respecting property and civil rights, including questions of incapacity and the protection of incapables, and section 92(16) which covers the residual provincial jurisdiction with respect to matters of health.[30]

In the absence of a true general power with respect to non-medical drug use or a general jurisdiction with respect to matters of health, federal power to provide for compulsory treatment must be grounded on the criminal law power. On this issue the Special Committee of the Senate on the Traffic in Narcotic Drugs, reporting in 1955, expressed itself as follows:

> The Committee points out that it is not within the constitutional authority of the federal government to assume responsibility for treatment of drug ad-

> dicts nor to enact the kind of legislation necessary in that connection. This legislation would need to include the compulsory treatment of addiction, the legal supervision and control over the individual during treatment and the right of control of an individual following treatment to prevent his return to the use of drugs, former associations or habits. These are considered to be matters beyond the competence of the federal government.[31]

In spite of this, Parliament provided for the compulsory treatment of drug offenders in Part II of the *Narcotic Control Act* in 1961. However, this part of the Act has never been put into force by proclamation. Whether this is because of doubts about the constitutional validity of these provisions or the failure to develop suitable treatment methods and facilities or later reservations by the government as to the advisability of compulsory treatment in principle, or some combination of these, is not clear. In any event, the provisions of Part II of the Act do provide a convenient framework for consideration of the jurisdiction of the federal Parliament with respect to compulsory treatment based on the criminal law power.

Part II provides for two kinds of special disposition of persons convicted of offences under the Act: preventive detention for an indeterminate period in a penitentiary and sentence to custody for treatment for an indeterminate period in an institution operated under the federal penitentiary system.

Preventive detention would apply in the case of a conviction for trafficking, possession for the purpose of trafficking or illegal importing or exporting. Where a person was convicted of one of these offences, and had previously been convicted at least once of such an offence, or had been previously sentenced to preventive detention under Part II, the court would be obliged to sentence such person to preventive detention.

The *Criminal Code* provisions for preventive detention of habitual criminals and dangerous sexual offenders, although challenged on the ground that they inflict punishment for a status or condition and that they impose "cruel and unusual punishment" in violation of the *Canadian Bill of Rights*, have been held to be constitutionally valid.[32] This makes it probable, although not inevitable, that the provision for preventive detention in Part II of the *Narcotic Control Act* would also be held to be valid. However, since the provision makes the sentence mandatory and leaves the court without the discretion which it has under the *Criminal Code* provisions, a stronger case could be made against its validity on the ground of cruel and unusual punishment. The sentence could be called for in some very questionable circumstances, for example, a second offence of marginal trafficking in cannabis.

The sentence to custody for treatment in Part II of the *Narcotic Control Act* is clearly regarded by the legislation as something different from preventive detention, although the effect may be similar, so presumably its constitutional validity is not automatically disposed of by the arguments applicable to the latter. It has a voluntary aspect, in that it may be ordered pursuant to an application by the accused or his counsel, but it may also be ordered upon application by counsel for the Crown. For this reason we shall refer to it as

compulsory treatment. It applies not only in the case of a conviction for any of the offences for which preventive detention is to be ordered, but also in the case of conviction for simple possession under the *Narcotic Control Act*. The condition is not a previous conviction of any of these offences, as in the case of preventive detention, but the fact of being a "narcotic addict". This expression is defined in the Act to mean a person "who through the use of narcotics . . . has developed a desire or need to continue to take a narcotic, or . . . has developed a psychological or physical dependence upon the effect of a narcotic". Thus a person who was convicted of simple possession of cannabis for the first time could, theoretically at least, be sentenced to custody for treatment for an indeterminate period if the court found that he had developed a desire to continue to take cannabis. Moreover, under the provisions as presently worded, a person could be sentenced to custody for treatment for addiction to a drug different from the one involved in the offence of which he was convicted. Thus there might be little or no connection between the offence and the condition justifying the sentence.

In other respects the legislation has obviously been framed to suggest as close a connection as possible with the criminal law process. The order of commitment for compulsory treatment is called a "sentence" to suggest the criminal law disposition of a case. It is to be "in lieu of any other sentence that might be imposed for the offence of which he was convicted". The legislation makes criminal conviction a prior condition, and does not attempt to provide for compulsory treatment as an alternative to further prosecution, which would make it independent of guilt or innocence. The court may order that the accused be examined for addiction while a charge is pending, but a sentence to custody for treatment is to be imposed only if he is convicted. A person under such sentence would come under the jurisdiction of the federal penitentiary and parole systems. He would be deemed to be an "inmate" within the meaning of the *Parole Act* and subject to release and supervision in accordance with that act.

While these provisions strongly suggest that Parliament considered its jurisdiction with respect to compulsory treatment (to the extent that it existed at all) to be limited to criminal cases, the legislation contemplates federal-provincial agreements whereby the federal penal authorities could acquire custody of narcotic addicts who had not been charged with an offence but who had been committed for compulsory treatment under provincial legislation. Under such an agreement a province would make use of the federal penitentiary and parole systems for the confinement, release and supervision of persons so committed. Part II provides (as does complementary provincial legislation[22]) that persons committed under the provincial legislation would be deemed, for purposes of the federal penitentiary and parole systems, to have been sentenced to custody for treatment under Part II.

If compulsory treatment is to fall within the criminal law power it must be seen either as a valid disposition of a criminal law case or as an aspect of Parliament's jurisdiction to legislate for the prevention of crime. To be valid

as a criminal law disposition it would seem that a disposition must be reasonably related to the issue of criminal responsibility. There is no doubt that Parliament may validly confer on the courts a wide range of discretion as to disposition. This includes suspended sentence and probation, and it could also include absolute and conditional discharge, which would even preclude conviction. It would seem that the essential thing is that there must be a prohibition of conduct with provisions for penalty, and a disposition of the case that is reasonably related to a finding as to criminal responsibility. This is the case with confinement under the provisions of the *Criminal Code* of a person who is found to be unfit to stand trial[34] or is acquitted on account of insanity.[35] The condition for which he is confined is directly related to the issue of criminal responsibility.[36]

As it presently stands in Part II, the sentence to custody for treatment would not appear to be so related. The sentence might be imposed for addiction to a drug other than that involved in the offence for which the accused was convicted. Certainly there would be a bona fide criminal law offence, charge and conviction, and some disposition would be called for. But the provision concerning preventive detention shows that confinement for an indeterminate period is not contemplated as an appropriate disposition for a case of first offence under the *Narcotic Control Act*, and in any event not for the offence of simple possession. Thus the sentence to custody for treatment must be in consideration of the condition of addiction rather than the offence of which the accused has been convicted. When an offence that is punishable by imprisonment for a maximum of seven years is the occasion of a "sentence" for an indeterminate period, based on the fact of addiction, then it is doubtful if such sentence can be said to be reasonably related to the issue of criminal responsibility.

There is no doubt that federal inmates may be validly exposed to medical treatment in the course of their confinement, but the coercive aspect of compulsory treatment is the confinement; it is that which is intended to have the compelling influence, and to force the inmate to accept the treatment that is available, if there is any. Involuntary confinement, actual or threatened, is of the essence of compulsory treatment. You cannot have compulsory treatment without it, and it cannot, therefore, be considered to have been imposed to serve some purpose of criminal law disposition, such as deterrence, isolation or rehabilitation. In the case of imprisonment, it is rehabilitation of the offender qua criminal that is sought, not the cure of a medical condition. At the end of his term the offender must be released, whether he is actually rehabilitated or not. Confinement for an indeterminate period for the treatment of addiction implies that the addict will not be released until he is deemed to be cured. His criminal propensities are neither here nor there; it is his medical condition that is in issue.

Now it may be said that the two are closely related; that addiction will compel the addict to engage in the crime of unauthorized possession of narcotics and in the crime of theft and trafficking to support his habit. From

this it may be argued that compulsory treatment is a measure for the prevention of crime. Certainly, the federal criminal law power includes a preventive as well as a remedial jurisdiction.[37] Can compulsory treatment be regarded as a valid exercise of the preventive aspect of the criminal law power?

Clearly, there must be some reasonable limits to the scope of this jurisdiction; otherwise, Parliament could invoke the criminal law power to legislate in relation to a great variety of social conditions which have some bearing on crime. The prevention, it is submitted, must be directed to a more or less specific danger of criminal acts. This is the case with preventive detention of habitual criminals and dangerous sexual offenders, a bond to keep the peace,[38] and orders not to commit a specific offence in the future.[39] It is also the case with juvenile delinquency legislation which, while admittedly a very broad exercise of the preventive criminal law jurisdiction of Parliament,[40] does turn on the notion of an offence and responsibility for specific violations of law.

In the case of addiction we would be inferring the probability of future criminal acts, not from a history of criminality as in the preventive detention cases, or a threat of criminal acts, as in the bond to keep the peace, but from the compulsive nature of the medical condition. By making it impossible for the addict to obtain the drug legally we compel him to resort to criminal acts, and then we say that his addiction is the cause of his crime. The prohibitions against trafficking and illegal possession are not for some economic purpose, such as the regulation of trade and commerce, but precisely to prevent the harm caused by the non-medical use of opiate narcotics, including the harm of addiction. This is the criminal law means of attempting to prevent this harm. The addiction itself is not the crime. It is submitted that the compulsory medical treatment of addiction must be regarded as a non-criminal law means of dealing with this harm.

Thus while compulsory treatment may have the consequential effect of preventing or reducing crime it is directed to the elimination of a medical condition rather than the deterrence of crime. The cure of addiction does not assure that a person will not engage in trafficking or casual use. Neither of these depend on addiction. The confinement does have the effect of preventing crime, but as we have suggested above, the confinement must be seen as the means of compelling acceptance of treatment rather than prevention of crime. Otherwise, it is indistinguishable from preventive detention and should be justified as such, on a clear showing of prior and present criminality, and serious danger to the public.

The general conclusion that we draw from this analysis is that it is doubtful if the compulsory treatment of addiction is sufficiently related to specific issues of criminal responsibility, either preventively or remedially, to be capable of being grounded jurisdictionally on the criminal law power. If there is a federal jurisdiction to provide for compulsory treatment of addiction it ought logically to exist as a general one, independent of the criminal law power, or not at all. If there is a federal power to provide for compulsory

treatment of addiction in order to prevent crime then there ought logically to be a federal power to provide for the compulsory treatment of psychopathic conditions which may lead to crime. It is perhaps significant that Parliament has not attempted to disguise the preventive detention of the habitual criminal or the dangerous sexual offender as compulsory treatment, although their condition may be one which calls for treatment.

We do not deny that there is a persuasive argument to be made for compulsory treatment as a measure for the prevention of crime; all we say is that its implications carry us beyond the criminal law power. It is on a par with other legislative initiatives which may remove conditions, personal or social, which are conducive to crime. Nor do we deny that Parliament may validly provide medical treatment for the criminal offender, to which he may be more or less compulsorily exposed by virtue of his confinement. We merely say that such treatment is not really related to the issue of criminal responsibility so as to form a true part of the disposition of the case. The possible exception is where the addiction can be shown to be directly related to the crime of which he is convicted (as in the case of the simple possession of a drug to which he is addicted). Then the case may be said to be analogous to one in which the accused is acquitted on the ground of insanity. If that is to be the case then we should say what we mean: we should make a finding of addiction the alternative to a finding of criminal responsibility. It should be noted that the Supreme Court of the United States has held that it is unconstitutional to make addiction a crime on the ground that it is cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the American Constitution.[41] American civil commitment statutes sometimes expressly provide that civil commitment which is ordered while a charge is pending is not a criminal conviction. On a similar view of the matter the "sentence" to custody for treatment in Part II would have to be considered to be a non-punitive commitment for compulsory treatment in lieu of the punishment which might have been imposed in respect of the offence for which the addict was convicted. The more we attempt to relate compulsory treatment to the criminal law power the more we are obliged to regard it as what many of its critics contend it is—imprisonment under another name.*

The provision in Part II of the *Narcotic Control Act* and provincial legislation declaring a non-criminal addict committed for treatment under provincial law to be deemed to be under sentence to custody for treatment, and therefore an inmate within the meaning of the *Parole Act*, would appear to be of doubtful validity. A province may validly provide for compulsory treatment of narcotic addicts, and as a general rule may validly use federal administrative agencies and institutions for the implementation of its legislation, but it is doubtful if either the federal Parliament or the provincial legislatures can validly impose upon a narcotic addict who has not been convicted of a narcotic offence the status of an inmate for purposes of the

* There is further discussion of federal jurisdiction with respect to compulsory treatment in Appendix J *Probation for Heroin Dependents in Canada.*

Parole Act. There would appear to be a significant difference between the delegation that is contemplated here and that which has been permitted to facilitate the application of uniform rules and the avoidance of administrative duplication in the fields of natural products marketing and highway transportation.[42] Here there is a qualitative difference in the nature of the legislative and administrative impact on each side of the jurisdictional division. There is an attempt to give a criminal character to a civil status without any bona fide criminal law basis for it. The enabling provision may be necessary to authorize the federal authorities to deal with the addict, but it effects a change of status which neither legislature can validly impose.

