

Villanova Law Review

VOLUME 18

MAY 1973

NUMBER 5

CONTEMPORARY PROBLEMS OF DRUG ABUSE: A NATIONAL SYMPOSIUM FOR LAW AND MEDICAL STUDENTS

PREFACE

THE BOARD OF EDITORS of the *Villanova Law Review* is pleased to publish the proceedings of the symposium, Contemporary Problems of Drug Abuse, which was sponsored by the American Bar Association and the American Medical Association and was held at the Villanova University School of Law March 23, 24, and 25, 1973. The purpose of the symposium was to provide law and medical students with the basic framework of knowledge required to develop expertise in the area of drug abuse. It succeeded admirably. The Board of Editors is grateful to the American Bar Association, the American Medical Association, and to Mr. Peter A. Levin, Executive Director of the symposium, for the opportunity to publish these proceedings.*

* An effort has been made to retain both the format and flavor of the symposium. Although footnotes have been added, not all materials referred to by speakers were available to the Board of Editors. It is suggested that any reader requiring citation to an uncited source contact the individual speaker concerned.

ORDER OF PROCEEDINGS

I. FRIDAY EVENING

A. Introductory Remarks

J. Willard O'Brien, Esq.
Dean,
Villanova University School of Law..... 792

Peter A. Levin, Esq.
Executive Director of the Symposium
Assistant District Attorney,
Philadelphia, Pennsylvania 792

Robert W. Meserve, Esq.
President,
American Bar Association..... 794

Richard E. Palmer, M.D.
Secretary-Treasurer and Member of the Board
of Trustees,
American Medical Association..... 797

B. Keynote Address

The Honorable Jerome H. Jaffe, M.D.
Director,
Special Action Office for Drug Abuse Prevention,
Executive Office of the President..... 800

II. SATURDAY MORNING

A. An Historical Perspective on Legal and Medical Responses to Substance Use

David F. Musto, M.D.
Associate Professor of History and Psychiatry,
Yale University 808

B. Discussion of the Final Report of the National Commission on Marihuana and Drug Abuse

Michael Sonnenreich,
Executive Director,
National Commission on Marihuana and Drug
Abuse 817

C. Reactions to the Report

Thomas E. Bryant, M.D.
President,
Drug Abuse Council
Washington, D.C. 827

James Markham <i>New York Times</i>	828
Jonathan Leff Director of Special Publications, Consumers Union of the United States, Inc.....	829
Sander Vanocur Consultant, Center for the Study of Democratic Institutions Santa Barbara, California.....	835
Robert Hughes News Bureau Chief, Metromedia Radio Washington, D.C.	836
<i>D. General Discussion</i>	839

III. SATURDAY AFTERNOON

A. The Mass Media and Drug Taking

The Honorable Nicholas Johnson Commissioner, Federal Communications Commission.....	851
---	-----

B. Do Solutions to Drug Problems Threaten Our Civil Liberties?

Mark L. Cohen Drug Abuse Council, Inc. Washington, D.C.	865
--	-----

Nicholas N. Kittrie, Esq. Professor of Law and Director, Institute for Studies in Justice and Social Behavior, The American University Law School.....	868
---	-----

Joe Moss, Esq. Appellate Division Chief of the Criminal Section, District Attorney's Office Houston, Texas	873
---	-----

Thomas S. Szasz, M.D. Professor of Psychiatry, Upstate Medical Center of the State University of New York.....	875
---	-----

Henry Brill, M.D. Director, Pilgrim State Hospital	
--	--

Member, National Commission on Marihuana and Drug Abuse	877
C. <i>General Discussion</i>	889

IV. SUNDAY MORNING

A. *Legislative Process and Social Reform: Marihuana Reconsidered*

Richard Atkins, Esq. Counsel, Governor's Council on Drug and Alcohol Abuse Philadelphia, Pa.	896
--	-----

Lester Grinspoon, M.D. Associate Clinical Professor of Psychiatry, Harvard Medical School.....	897
--	-----

John Finlator Former Deputy Director, Bureau of Narcotics and Dangerous Drugs.....	910
--	-----

R. Keith Stroup, Esq. Executive Director, National Organization for the Reform of Mari- huana Laws Washington, D.C.	914
--	-----

