

## Chicago Police Seize *10,000 Doses* Conceptual Artwork

GALLERY DIRECTOR ARRESTED AND ARREST WARRANT ISSUED FOR ARTIST

*[The seizure of 10,000 Doses was] frightening because the Chicago Police had a knee-jerk reaction that this artist violated the law. They should have carefully analyzed the [presumed] controlled substance before issuing the arrest warrants. We hope that in the future the police will act prudently and give more credence to First Amendment rights, and to artistic freedom.*

-- Scott Hodes,  
Attorney for Feigen, Inc.

As quoted in the October 1995 issue of *The New Art Examiner*. (See G. Morris, "The Acid Test".)

On August 10, 1995, members of the Organized Crime and Narcotics division of the Chicago Police Department entered Chicago's Feigen, Inc., art gallery and seized an artwork titled *10,000 Doses*. The piece was created by Gregory Green a 36-year-old artist with a masters of fine arts degree from the School of Art Institute of Chicago. Created in 1994, *10,000 Doses* was a mixed-media sculpture consisting of 12 quart-sized laboratory bottles filled with an amber-colored liquid. The bottles were arranged in rows on a small industrial metal table. At the time of its confiscation, *10,000 Doses* was in the front window of the Feigen gallery, and on the window was emblazoned a four-foot-high revised recipe for making LSD in the kitchen, taken from *The Anarchist Cookbook*.

Four days after seizing the work, the Chicago Police Department informed the gallery that drug-testing of the liquid inside the bottles was "positive." Arrest warrants were issued for artist Gregory Green as well as Lance Kinz, the gallery co-director. Mr. Green, who lives in New York, was not arrested, but Mr. Kinz, who lives in Chicago, was taken into custody and charged with felony possession of LSD. Chicago Police issued statements estimating that the roughly three gallons of liquid could have supplied 230,000 doses of LSD with an alleged "street value" of \$1.2 million dollars. Mr. Kinz spent a day in jail before posting a \$10,000 bond. If prosecuted under federal law, both Mr. Kinz and Mr. Green faced a mandatory minimum sentence of ten years if convicted.

On August 18, 1995, however, the Chicago Police Department issued a press-release stating that a second drug test of the liquid failed to test positive for LSD. The release stated that the results of the initial test had been "misinterpreted." As a result, the Chicago Police Department asked the state's prosecuting office to drop the charges against Mr. Green and Mr. Kinz.

Following a brief hearing on August 23, 1995, the sculpture was released from the police evidence section. Mr. Green then confirmed that in order to gain access to the liquid for drug-testing the police cut open two of the bottles, destroying the piece.

Prior to being seized in Chicago, *10,000 Doses* had been shown without incident in galleries in New York and Los Angeles.

Since the mid-1980's, Mr. Green has created artworks and performances addressing the spectacle, psychology and aesthetics of violence. His previous works range from fierce battles of men in crude armor to mounted rows of motorized circular

### In This Issue

Chicago Police Seize Artwork .....	81
Entheogens Around the World .....	83
Q/A: .....	84
Spore prints; Ordering from exotic plant companies; Controlled substance analogues; Manufacturing; Nitrous oxide	
Supreme Court Heats LSD Case .....	88
Book Review: New book by Jonathan Ott .....	88
Resources: <i>Elcusis</i> Bulletin .....	88
Serve Your Community & Support TELR .....	89

saw blades. His most recent exhibit at Feigen, Inc., (following the seizure of *10,000 Doses*) explored the history and evolution of empowerment — including violence, the threat of violence, and alternatives to violence as vehicles for change — as well as the accessibility and availability of related information and technology.

Recently, Mr. Green's artistic investigations have shifted from focusing on empowerment through the use of violence and sabotage of the physical infrastructure to the use of non-violent means of interrupting established political and economic orders — specifically the control of information and communications systems. Believing in passive resistance and organized non-participation as the ultimate forms of empowerment, Mr. Green predicts and hopes that we will increasingly experience alternative strategies by individuals and groups attempting to establish new social systems. This is manifested in projects such as his ongoing endeavor of forming an officially recognized independent nation, "The Free State of Caroline," on the presently uninhabited island of Caroline in the Line Islands in the South Pacific.