Thus there is considerable doubt about the scope of federal jurisdiction to provide for compulsory measures of treatment, education, after-care, rehabilitation and social reintegration as an alternative to conviction or punishment or in addition thereto. This policy option, suggested by the *Convention on Psychotropic Substances*, 1971, would appear, on constitutional and practical grounds to be open only to the provinces because of their jurisdiction and practical involvement with respect to such matters. Such a policy development involves a shift in constitutional emphasis from federal to provincial jurisdiction. We do not deny that there is considerable scope for a variety of dispositions of an essentially non-punitive nature in criminal cases, but as we have attempted to show in the discussion of compulsory treatment, there is considerable difficulty, and probably serious disadvantages, in attempting to relate a public health approach to issues of criminal responsibility. This the federal government is obliged to do if it attempts to develop a public health model for dealing with the non-medical user of drugs without a clear basis in the general power for such an approach.

In considering whether Parliament should have legislative jurisdiction to provide for compulsory measures of treatment or indoctrination in lieu of criminal law conviction, the courts might well be influenced by the fact that there is an international agreement contemplating such a policy. But the law at present is that an international agreement does not add anything to the legislative jurisdiction which Parliament otherwise has under the *BNA Act*.[43] The federal government has the executive power to make international agreements on behalf of Canada, but it may not in a particular case have the full legislative power required to implement an agreement by suitable domestic legislation. Such power may lie wholly or partly with the provincial legislatures. The federal government does not increase its legislative power by entering into an international agreement. That power continues to be determined by the normal distribution of legislative jurisdiction under the Canadian constitution. Thus, where the implementation of a proposed international agreement will require provincial legislative action, the agreement ought logically to be preceded by federal-provincial consultation. Canada fulfils its obligations under an international agreement if it implements the agreement by appropriate legislative and administrative action, whether it be federal or provincial.

Provincial Power to Create Penal Offences

We must now consider whether there is a provincial jurisdiction to make conduct related to non-medical drug use a punishable offence. For example, if the federal Parliament were to repeal its prohibition of the simple possession of a particular drug, could the provinces validly enact such a prohibition?

The provincial power, in virtue of section 92(15) of the *BNA Act*, to impose penalties (including imprisonment) for the violation of provincial laws can only be invoked if the province has the jurisdiction under some other head in section 92 to legislate in relation to a particular subject matter. The provincial penal jurisdiction is an ancillary power that is used to give effect to legislation that is valid under some other head of provincial jurisdiction. The provinces do not possess a primary and independent power, such as the federal criminal law power, to prohibit conduct with penal consequences. Such prohibition must be related to some other head of jurisdiction in section 92.

The federal criminal law power permits Parliament to select any conduct for criminal law prohibition, whether or not Parliament could otherwise exercise a regulatory jurisdiction with respect to such conduct. For example, Parliament can prohibit certain conduct in the field of highway traffic, such as dangerous and impaired driving, although it does not have the power to regulate highway traffic. There is one limitation on the exercise of the federal criminal law power: it must not be a mere pretense or "colourable" use to usurp a provincial jurisdiction. It must be used for a true criminal law purpose and not for a legislative purpose that lies outside federal jurisdiction. An example of a colourable use of the criminal law power was the federal attempt to prohibit the manufacture and sale of margarine in the provinces, referred to above. The courts have not attempted to draw an exhaustive list of valid criminal law concerns. They have recognized that the criminal law is an expanding field, and that Parliament must be able to create new crimes. It was said in the *Margarine* case that public peace, order, security, health and morality were "the ordinary though not exclusive ends" served by the criminal law.

There may be both federal and provincial penal provisions in a particular field of activity. Where valid federal and provincial legislative provisions come into conflict the federal legislation prevails. The provincial legislation is rendered inoperative to the extent of such conflict.[44]

To what extent can the provinces, in the absence of conflicting federal legislation, validly attach penal consequences to conduct in the field of non-medical drug use? There are precedents in the field of liquor control which appear to afford a basis for such jurisdiction, but they require careful examination. The provinces clearly have the jurisdiction to regulate the distribution and possession of liquor, and they can make it an offence to distribute or possess liquor except as permitted by the regulatory legislation which they enact. Such a legislative approach is similar to that reflected by the *Narcotic*

Control Act and the *Food and Drugs Act.* Liquor is made available upon certain conditions and in a certain manner, and any other dealing in it is prohibited. But the provinces may go further; the courts have held that they may prohibit the distribution of liquor altogether.[45] It is this jurisdiction that is most relevant to the consideration of whether the provinces could prohibit the conduct involved in other non-medical drug use.

The constitutional basis of provincial liquor prohibition, as articulated in the cases, is somewhat ambiguous. The provincial suppression of the liquor traffic has been justified as the abatement or prevention of a "local evil", resting on provincial jurisdiction with respect to matters of a merely local or private nature in the province under section 92(16) of the *BNA Act.* It is not clear what was contemplated as the "evil" in the distribution and consumption of liquor but the language used in the cases is strongly suggestive of morality.

If provincial liquor prohibition is to be considered as a penal suppression of conduct on the ground of public morality then it must, in the light of later decisions, be considered to be a constitutional anomaly, as we suggested in the *Interim Report.* The Supreme Court of Canada has clearly rejected the notion of "local evil" as a basis for provincial legislation of a criminal law character,[46] and other decisions have made it plain that the provinces do not have a jurisdiction to create penal offences for the enforcement of morality.[47]

It has been suggested, however, that the provinces can validly prohibit the conduct involved in non-medical drug use as an aspect of provincial jurisdiction with respect to health, and provincial liquor prohibition could be reconciled with this view of the matter. The few cases on the point[48] are conflicting and reflect the doubt on the issue which we expressed in the *Interim Report.* There must obviously be a provincial jurisdiction to prohibit certain conduct with penal consequences in order to protect public health. Otherwise there can be no effective provincial regulatory jurisdiction with respect to health. The fields of sanitation and infectious disease are typical examples where there must be this power. In the intention behind the criminal law suppression of conduct in relation to non-medical drug use there is, however, a blend of legislative purposes. There is undeniably a bona fide health concern, but there is also a public morality concern. When non-medical drug use is spoken of as an "evil" there is concern not only for the effect on the health of individuals but also concern for the effect on the general tone and capacity of the society—for harm that is not strictly a matter of health. This is a concern for public morals—for the effect of non-medical drug use on character. Are the courts not obliged to assign this dual purpose to provincial attempts to prohibit such conduct, however they may be couched in the form of health legislation? This is the basis for doubt as to provincial jurisdiction to make conduct related to non-medical drug use a punishable offence. The problem is to determine the dominant legislative purpose which gives the legislation its true nature and character.

We have now come to the conclusion that such a jurisdiction can be justified as a protection of health, and as a practical matter can hardly be denied in view of the precedents in favour of provincial liquor prohibition. These include the right to make public drunkenness an offence.[49] Liquor prohibition must necessarily involve the right to prohibit any and all conduct involved in the distribution and use of liquor, and it is impossible to distinguish between provincial control of liquor and provincial control of other drugs as legislative concerns. They are both concerned with the effect of consumption on the individual and the community generally. Unless the courts are to say that a mistake was made in the liquor prohibition cases there seems to be no way of making a distinction between the two. The "local evil" spoken of in the liquor cases may be thought of as a matter of public morality but it may equally be thought of as a matter of injury to health. We have come to the conclusion that if provincial legislation is so framed as to clearly indicate a concern with the effect of non-medical drug use on the health of the individual it would have a valid provincial aspect notwithstanding that it might incidentally serve other purposes such as the prevention of social harm or the deleterious effects of drug use upon society generally.[50]

Jurisdiction With Respect to Education

Education falls within exclusive provincial jurisdiction under section 93 of the *BNA Act*. At the same time, a distinction must be made between education in the organized sense, involving formal instruction in educational institutions, and education in the broadest sense, including public education through a variety of media and facilities in which the federal government clearly has a role to play.

To the extent that drug education is to be furnished in the school system, it must be deemed to come within provincial jurisdiction. But there is nothing to prevent the federal government from contributing to drug education in the larger sense, outside the formal educational system, by a variety of informational programs making use of all the media of communication. It may also, of course, take a lead in the development of the necessary informational basis for provincial drug education programs and may indeed collaborate in the development of the educational materials for use in such programs.

The distinction drawn in the *Interim Report* between information and education was directed more to the nature of materials than to jurisdictional issues. The distinction was meant to emphasize that the processes and considerations which go into the development of sound information by research and evaluation may differ from those which go into the development of educational materials based on such information. The jurisdictional issue turns rather on the distinction between the organized educational system and activity of a general educational value outside that system. It would be utterly impracticable if every communication which might be deemed to be of an educational value were held to be a matter of exclusive provincial jurisdiction. At the same time there is obviously a domain in which the formal educational

system may be extended by the use of audio-visual techniques. Such development raises a clear issue of provincial jurisdiction but it does not preclude federal activity of general educational value by similar means of communication.*

F.2 WHETHER, IN PRINCIPLE, THE CRIMINAL LAW SHOULD BE USED IN THE FIELD OF NON-MEDICAL DRUG USE

Some people take the position that non-medical drug use is an entirely personal and private matter, not unlike many other things that one does with one's body in the satisfaction of various appetites and the pursuit of various pleasures, and if any harm is being done it is harm which one is doing to oneself alone. They argue that the law should be concerned only with the damage or injury which an individual directly causes to another as a result of drug use. The classic exposition of this point of view is to be found in John Stuart Mill's celebrated *Essay on Liberty*, in which he states his central proposition as follows:

> The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his body and mind, the individual is sovereign.

The fundamental value which Mill emphasizes is freedom, and it is not freedom as an abstract principle or independent good, but as a utilitarian value with which he is concerned: the necessity of freedom to the development and well-being of the individual and society. There is no question that we, as a democratic society, regardless of our particular or individual political persuasion, are profoundly committed to the supreme importance of free-

* There is discussion elsewhere in this report of other constitutional issues, such as the relationship between federal control of drug availability and provincial regulation of the practice of medicine (see Section IX *Opiate Maintenance*) and jurisdiction with respect to the regulation of advertising (see Section XIV *The Mass Media*).

dom. But opinions differ as to its proper or necessary limits, and the issue as to what should be the legislative policy towards non-medical drug use reflects the debate as sharply as any.

Before considering the response which has been made to Mill's thesis by philosophers and laymen, it should be observed that Mill himself admitted one very important qualification to his general principle that is of particular relevance for the subject of non-medical drug use. He took it to be obvious that the principle, that the state does not have the right to interfere with an individual in order to prevent him from causing harm to himself, does not apply to persons who do not have the requisite maturity for the exercise of truly free choice. As Mill put it:

> It is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury.

This is, of course, a qualification of major significance insofar as non-medical drug use is concerned because young people are so heavily involved in it. Unfortunately, Mill does not indicate the kind of intervention which he would consider appropriate to protect the young from causing harm to themselves. We do not know what intervention he would consider possible and compatible, as a practical matter, with the freedom on which he would insist for adults. As to the limits of state intervention which he would regard as permissible, insofar as adults are concerned, Mill indicates the general tenor of his thinking in certain observations concerning government policy with respect to poisons and the consumption of alcoholic beverages. Always making exception for the protection of the young, his policy with respect to poisons is that where they have legitimate uses the government must limit its intervention, despite the risks of harm, to assuring that people are suitably warned of the dangers by proper labelling. His reasoning is that, assuming such poisons have useful purposes, people should not be deprived completely of access to them merely because they present serious dangers. He goes further and says that people should not be put to the inconvenience and expense of having to obtain a special permission, such as a doctor's prescription, to obtain them. This is, in fact, the general approach which is adopted by present legislative policy to a wide variety of substances with a potential for harm, at least in certain applications. It is felt that they cannot be removed entirely from the market because of their necessity or usefulness. Such is the case with drugs having a medical value, despite the dangers which they may present in certain applications, and such is the case with the wide variety of industrial and household products containing volatile substances, gases and solvents. Despite their potential for harm, especially to young people, as a result of their chemical properties, it is not practicable to consider their removal from the market because of their utility, and in many cases necessity, in legitimate uses. Occasionally, it may be necessary to remove a substance

entirely from the market because of its general hazard to health even in its principal application. Such was the case with the cyclamates. With drugs having therapeutic value, the requirement of a prescription must for the reasons indicated by Mill—inconvenience and cost—be applied very judiciously.

With respect to the consumption of alcoholic beverages, Mill is of course against prohibition, and he sees the prohibition of sale as an attempt to prohibit use, as an infringement not only of the liberty of the seller but of the liberty of the user as well. Thus Mill would appear to be opposed to the "vice model" (which obtains in such matters as pornography and prostitution) whereby the law punishes the seller but not the user. At the same time Mill acknowledges that trade is a "social act" with which government has a right to concern itself. In other words, it affects others besides the trader. But on closer examination of what he has to say, it would appear that Mill is somewhat ambivalent or uncertain as to how far and upon what principles society is justified in interfering with the operations of the seller or purveyor of goods or services of which it disapproves. He concedes some force in the argument that access to the means of indulging in certain vices such as gambling and prostitution should be rendered as difficult as possible so as to reduce the opportunities for contact with them, but he does not feel that the same considerations apply to the sale of alcoholic beverages. The following passage reflects the general direction of his thinking, if not the whole of his analysis on this point:

> There is considerable force in these arguments. I will not venture to decide whether they are sufficient to justify the moral anomaly of punishing the accessory, when the principal is (and must be) allowed to go free; of fining or imprisoning the procurer, but not the fornicator, the gambling-house keeper, but not the gambler. Still less ought the common operations of buying and selling to be interfered with on analogous grounds. Almost every article which is bought and sold may be used in excess, and the sellers have a pecuniary interest in encouraging that excess; but no argument can be founded on this, in favour, for instance, of the Maine Law; because the class of dealers in strong drinks, though interested in their abuse, are indispensably required for the sake of their legitimate use. The interest, however, of these dealers in promoting intemperance is a real evil, and justifies the State in imposing restrictions and requiring guarantees which, but for that justification would be infringements of legitimate liberty.