B. <i>General Discussion</i>	921
------------------------------------	-----

V. SUNDAY AFTERNOON

A. *The Great Drug Education Game*

Peter G. Hammond Executive Director, The National Coordinating Council on Drug Education, Inc. Washington, D.C.	924
--	-----

B. *The Drug Scene: What We Never Learned in Law and Medical School*

The Honorable Paul A. Dandridge Judge, Municipal Court of Philadelphia Member, Governor's Council on Drug and Alcohol Abuse	932
--	-----

Joel Fort, M.D. Lecturer, School of Criminology,	
--	--

University of California, Berkley Founder, The Center for Solving Special Social and Health Problems San Francisco, California.....	932
The Honorable Lisa A. Richette Judge, Court of Common Pleas Philadelphia, Pa.	937
Sidney H. Schnoll, M.D. Medical Director, HELP Free Clinic Fellow in Neuropharmacology, Jefferson Medical College.....	940
Bernard L. Segal, Esq. Professor, Golden Gate Law School.....	941
C. <i>General Discussion</i>	942

a larger social framework and everytime you start pressing buttons because you think that this is morally justified or it is morally horrendous, recognize that you are turning a policy over and you had better be certain that it conforms with that whole larger area we are talking about.

DR. BRYANT: Thank you.

MR. LEVIN: I would like to thank Dr. Musto, Mr. Sonnenreich, Dr. Bryant, Mr. Leff, Mr. Hughes, Mr. Markham, and Mr. Vanocur.

III. SATURDAY AFTERNOON

A. *The Mass Media and Drug Taking*

MR. LEVIN: Ladies and gentlemen, the Commission report focused to some degree on the relationship between the mass media and drug abuse. We are fortunate to have with us this afternoon Federal Communications Commissioner Nicholas Johnson, who will discuss this issue with us in detail.

THE HONORABLE NICHOLAS JOHNSON: Good afternoon. There are a few things I want to say at the outset about the problem of radio and television with regard to the drug problem in our country in general, and then I would like to entertain questions and learn the things in which you are interested.

I want, particularly, to address this afternoon the so-called "self-regulatory" effort of the National Association of Broadcasters with regard to drug advertising, something which has not really received much public discussion so far. Then, if we have time, I would like to say something about what I believe to be the real cause of the problem, if any, and what it is we need to do about it.

For starters — and this relates a bit to the broader subject that we may get around to before the afternoon is over — radio and television commercials put forward a particular philosophy, a particular point of view, a particular style of life that is echoed throughout the programs as well as the commercials. It makes no difference, really, what product is being advertised because all commercials are commercials for all products. Moreover, all programs are written by the same people who write the commercials and are paid for by the same people who are likewise pushing the same style of life, the same commercial products, the same values of conspicuous consumption, and the same material gospel.

If you study them, you get a sense of the extent and the degree to which radio and television commercials make a very persuasive case for why we should not try to achieve our full potential as human beings, why we should not pursue the fulfillment of individuality, personal growth, and why we should not attempt to mold a maturity born of confrontation with reality. What radio and television commercials are telling us is that deodorants and soaps and toothpaste and mouthwashes will increase our sexuality; they tell us that we are not supposed to experience our feelings of fear or anger or anything else. They say that there is something dangerously unacceptable about an occasional sleepless night and that our psychic states are solely a function of the chemicals that we ingest. One commercial advises us that the answer to our tension headaches is aspirin with bufferin, and a little later on in the evening the same pharmaceutical company advises us that plain aspirin is really the best remedy. While beer-drinking lulls us into the state of witlessness that is the prerequisite for watching the program — as Nathan Williams has observed, television wants to keep you stupid so that you will watch it — at the same time we are watching these programs the advertisers want us to watch, drinking their product, commercials are telling us that beer is going to give us the gusto to go climb a mountain or engage in some other vigorous pursuit.

Without multiplying the examples endlessly, let me, in short, make the rather obvious point that the drug advertisers are telling us what they and their advertising agencies believe is the best way of promoting their product, getting us to buy it, regardless of our need, regardless of our welfare, regardless of the merit of the product.

There is a sameness about these commercials, even though they are talking about different products, that has helped to produce its own national anxiety. Sometimes the anxiety is related to the program as well. You may notice the number of headache remedies that are advertised during the evening news, as if that were somehow the way to deal with problems that you have just been watching. Uniformly these advertisements heighten our awareness of the tensions of living in what is really a very hostile environment for human beings and for individual growth — a somewhat neurotic society, one might say, a society that is cluttered with the value structure and with the products of the other corporate sponsors. These commercials argue that the fault, the difficulties that we confront as human beings trying to make a life for ourselves in the corporate state that is America today, lie in our failure to adjust to their values, and that the way we may become “normal” is to take the drugs and other mind-altering chemicals that they offer.