According to Mr. Green, *10,000 Doses* was meant to conjure up images of 1960's radical social activists who advocated placing large amounts of LSD in municipal water supplies. The bottles did not contain LSD, but rather a mixture of \$100 worth of morning glory seeds purchased in a California plant store and ground up in Mr. Green's coffee grinder. To this, Mr. Green added various amounts of starter fluid, rubbing alcohol and castor oil. The bottles were then permanently sealed.

Clearly, the war on entheogens is not a war on substances but rather a war on a particular state of mind which is outside of the ego-centered rational consciousness essentially mandated by the government. It is ironic to note that this very cognicentrism produced irrational behavior by the Chicago police. (Did the Chicago police really believe that Mr. Green filled his art piece with real LSD — valued at over one million

dollars?) At the very least, the incident is a shocking measure of the government's blind fear of entheogens as triggers — a fear which must be assuaged if entheogens are ever to obtain a legitimate space in the Law and society. At worst, the seizure of *10,000 Doses* during its high visibility public display may be emblematic of the government's anger at the free expression of ideas which dissent from government policy on entheogens — an anger rooted in a puritanical despise (itself rooted in fear) of the full range of human consciousness. The incident brings to mind scenes from Ray Bradbury's 1953 novel *Fahrenheit 451*, where government forces rush around ridding the country of information not in lock-step with authoritarian dictates.

Since the return of *10,000 Doses*, which was destroyed by the Chicago Police

Department's act of cutting open two bottles, Mr. Green has remade the piece. The new piece, titled *230,000 Hits/\$1,200,000/Crime Lab Division/Chicago Police (10,000 Doses 2nd state)* incorporates the two sawed-open bottles as well as the police packaging materials which enwrapped the returned "evidence." *230,000 Hits* also includes a booklet containing numerous print-media articles reporting the incident as well as a videotape of televised news stories. Anyone interested in supporting Mr. Green by purchasing the piece should contact the Feigen art gallery.

TEL:R



## NEWS RELEASE

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18 August 1995

### POLICE DROP CHARGES AGAINST ARTIST AND GALLERY OWNER

The Chicago Police Department has contacted the State's Attorney's office asking to drop the charges against an art gallery owner and an artist showing his work in a near-North side gallery. The charges stemmed from tests of the unknown liquid, believed to be LSD, contained in an art exhibit.

The initial test was conducted by one of the department's certified chemists on 100ml of the unknown liquid. That micro chemical testing indicated the possible presence of LSD. The initial test was followed by a mass spectrometry test. The apparent results of that test were misinterpreted by a laboratory technician as confirming the substantive presence of LSD.

Subsequent technical review of the case determined that the data did not support the earlier conclusion. A second test, done on another sample from the exhibit, revealed that the results of the instrumental analysis, although indicating the presence of LSD, could not confirm a positive identification of the narcotic because of the small amount of the substance present in the sample.

The artwork will be returned to the gallery.

***It is extremely alarming and disheartening that Art in our society is being attacked, when it clearly poses no threat, but rather is intended to express and address ideas.***

—Lance Kinz, co-director of Feigen, Inc.

## Entheogens Around the World

*It's very difficult for me to get reliable information concerning the legal status of entheogens in other countries. In order to learn what's really happening in other countries, I have relied almost exclusively on reports received in correspondence with knowledgeable foreign friends. The following are a few such reports.*

RENÉ RIKKELMAN IS A DUTCH JOURNALIST, WHOSE WRITINGS HAVE BEEN PUBLISHED IN THE EUROPEAN ENTHEOGEN-ORIENTED MAGAZINES, *SOFT SECRETS* AND *PSYCHO-ACTIVE NETWORK*, HE FILED THIS REPORT FOR TELR READERS INTERESTED IN WHAT HE CALLS THE "DUTCH MUSHROOM PANDEMIC."