Mill recognized that such enterprises may be properly subjected to a variety of regulations and safeguards touching such matters as the reliability of the proprietors, hours of opening and closing, and the like, but he did not think that the regulations should have as their object, the attempt, by restricting the number of outlets, to render access to alcoholic beverages more difficult. Hence the reasoning seems to be that alcoholic beverages can be resorted to without abuse, and that it is not right to subject the majority who do not abuse them to inconvenience simply because of those who are liable to do so. Finally, Mill conceded that it was legitimate to allow a relatively heavy burden of taxes to fall upon alcoholic beverages since such taxes, which must

be imposed by the state for revenue purposes, are bound to inhibit some forms of consumption. "It is hence the duty of the State," said Mill, "to consider, in the imposition of taxes, what commodities the consumers can best spare; and *a fortiori,* to select in preference those of which it deems the use, beyond a very moderate quantity, to be positively injurious. Taxation, therefore, of stimulants, up to the point which produces the largest amount of revenue (supposing that the State needs all the revenue which it yields) is not only admissible, but to be approved of."

It is not clear from all this how Mill would approach the modern phenomenon of non-medical drug use, and more particularly how he would propose to allow adults freedom while providing adequate protection for the young. It is a reasonable assumption that he would have assimilated all non-medical use to that of alcohol and would have favoured a system of legal availability with regulations designed to minimize the opportunities for exposure of the young to it. It is also probable, however, that Mill would have found the problem particularly perplexing because of the extent to which modern youth is actively engaged in non-medical drug use. He might also have found considerable difficulty in determining that degree of maturity or discernment which should distinguish those who require protection from those who do not. The point is that Mill's general principle of non-interference with conduct that does not cause harm to third persons or to society generally is clear enough as an abstract proposition; it is its application, with its important qualification that the state has the right to intervene to protect persons under the age of maturity from causing harm to themselves, that presents difficulty, particularly in the context of contemporary drug use. With certain drug use the issues, if Mill's principles were to be followed, would be not merely how to protect the young while allowing freedom for the mature, but how to ameliorate the present problem by a system which continued to attempt to deprive the young of access to the drug.

Mill's thesis has been challenged by other philosophers and laymen on several grounds. First, there is challenge of the assumption that might seem to be implicit in Mill's general position, that harm which one causes to oneself can never be a cause of harm to others or to society generally. Many—indeed, we would think the vast majority—would strongly dispute this suggestion, particularly with respect to non-medical drug use. They would stress the effect which harmful drug use frequently has on the members of the user's family in emotional disturbance, family relations and discharge of one's family responsibilities, as well as the effect it has on others in the community who must assume some responsibility for dealing with the consequences to the user and the members of his family—the demands upon the over-taxed resources of medical and social service facilities, sometimes causing neglect of other priorities, as well as the expense of establishing and maintaining necessary additional facilities. They would also stress the general effect of harmful drug use on the motivation and productive capacity required to maintain the institutions and life of the society. They would be concerned with the possible effects of widely diffused drug use on the present way of life.

Actually, Mill concedes that the harm which one causes to oneself by a certain kind of behaviour may in many cases cause inconvenience, special burdens, and even injury to other individuals and to society generally, but he contends that this is not a reason for prohibiting the conduct altogether. It is his contention that we should deal with these secondary effects, as they arise, on their own merits as being attributable not to the general kind of conduct (for example, non-medical drug use) as such, but to certain factors in the individual, such as excessive use, lack of responsibility, and the like. Thus, in Mill's view, the fact that driving while under the influence of a drug may result in injury to others would not be a reason for prohibiting the use of the drug altogether. The injury to others is not the direct result of drug use as such but of driving while under the influence of the drug, and the law should direct itself to prohibiting and punishing this particular conduct rather than drug use as a whole.

While Mill in the enunciation of his central principle recognizes the right of society to use the criminal law or moral coercion for its legitimate self-protection, there is an implication that even if it could be demonstrated that non-medical drug use will frequently result in impairment of a person's general potential for usefulness to society, he would not consider this a sufficient ground for the exercise of such self-protection. This is where the issue is joined today. A majority of those who support the existing law do so not merely because of the effect of drug use on the welfare of the individual but chiefly because of what they feel to be its effect on the welfare of society as a whole. Mill would appear to exclude this, as a matter of principle, as a valid consideration for application of the criminal law, although the difference may be essentially a matter of appreciation of what constitutes a sufficient injury or harm to society to warrant intervention. What is really involved is a weighing of values: as Mill puts it, "the inconvenience is one which society can afford to bear, for the sake of the greater good of human freedom." Others take the view, in the case of non-medical drug use, that what is involved is more than a matter of "inconvenience" but rather a threat to other values on which the present society depends, such as the capacity and willingness to discharge personal responsibilities in work and personal relations, and that such value as there may be in the personal freedom to pursue non-medical drug use must cede to these other values which are held to be essential to the society's survival.

The philosophic debate concerning the appropriateness of the criminal law in the field of non-medical drug use is associated with expressions such as "crime without victim" and "law and morals" which obscure the essential issue: how different people characterize the personal and social effects of non-medical drug use in the light of their respective systems of value. This, rather than an abstract debate as to the appropriate limits of the criminal sanction, is what is really at stake. The quarrel is not so much with Mill's premises as with the practical conclusions which he drew from them in the light of a nineteenth century liberalism. Once he concedes, as he does, that society has a right to use the criminal law to protect itself, that a special protection is owing

to those under the age of majority, and that people may be restrained from giving public offence to the sense of decency of others, then it seems that what essentially separates him from his critics are questions of application—the weighing of the competing values in the light of the particular facts, and consideration of the ways and means best calculated to promote the ends.

For example, the English judge, Lord Devlin, who is generally regarded as the exponent of a legal philosophy that is at extreme variance with that of Mill, because of his insistence on the right, and indeed the duty, of the state to enforce morality, is seen on closer examination simply to take a different view of what the self-protection of the state requires. Although he speaks in a general way about the moral values of the majority as being essential to the preservation of the society, where the criminal law is concerned his notion of morality is not divorced from consideration of the actual harm caused by particular conduct. It would not appear that in his view any departure from the prevailing moral code is to be considered a social harm warranting the application of the criminal law. Once again, it is a question of the subjective evaluation of the effects of certain conduct from the social point of view. His general approach is set out in the following passage from *The Enforcement of Morals*:

> I think, therefore, that it is not possible to set theoretical limits to the power of the State to legislate against immorality. It is not possible to settle in advance exceptions to the general rule or to define inflexibly areas of morality into which the law is in no circumstances to be allowed to enter. Society is entitled by means of its laws to protect itself from dangers, whether from within or without. Here again I think that the political parallel is legitimate. The law of treason is directed against aiding the king's enemies and against sedition from within. The justification for this is that established government is necessary for the existence of society and therefore its safety against violent overthrow must be secured. But an established morality is as necessary as good government to the welfare of society. Societies disintegrate from within more frequently than they are broken up by external pressures. There is disintegration when no common morality is observed and history shows that loosening of moral bonds is often the first stage of disintegration, so that society is justified in taking the same steps to preserve its moral code as it does to preserve its government and other essential institutions. The suppression of vice is as much the law's business as the suppression of subversive activities; it is no more possible to define a sphere of private morality than it is to define one of private subversive activity. It is wrong to talk of private morality or of the law not being concerned with immorality as such or to try to set rigid bounds to the part which the law may play in the suppression of vice. There are no theoretical limits to the power of the State to legislate against treason and sedition, and likewise I think there can be no theoretical limits to legislation against immorality. You may argue that if a man's sins affect only himself it cannot be the concern of society. If he chooses to get drunk every night in the privacy of his own home, is any one except himself the worse for it? But suppose a quarter or a half of the population got drunk every night, what sort of society would it be? You cannot set a theoretical limit to the number of people who can get drunk before society is entitled to legislate against drunkenness.

Despite the general sweep of his statements in favour of the enforcement of morality, it seems clear that Lord Devlin is involved in the same process as Mill of weighing the values of personal freedom and privacy against other values which he deems to be essential to the preservation of a certain kind of society. If anything, what possibly distinguishes them is the relative importance or primacy which Mill, in the particular political context of his time, assigned to freedom as a social as well as individual value. But the essential perspective of Lord Devlin is not at such variance with that of Mill as some of his language suggests. For at one place, he says, "There must be toleration of the maximum individual freedom that is consistent with the integrity of society." And at another place he says, "But before a society can put a practice beyond the limits of tolerance there must be a deliberate judgment that the practice is injurious to society." Thus, whether one agrees or not with Lord Devlin's assumption that morality is essential to the preservation of society, it would not appear to be his thesis that, irrespective of the harm which appears to be caused by the conduct in question, it is proper to use the criminal law to enforce morality.

Nevertheless Lord Devlin's general position on law and morality was attacked by the English philosopher, H. L. A. Hart, on the ground that since his belief in the importance of morality to the preservation of society appeared to be an *a priori* rather than an empirical conclusion, and he seemed to equate society with its morality, the natural and inevitable tendency of his position would be to regard *any* departure from the prevailing morality as a threat to the preservation of the society. Hart himself is in essential agreement with Mill that the criminal law should not be used to enforce morality, but he differs from Mill in regarding it as a legitimate object of the law to attempt to prevent individuals (including those of the age of maturity) from doing harm to themselves. This he justifies as "paternalism" (as distinct from "legal moralism", which he ascribes to Lord Devlin) on the ground that Mill exaggerated the capacity of adults to make wise use of their freedom. Hart's notion of paternalism may also impliedly challenge another assumption of Mill—that somehow the young can be protected while conceding freedom to adults. If an attempt is to be made to deny access to certain drugs to the young, either on the paternalistic basis of protecting them from causing harm to themselves or on the basis that their use of drugs will have an adverse effect on society as a whole, then it must be asked whether the achievement of this purpose is rendered more or less difficult by permitting adults to have access to such drugs.

On this whole philosophic issue as to whether, in principle, the criminal law should be used in the field of non-medical drug use, we adhere to the general position which we expressed in the *Interim Report* as follows:

> In our opinion, the state has a responsibility to restrict the *availability* of harmful substances—and in particular to prevent the exposure of the young to them—and that such restriction is a proper object of the criminal law. We can not agree with Mill's thesis that the extent of the state's responsibility and permissible interference is to attempt to assure that people are warned

> of the dangers.... Obviously the state must be selective. It cannot attempt to restrict the availability of any and all substances which may have a potential for harm. In many cases it must be satisfied with assuring adequate information. We simply say that, in principle, the state can not be denied the right to use the criminal law to restrict availability where, in its opinion, the potential for harm appears to call for such a policy. [Paragraph 442]
>
> ... Without entering into the distinction between law and morality, we also subscribe to the general proposition that society has a right to use the criminal law to protect itself from harm which truly threatens its existence as a politically, socially and economically viable order for sustaining a creative and democratic process of human development and self-realization. [Paragraph 443]
>
> The criminal law should not be used for the enforcement of morality without regard to potential for harm. In this sense we subscribe to what Hart refers to as the "moderate thesis" of Lord Devlin. We do not subscribe to the "extreme thesis" that it is appropriate to use the criminal law to enforce morality, regardless of the potential for harm to the individual or society.
>
> If we admit the right of society to use the criminal law to restrict the availability of harmful substances in order to protect individuals (particularly young people) and society from resultant harm, it does not necessarily follow that the criminal law should be applied against the user as well as the distributor of such substances. There is no principle of consistency that requires the criminal law to be used as fully as possible or not at all, in a field in which it may have some degree of appropriateness. We do not exclude in principle the application of the criminal law against the user since it is a measure which can have an effect upon the availability and the exposure of others to the opportunity for use, but the appropriateness or utility of such an application must be evaluated in the light of the relative costs and benefits. [Paragraph 444]

We did express a general reservation concerning the offence of simple possession as follows:

> Our basic reservation at this time concerning the prohibition against simple possession for use is that its enforcement would appear to cost far too much, in individual and social terms, for any utility which it may be shown to have. We feel that the probability of this is such that there is justification at this time to reduce the impact of the offence of simple possession as much as possible, pending further study and consideration as to whether it should be retained at all. The present cost of its enforcement, and the individual and social harm caused by it, are in our opinion, one of the major problems involved in the non-medical use of drugs. [Paragraph 449]

In effect, it is not particularly helpful in this case to attempt to set theoretical limits to the application of the criminal law. The criminal law may properly be applied, as a matter of principle, to restrict the availability of harmful substances, to prevent a person from causing harm to himself or to others by the use of such substances, and to prevent the harm caused to society by such use. In every case the test must be a practical one: we must weigh the potential for harm, individual and social, of the conduct in question against the harm, individual and social, which is caused by the

application of the criminal law, and ask ourselves whether, on balance, the intervention is justified. Put another way, the use of the criminal law in any particular case should be justified on an evaluation and weighing of its benefits and costs. Generally speaking, the adverse effects for the individual of the criminal law process are such that it must be justified in each case by rational and convincing reasons of necessity, in relation to other available means of achieving the desired purpose.