Last year the drug industry spent some \$400 million trying to get such a message across to the American people. That constitutes some 35 per cent of the wholesale value of the drugs. Of that \$400 million, some \$300 million was spent on television advertising alone.

The wine and beer industries spent \$100 million pushing their products, and those investments have certainly paid off. Americans are spending at least \$2 billion a year on their non-prescription drug habit and about \$31 billion a year on the nation's number one hard drug by any measure, alcohol.

The problems posed by the broadcast advertising of drugs have not gone totally unnoticed. Public awareness has increased, as evidenced in part by this very conference. Recently on public broadcasting there has been a show called *The Advocates*, which some of you may have seen. It has a debate format. On the particular evening when I appeared as a witness, the subject was whether or not drug advertising should be banned. After the show, the audience writes in and votes how they feel about the proposition. On that particular evening when the case against a ban on drug advertising was put as forcefully as advocates for that position could put it (of course, the case for a ban on drug advertising was also forcefully put forward) of the audience that participated, who had heard both sides of the argument, 85 per cent said they wanted a ban on drug advertising on television.

The National Council of Churches held extensive hearings on drug advertising and concluded that pharmaceutical ads "encourage the misuse and abuse of drugs."

The President's Commission on Marihuana and Drug Abuse, which you have heard about at this conference from the director of the Commission, also recommended limitations on drug advertising. The Congress has begun to reflect that concern as well. Senator Nelson introduced a bill that would regulate drug advertisements in an effort to prevent deception, and Congressman Claude Pepper has, at least, threatened to introduce a bill that would ban drug advertising during the daytime hours in an effort to help in dealing with the problems of drug advertising to children.

In short, I think that more and more Americans are becoming aware that they are living in a drug culture, one that is fostered by corporate avarice, one that has spawned an ever-increasing barrage of drug messages which encourages us to participate in the chemical life style from which the drug companies profit so handsomely.

There are at least two major problems inherent in the content of the drug ads. I think there is a considerable danger that the constant airing of only one side of this particular question of science, of religion,

of life style, of philosophy, has created a massive problem of misinformation on the part of the American people. Such misinformation is a problem in any society that is premised on democratic principles. It is especially serious when the misinformation happens to relate to the nation's health. Basically — and this is something the medical profession ought to be interested in — the drug advertisements are encouraging people, first of all, to be much more conscious of symptoms than they might otherwise be; to be perhaps unduly concerned about their health. Second, it encourages them to evaluate and note the particular symptoms which they have. Third, it encourages them to diagnose their own ills. And fourth, it then encourages them to prescribe their own pills. Why someone has not thought to bring a malpractice of medicine suit against the drug advertisers, I do not know, but that is essentially what they are engaged in — endeavoring to substitute their television commercials for the counsel of a doctor.

The second major problem is that the drug advertisements, like all other commercials, promote a conspicuous consumption style of life, which has geopolitical implications in international politics, as well as psychological implications. I think, as do a great many other observers, that such advertising bears a major part of the responsibility for the kinds and degree of anxieties that we now see in Americans which have led them to the chemical solutions in the first place. On the one hand, we give advertisers free rein to create an artificial demand for useless or harmful products and at the same time, we limit the right of those opposed to get their message on the air. What you may not know is that the same people who control the programs and the commercials also control the so-called public service spots through the Advertising Council which clears public service announcements for viewing on television. The Council, as you might guess, is made up of the very same fellows who write all the other commercials. That is one reason why the public service spots you see say so very little about so very much.

It is the first problem, that of misinformation, which has spawned the greatest amount of public and congressional criticism so far, but I think the second problem is also now beginning to demand some serious attention. That is the problem that troubles the drug industry the most, because that industry literally thrives on the sorts of anxieties that are inherent in a consumption-oriented society, the kinds of anxieties that come from an individual's feeling of inadequacy because he is not consuming as much as that guy in the commercial. If you notice, virtually all of the commercials and the programs, come to you from the \$125,000 homes in which most Americans do not live.