Almost one-and-a-half years ago (July 1, 1994) a court legalized the use and import of qat (*Catha edulis*), in spite of the fact that cathinone and cathine were made illegal in May, 1994. In the Dutch drug-law, mostly pure chemical substances are named (THC, indole-alkaloids such as tryptamine and LSD, phenethylamines such as mescaline, etc.). In addition, three plants are forbidden: *Cannabis*, coca, and Opium poppies. This means that every entheogenic plant which is not *Cannabis sativa*, *Erythroxylon coca* or *Papaver somniferum* may be used, grown or sold legally (and, as we all know, *Cannabis* is illegal-but-allowed here and *P. somniferum* are very popular as garden flowers — if a person grows *P. somniferum* no one will notice it as a "drug plant.") After this legalization of most entheogenic plants, several shops opened selling fresh *Psilocybe cubensis* mushrooms (prices: about fifteen US dollars per ounce), and San Pedro cacti (thirty US dollars per foot).

I think it was a year ago that the store Conscious Dreams opened it's doors at Kerkstraat 144 in Amsterdam. Conscious Dreams was meant to be a store which sold "New Age" products like healthy herbs, smart drugs/nutrients, brain machines,

magazines and so on. But soon after opening, magic mushrooms proved to be their best selling product. They sold mostly imported *Psilocybe semilanceata* and *P. cubensis*.

In January 1995, the police raided the store. They seized all the money, "suspected herbs," like Herbal Ecstasy, and some 700 grams of *P. semilanceata*. They closed the shop. Two days later, Conscious Dreams opened again, selling the same products. The only difference was that first the mushrooms they sold were dried, now they were fresh. They stopped selling Liberty Caps (they dried to fast), now they only sold *P. cubensis* and sometimes *P. cyanescens*. Now, ten months later, Conscious Dreams is still open and the police don't complain. This strange history has something to do with the Dutch "Opiumwet" (the official name of our drug law). In that law, indole-products such as psilocybin, psilocin, DMT, LSD, and so on, are prohibited. An indole product is the pure chemical substance or a preparation with such a substance. But after the *Catha edulis* case, it was clear that a plant was *not* a preparation.

At the moment the big topic is "Is a mushroom a preparation or a plant?" The Amsterdam police likely thinks spores, mycelium, substrate and fresh mushrooms are plants (immediately another shop, The Magic Shop, was opened in Amsterdam, selling substrate). Dried mushrooms and mushroom teas are treated as illegal preparations. At the trial against Conscious Dreams the question will be whether the Liberty Caps dried naturally, as the owner of the shop claims, or whether the owner actively dried them and in that manner transformed them into an illegal preparate.

Currently, in Amsterdam there are two shops selling fresh mushrooms (Conscious Dreams and The Magic Shop), one selling substrate (The Magic Shop) and several shops selling prints. No one sells dried mushrooms, everyone is waiting for the outcome of the Conscious Dreams trial.

Fortunately, this problem only seems to exist in Amsterdam. In Eindhoven (a city in the south of the country) there is a "mushroom-delivery-service;"

you ring them and they bring you mushrooms — without a pizza. In **Arnhem** there is a shop called Magic Mushrooms, which advertises openly with their address and product. They sell *dried* mushrooms. Nationwide there is an organization called Zwarte Kat (Black Cat) which is buying and selling fresh and dried mushrooms. Zwarte Kat also advertises. And so on and so on. Almost every month there is a new shop. A month ago art/mushroom-gallery Sign of the Times opened in **Rotterdam** and Amazing Products opened in **Nijmegen**. There is also a new mushroom shop in **Delft**.

At the moment, the most accurate manner to describe the legal position is this: The Department of Health (Minister Borst) thinks both fresh and dried mushrooms are legal. The Minister of Justice (Sorgdrager) thinks the same. But the Departments of Economy and Foreign Affairs and some lower police-officers, mainly in Amsterdam, think dried mushrooms are a forbidden preparation. At the moment, no one is in jail for selling or cultivating mushrooms, most think it is legal. — R. Rikkelman

#### PSILOCYBIN-CONTAINING MUSHROOMS IN SOUTHERN ASIA.

In 1994, a friend of mine visited **Sumatra**, in Indonesia, and reported that "magic mushroom" omelets were openly advertised and sold by many restaurants. A sampling of such an omelet proved to be psychoactive though he was unsure if the mind-moving ingredient was really a mushroom as opposed to LSD.