F.3 THE LAW WITH RESPECT TO THE OFFENCES OF SIMPLE POSSESSION, TRAFFICKING, POSSESSION FOR THE PURPOSE OF TRAFFICKING, IMPORTING, AND CULTIVATION

Simple Possession

Section 3 of the *Narcotic Control Act*[1] provides:

> **3.** (1) Except as authorized by this Act or the regulations, no person shall have a narcotic in his possession.
>
> (2) Every person who violates subsection (1) is guilty of an indictable offence and is liable
>
> (*a*) upon summary conviction for a first offence, to a fine of one thousand dollars or to imprisonment for six months or to both fine and imprisonment, and for a subsequent offence, to a fine of two thousand dollars or to imprisonment for one year or to both fine and imprisonment; or
>
> (*b*) upon conviction on indictment, to imprisonment for seven years.

Section 41 of the *Food and Drugs Act*,[2] respecting simple possession of the restricted drugs (strong hallucinogens), is in essentially the same terms, except that the maximum penalties upon indictment are a fine of five thousand dollars or imprisonment for three years or both.

For the purpose of the *Narcotic Control Act* and the *Food and Drugs Act*, "possession" has the same meaning as it has under the *Criminal Code*, where it is defined in section 3(4) as follows:

> (*a*) a person has anything in possession when he has it in his personal possession or knowingly
>
> (i) has it in the actual possession or custody of another person, or
>
> (ii) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or another person; and
>
> (*b*) where one of two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

It has been held that there is no "minimal" amount required to establish the offence of simple possession,[3] but an "infinitesimal" amount found in traces in the accused's clothing has been held insufficient for conviction.[4] The accused must be shown to have been in possession of a drug the pos-

session of which is prohibited by the statute. Such proof is made in practice by an analyst's certificate.[5] A certificate of an analyst designated under the *Narcotic Control Act* or the *Food and Drugs Act* is admissible in evidence as to the nature of a drug in any prosecution for offences under the Act. In order for such a certificate to be admissible the party intending to produce it must, before the trial, give the other party reasonable notice of such intention together with a copy of the certificate. The party against whom the certificate is produced may, with leave of the court, require the attendance of the analyst for purposes of cross-examination. The accused must know that he has a prohibited drug in his possession. In other words, he must have the necessary intention or *mens rea* traditionally required for criminal responsibility.[6] The burden is on the accused to prove any exception, exemption, excuse or qualification prescribed by law which operates in his favour—for example, that his possession is authorized by the act or regulations.[7] Where the accused is charged with being in constructive possession by virtue of the fact that another person has possession with his knowledge and consent, it is not sufficient to show mere acquiescence; it is necessary to show some measure of control or right to control over the drug.[8]

TRAFFICKING

Section 4 of the *Narcotic Control Act* provides:

> 4. (1) No person shall traffic in a narcotic or any substance represented or held out by him to be a narcotic.
>
> (2) No person shall have in his possession any narcotic for the purpose of trafficking.
>
> (3) Every person who violates subsection (1) or (2) is guilty of an indictable offence and is liable to imprisonment for life.

Section 34 of the *Food and Drugs Act* with respect to controlled drugs (amphetamines and barbiturates) and section 42 of the Act with respect to restricted drugs (strong hallucinogens) are in the same terms, except for the penalty provision, which reads as follows:

> Every person who violates subsection (1) or (2) is guilty of an offence and is liable
>
> (*a*) upon summary conviction to imprisonment for eighteen months; or
>
> (*b*) upon conviction on indictment, to imprisonment for ten years.

To traffic under the *Narcotic Control Act* means "to manufacture, sell, give, administer, transport, send, deliver or distribute", or "to offer to do" any of these things without authority.[9] Under the *Food and Drugs Act*, Parts III and IV, applicable to controlled drugs and restricted drugs, it means "to manufacture, sell, export from or import into Canada, transport or deliver" without authority.[10] "Sell" is defined by the *Food and Drugs Act* as including "sell, offer for sale, expose for sale, have in possession for sale, and distribute".[11] Thus under the *Food and Drugs Act* trafficking includes importing or exporting, which is a separate offence calling for a minimum mandatory sentence of seven years' imprisonment under the *Narcotic Control Act*.

It is not necessary to be in possession to be a trafficker[12] or to be guilty of the offence of offering to do an act defined as trafficking.[13] The purchaser from a trafficker is not guilty of the offence of trafficking.[14] Attempts have been made to extend the definition of trafficking by relying on the word "transport" in the definition, and arguing that any movement of the drug from one place to another is sufficient for trafficking. The courts have held that the word "transport", when read in the context of other words in the definition, cannot be applied to the movement of the drug by the accused for his own use.[15] It has recently been held, however, that transporting for one's own use by an "innocent agent" amounts to trafficking.[16]

For the offence of trafficking, unlike that of simple possession (or possession for the purpose of trafficking), it is not necessary that the substance actually be one of the prohibited drugs; it is sufficient that it be represented or held out to be such by the accused.[17]

Possession for the Purpose of Trafficking

Unlike the case of trafficking, where it is sufficient that the drug be represented or held out to be one which is included in the Schedule of the *Narcotic Control Act* or Schedule G or H of the *Food and Drugs Act*, it is necessary for the offence of possession for the purpose of trafficking that the accused actually be in possession of such a drug.

A case of possession for the purpose of trafficking proceeds as if it were two trials. The law provides that if the accused does not plead guilty the trial shall proceed as if it were a prosecution for the offence of simple possession, and after the close of the case for the prosecution and after the accused has had an opportunity to make full answer and defense, the court shall make a finding as to whether or not the accused was in unauthorized possession of a prohibited drug.[18] If the court finds that the accused was not in unauthorized possession of a prohibited drug he shall be acquitted, but if it finds that he was in such possession, he shall be given an opportunity of establishing that he was not in possession for the purpose of trafficking, and thereafter the prosecutor shall be given an opportunity of adducing evidence to establish that the accused was in possession for the purpose of trafficking. If the accused establishes that he was not in possession for the purpose of trafficking, he shall be acquitted of the offence as charged but, in the case of a charge under the *Narcotic Control Act* or under Part IV of the *Food and Drugs Act* respecting restricted drugs, he shall be convicted of the offence of simple possession and sentenced accordingly.

This exceptional provision concerning the burden of proof is usually justified on the ground that it is ordinarily very difficult to prove the intention to traffic. In the absence of an admission, proof of such intention must be by way of inference from circumstantial evidence, such as the quantity of the drug discovered in the accused's possession.[19]

There has been a serious question as to the precise nature of the burden placed upon the accused by this procedure and the extent to which

it operates in practice as a departure from the traditional presumption of innocence. The courts have distinguished the secondary burden of adducing evidence of a particular fact from the primary burden of proving it when all the evidence is in.[20] The primary burden is always on the Crown to establish all the elements of the crime by proof beyond a reasonable doubt. By the special procedure with respect to the offence of possession for the purpose of trafficking the Crown is relieved of the burden of adducing evidence of the intention to traffic. Proof of unauthorized possession is evidence from which a court may infer an intention to traffic. In effect, it raises a statutory presumption of such intention. The difficult question has been to determine what the accused must show to rebut this presumption and whether the burden which is cast upon him violates the right affirmed by the *Canadian Bill of Rights* "to be presumed innocent until proved guilty according to law . . . ."[21]

The issue has been the meaning to be given the word "establish" in the provision ". . . if the accused establishes that he was not in possession of the narcotic for the purpose of trafficking, he shall be acquitted . . . . if the accused fails to establish that he was not in possession of the narcotic for the purpose of trafficking he shall be convicted . . . ." The question has been whether it is sufficient for the accused to raise a reasonable doubt as to the intention to traffic or whether he must prove that he did not have such an intention by a preponderance of evidence or on a balance of probabilities. Until June 1971 the weight of the judicial authority was that it was sufficient for the accused to raise a reasonable doubt. In our *Interim Report* we expressed the law on the point as follows:

> . . . the legislation has deemed that evidence of unauthorized possession may support an inference of the mental element without any further affirmative evidence on this point, unless the accused gives a reasonable probable alternative explanation for his possession, whether from his own evidence, or other witnesses, or from evidence already before the Court. The Court need not draw this inference even when the accused does not adduce any evidence, but he takes the risk it will do so. In all cases, though, if the accused by argument or evidence or cross-examination of the Crown witnesses establishes a reasonable doubt about his alleged purpose of trafficking, he must be acquitted of the offence of possession for the purpose of trafficking. [Paragraph 379]

This statement was based on such decisions as *Regina v. Hartley and McCallum*,[22] in which Davey J. A. of the British Columbia Court of Appeal expressed himself as follows:

> Crown counsel submits that in order to discharge that burden the appellant must show upon a preponderance of the evidence or on the balance of probabilities that he was not trafficking. . . .
>
> It seems to me that it is established by the cases relied upon by Crown counsel . . . that if the prisoner by argument or evidence or cross-examination of the Crown's witnesses establishes a reasonable doubt as to whether he had possession of the narcotic for the purpose of trafficking, he must be acquitted

of that particular offence, namely, having possession for the purpose of trafficking, and in the result he ought to be convicted only of ordinary possession.

Later in the case of *Regina v. Silk*[23] the same court expressed the view that to deprive the accused of the benefit of a reasonable doubt on the issue of the intent to traffic would be contrary to the presumption of innocence protected by the *Canadian Bill of Rights*. In other words, the court held that the presumption of innocence is the right of the accused to be presumed innocent unless and until his guilt is proved beyond a reasonable doubt, and that this presumption necessarily carries the right to the benefit of a reasonable doubt on the issues of fact, whether it exists on the evidence offered by the Crown or whether it is raised by the evidence of the accused.

This would no longer appear to be the law as a result of the decision of the Supreme Court of Canada in *Regina v. Appleby*.[24] There the court was considering the statutory presumption created by section 237(1)(a)[25] of the *Criminal Code* whereby an accused who is proved to have occupied the seat ordinarily occupied by the driver of a motor vehicle is "deemed to have had the care or control of the vehicle unless he establishes that he did not enter or mount the vehicle for the purpose of setting it in motion", but the reasoning, at least of the majority in the case, would appear to be equally applicable to the burden of proof thrown upon the accused in a case of possession for the purpose of trafficking. Indeed, the court considered the decisions with respect to the *Narcotic Control Act* and the *Food and Drugs Act*, including the *Hartley* and *Silk* cases. The court held that the statutory presumption could not be rebutted by proof which merely raised a reasonable doubt; that a burden was placed on the accused to negate the presumption by a preponderance of evidence or proof which carried on a balance of probabilities. In other words, he has the burden of proof which applies in civil proceedings.

The essential basis of the decision was that the word "establishes" connotes a degree of proof beyond that which may be necessary to raise a reasonable doubt. The court further held that placing such a burden upon the accused was not contrary to the presumption of innocence protected by the *Canadian Bill of Rights*. In *Appleby* the majority of the court held in effect that the right to be presumed innocent until proved guilty according to law is not a right to be presumed innocent until proved guilty beyond a reasonable doubt. Laskin, J., in a special opinion concurring in the result arrived at by the other members of the court, appeared to interpret the presumption of innocence in the *Canadian Bill of Rights* as including the right to the benefit of any reasonable doubt but then found that there was no conflict with this right in holding that it was insufficient for the accused who is faced with the statutory presumption of section 237 to raise a reasonable doubt. It should be noted that the United States Supreme Court has held that the right to the benefit of reasonable doubt is protected by the due process clause of the Constitution.[26] Due process is also affirmed in the *Canadian Bill of Rights*, and the specific reference to the presumption of

innocence is only a particular aspect of it. Due process does not appear to have been argued in the *Appleby* case.

On the basis of due process and the rational connection test which has been applied to the constitutionality of criminal statutory presumptions in the United States,[27] it would be open to argue that the statutory presumption in the *Narcotic Control Act* is distinguishable from that in section 237 of the *Criminal Code*. It is reasonable to assume, however, that the conclusion of the Supreme Court in the *Appleby* case would be applied to the statutory burden of proof cast upon the accused in a prosecution for the offence of possession for the purpose of trafficking. The result of the case is that the burden is even heavier than we assumed when we expressed concern about it in the *Interim Report*. What it means is that the fact of intent to traffic is not to be governed by the ordinary rule concerning benefit of reasonable doubt. It is deemed to be proved beyond a reasonable doubt by proof of unauthorized possession, and it can only be negated by proof which carries on a balance of probabilities. If the evidence of the accused merely raises a reasonable doubt as to the intent to traffic he is not entitled to the benefit of that doubt.

Importing and Exporting

Section 5 of the *Narcotic Control Act* provides:

> 5. (1) Except as authorized by this Act or the regulations, no person shall import into Canada or export from Canada any narcotic.
>
> (2) Every person who violates subsection (1) is guilty of an indictable offence and is liable to imprisonment for life but not less than seven years.

As indicated above, importing and exporting fall within the definition of trafficking under the *Food and Drugs Act*.

Importing has been held to be the act of bringing a drug into the country from the outside, regardless of the means employed.[28]

Cultivation

Section 6 of the *Narcotic Control Act* provides:

> 6. (1) No person shall cultivate opium poppy or marihuana except under authority of and in accordance with a licence issued to him under the regulations.
>
> (2) Every person who violates subsection (1) is guilty of an indictable offence and is liable to imprisonment for seven years.
>
> (3) The Minister may cause to be destroyed any growing plant of opium poppy or marihuana cultivated otherwise than under authority of and in accordance with a licence issued under the regulations.