It is always amazing to me that if you just turn on the television at random, you cannot tell, at first glance, whether it is a commercial or a program to which you have tuned. Take the typical Hawaiian beach scene — there is a man and a woman in an automobile on the beach and the waves are coming up on the sand. It may be one of those Hawaiian cops and robbers shows or it may be a commercial, but if it is a commercial there is no telling what it is going to be a commercial for. It may be for the airline that got them there; it may be for the automobile company from which they bought the car or the rental car company from which they rented it, or the hair spray company that provided the lady's hair spray, or the soft drink that is about to come bounding out of the waves. Or take the all-purpose commercial in which the lady walks out into the living room which has expensive drapes, thick carpet, and expensive furniture. She is wearing a long dress and lots of makeup and hair spray. You do not know what she is going to sell you because it could be any one of those things, but then she takes out from behind her back a can of lemon something and sprays it all over. Basically what she is selling you is that \$125,000 house and all that goes with it, and she says, "If you are not living this way, you don't amount to anything as a human being and you are unhappy and miserable because you don't have all this stuff that I have got, that I have got to wax and clean and move and dust and get repaired when it breaks."

Well, in any event, that is why the broadcasting and drug industry so fear the prospect of information leaking out to the American people, and so it was that they groped for an instant cure for the congressional anxieties that had begun to reflect public worry about drug advertising. The National Association of Broadcasters' Code Review Board recently presented the public, and more particularly the Congress, with a superficial remedy to the drug advertising problem which was reminiscent of the drug industry's simple-minded remedy of the pill for every ill.

The National Association of Broadcasters, known in Washington as "NAB," has set out to nab the pushers, who turn out to be its own members.

The new rules of the Review Board, the Code, would encourage broadcasters to regulate drug advertisements in a variety of ways. It encourages drug advertisements that provide factual information; it attempts to discourage advertisements that a product will alter the user's mood; it encourages drug advertisers to advise users to read the label. It seeks to prohibit the on-camera taking of pills, the use of children in drug advertisements, drug advertising that is adjacent to

programs principally designed for children, and personal testimonials by celebrities.

The public ought to be extremely skeptical about this alleged effort at "self-regulation." First of all, even if these so-called rules were applicable to all stations, which they are not, and meaningfully enforced, which they are not, they are extremely vague and not even designed to correct anything but a small part of the problem.

The thrust of the drug advertisements is not likely to be changed — "Better Living Through Chemistry" is not just a DuPont slogan — nor is there any hope that the new rules will reduce the potential for misinformation inherent in such ads, nor is there any prospect for fewer drug ads, nor is there any hope for information about drugs from a source other than the pusher.

The only real answer to the problem of misinformation is to allow what are called "countercommercials" on radio and television. For example, when a drug commercial says that a particular aspirin product cures headaches faster than any other, the counter-ad might offer the evidence that all aspirin is the same and that the least expensive brand is the best buy. Needless to say, the NAB Code would have nothing to do with a proposal for countercommercials. Indeed, I once engaged the General Counsel of the NAB in a colloquy in a hearing before the Federal Communications Commission (FCC) because Bayer was using the AMA's report that all these modified analgesics actually do you no more good, and in some instances more harm, than plain aspirin. Bayer, of course, did not use the entire AMA report, it only used the report up to that point and then went on to say that, therefore, one should buy Bayer. A public interest group wanted to take the entire AMA report, which went on to say that if you are buying aspirin you ought to get the cheapest brand, and run that as a public service advertisement. I might add, parenthetically, that the report does not go anywhere near far enough. By my standards, I think the people ought to be told why it is you get headaches, what you can learn from headaches, how you can change your life so that you do not have any, and how massage works better than aspirin when you get one — but that is really a separate subject. In any event, I asked the General Counsel of NAB why it was that he found the ad from Bayer quite acceptable but the ad from the public interest group, using the same information, unacceptable. He responded quite candidly that the public interest group's commercial would be, in his words, "too credible." In that regard, I might note that broadcasters are well aware that counteradvertising regarding cigarettes did

far more to reduce the consumption of cigarettes in the United States than the ultimate ban on cigarette advertising.