*[A paper published in 1992, reported similar use of *Psilocybe cubensis* and various *Copelandia (Panaeolus)* species by restaurants on the islands of Koh Samui and Koh Pha-ngan in Thailand. (See J.*

Allen & M. Merlin, "Psychoactive mushroom use in Koh Samui and Koh Pha-ngan, Thailand," 35 *J. of Ethnopharmacol.* 205-228.)]

THE FOLLOWING INFORMATION WAS RECEIVED FROM DR. JOCHEN GARTZ. DR. GARTZ IS A PROFESSOR AT THE UNIVERSITY OF LEIPZIG, GERMANY, IN THE DEPARTMENT OF FUNGAL BIOTRANSFORMATION. HE IS THE AUTHOR OF THE RECENT BOOK *MAGIC MUSHROOMS AROUND THE WORLD: A SCIENTIFIC JOURNEY ACROSS CULTURES AND TIME*.

...In **Germany**, **Switzerland**, and **Austria** you can only find psilocybin and psilocin in the law. We have no [analogue] laws in these countries and therefore baeocystin, DPT, and... compounds such as 2-CT-7 and 2-C-E are still completely legal.

You can find in these laws descriptions as "material or plant preparation." But of course fungi aren't plants and the question is if drying is a process of preparation. Even the Federal Bureau of Narcotics in Germany said that the mushrooms aren't in the laws. I don't know of any case of arrest or punishment from the three countries.

...Earlier this year a guy was arrested in **England** with *Cannabis* in his greenhouse. Also, the police found eight ounces of dried *Psilocybe semilanceata* in jars (about 2400 mg psilocybin). At his trial the defense proved that the mushrooms were for his personal use and the mushrooms were returned to the defendant! The *Cannabis* they would not let him keep and he was ordered to 100 hours community service.

...In **Holland** it is forbidden to pick mushrooms but not because they are psychotropic. It is because of the Natural Species Protection Act. So Dutch people go to the UK for hunting of *P. Semilanceata*.

TEL R

## Conference

*Technologies of the Sacred*. The Fifteenth International Conference of the International Transpersonal Association (ITA). The conference will explore a broad spectrum of ancient, aboriginal and modern techniques that can mediate access to the sacred dimensions of existence. The topic of entheogens will not be overlooked. Among the many presenters will be Dr. Charles Grob, Dr. Stanislav Grof, Michael Harner, Dr. Ralph Metzner, Ram Dass, and Dr. Alexander Shulgin. The conference will be held from May 17-22, 1996, in the heart of the Amazon, in the Tropical Hotel in Manaus, Brazil. For more information contact the ITA at 20 Sunnyside Ave., Suite A257, Mill Valley, CA 94941, 1-800-533-3641.

# Questions and Answers

## IS IT LEGAL TO SELL SPORES FROM MUSHROOMS WHICH CONTAIN PSILOCYBIN?

It's not explicitly outlawed in any state except California. With respect to California, the short answer to your question is "it's not legal." In other words, if a prosecutor was so inclined, he or she could charge a person with a felony for importing *Psilocybe* mushroom spores in to California. Under section 11391 of the California Health and Safety Code, it is a crime to transport, import, sell, furnish, give away, (or offer to do any these) "any spores or mycelium capable of producing mushrooms or other material which contain" psilocybin or psilocin.

However, under the plain terms of the statute, the above actions are only a crime if done "for the purpose of facilitating a violation of Section 11390" (Section 11390 makes it a crime to cultivate psilocybin-producing mushrooms with the intent to produce a controlled substance). In other words, it appears that it is perfectly legal to import *Psilocybe* mushrooms spores into California or sell them, so long as the spores are not intended to be used for cultivation. So, importing *Psilocybe* spore prints for the purpose of assisting mushroom identification, or for their natural beauty, or for any reason other than to facilitate cultivation appears legal under the statute.