It has been held that while cultivation is more than mere possession, and requires some proof that the accused has devoted labour and attention

to the plant to assist its growth, such proof may be made by circumstantial evidence.[29]

F.4 APPLICABLE PROVISIONS OF THE CRIMINAL CODE

Any matter concerning the offences created by the *Narcotic Control Act* and the *Food and Drugs Act* which is not specially provided for in these statutes is governed by the provisions of the *Criminal Code*[1] of Canada. These provisions relate to such matters as principles of criminal responsibility, parties to offences, attempts, conspiracies and accessories, jurisdiction and procedure. Basically, what the special statutes do is to define the offence and provide the penalty. They also touch such matters as statutory presumption and burden of proof, as well as special provisions concerning methods of law enforcement. For the rest, the *Criminal Code* applies.

Certain offences created by the *Criminal Code* have a direct bearing on the suppression of conduct related to non-medical drug use. Probably the most important of these is conspiracy,[2] to which it is generally necessary to resort in attempting to convict persons involved in trafficking at higher levels of organization. Since such persons are usually careful to have no direct contact with the substance in which the trafficking is being carried on, nor with the lower levels of the distribution system, it is rarely possible to discover them in the actual act of trafficking or of possession for the purpose of trafficking.

The offences of obtaining by false pretense,[3] forgery,[4] and uttering a forged document[5] are sometimes invoked in connection with attempts to obtain drugs illegally. There are also several offences covering conduct which involves injury or the threat of injury to third persons as a result of the use of drugs. There is the offence of murder by administering a stupefying or overpowering thing for the purpose of facilitating the commission of an offence or facilitating flight after committing or attempting to commit an offence,[6] the offence of administering a noxious thing,[7] the offence of overcoming resistance to an offence by the administration of a drug,[8] and the offences of administering a drug for the purpose of illicit intercourse,[9] and procuring an abortion.[10] There is also the offence of driving a motor vehicle or having the care or control of it when the ability to drive is impaired by alcohol or any other drug.[11]

It is a criminal offence to counsel, procure or incite another person to commit an offence,[12] and this provision is applicable like other provisions of the *Criminal Code* to drug offences.[13] If the offence is actually committed, the person who counsels or procures the other person becomes a party to the offence.[14] There is the similar offence of aiding and abetting a person to commit an offence, which also makes the person who aids and abets a party to the offence.[15]

F.5 JUVENILE DELINQUENCY LEGISLATION

A violation of the drug laws is an act of juvenile delinquency under the *Juvenile Delinquents Act*,[1] which defines a "juvenile delinquent" as follows:

> ... any child who violates any provision of the *Criminal Code* or of any federal or provincial statute, or of any by-law or ordinance of any municipality, or who is guilty of sexual immorality or any similar form of vice, or who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under any federal or provincial statute....

The age limit for the application of the *Juvenile Delinquents Act* varies among the provinces from under sixteen in some to under eighteen in others. Where a child is over the age of fourteen and he is alleged to have committed an indictable offence the case may be transferred or "waived" from the juvenile court to the ordinary criminal court.[2] Cases involving drug offences are transferred to the ordinary courts from time to time.[3] Sometimes, however, the case is remitted to the juvenile court.[4]

The statistics of juvenile cases are not kept in a manner which permits them to be used as a reliable basis for estimating the number of cases involving drug offences which come before the juvenile courts. We know that there is a significant number of juveniles who are treated as delinquents by reason of drug offences, but there is no statistical basis for a reasonable estimate of the number.

F.6 SPECIAL METHODS OF ENFORCEMENT

INTRODUCTION

The peculiar nature of drug crimes—the fact that the people involved in them are consenting and cooperating parties, and there is rarely, if ever, a victim who has reason to complain, as in crimes against persons and property—makes enforcement of the drug laws very difficult. The police are rarely assisted by complainants. For the most part they have to make their own cases. Moreover, the activity involved in non-medical drug use is relatively easy to conceal. It can be carried on, by agreement of the parties involved, in places which are not easily observed by the police. Further, the substances and equipment involved are relatively easy to conceal or dispose of.

All of these difficulties have given rise to the development of unusual methods of enforcement. They are by no means confined in their application to the drug laws, but the combined effect of their use in connection with these laws has been one of the chief causes of concern about the impact of the criminal law in this field. The police admit the use of these methods in one degree or another, but they claim that they are absolutely essential to effective enforcement of the drug laws. Critics of these methods question their

necessity but recognize the difficulty of challenging the professional opinion of the police on this point. Their chief contention is that these unusual methods represent a cost of enforcing the drug laws that is too great for the benefit derived from it. In particular, they say that the use of these methods has brought law enforcement into disrespect among young people, and has undermined respect for police and law generally.

These unusual methods of enforcement are special powers of search and seizure, the use of force to effect entry to premises and to recover evidence, the use of undercover agents and informers, and the encouragement or provocation of drug offences.

Powers of Search and Seizure

Search of premises. Unless they have special statutory powers police can only search premises without a search warrant as an incident of arrest. Under the *Narcotic Control Act*[1] and the *Food and Drugs Act*[2] the police are empowered, without the necessity of a search warrant, to enter and search any place other than a dwelling-house in which they reasonably believe that there is a prohibited drug by means of or in respect of which an offence has been committed.

In order to be able to search a dwelling-house, other than as an incident of arrest, the police must obtain a search warrant from a justice, who must be satisfied upon an information under oath that there are reasonable grounds for believing that there is a prohibited drug by means of which an offence has been committed in the dwelling.[3] The R.C.M. Police, however, may, and generally do, carry out such a search under the authority of a writ of assistance, which does not require them to establish such reasonable grounds for belief before a justice.

A writ of assistance is a general warrant that is not limited as to time or place and remains valid during the entire career of the law enforcement officer to whom it is issued. It is obtained upon application by the Minister of National Health and Welfare to a judge of the Federal Court.[4] The judge has no discretion in the matter. It is mandatory that he issue the writ upon such an application. The writ empowers the officer named in it, with the assistance of such other persons as he may require, to enter any dwelling-house at any time and search for prohibited drugs. In practice writs of assistance are issued under the drug laws only to officers of the R.C.M. Police.

In acting under a writ of assistance a police officer must reasonably believe that the dwelling-house contains a prohibited drug by means of or in respect of which an offence has been committed, but the grounds for his belief are not, as in the case of a search warrant, subject to review by a justice before he uses the writ. Officers who hold these writs are obliged, however, by the R.C.M. Police regulations to report on the use which they make of them, and they are subject to disciplinary measures for any apparent abuse of them.[5]

The chief distinction between the search warrant and the writ of assistance is the convenience of the latter. It avoids what may in many cases be a crucial loss of time. In stressing the necessity of the writ of assistance the R.C.M. Police have stated that the conditions under which searches have to be carried out under the drug laws make it very difficult in practice to obtain search warrants. They have emphasized the mobility of drug offenders, the fact that they often do not have an identified address, and the fact that searches have to be carried out very often at night when it is difficult to obtain a warrant.

Other police claim to be at a disadvantage for lack of the writ of assistance, and this is one of the reasons they have often preferred to act with the R.C.M. Police.

Search of the person. As a general rule police only have the power to search the person as an incident of arrest, in order to discover anything which might serve as evidence of the crime for which the arrest is made, or to disarm the person arrested. Under the *Narcotic Control Act*[6] and the *Food and Drugs Act*[7] the police are empowered, when searching any dwelling-house or other place, to search any person found therein. They are not obliged to make an arrest in order to carry out a search of the person.

Seizure. At common law a police officer has the power to seize anything uncovered in the course of a search of premises which may be evidence of the crime for which a person is arrested. When acting under a search warrant he is expressly authorized to seize and bring the thing for which the warrant has been issued before a justice. Under the *Narcotic Control Act*[8] and the *Food and Drugs Act*[9] there is an express power given to a police officer, when searching any dwelling-house or other place, to seize and take away any prohibited drug found in such place, anything in which he reasonably suspects such a drug to be contained or concealed, or any other thing by means of or in respect of which he reasonably believes an offence under the Act has been committed or that may be evidence of such an offence. This would include any motor vehicle by means of which an offence has been committed. The Act provides for forfeiture of things seized in the event of conviction. A person who has an interest in a motor vehicle which was seized but who was not in possession of it when it was seized or in any way responsible for its use to commit an offence may have his interest declared by a court. The vehicle is then returned to him or an amount equal to the value of his interest paid to him.[10]

The Use of Force

The Acts provide that in carrying out a search a police officer may, with such assistance as he deems necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing.[11]

The courts have also recognized that a police officer may use reasonable force upon the person to recover the prohibited substance. This is really an incident of the right to search the person. Such force is sometimes used to prevent heroin users from swallowing a supply of the drug which they have concealed in their mouth. In *R. v. Brezack*[12] the Ontario Court of Appeal affirmed the legality of this practice and said:

> ... it is well known that, in making arrests in these narcotic cases, it would often be impossible to find evidence of the offence upon the person arrested if he had the slightest suspicion that he might be searched. Constables have a task of great difficulty in their efforts to check the illegal traffic in opium and other prohibited drugs. Those who carry on the traffic are cunning, crafty and unscrupulous almost beyond belief. While, therefore, it is important that constables should be instructed that there are limits upon their right of search, including search of the person, they are not to be encumbered by technicalities in handling the situations with which they often have to deal in narcotic cases, which permit them little time for deliberation and require the stern exercise of such rights of search as they possess.

The use of force by a policeman in an illegal search is an assault, and a person has a right under the *Criminal Code* to use such force as is necessary to resist such assault.[13]

The Use of Undercover Agents and Informers

Because of the difficulty of detecting drug crimes the police rely heavily on undercover agents and informers. Undercover agents may have to engage in drug transactions in order to establish an identity or gain acceptance in the drug milieu. For this purpose they may purchase drugs in what the police call a "non-evidence buy", as distinct from a purchase to establish evidence against an offender. The R.C.M. Police and other police pay persons to give them information concerning drug offences or persuade them to give such information in return for enforcement concessions. This is considered to be a legitimate law enforcement practice. Since the police rarely receive complaints they are very dependent upon information obtained in his way. As one R.C.M. Police officer put it to a Commission investigator: "Information is our business." Individual officers spend a great deal of time developing their sources of information.

During the course of our inquiry there were public complaints that young people were being recruited by the police as informers. In some cases the police were accused of using the threat of prosecution to induce youths to act as informers. It has not been possible to verify the facts of these cases in a manner that would support specific charges, but the official position of the R.C.M. Police is that they do not approve of such practices.

The police claim that the use of undercover agents and informers not only assists in the detection of drug offences but helps to control drug availability by making it more hazardous to engage in trafficking.

Police Encouragement or Instigation of Offences

Undercover agents have engaged in a practice which has been disavowed by officials but which, if we are to judge from reported decisions, continues to be used. This is the practice of inducing a person to commit a violation of the drug laws. This is often referred to as acting as an *agent provocateur.* In the United States the practice is called "entrapment".

A common example is for an undercover agent to ask a person to sell or give him a prohibited drug. There were frequent complaints of this practice in the course of our public hearings although it was not possible to conduct the kind of full judicial inquiry that would be necessary to verify the facts in particular cases. The reported decisions, however, contain several examples of cases in which this practice has been used.[14]

A distinction must be drawn between offering the occasion for the commission of a crime to a person who has already formed the intention of committing it, and inciting a person who has not yet formed such an intention to commit a crime in order to have the basis for prosecution against him. It is our impression from our inquiry that law enforcement officials at the senior level do not attempt to justify the second kind of case. They contend however, that the usual case is one in which an undercover agent buys from a person who is more than willing to sell.

As indicated in Appendix F.4 *Applicable Provisions of the Criminal Code,* counselling and aiding and abetting a person to commit a criminal offence are themselves criminal offences. Apart from special statutory provision, law enforcement officers have no immunity from criminal liability on the ground of "public duty" for offences committed in the course of their functions.[15] The extent, however, to which they may be held liable in practice is not clear.[16] A court may take the view that when doing something for law enforcement purposes which would otherwise be an offence they do not have the necessary criminal intent for liability.

Police encouragement or instigation has not been recognized as a defence to a criminal charge in Canadian law.[17] There is some precedent for ordering a stay of prosecution in such circumstances on the ground of an abuse of process, but a serious doubt has been raised as to whether this is a valid approach.[18] Courts have, however, treated police provocation as ground for mitigation of sentence.[19]

The American courts have developed the defence of "entrapment" as a basis for acquittal where the intention to commit the offence has been implanted by law enforcement officials.[20] The Canadian Committee on Corrections recommended the legislative adoption of a similar defence in Canada in favour of a person who does not have *"a pre-existing intention to commit the offence".*[21]

F.7 PROSECUTION IN DRUG CASES

The prosecutions in drug cases under federal law are conducted by prosecutors appointed by the Attorney General of Canada. This is a long-established practice which operates by tacit agreement with the provinces. The federal government assumes responsibility for the prosecution in criminal matters governed primarily by special federal statutes rather than by the *Criminal Code.* In such matters, however, federal prosecutors conduct the cases, even where provisions of the *Criminal Code* may be involved, as, for example, in a case of conspiracy to traffic.