The reason why the NAB solution cannot deal with the misinformation problem is because it relies, as I indicated, upon the pusher to tell the truth about his product, a belief which I think remains a pipedream. In any event, the Code does not deal at all — and I should say, in fairness, that it never tried to — with the problem of drug orientation in our society, because a resolution of that problem would require either that all sides of the issue be heard or that drug advertising be banned entirely. A system of full information to the consumer has always been an anathema to the American businessman because he is frightened of the effect that intelligent choices in the marketplace might have on his merchandising efforts. Frankly, I have always had more confidence in the American free enterprise system than that. I have never felt it was absolutely necessary to lie, cheat, misrepresent, and otherwise engage in fraudulent practices in order to move your goods. I have always felt that a fully informed consumer would continue to buy the best product in the marketplace; that free market forces would work, and that all the theory of the free enterprise system would prevail. However, as is obvious, it is very difficult to get the business community to support that position.

It might very well be that a ban on drug advertising would increase the profits of drug companies. After all, they have a \$300 million investment in advertising. It is interesting to note that the cigarette companies found that Wall Street understood the significance of the cigarette advertising ban and the stock prices shot up, not down. Cigarette consumption has begun to rise once again, now that people are no longer constantly reminded that cigarette smoking is associated with death as well as with sexuality and the other attributes of a fun-packed adult life.

Even if the regulations did offer a solution to the misinformation problem — which they do not — they would still be ineffective. I do not know how many of you have studied the process of so-called self-regulation by American industry, but lest you have any misapprehension about its effectiveness, let me disabuse you of it by describing the situation in the broadcasting industry. In the first place, most broadcasters in America do not even subscribe to the NAB Code. Only 3,000 out of 8,000 radio and television stations do so. Therefore, you have got 5,000 at the outset that are not affected by it at all.

What about the 3,000? First, the Code makes no effort to monitor what they do, so there is no way to report any violations that might

occur, if they did occur. Secondly, if violations were reported, there is no method of factfinding or hearing procedure which could be utilized to determine what the broadcaster actually did. Even if there were such investigatory procedures available there is still no procedure for the enforcement of the regulations and there are no penalties attached to a violation. It is not surprising that, therefore, I conclude that the NAB, as a protector of the public interest, is scarcely even a paper tiger.

The only bodies that could enforce rules against drug advertising are the FCC and the Congress — and they will not. The FCC has simply abdicated its responsibility in this area, as I should say it has in so many others. The Congress, which once appeared concerned about the problem, has now been mollified by the broadcasters' superficial proposal of self-regulation. Congressman Paul Rogers, Chairman of the House Public Health and Environment Subcommittee, has commended the broadcast industry for its new rules. He has said that "certainly this is a preferable way to handle matters, to let industry regulate itself where possible." And so it would appear that the NAB has, indeed, scored a major public relations coup. The Congress has cooled considerably in its attempts to do something about the still very serious problem of drug advertising. Congressman Pepper has yet to introduce that bill which he has been threatening to introduce for the last 2 or 3 months.

The advertising, drug, and broadcasting industries have taken the pressure off of the Congress and as *Broadcasting* magazine (the lowest common intellectual denominator for the industry) has characterized it, "We have headed them off at the pass."

What is disturbing about all of this is that these industries appear to have achieved their goal at such a very modest cost, with so insignificant a gesture, which is simply another indication of how powerful they really are. My only hope, which I retain with my seemingly unquenchable optimism, is that the American people will not be fooled so easily in this day of shell games from Washington. In the final analysis, it is the people who do have some power to effect a change in drug advertising, but only if they will exercise that power, only if they will let their elected representatives in the House and Senate know that they, as well as the drug companies, intend to be heard on this issue. They must let their representatives know that they do not believe the issue has gone away simply because the NAB has come up with a superficial, quick, fast, fast relief remedy in the form of its own Code. I think that once elected representatives begin to

understand that people do care about this issue, that they are going to hold them accountable on it, we may get a fair shake.

Thus endeth the reading for today, and I will turn now to whatever questions you may have.

PARTICIPANT: Have you seen a list of the sponsors of this symposium?

MR. JOHNSON: Yes, I have.

SAME PARTICIPANT: Would you care to comment?

MR. JOHNSON: Yes. The first comment is that I noted the list of sponsors. I am always very interested in where the money is coming from, because I find that there tends to be some correlation between the money that comes in and the result that comes out. I find the best way to deal with that is just not to take any of their money and thereby retain as much independence as you have. I think it is simply another indication of the far-reaching power of these industries, that even when we get together to discuss the problem, we go to them for money and those who expect to go back and get money again obviously are going to be affected in some degree by what they say during the course of the conference — I think that is too bad. But then, that is the great American way and there is a lot right with America. I am tired of those folks that are always criticizing everything!