As mentioned above, however, a person could be arrested just for importing the spores if the prosecutor believes he or she can show that the person intended to use them for cultivation. In fact, the average prosecutor, upon learning that someone in California was importing *Psilocybe* spore prints, would probably jump to the conclusion that the person intends

to cultivate the mushroom. By showing that a search of the person's home turned up petri dishes, agar, and/or books on cultivating *Psilocybe* mushrooms, a prosecutor might be able to construct an untrue but compelling circumstantial evidence case against a truly innocent mycophile who imported such spores for noncriminal purposes.

Lastly, under the California statutes, it is theoretically possible for a person whose "research, instruction, or analysis" has been approved by the Research Advisory Panel, to legally import and cultivate psilocybin-producing spores or mycelium. (Cal. Health & Saf. Code sec. 11392.)

## WHERE IS THE SAFEST PLACE FOR ME TO PURCHASE ENTHEOGENIC PLANTS AND PLANT PRODUCTS? ARE THE VARIOUS MAIL ORDER COMPANIES SAFE TO ORDER FROM?

With a few exceptions, everything I've seen available from the various domestic exotic and poisonous plant companies is perfectly legal to possess. So I really don't see a "safety issue," if I am understanding your question. Just make sure you aren't ordering anything scheduled or ostensibly outlawed in your state. (See previous question). If any legal action is taken against one of these companies you will surely read about it in TELR. For example, 3 TELR 16 reported the 1994 raid on Power Products.

I suppose it is possible that if the government initiated a covert investigation of these companies, it could employ a mail cover to track the people who correspond with them. A mail cover permits the recordation of any and all information contained on the outside of an envelope. By using a mail cover, the government, can't open the mail (a federal search warrant is needed for that), but it can record the names, addresses, postmark date and place, and any other information placed on the outside of the envelope. This information is recorded from both the

mail that is delivered to the target and from any mail sent out by the target. No search warrant is needed to employ a mail cover under the theory that a person has no reasonable expectation of privacy in things/information he displays publicly. (A poorly conceived rule since the mailing of letters requires that one write address information on the outside of the envelope. Therefore, it seems unfair to essentially force citizens to relinquish, as a matter of law, their privacy rights in such information.)

As to which of these various companies offer the best service, prices and products, I suggest you ask around to others who share your interest, or consider subscribing to one of the publications that keep current with the various companies and evaluate them. Two good publications along these lines are:

*Psychedelic Resource List*, Soma Graphics, P.O. Box 19820, Sacramento, CA 95819-0820. (\$15 subscription includes four updates per year.)

*The Psychedelic Sourcebook*, Will Beifuss, 1430 Willamette, #28, Eugene, OR 97401-4073. The proprietor of the Sourcebook asks that people do not mention "psychedelic sourcebook" on the envelope, and send only cash or money orders with a blank "pay to" space. (\$7 per issue, plus \$2 s/h in USA; \$4 foreign airmail.)

## THE FEDERAL ANALOGUE PROVISION USES A THREE PRONG DEFINITION OF "ANALOGUE." ARE THESE PRONGS DISJUNCTIVE? I MEAN, IN ORDER TO BE AN ILLEGAL ANALOGUE NEED THE SUBSTANCE MEET ONLY ONE OF THE PRONGS OR MUST IT SATISFY ALL THREE?

The answer, at least as given by one federal court, is halfway between the two possibilities you propose. The federal drug law provides that "A controlled substance analogue shall, to the extent intended for human consumption, be treated...as a controlled substance in schedule I." (21 U.S.C. sec. 813.) So, we know right off the bat

that specific intent is an element of this crime (i.e., the person must intend to consume the substance). Technically, as pointed out by Dr. Alexander Shulgin in correspondence, it is not a crime to keep such a substance in a bottle used only as a paper weight. The question would be whether a prosecutor could prove that the liquid or powder in the paper weight was, in fact, intended for consumption. As a practical matter, the typical jury would have a hard time accepting that a person possessed such a substance and did not intend to consume it. So, in my opinion, it's probably risky to place much reliance on the intent element as a defense.