Provincial acquiescence in this federal role in the administration of criminal justice (which, apart from legislation with respect to procedure in criminal matters, falls within provincial jurisdiction[1]) is explained by several factors: first, and foremost, the primary responsibility for law enforcement in these areas which has traditionally been assumed by the R.C.M. Police; the specialized expertise which the federal prosecutors have developed in these areas; and finally, the fact that the provincial law enforcement authorities have more than enough to look after with their primary responsibility for the application of the *Criminal Code* and provincial statutes of a penal nature. In any event, the federal assumption of responsibility for prosecution in these special areas of the criminal law has never been seriously challenged. The province could undertake prosecutions in these areas, but even where provincial or municipal police forces initiate drug cases, their policy is to refer them to the federal prosecutors. Although there has been a shift in responsibility for enforcement of the prohibition against simple possession from the R.C.M. Police to the municipal police forces, there has not been a corresponding shift in the responsibility for prosecution.

To provide for the necessary legal services in these special areas of the criminal law (and in the civil cases in which the federal Crown must be represented), the federal Department of Justice maintains regional offices in the cities of Montreal, Toronto, Edmonton, Winnipeg and Vancouver. In areas which cannot be served under these offices standing agents are appointed by the Department where the volume of business warrants it. In other cases, ad hoc appointments are made.

By means of policy directives from Ottawa and the organization of the regional offices an effort is made to ensure a measure of consistency and uniformity in prosecution. The office in Ottawa exercises a general control with respect to the discretion that is open to prosecutors, and the directors of the regional offices exercise a close control over daily operations. The main objective of the regional offices is to dispatch an increasing caseload as efficiently as possible. The federal prosecutors have, generally speaking, acquired a good reputation for professional standards and fairness. They have tried to deal in an even-handed way in a controversial field of law where there is a strong body of opinion opposed to certain aspects of the law and its enforcement. Because of the very controversial nature of their work, the

approach of the prosecutors to the exercise of discretion is a cautious one. They are very conscious of the possible abuse of discretion.

Another important consideration affecting the exercise of discretion by federal prosecutors in the drug field is the dominant role played by the police, and particularly the R.C.M. Police, in the initiation and direction of cases. The federal prosecutors work very closely with the police in these cases, and make few decisions without their approval.

The decision as to whether a charge should be laid. This is a decision as to whether there is to be a prosecution at all, and as to the nature of the charge on which it is to be based. Outside the Montreal region, this decision is usually taken by the police without prior consultation with the prosecutors, but in the Montreal region it is customary for the police to consult the prosecutors first. The difference in practice is thought to be due to the difference in the volume of cases which has to be handled in the different regional offices. Looking at drug prosecutions in Canada as a whole, it may be said that the police play the dominant role in the decision as to whether to prosecute and as to the charge to be laid. However, prosecutors have an opportunity to review the appropriateness of the charge after it has been laid and to correct any errors which may have been made. They may withdraw a case if they are of the opinion that there is not sufficient evidence to support it. Withdrawal of a charge is a decision over which regional directors exercise close supervision.

The decision as to whether to proceed by indictment or summary conviction. The distinction between indictable offences and summary offences is basically one of relative seriousness, which is reflected in the range of penalties.[2] When the Crown is given the option to proceed by indictment or summary conviction it is really given the option to decide how seriously it wishes to treat the offence. An important consequence of the distinction between indictable offences and summary offences is that the *Identification of Criminals Act*,[3] which provides for fingerprinting and photographing and the keeping of such records in a central registry, applies to persons accused or convicted of indictable offences.[4] Federal legislation which provides for the option to proceed on summary conviction has been held by the Supreme Court of Canada not to be in violation of the right to equality before the law which is affirmed by the *Canadian Bill of Rights*.[5]

The option has existed since August 1969 in cases of simple possession under the *Narcotic Control Act*, and it exists in all cases under Parts III and IV of the *Food and Drugs Act*, but the discretion of prosecutors with respect to it is circumscribed by policy directive from senior officials of the Department of Justice in Ottawa. In July 1969, when Bill S-15 creating this option was pending, the Department issued the following "general rules" to determine how it should be applied in cases of simple possession:

(1) Cannabis, controlled drugs, restricted drugs.
  (*a*) first or second offence, summary conviction;
  (*b*) third or subsequent offence, indictment.

(2) Hard drugs (i.e. drugs other than cannabis, controlled or restricted drugs).
   (*a*) first offence, summary conviction;
   (*b*) second or subsequent offence, indictment.
(3) Hard drugs after conviction relating to cannabis, controlled or restricted drugs, indictment.
(4) Cannabis, controlled or restricted drugs, after conviction relating to hard drugs, indictment.
(5) Charges including both hard drugs and cannabis, controlled or restricted drugs, first offence, summary conviction.
(6) Indictment in any case that would otherwise be time-barred.

The directive pointed out that these were general instructions only; that provision would be made for exceptional cases; but that consistency and uniformity of enforcement would be ensured by prior consultation with designated officials in Ottawa. The chief cases in which discretion to depart from these rules has been exercised is where the accused has a previous criminal record. In practice, the prosecutors in the main metropolitan areas have been permitted, because of their experience, to exercise discretion in exceptional cases without consultation with the departmental officials in Ottawa.

There is no general policy directive as to when the prosecution may proceed by summary conviction, rather than indictment, in cases involving trafficking or possession for the purpose of trafficking in controlled drugs and restricted drugs under Parts III and IV respectively of the *Food and Drugs Act*. The decision is based on the circumstances in each case.

Other areas in which prosecutors exercise discretion are the scheduling of cases, representations as to bail, reduction of charges or counts in exchange for a plea of guilty and negotiations and representations as to sentences. In several of these areas of discretion, as in others, the police appear to play a very influential role.

The practice differs in various jurisdictions as to whether judges expect Crown counsel to speak to sentence. It is thought by some judges to be a usurpation of the judicial function; by others it is thought to be the duty of the Crown. When provision for absolute and conditional discharge came into effect in July 1972[6] (see Appendix F.8 *Sentencing*) federal prosecutors were instructed by the Department of Justice in Ottawa to recommend absolute or conditional discharge in all cases of first offence of simple possession of cannabis where there was not a previous criminal record or a concurrent conviction for another offence. There has been some reaction from the courts, however, that they will not treat the application of absolute or conditional discharge in a particular class of cases as automatic in the absence of legislation clearly requiring it.[7]

F.8 SENTENCING

As indicated in Appendix E *Conviction Statistics for Drug Offences*, the range of possible sentences for drug offences includes fine, suspended sen-

tence, probation, imprisonment and absolute or conditional discharge. In the case of indictable offences the court has complete discretion as to the amount of the fine. Where an indictable offence is punishable by imprisonment for more than five years a fine may be imposed in addition to but not in lieu of imprisonment.[1] This is a severe limitation on judicial discretion. Its repeal was recommended by the Canadian Committee on Corrections.[2] A sentence to imprisonment for two years or more is served in a federal penitentiary. A sentence for less than two years is served in a penal institution under provincial jurisdiction. In the latter case the sentence may be to a common jail or to a reformatory. In Ontario and British Columbia the courts are empowered to add to a definite sentence of not less than three months but less than two years a sentence for an indeterminate period not exceeding two years less a day.[3] For jurisdiction with respect to parole in such cases see Appendix K *Parole of Heroin Dependents in Canada.* A court may suspend the imposition of sentence and place a convicted person on probation.[4] Probation may also be imposed in addition to other disposition, such as fine or imprisonment. For further details on probation see Appendix J *Probation for Heroin Dependents in Canada.* The provision for absolute and conditional discharge which came into effect in July 1972 is in the following terms:

> 662.1(1) Where an accused, other than a corporation, pleads guilty to or is found guilty of an offence, other than an offence for which a minimum punishment is prescribed by law or an offence punishable, in the proceedings commenced against him, by imprisonment for fourteen years or for life or by death, the court before which he appears may, if it considers it to be in the best interests of the accused and not contrary to the public interest, instead of convicting the accused, by order direct that the accused be discharged absolutely or upon the conditions prescribed in a probation order.[5]

If an accused who has been granted a conditional discharge commits any offence while on probation, including the offence of a violation of the probation order, the court that made the probation order may revoke the discharge, convict the accused of the offence to which the discharge relates and impose any sentence that could have been imposed if the accused had been convicted at the time he was discharged.[6]

Sentencing practices in drug cases are characterized by a wide disparity across Canada. Not only is this clear from reported decisions, but it is conclusively demonstrated by answers to questions which were put to judges in research conducted for the Commission. The purpose of this research was to determine judicial perceptions of the drug phenomenon.

In the summer of 1970 approximately 70 judges were interviewed.[7] Fifteen hypothetical cases were put to the judges to determine the sentences they would give. The answers revealed a very great disparity in sentencing. The range of sentences in each case is shown in Table F.1. The total amount of imprisonment given for all the cases combined ran from a low of four years to a high of 47 years. It should be observed that to some extent this disparity reflected the difference in resources, such as probation, available

TABLE F.1

RANGE OF DISPOSITIONS IN FIFTEEN HYPOTHETICAL CASES

Case	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Fine	9	6	—	2	34	18	2	2	8	5	15	—	2	—	3
Suspended sentence	4	2	—	—	8	4	10	3	7	1	12	—	3	—	1
Probation	15	12	—	2	22	3	24	4	25	5	37	4	17	—	3
Jail	21	29	5	28	3	29	12	24	12	30	1	23	16	6	16
Reform	11	6	2	13	—	6	4	8	6	10	—	24	9	2	13
Penitentiary	1	8	59	18	—	3	4	18	—	10	—	10	7	56	24
Probation & Jail	4	4	—	4	1	4	7	4	6	6	1	6	9	2	5
Additional facts	3	1	—	1	—	1	3	5	1	1	1	—	1	—	—
Not answered	1	1	3	1	1	2	3	1	4	1	2	2	5	3	4

to judges in their respective areas, but there was also marked disparity in the sentences suggested by judges in the same area.

Sophistication in judicial response increased with the experience of the judge. Complex combination sentences—for example, fines plus probation, institution plus probation—tended to be characteristic of the experienced judges.

The scale of seriousness attached to the case depended primarily on the type of drug concerned and whether the case was one of trafficking or simple possession. Drugs tended to be rated from highest to lowest in the following order: heroin, amphetamines, LSD and other hallucinogens, hashish and marijuana. Judges operating with a simple set of rules tended to make a rigid distinction between trafficking and possession. More experienced judges would draw distinctions among trafficking cases depending upon the amount of the drug, the relationship betwen seller and purchaser, and the motive for sale. An important secondary factor concerned the existence and length of a previous criminal record. It appeared that the record was always considered but only after an assessment had been made of the current offence. Some judges tended to minimize the significance of a record, feeling that it was their task simply to sentence for the current offence.

There has been a tendency on the part of appeal courts to be more severe in their approach to sentencing than the trial courts. There have been many cases in which prison sentences have been imposed or increased on appeal by the Crown.[8] There have also, of course, been cases in which sentence has been reduced on appeal.[9]

NOTES

F.1 *The Constitutional Framework*

1. Section 91(27) of the Canadian Constitution (the *"British North America Act"* which is usually referred to as the *"BNA Act"*) confers exclusive jurisdiction upon the Parliament of Canada to make laws in relation to matters falling within the class of subjects described as "The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters."

2. *Standard Sausage Co. v. Lee* [1934] 1 D.L.R. 706, [1933] 4 D.L.R. 501; *R. v. Wakabayashi,* (1928) 3 D.L.R. 226. See also *Rex v. Perfection Creameries Ltd.* [1939] 3 D.L.R. 185, affirming the validity on the basis of the federal criminal law power, of the prohibition against adulteration of butter in the federal *Dairy Industry Act.*

3. R.S.C. 1970, c. N-1.

4. R.S.C. 1970, c. F-27. Part III of the *Food and Drugs Act* prohibits trafficking and possession for the purpose of trafficking in "controlled" drugs (barbiturates and amphetamines) and Part IV prohibits trafficking, possession for the purpose of trafficking and unauthorized simple possession of "restricted" drugs (LSD, and other strong hallucinogens—DET, DMT, STP(DOM), MDA, MMDA, and LBJ).

5. [1971] S.C.R. 5.

6. Section 91(2) of the *BNA Act* confers exclusive jurisdiction upon the Parliament of Canada to legislate in relation to matters which fall within the class of subjects described as "The Regulation of Trade and Commerce". As we shall see, the apparently unlimited scope of these words has been cut down by judicial interpretation, so that jurisdiction with respect to this subject is divided between the federal and provincial legislatures.

7. Section 91 of the *BNA Act* confers on the federal Parliament exclusive jurisdiction to make laws for the "Peace, Order and Good Government" of Canada in relation to matters not assigned to exclusive provincial jurisdiction. This is generally referred to as the "Peace, Order and Good Government" clause or the general power of Parliament. And then "for greater certainty but not so as to restrict the Generality of the foregoing", it explicitly provides that exclusive federal legislative jurisdiction shall extend to all matters coming within the classes of subjects specified in an enumerated list. The numbered paragraphs in this list are usually referred to as subsections of section 91 or as "heads" of jurisdiction. Section 92 confers exclusive jurisdiction upon the provinces to make laws in relation to matters falling within the classes of subjects specified in an enumerated list. It does not contain an introductory or general grant of power in terms comparable to those of section 91, but head 16—"Generally all Matters of a merely local or private Nature in the Province"—is often referred to as the provincial residuary power.

8. *Reference re Natural Products Marketing Act* [1936] S.C.R. 398, aff'd by [1937] A.C. 377.

9. *The Queen v. Klassen,* (1959) 20 D.R.R. (2d) 406.