PARTICIPANT: Would you explain why you have said the FCC has abdicated its responsibilities, and maybe talk about why and how it has done this?

MR. JOHNSON: The question is how and why has the FCC abdicated its responsibilities. The how is very easy. It just does not do anything. The why is more interesting. I do not know how much time you have to spend on this and do not want to go into a whole long rap on it, but most governmental agencies, in fact, are carrying out industry's wishes rather than being engaged in any meaningful form of regulation. That is an overgeneralization, but it is basically accurate. (If I could talk for 60 minutes about it, you could conclude it was an understatement rather than an overstatement.) This comes about for a number of reasons. You know, we are concerned in this country about inflation right now and we wonder what the cause of it is, why we have the problem. Let me give you some examples of why. You may recall that prior to the presidential election the Department of Agriculture announced that under no circumstances would it raise the price of milk because milk was a basic American commodity and

there was no justification for raising the price because everyone was adequately compensated. One week later some milk producers from the Midwest paid a little call on Richard Nixon and, because of their great support of his political philosophy, decided to leave behind when they walked out of his office a brown paper bag with \$325,000 in cash in it. Mysteriously, the very next day, the Department of Agriculture met just on their own to think again about their decision about the rise in the price of milk and concluded, much to everyone's surprise, that they had indeed erred the first time when they considered the subject and that probably a \$700 million price rise would be in order.

This is roughly the formula — a 2,000 to one return for what you give in cash to what you get back. The way you get it back is in the variety of ways that government can give it back to you. They can give it back to you by raising the prices to consumers — that is the way we do it in regulatory commissions. Seriously, in the 1970 election the national gas industry gave \$700,000. After the election the price of gas was raised \$1.5 billion. That is again 2,000 to one. I do not know how much they gave me in 1972, I have not put together the figures yet, but I do know that the day after the election the price of natural gas was raised once again very substantially and that there was immediate talk of an energy crisis. You know the energy crisis. Well, the energy crisis suddenly came up, without any warning, and suddenly we discovered that we have no energy anymore. The remedy for that, which has been widely talked about by those in government and industry (they seem to agree on this) is that the greatest way to produce more natural gas would be to raise the price at the wellhead from 26 cents to 50 cents, thereby doubling everyone's natural gas public utility bill and providing more incentive to drill for that gas.

The FCC at least had enough style to wait and not do anything the day after the election. We waited until Thanksgiving Eve — which gave me an opportunity to comment upon our celebration of holidays in the FCC. Last Christmas we announced that we were simply going to call off entirely a rate hearing regarding the Bell System on the grounds that we did not have enough people to conduct it, which prompted me to write an article entitled, *Why Ma Bell Still Believes in Santa Claus*. Three weeks later the Commission reversed itself and the hearing was reinstated. But on Thanksgiving Eve, long after the press had gone home so that there would be no coverage of it in the papers over the holiday (which is the principal reason why all the times that we really do the worst damage to the public we

announce it after 5 p.m. on Friday or the evening before a holiday), we announced to AT&T that they could have a \$1.3 billion increase in telephone rates, an increase which I might note was found to be unjustified by the FCC trial staff, was found to be unjustified by the Hearing Examiner who heard the case, and was found to be unjustified by me and my staff when we reviewed the records. In all probability the increase would never have been able to pass the standards of the Price Commission under Phase II. Thus, the Administration was faced with the embarrassing problem of how to give Bell \$1.3 billion when to do so directly violated the standards of its own Price Commission. Those of you who follow these things may recall how the great dilemma was resolved. The Price Commission was abolished, and the \$1.3 billion rate increase went into effect.

The price of gasoline is another example. We have had a program known as the Oil Import Quota System. The Oil Import Quota System is designed to keep us from using foreign oil and to encourage the use of our own oil reserves for national defense purposes. At least, that is the way it was explained to me by the companies. Obviously, however, in time, we will have used up our own reserves and will have to rely upon imports. Anyway, this national defense program has resulted in our keeping out of the United States tremendous quantities of foreign oil with the result that we have kept prices of American oil significantly higher than they might otherwise have been — in fact, approximately \$7 billion a year, roughly 5 cents per gallon on every gallon of gasoline you buy.