As you mention, a separate section of the federal law defines "controlled substance analogue" as follows:

...the term "controlled substance analogue" means a substance —

i. the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

ii. which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

iii. with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II. (21 U.S.C. sec. 802 (32).)

There is only one published opinion wherein a court has examined this definition with an eye to determining

whether it is one-pronged, two-pronged, or three-pronged. (*United States v. Forbes* (D. Colo. 1992) 806 F.Supp. 232, affirmed (10th Cir. 1992) 977 F.2d 596.)

Relying on grammatical principles, the court pointed out that the "operative segments of clauses (ii) and (iii) both begin with the word "which," signaling the start of a dependent relative clause modifying a precedent noun. In each case, the precedent noun is "chemical structure" found in clause (i)." From this, the court tentatively concluded that the definition was two-pronged. The first prong requires a substantially similar chemical structure. The second prong requires either a substantially similar effect on the human nervous system or the personal intent to have such an effect.

The grammatical analysis was bolstered by the court's application of a deeply-rooted rule of statutory construction requiring courts to construe statutes to avoid unintended or absurd results. The court explained that if it read clause (ii) independently, "alcohol or caffeine would be controlled substance analogues because, in concentrated form, they can have depressant or stimulant effects substantially similar to a controlled substance." Likewise, the court noted that if it read clause (iii) independently, "powdered sugar would be an analogue if a defendant represented that it was cocaine..." Both results are absurd. Therefore, it was the court's finding that "clause (i) must apply to any substance that the government contends is a controlled substance analogue." This conclusion, noted the court, also fit with the legislative history of the statutes, explaining:

The analogue statute is directed at underground chemists who tinker with the molecular structure of controlled substances to create new drugs that are not scheduled. If a substance could be an analogue without a substantially similar chemical structure, Congress's

stated purpose would be significantly expanded.

As a result of this exhaustive analysis, the court announced that the federal analogue statute establishes a two-pronged test: "a substance may be a controlled substance analogue only if it satisfies clause (i) and [either] clauses (ii) or (iii)."

In other words, in order for a substance to fall within the definition of a controlled substance analogue it must either: (1) have a chemical structure which is substantially similar to a schedule I or II substance, and have a stimulant, depressant or hallucinogenic effect that is substantially similar or greater than the effect produced by its analogous schedule I or II substance; or (2) have a chemical structure which is substantially similar to a schedule I or II substance, and the defendant must have represented or intended the substance to have a stimulant, depressant or hallucinogenic effect that is substantially similar to or greater than the effect produced by the substance's schedule I or II counterpart.

**IS IT REALLY CONSIDERED "MANUFACTURING" A CONTROLLED SUBSTANCE IF ALL I DO IS EXTRACT IT FROM A PLANT THAT ENDOGENOUSLY PRODUCED IT? I'M NOT REALLY "MANUFACTURING" ANYTHING.**

Yes. Under the federal Controlled Substances Act, "manufacture" is defined to include "extraction from substances of natural origin." Here's what it says:

The term "manufacture" means the production, preparation, propagation, compounding, or processing of any drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling

of its container, except that such term does not include the preparation, compounding, packaging, or labeling of a drug of other substance in conformity with applicable State or local law by a practitioner as an incident to his administration or dispensing of such drug or substance in the course of his professional practice. The term "manufacturer" means a person who manufactures a drug or other substance." (21 U.S.C. sec. 802 (15).)

**I DIDN'T SEE NITROUS OXIDE ON THE LIST OF EXPLICITLY OUTLAWED HALLUCINOGENS (SEE TELR NO. 1). IS IT LEGAL TO POSSESS AND INHALE?**

Were it not for the efforts of early *nonmedical* self-experimenters we might never have discovered the medical uses of nitrous oxide. The gas was discovered in the mid 1770's and then quickly synthesized by a man named Humphry Davis (who was later knighted). Davis conducted extensive self-experiments, publishing a 600 page tome on his results titled *Researches Chemical and Philosophical, Chiefly Concerning Nitrous Oxide and its Respiration*. He also held nitrous oxide parties where he introduced the gas to poets, artists and writers. After one such party, the poet Robert Southy commented that "the atmosphere of the highest of all possible heavens was no doubt composed of nitrous oxide." (E. Brecher, *Licit & Illicit Drugs* p. 312.) By 1799, Davis had recognized that pains vanished while under the influence of nitrous oxide and proposed its use in surgical operations. The proposal was scoffed at and over 45 years went by before such use was given any serious consideration.