10. *In re Regulation and Control of Aeronautics in Canada* [1932] A.C. 54; *Johannesson v. West St. Paul*, [1952] S.C.R. 292.
11. *In re Regulation and Control of Radio Communications*, [1932] A.C. 54. The full scope of federal jurisdiction with respect to radio and television is presently a matter of some controversy.
12. *Pronto Uranium Mines Ltd. and Algom Uranium Mines Ltd. v. Ontario Labour Relations Board* [1956] O.R. 862.
13. *Munro v. National Capital Commission*, [1966] S.C.R. 663.
14. *Fort Frances Pulp & Power Co. Ltd. v. Manitoba Free Press Co. Ltd.*, [1923] A.C. 695; *Co-operative Committee on Japanese Canadians v. A.-G. Can.*, [1947] A.C. 87; *Reference re Validity of Wartime Leasehold Regulations*, [1950] S.C.R. 124.
15. *Toronto Electric Commissioners v. Snider*, [1925] A.C. 396.
16. *A.-G. Can. v. A.-G. Ont. (Labour Conventions case)*, [1937] A.C. 326.
17. *A.-G.-B. C. v. A.-G. Can. (Natural Products Marketing Reference)* [1937] A.C. 377.
18. *Board of Commerce case*, (1922) 1 A.C. 191.
19. (1882), 7 App. Cas. 829.
20. *A.-G. Ont. v. Canada Temperance Federation* [1946] A.C. 193.
21. (1883), 9 App. Cas. 117.
22. The decision concerned the validity of the federal *Liquor License Act, 1883* (46 Vic. c. 30, as amended by 47 Vic. c. 32). The decision of the Supreme Court of Canada is set out in the Schedule to 48–49 Vic. c. 74. Four of the five judges held that the Act was *ultra vires* except insofar as it related to vessel licenses and wholesale licenses—that is, licenses which were not of a retail nature within the provinces. The fifth judge held that the Act was *ultra vires* in whole. The decision of the Privy Council holding the Act *ultra vires* is referred to in several subsequent decisions, including the following: *A.-G. Can. v. A.-G. Alta. and A.-G. B.C.* [1916] 1 A.C. 588, per Viscount Haldane at pp. 595–597; *Board of Commerce case*, (1920), 60 S.C.R. 456 per Duff J., dissenting at pp. 494–497; *Toronto Electric Commissioners v. Snider* [1925] A.C. 396 per Viscount Haldane at pp. 410–413; *The Natural Products Marketing Reference* [1936] S.C.R. 398 per Duff C. J. at pp. 409–411.
23. *A.-G. Ont. v. A.-G. Can.*, [1896] A.C. 348 (usually referred to as the "Local Prohibition" case).
24. *Reference as to the Validity of Section 5(a) of the Dairy Industry Act*, [1949] S.C.R. 1, aff'd by [1951] A.C. 179.
25. Martin J. A. in *Standard Sausage Co. Ltd. v. Lee, supra*; Cross J., dissenting in *Rinfret v. Pope* (1886) 12 Q.L.R. 303; Estey J. in *Reference re Validity of Section 5(a) of the Dairy Industry Act*, [1949] S.C.R. 1.
26. For example: *Rinfret v. Pope, supra*, in which the Quebec Court of Appeal held that public health legislation in each province, with the exception of the matters attributed to Parliament in section 92(11) of the *BNA Act*, fell within provincial jurisdiction; See also *Re Shelly*, (1913) 10 D.L.R. 666, holding regulations concerning the wrapping of bread to prevent the spread of infectious disease to fall within provincial jurisdiction.
27. See, for example, the following statement in the federal working paper, *Income, Security and Social Services*, which was presented to the fourth meeting

of the Constitutional Conference on December 8, 1969: "Federal measures touching public health, such as pure food and drug enactments, represent a legitimate exercise of the criminal law power and, if necessary, the residuary power may be invoked to support federal legislation designed to cope with unusual hazards to public health. General legislative competence over health and welfare services, however, has been taken to reside at the provincial level."

28. *Re George Bowack* (1892) 2 B.C.R. 216; *The Canadian Pacific Navigation Co. v. The City of Vancouver* (1892) 2 B.C.R. 193; *La Municipalité du Village St. Louis du Mile End v. La Cité de Montréal* (1885) 2 M.L.R. S.C. 218.

29. This was the assumption of the Rowell-Sirois Commission, and it was referred to without dissent in the working paper, *Income Security and Social Services, supra.* We have not been able to find any reported judicial decisions interpreting the scope of the word "quarantine" in section 91(11) of the *BNA Act.*

30. *Fawcett v. A.-G. Ont.*, [1964] S.C.R. 625, aff'g [1964] 2 O.R. 399. See also *R. v. Trapnell* (1910) 22 O.L.R. 219 (Ont. C.A.); *Green v. Livermore* [1940] 22 O.R. 381.

31. The Senate of Canada: Proceedings of the Special Committee on the Traffic in Narcotic Drugs in Canada, Queen's Printer, 1955, xix.

32. *Criminal Code*, Part XXI. *Brusch v. The Queen* [1953] 1 S.C.R. 373; *R. v. Neil* [1957] S.C.R. 685.

33. See *Narcotic Addict Act* of New Brunswick, 1961–62 Stat N.B. c. 25.

34. Section 543.

35. Section 542.

36. See *R. v. Trapnell* (1910), 22 O.L.R. 219 (Ont. C.A.), per Meredith J. A. at p. 222.

37. Laskin, Canadian Constitutional Law, Revised 3rd ed. 1969, p. 852.

38. Section 745.

39. *Goodyear Tire and Rubber Co. of Canada Ltd. et al. v. The Queen* [1956] S.C.R. 303.

40. *A.-G. B.C. v. Smith*, [1967] S.C.R. 702, upholding the validity of the *Juvenile Delinquents Act*, mainly on the ground that it was prevention of crime.

41. *Robinson v. California*, 370 U.S. 660.

42. Judicial decisions have affirmed the validity of the delegation by Parliament of administrative power to a provincial administrative authority, as distinct from the delegation of legislative power to the provincial legislature itself, which would be invalid. *P.E.I. Potato Marketing Board v. H. B. Willis Inc. and A.-G. Can.* [1952] 2 S.C.R. 392; *Coughlin v. Ontario Highway Transport Board* [1968] S.C.R. 569. The same principle would apply to delegation by a provincial legislature to a federal administrative authority.

43. *A.-G. Can. v. A.-G. Ont.* (*Labour Conventions* case), [1937] A.C. 326.

44. In certain fields of activity, such as highway traffic, the courts have recognized the valid co-existence of somewhat similar or overlapping federal and provincial penal provisions. The federal provisions are enacted in virtue of the criminal law power, and the provincial provisions in virtue of provincial jurisdiction to regulate highway traffic. The courts would appear to be prepared to recognize the valid co-existence of virtually identical provisions so long as compliance with one does not involve violation of the other. See *Mann v. The Queen* [1966] S.C.R. 238.

45. See *Liquor Prohibition* case, *supra;* also *A.-G. Man. v. Manitoba Licence Holders' Association,* [1902] A.C. 73. See also *R. v. Nat Bell Liquors Ltd.,* [1922] 2 A.C. 128.
46. *Switzman v. Elbling and A.-G. Que.,* [1957] S.C.R. 285, at pp. 305–306, 324.
47. With reference to gambling: *Rex v. Lamontagne,* [1945] O.R. 606; *Johnson v. A.-G. Alta.* [1954] S.C.R. 127; *Deware v. The Queen,* [1954] S.C.R. 182; *Regent Vending Machines Ltd. v. Alberta Vending Machines Ltd. and A.-G. Alta.,* (1956) 6 D.L.R. 548; with reference to censorship: *Regina v. Board of Cinema Censors of Quebec, ex parte Montreal Newsdealers Supply Co.,* (1968), 69 D.L.R. (2d) 512; with reference to sexual morality: *Rex v. Hayduk,* [1938] O.R. 653. In most of these cases there was federal legislation touching the subject matter, but the weight of judicial opinion that flows from them is that the provinces do not have a jurisdiction to suppress conduct in the interest of public morality.
48. Cf. *Regina v. Snyder and Fletcher,* (1967) 61 W.W.R. 112 and 576 (Alta. C.A.) and *Regina v. Simpson, Mack and Lewis,* (1969) 1 D.L.R. (3rd) 597, [1969] 3 C.C.C. 101 (B.C.C.A.), in which the Courts of Appeal of Alberta and British Columbia came to different conclusions concerning the validity of provisions in the provincial Health Acts prohibiting the simple possession of LSD at a time when it was not prohibited by federal law. The Alberta provision was held to be valid as legislation in relation to a matter of public health, and the British Columbia provision was held to be invalid as legislation in relation to a matter of criminal law. Another example of a provincial prohibition of drug-related conduct as an aspect of the protection of health is the provision in the *Alberta Public Health Act* (to which reference is made elsewhere in this report) prohibiting the distribution and use of volatile substances for purposes of intoxication. As far as we are able to ascertain the validity of this provision has not yet been judicially determined.
49. *Rex v. Osjorm* [1927] 2 W.W.R. 703 (Alta. C.A.)
50. For other cases in which, as in *Rex. v. Osjorm,* the primary purpose of the legislation was held to fall within provincial jurisdiction although it could be said to be also advancing a notion of public morality: *Regina v. Wason* (1890), 17 O.A.R. 221 at 241–242; *Regina v. Fink* [1967] 2 O.R. 132 at 135–137.

F.3 *The Law with Respect to the Offences of Simple Possession, Trafficking, Possession for the Purpose of Trafficking, Importing and Cultivation*

1. R.S.C. 1970, c. N-1.
2. R.S.C. 1970, c. F-27.
3. *R. v. McLeod,* (1955), 21 C.R. 137 (B.C.C.A.).
4. *R. v. Ling,* (1954), 19 C.R. 1973; 109 C.C.C. 306 (Alta. S.C.); but compare *Regina v. Quigley,* (1955), 20 C.R. 152; 111 C.C.C. 81 (Alta. C.A.), where it was held that the only reasonable conclusion was that the amount found was the residue of a larger amount.
5. As to the necessity of signature on the certificate: *R. v. Richardson,* (1969) 68 W.W.R. 501 (B.C.C.A.); *R. v. Blau,* 10 C.R.N.S. 65 (B.C. Prov. Ct.); *R. v. Clark,* (1969) 70 W.W.R. 399 (B.C.C.A.); as to the accused's right

to notice: *A.-G. Can. v. Ross*, 15 C.R.N.S. 71 (Que. C.A.); *R. v. Bellrose*, 15 C.R.N.S. 179; *R. v. Lewis*, 6 C.C.C. (2d) 516 (Ont. C.A.); *R. v. Henri*, 9 C.C.C. (2d) 52; as to proof required of delivery to analyst: *R. v. Dawdy and Lamoureux*, [1971] 3 O.R. 282 (Ont. C.A.); as to what the certificate must state in a case of cultivation: *R. v. Busby*, 7 C.C.C. (2d) 234 (Yukon Territory Court of Appeal).

6. *R. v. Beaver*, [1957] S.C.R. 531, 118 C.C.C. 129; *R. v. Peterson*, 1 C.C.C. (2d) 197 (Alta. C.A.). See also *R. v. Burgess*, [1970] 3 C.C.C. 268 (Ont. C.A.) where it was held that it is sufficient that the accused know that he is in possession of a prohibited drug although he may not know which prohibited drug he has, and the case of *R. v. Custeau*, 6 C.C.C. (2d) 179 (Ont. C.A.) to similar effect in a trafficking case involving the sale of LSD under the mistaken belief that it was mescaline, a drug on Schedule F of the *Food and Drug Regulations* whose sale without prescription is prohibited. See also *R. v. Blondin*, 2 C.C.C. (2d) 118 (B.C.C.A.), a case involving importing, in which it was held that there is sufficient *mens rea* if the accused is found to have "wilfully shut his eyes to what it was" if there can be inferred from this fact that he "suspected that it might be a narcotic".

7. *Narcotic Control Act*, s. 7; *Food and Drugs Act*, ss. 36 and 44.

8. *R. v. Colvin and Gladhue*, [1943] 1 D.L.R. 20, 78 C.C.C. 282 (B.C.C.A.); *R. v. Lavier*, 129 C.C.C. 297 (Sask. C.A.); *R. v. Harvey*, 7 C.R.N.S. 183 (N.B.C.A.); *R. v. Marshall*, (1969), 3 C.C.C. 149 (Alta. C.A.); *R. v. Dick and Malley*, (1969) 68 W.W.R. 437 (B.C.C.A.); *R. v. Caldwell*, 19 C.R.N.S. 293 (Ata. C.A.); *R. v. Brady*, *R. v. Maloney*, *R. v. McLeod*, 19 C.R.N.S. 328 (Sask. Dist. Ct.); but see *R. v. Bourne*, (1970) 71 W.W.R. 385 (B.C.C.A.), following the judgment of Davey J.A. in *R. v. Bunyon*, 110 C.C.C. 119 (B.C.C.A.) that where there is not sufficient control to meet the test of joint possession under section 3(f)(b) of the *Criminal Code*, the accused may be found guilty of having aided and abetted the offence of possession within the meaning of Section 21(1) of the *Criminal Code*.

9. Section 2. For a conviction of offering: *R. v. Chernecki*, 4 C.C.C. (2d) 556 B.C.C.A.).

10. Sections 33 and 40.

11. Section 2.

12. *R. v. Macdonald*; *R. v. Vickers*, (1963) 43 W.W.R. 238, (B.C.C.A.). See also *R. v. Wells*, [1963] 2 C.C.C. 279, in which the accused was convicted of trafficking for her aid to a distributor who actually passed the drugs to the buyers. She drew up a list of potential buyers, received their money, and checked their names off the list as they received their purchase.