Nixon treated the recommendations of the Commission on the Oil Import Quota Program in much the same way he treated the recommendations of the National Commission on Marihuana and Drug Abuse. The Commission was comprised of economists who had formerly worked for President Eisenhower. They recommended abolition of the Oil Import Quota Program on the grounds that there was no economic justification for it whatsoever. President Nixon promptly ignored their recommendation, kept the Oil Import Quota Program, and kept the cash that came from the oil companies.

In addition to the \$7 billion a year paid to the oil companies through the Oil Import Quota Program, there is another sum of like magnitude which is paid to oil companies in the form of welfare payments — taxes that you pay to make up for the taxes that they do not pay. The oil industry during the 1960's paid an average rate of return on income of 5 per cent, although the law, as you may know, requires of all corporations an income tax level of 48 to 50 per cent. Atlantic

Richfield pulled in some \$300 to \$400 million during a 3 to 4 year period during which it paid zero in income taxes. These are just some of the ways in which your government represents your interest.

The Civil Aeronautics Board (CAB) sees to it that the airlines' rates are regulated in the public interest. Recently you may have seen that the airlines themselves wanted to lower the rates and the CAB would not let them. That is an indication of how far things have gone with that regulatory commission.

In the State of California, where the CAB cannot get its hooks on the airline that runs from San Francisco to Los Angeles, you pay 4 cents a mile to fly. On the East coast, you pay 11 cents because the CAB is representing your interests. You wonder why we have inflation — we elected inflation!

PARTICIPANT: How long have you been Commissioner and how long do you expect to be with the FCC?

MR. JOHNSON: The question is whether the locks are being changed on my door at the office as yet. The answer is that an FCC Commissioner gets a 7-year term. Mine began in 1966 and expires in another 90 days, and after that "You won't have Nick Johnson to kick around anymore."

PARTICIPANT: Would you comment about advertising in medical journals?

MR. JOHNSON: I can. What would you like me to say?

SAME PARTICIPANT: Whether you approve of them.

MR. JOHNSON: I do not read the medical journals regularly, but I understand that they are full of drug advertising and that the drug industry spends approximately \$5,000 per doctor encouraging them to prescribe drugs. Is that right? That seems to me to be rather excessive. Think of the medical care programs you could have in this country if you would take \$5,000 per doctor and spend it on taking care of people instead of drug advertising.

There was a poll I saw recently, I think it was done among doctors in Boston, and I believe that some 80 per cent of those polled felt that doctors were overprescribing drugs.

I think, by and large, the medical profession — and it is up to doctors to speak to this, not me, but doctors have said essentially what I am repeating — has the same kind of information problem about drugs that the public has. They are overburdened; there is a limit to how many of the thousands and thousands of research reports that

come out every year they can read, and to the extent that their mind gets cluttered up with what they read in a full-page ad in a journal somewhere, it makes it more difficult to get factual information from any direction — a tremendous advantage to the drug companies in pushing their products. Our drug problem exists on many levels. The so-called drug problem and the over-the-counter problem are not the only ramifications of this. It is also present with the prescribed medicines.

Let me note — let me take the time to make this little pitch — that whenever you use, not just a chemical but a product of any kind, whether it is prescribed or not you effect yourself psychologically. It makes you less of a person. It says that you cannot deal with your own problem. You have got to go to an authority figure; you have got to go to something outside of yourself to deal with it. Who you are and what you are is a function of how you look, what products you associate yourself with. We can see this throughout alcohol consumption patterns. People choose what they drink based on their image of self and the image they wish to project. People choose cigarettes on the same basis. They choose a whole range of products on that basis.

I am not trying to say that under no circumstance should you use any medicine, do not put me in that box. But I am saying that when you prescribe medicine, either as a doctor, or when you prescribe it for yourself as a patient by over-the-counter drugs, or when you get into other drugs like alcohol, basically you are getting away from yourself rather than into yourself. You are weakening your own selfhood and are retarding your own striving toward a sense of potential and fulfillment because you are saying that you cannot deal with whatever problem you may have by yourself. This is one of the reasons why one of the most effective approaches to drug abuse that have come along have been things like the Maharishi transcendental meditation and Yogi Bajan's yoga, etc., because those things do help. I am not pushing that, either, but I want to say something about it. Those approaches say look inside of yourself, there is something very special about you as a human being. They say that you are functioning in about 5 per cent of your capacity as a human being — your capacity to love, your capacity to be productive, your capacity for physical health and energy and vigor, your capacity to be creative in an artistic sense. You are functioning in about 5 per cent of your potential and however you want to express it, whether you want to use the language of religion or of psychiatry, or whatever language you want to use to talk about this, there is something very special about you which needs to have a chance to flower, to develop and grow. That is why I would

much rather see somebody deal with a problem of stress and tension by using meditation than by using aspirin, not just because the aspirin may be chemically harmful in some way, but because the aspirin is cutting you off from something you need to know about yourself.