Of course in the early 1900's philosopher William James conducted self-experiments with nitrous oxide and described its potential entheogenic properties in the following oft-quoted passage:

Some years ago I myself made some observations on this aspect of nitrous oxide intoxication, and reported them in print. One conclusion was forced upon my mind at that time, and my impression of its truth has ever since remained unshaken. It is that our normal waking consciousness, rational consciousness as we call it, is but one special type of consciousness, whilst all about it, parted from it by the filmiest of screens, there lie potential forms of consciousness entirely different. We may go through life without suspecting their existence; but apply the requisite stimulus, and at a touch they are there in all their completeness, definite types of mentality which probably somewhere have their field of application and adaptation. No account of the universe in its totality can be final which leaves these other forms of consciousness quite disregarded... Looking back on my own experiences, they all converge towards a kind of insight to which I cannot help ascribing some metaphysical significance." (W. James, *Varieties of Religious Experience* p. 298 (Mentor edition).)

Anyway, to answer the legal question, nitrous oxide is not a scheduled substance under federal law. In fact, I don't believe it has been scheduled in any states either. However, a number of states have enacted specific provisions that outlaw the inhalation of nitrous oxide outside of a medical, or dental procedure. The first such law was evidently passed in Maryland in 1971, after then State Secretary of Health and Mental Hygiene, Dr. Neil Solomon, read reports that people where inhaling the gas "to produce an exhilarating effect." (See Dec. 15, 1971, *Psychiatric News* p. 10.) My review of current Maryland statutes failed to locate the law, but that state's statutory law is very poorly indexed so its possible that the law remains in effect today and I simply did not find it.

In 1982, the state of New Jersey passed a law (which is still in effect

today) outlawing the possession of nitrous oxide by nonmedical personnel, unless the person obtains a written permit issued by the state's Department of Health, and in no case can a person under 19 years of age possess nitrous oxide. A first violation of the law is punishable by a \$50.00 fine and up to six months in jail. (N.J.S.A. 24:6G-1.)

In 1983, California passed a similar law (also still in effect). The California law states:

Any person who possesses nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for purposes of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly and with intent to do is under the influence of nitrous oxide or any material containing nitrous oxide is guilty of a misdemeanor. This section shall not apply to any person who is under the influence of nitrous oxide or any material containing nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person duly licensed to administer such an agent. (Cal. H. & Saf. Code, sec. 381b.)

Finally, in 1989, the state of New York amended its general law outlawing "Inhalation of certain toxic vapors or fumes, and certain hazardous inhalants," to also criminalize the "use of nitrous oxide for purposes of causing intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system..." (N.Y. Public Health Law sec. 3380 (5).)

There are, no doubt, other states with similar laws. It's interesting to note that unlike the controlled substance laws, which are premised on the idea that some drugs are addictive, unsafe, etc., the laws against nitrous oxide are

directed solely at prohibiting the eliciting of an alternative state of consciousness (without the use of alcohol or a controlled substance). Moreover, there seems to be some evidence, by no less an authority than William James, that the mental state elicited by nitrous oxide can provide "genuine mystical revelation." Is this what the government is afraid of?

TELRL

### Supreme Court Hears Argument in LSD Case

On December 4, 1995, the United States Supreme Court heard oral arguments in a case that could determine whether numerous defendants convicted of selling LSD must spend at least 10 years in prison or have their sentences significantly reduced.