13. *R. v. Brown*, (1953–54), 17 C.R. 257 (B.C.C.A.).

14. *R. v. Madigan*, [1970] 1 C.C.C. 354 (Ont. C.A.); see also *R. v. Dyer*, 5 C.C.C. (2d) 376 (B.C.C.A.), which held that a buyer of a narcotic was not an accomplice of the trafficker, and accordingly her evidence did not require corroboration. But compare *R. v. Poitras*, 6 C.C.C. (2d) 559 (Man. C.A.), in which the accused, who claimed to be acting as agent for the purchaser, was held to have been a seller or trafficker.

15. *R. v. MacDonald*; *R. v. Harrington and Scosky*, (1964), 41 C.R. 75, (1963) 43 W.W.R. 337, [1964] 1 C.C.C. 189 (B.C.C.A.); *R. v. Cushman*, 5 C.R.N.S. 359 (B.C.C.A.); *R. v. Pappin*, 12 C.R.N.S. 287 (Ont. C.A.), Cf. *R. v. Young*, 2 C.C.C. 560 (B.C.C.A.), where transportation for the benefit of the accused, his wife and a married couple who were friends was held to go

beyond transportation for one's own use. The accused was convicted of possession for the purpose of trafficking. See also *R. v. Weselak*, 9 C.C.C. (2d) 194, where accused also transported for others as well as his own use.

16. *R. v. MacFadden*, 5 C.C.C. (2d) 204 (N.B.C.A.).
17. *Narcotic Control Act*, s. 4; *Food and Drugs Act*, ss. 34 and 42.
18. *Narcotic Control Act*, s. 8; *Food and Drugs Act*, ss. 35 and 43.
19. See *R. v. Wilson*, (1954) 11 W.W.R. (N.S.) 282 (B.C.C.A.), but compare with *R. v. Macdonald, R. v. Harrington and Scosky*, (1963) 43 W.W.R. 337 (B.C.C.A.). Other circumstantial evidence most commonly relied on are exhibits suggesting sale or distribution, such as containers, scales and measuring spoons, lists of names and telephone numbers, large amounts of cash in small denominations, and the like; and evidence of the accused's movements suggestive of contact for purposes other than his regular employment.
20. See *R. v. Sharpe*, [1961] O.W.N. 261, 131 C.C.C. 75 (Ont. C.A.) a case under the *Opium and Narcotic Drug Act*, the predecessor of the *Narcotic Control Act*.
21. Section 2(f).
22. [1968] 2 C.C.C. 183 (B.C.C.A.); see also *R. v. Cappello*, 122 C.C.C. 342 (B.C.C.A.), and *R. v. Hupe, Forsyth and Patterson*, 122 C.C.C. 346 (B.C.C.A.).
23. [1970] 3 C.C.C. 1 (B.C.C.A.).
24. 3 C.C.C. (2d) 354 (S.C.C.).
25. Formerly Section 224A(1).
26. *In re Winship*, 397 U.S. 358 (1970).
27. *Leary v. United States*, 395 U.S. 6 (1968) at p. 36: "... a criminal statutory presumption must be regarded as 'irrational' or 'arbitrary', and hence unconstitutional, unless it can at least be said with substantial assurance that the presumed fact is more likely than not to flow from the proved fact on which it is made to depend."
28. *R. v. Geesman*, 13 C.R.N.S. 240 (Que. Ct. Sess.), where it was held to be immaterial that the drug was intended for re-shipment to the United States. See also *R. v. Dunlop*, 19 C.R.N.S. 43 (N.B. County Ct.).
29. *Regina v. Busby*, 7 C.C.C. (2d) 234 (Yukon Territory C.A.); *R. v. Fahlman* (1968), 5 C.R.N.S. 192, 67 W.W.R. 109, aff'd on other grounds, 8 C.R.N.S. 245, 70 W.W.R. (B.C.C.A.).

F.4 *Applicable Provisions of the Criminal Code*

1. R.S.C. 1970, c. C-34.
2. Section 423.
3. Section 320.
4. Section 324.
5. Section 326.
6. Section 213.
7. Section 229.

8. Section 230.
9. Section 195.
10. Section 251.
11. Section 234.
12. Section 422.
13. See *R. v. McLeod and Georgia Straight Publishing Ltd.*, 12 C.R.N.S. 193 (B.C.C.A.), in which a newspaper was convicted of counselling persons to cultivate marijuana.
14. Section 22.
15. Section 21.

F.5 *Juvenile Delinquency Legislation*

1. R.S.C. 1970, c. J-3, s. 2(1). Drug-related conduct that is not the subject of specific legal prohibition is not likely to bring a person within the definition of juvenile delinquent. In *R. v. Pandiak*, (1967) 61 W.W.R. 207 (Alberta Supreme Court, Kirby J.), it was held that glue sniffing, which was not the subject of any legal prohibition, did not come within the words "any similar form of vice" in the definition of juvenile delinquent, and that accordingly a person who had aided and abetted a child to engage in glue sniffing had not contributed to his becoming a juvenile delinquent within the meaning of section 33 of the Act. (The distribution and use of volatile solvents for purposes of intoxication have since been prohibited in Alberta.)
2. Section 9. For a discussion of the considerations governing the exercise of discretion to transfer a case of juvenile delinquency to the regular courts see Graham Parker, (1970) 48 *Can. Bar Rev.* 336.
3. See, for example, *R. v. Olafson* (1967), 68 W.W.R. 525 (B.C.C.A.), where it was held that a youth who was adjudged to be a juvenile delinquent by reason of unlawful possession of a prohibited drug and was transferred to the adult court and charged with unlawful possession under the *Narcotic Control Act*, could not raise the plea of *autrefois acquit*. See also *R. v. Gray* (1971) 3 W.W.R. (B.C.S.C.) where the defendant was accused of delinquency under the *Juvenile Delinquents Act* by reason of possession of marijuana. The Crown applied to have the defendant tried in the ordinary courts but that application was refused. The defendant then went before a juvenile court and pleaded guilty to the delinquency and was placed on probation. When he broke the terms of his probation he was once again brought before a juvenile court, whereupon the Crown applied, as before, that he be retried in the ordinary courts for the original delinquency, this time as an offense under the *Narcotic Control Act*. The juvenile court judge granted the application, and on appeal this was held to be a proper course under the *Juvenile Delinquents Act*. The court followed the *Olafson* decision.
4. See, for example, *R. v. Martin*, 9 C.R.N.S. 147 (Man. Q.B.), where a youth of sixteen, charged with trafficking in LSD, was ordered transferred from the juvenile court to the adult court, but the latter held that it was not in the interest of the juvenile or sociey to subject him to trial upon indictment in the adult court.

F.6 *Special Methods of Enforcement*

1. Section 10(1).
2. Sections 37 and 45.
3. *Narcotic Control Act*, s. 10(2).
4. Section 10(3).
5. Submission of R.C.M. Police to the Commission.
6. Section 10(1)(b).
7. Section 37(1)(a) and 45.
8. Section 10(1)(c).
9. Sections 37(1)(c) and 45.
10. Section 11.
11. *Narcotic Control Act*, s. 10(4).
12. [1950] 2 D.L.R. 265 at 270 (Ont. C.A.).
13. *R. v. Larlham*, [1971] 4 W.W.R. 304 (B.C.C.A.).
14. For example: *R. v. Verge*, [1971] 4 W.W.R. 116 (B.C.C.A.); *R. v. Madigan* [1970] 1 C.C.C. 354 (Ont. C.A.); *R. v. Coughlin, ex parte Evans*, [1970] 3 C.C.C. 61 (Alta. S.C); *R. v. Shipley* [1970] 3 C.C.C. 398 (Ont. Co. Ct.); *R. v. Omerod* (1969), 6 C.R.N.S. 37 (Ont. C.A.); *R. v. Larson*, 6 C.C.C. (2d) 145 (B.C.C.A.); *R. v. Lazar*, 9 C.C.C. (2d) 3 (Ont. C.A.).
15. See *R. v. Omerod*, (1969), 6 C.R.N.S. 37 (Ont. C.A.).
16. In *R. v. Coughlin, ex parte Evans*, [1970] 3 C.C.C. 61 (Alta. S.C.) a person sought unsuccessfully to bring a prosecution against a police constable for aiding and abetting trafficking. He had been convicted of trafficking in marijuana on the evidence of the constable, who, acting as an undercover agent, had purchased the marijuana from him. The court held in effect that the constable was in no different position than any other purchaser, and that since purchase does not constitute trafficking it would defeat the purpose of the law to hold that it could amount to an aiding and abetting of trafficking. In effect the court attached no importance to the particular purpose for which the purchase had been made.
17. For a discussion, without expression of opinion: *R. v. Omerod*, 6 C.R.N.S. 37 at 44–66; for obiter dicta that the defence does not exist in Canadian law: *Lemieux v. the Queen*, [1968] 1 C.C.C. 187 at 190; *R. v. Chernecki*, 4 C.C.C. (2d) 556 at 559–560.
18. In *R. v. Shipley*, [1970] 3 C.C.C. 398 (Ont. Co. Ct.), a case in which an undercover agent had persuaded a young person to obtain drugs for him, a judge of the County Court ordered a stay of prosecution on the ground that the court had an inherent power to prevent abuse of process. The court relied on the decision of the Ontario Court of Appeal in *R. v. Osborn* 5 C.R.N.S. 183. There the Court of Appeal had exercised an inherent jurisdiction to prevent a person from being prosecuted for an offence very similar to one of which he had been earlier acquitted. The decision of the Court of Appeal was unanimously reversed by the Supreme Court of Canada (12 C.R.N.S. 1), and the conviction restored. It is not clear from the opinions rendered in the Supreme Court whether the judges were of the opinion that there was no inherent jurisdiction to prevent abuse of criminal process or whether they simply felt that the facts did not show oppression in the par-

ticular case. At the very least, the judgment in *Osborn* leaves considerable doubt as to whether *Shipley* can stand as good law. But cf. *R. v. Kowerchuk*, 3 C.C.C. (2d) 291 (Prov. Ct.), which followed the view adopted by the Ontario Court of Appeal in *Osborn* as to an inherent jurisdiction to prevent abuse of process and ordered a stay of proceedings, although the case was not one of police instigation of an offence; also *R. v. MacDonald*, 15 C.R.N.S. 122 (B.C. Prov. Ct.) which dismissed a charge of trafficking on the ground of abuse of process because of instigation by an undercover agent.

19. *R. v. Price*, 12 C.R.N.S. 131 (Ont. C.A.).
20. *Sorrells v. United States*, 287 U.S. 435 (1932).
21. Canada, Canadian Committee on Corrections, *Towards Unity: Criminal Justice and Corrections*, (Ottawa: Queen's Printer, 1969), (The 'Ouimet Report'), p. 79.

F.7 *Prosecution in Drug Cases*

1. *BNA Act*, s. 92(14).
2. The importance of the distinction is no longer so much one of procedure (jury trial) or jurisdiction (superior court as opposed to magistrates). A very high proportion of cases involving indictable offences in Canada are tried by magistrates, either as an aspect of their absolute jurisdiction or by consent of the accused. See *Criminal Code*, s. 484; Hogarth, *Sentencing as a Human Process*, University of Toronto Press, 1971, p. 35.
3. R.S.C. 1970, c. I-1.
4. These requirements are often applied, however, in cases in which there is an option to proceed by indictment or summary conviction, since the offence is in fact an indictable offence, but the practice varies.
5. *R. v. Smythe*, 3 C.C.C. (2d) 366 (S.C.C.).
6. 1972 Stat. Can., c. 13, s. 57.
7. See, for example, *R. v. Derkson*, 9 C.C.C. (2d) 97 (B.C. Prov. Ct.).

F.8 *Sentencing*

1. *Criminal Code*, s. 646(2).
2. *Report of Canadian Committee on Corrections*, p. 199.
3. *Prisons and Reformatories Act*, R.S.C. 1970, c. P-21, ss. 44 and 150. In the case of females in Ontario the definite portion of the sentence is not required (s. 55).
4. *Criminal Code*, s. 663.
5. *Ibid.*, s. 662.1.
6. *Ibid.*, s. 662.1(4).
7. These interviews were conducted by Professor John Hogarth, who directed the Commission's project of empirical research into various aspects of law enforcement. They were confined to judges outside Quebec. A separate study was made of judicial attitudes of judges in Quebec, but it did not yield results on disparity in sentencing.

8. See, for example: *R. v. McNicol*, 5 C.R.N.S. 242 (Man. C.A.); *R. v. Lehrmann*, [1968] 2 C.C.C. 198 (Alta. C.A.); *R. v. Adelman*, [1968] 3 C.C.C. 311 (B.C.C.A.); *R. v. Morrison*, [1970] 2 C.C.C. 190 (Ont. C.A.); *R. v. O'Connel*, [1970] 4 C.C.C. 162 (P.E.I.C.A.); *R. v. Cuzner*, [1970] 5 C.C.C. 187 (Ont. C.A.); *R. v. Dejong*, 1 C.C.C. (2d) 235 (Sask. C.A.); *R. v. Doyle and others*, 2 C.C.C. (2d) 82 (Alta. C.A.).
9. See, for example: *R. v. Vautour* [1970] 1 C.C.C. 324 (N.B.C.A.); *R. v. Doxen*, [1970] 3 C.C.C. 431 (Ont. C.A.).