There is nothing wrong with feeling pain. Pain is a way of finding out what is going on inside of you. There are a lot of things you need to feel pain about in order to get from here to there — I mean, there is a reason for it — and if you feel angry or upset or jealous or frustrated, whatever you are down about, whatever you feel, feel that feeling and try to understand it and try to understand where it is coming from. Do not cut your body off at the neck so that you do not understand what is going on inside your body. You need to know what is going on there, and to the extent that you can deal with those things yourself — and again I emphasize I am not saying that under no circumstances should you take medicine; what I am saying is that anytime you can deal with a problem by jogging and getting more oxygen into your brain, by massage, by meditation, by something that you do yourself, by nutrition, by getting more and better sleep, fresh air — there are just tremendous advantages to you as a human being in terms of finding out who the hell you are, what you can do, and what you are all about.

That is the principal thing that is wrong, in my judgment. After you scrape away all the rest of this rhetoric and all these reports and everything else, that is the core of what is really wrong with our reliance upon things external to ourselves. What I am saying applies just as much to buying that Mustang automobile as it applies to Bayer Aspirin, mouthwash, hard drugs like alcohol, or some of the less popular hard drugs. You see, what I am talking about is a whole pattern of behavior that is being forced down upon you by corporations that profit from it. They need to manipulate you. They need to deprive you of your own individuality and worth and strength and striving as a human being. They need to treat you as a mass. They need to keep you watching television. They need you to consume their products. They need to develop your anxieties and tensions and sense of inferiority and worthlessness. They need to develop your sense of being a member of a mob and not being anything.

Jesse Jackson stands before his assembled group in Chicago every Saturday morning and starts off his marvelous performance of combination church service, lecture, music, community meeting, news, and whatever all it is, with a chant: "I am somebody." And they repeat that back. I think all of us need a little bit of that, not just those poor Blacks who are beaten to death in the kind of life that they have in

that part of Chicago where they are living. All of us need to remind ourselves, "I am somebody."

Television is trying to beat that out of you, and the drug companies are trying to beat that out of you. In my judgment, to talk about the drug problem as we do makes both too much and too little out of it. It is part of a much broader, much more pervasive, much more venal, much more serious, much more debilitating problem as we today watch the decline and fall of the American empire.

Thank you.

[At this point in the program the Streetcorner Society of East Lansing, Michigan, presented "The Street People Look at Our Drug Hypocritical Society."]

B. Do Solutions to Drug Problems Threaten Our Civil Liberties?

MR. LEVIN: We have a most distinguished panel to discuss the question of whether solutions to drug problems threaten our civil liberties. Mark L. Cohen of the Drug Abuse Council in Washington, D. C., will preside.

MR. MARK L. COHEN: I would like first to introduce the members of the panel. Professor Nicholas Kittrie is Professor of Law and Director of the Institute for Studies in Justice and Social Behavior at the American University Law School, and I believe he has just published a book called *The Right to be Different*.

Dr. Thomas Szasz is Professor of Psychiatry at the Upstate Medical Center of the State University of New York, and his new book is called *Second Sin*. That is one of many. I think the book he is best known for is *Law, Liberty, and Psychiatry*.

Dr. Henry Brill is the Director of the Pilgrim State Hospital in New York. He was the Vice Chairman of the Narcotic Addiction and Control Commission in New York State, and also is one of the members of the Commission on Marihuana and Drug Abuse which has just submitted its report to the President, which you heard about this morning from Mike Sonnenreich.

Joe Moss is an Assistant District Attorney in Houston and is the Chief of the Appellate Division of the Criminal Section there. Also, I believe, he has been a television celebrity on the Dick Cavett Show at times.

This afternoon we are going to be talking about civil liberties issues. Of course it is really hard to know what you mean by civil liberties. People have different concepts of what they are. I think