As discussed in 6 TELR 48-50, there is a split of opinion among federal courts as to whether 1993 amendments in the Sentencing Guidelines — which established a presumptive weight of 0.4 milligrams per LSD dose — also apply when determining whether a mandatory minimum sentence has been triggered. The Ninth Circuit currently stands alone in holding that the standard carrier weight also applies when determining if a mandatory minimum has been triggered. The First, Second, Third, Sixth, Seventh, Eighth, Tenth and Eleventh Circuits have all published decisions in which they use the *actual weight* of the carrier medium when determining whether a mandatory minimum sentence has been triggered. In these circuits, use of the actual weight, rather than the standard 0.4 milligram weight leads to the imposition of significantly more mandatory minimum sentences.

The argument before the Supreme Court was delivered by attorney Donald Thomas Bergerson, a sole practitioner in San Francisco. Mr. Bergerson's client, Meir Neal, was arrested in 1988 after he unwittingly sold 11,456 hits of LSD-impregnated blotter paper to undercover Illinois state police officers

and an informant. The details of the case as well as the substance of the Court's forthcoming decision (which will hopefully be handed down in the next month or so) will be discussed in the next issue of TELR. The case is *Neal v. United States* No. 94-9088.

TELRL

## Book Review

### *The Age of Entheogens & The Angels' Dictionary*

by Jonathan Ott

As the title suggests, the new book by Jonathan Ott is really two books in one. In the first book *The Age of Entheogens*, Mr. Ott presents a polemic survey of the World War on Drugs of shamanic use, calling it "nothing more than the modern manifestation of the millennial struggle between state power and individual freedom; between the *proselytizers* of purely symbolic simulacra of religion — propagandists of what Blake called "pale religious lechery" — and the *practitioners* of the real thing..." In this fast-moving essay, Mr. Ott argues that for 50,000 years or so the use of shamanic inebriants was the very basis of, a highest vehicle for, all religion. He marks the symbolic shift into what he terms the "Pharmacatic Inquisition" with the destruction of the Temple at Eleusis in 395 A.D. While the Inquisition continues to this day, Mr. Ott describes signs of the dawning "Entheogenic Reformation," noting the spread and growth of ayahuasca-using churches like the Uniao do Vegetal and the Santo Daime and the enormous current interest in shamanism. He chastises the Pharmacatic Inquisition for prompting Westerners to enter and disrupt traditional shamanic societies around the world in search of entheogens. As his previous book *Ayahuasca Analogues* helped to show, North Americans have many readily accessible plants for concocting their own "Anahuasca," and

need not add themselves to the forces already desecrating traditional societies. Mr. Ott covers all this ground and more in around 35 pages plus another 15 or so pages devoted to his usual learned and fact-intensive end notes.

Following an inspired interlude poem by an unknown pre-Columbian poet, the book shifts into *The Angels' Dictionary*, subtitled *Toward a Vocabulary For Sacred Inebriants, Ecstatic States and Kindred Topics*. There follows over 300 such words with detailed definitions supported by fascinating quotations.

*The Age of Entheogens & The Angels' Dictionary* is available in both hardcover (\$36.00) and paperback (\$18.00) from Jonathan Ott Books, POB 1251, Occidental, CA 95465. A special signed, limited and numbered [126 copies; 1-100, A-Z] edition with clothbound slipcase may also still be available for \$72.00. For domestic orders, include \$3.00 per book for postage; foreign surface shipping and handling is \$5.00 per book. California residents add 7.5% sales tax.

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## Resource

*Eleusis* The Information  
Bulletin of the Italian Society for the  
Study of States of Consciousness

*Eleusis*, now in its second issue, is an excellent Italian/English journal devoted to the scientific study of psychoactive plants and compounds.

So far, each issue has been 44 pages long and has included photographs, lined drawings and charts. *Eleusis* is currently published three times per year. A subscription in Europe is \$30; \$32 to all other countries with payment through international money order sent to: SISSC, c/o Museo Civico di Rovereto, Largo Santa Caterina 43, 38068 Rovereto (TN), Italy.

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#### Statement of Purpose

Since time immemorial, humankind has made use of entheogenic substances as powerful tools for achieving spiritual insight and understanding. In the twentieth century, however, many of these most powerful of religious and epistemological tools were declared illegal in the United States and their users decreed criminals. The Shaman has been outlawed. It is the purpose of this newsletter to provide the latest information and commentary on the intersection of entheogenic substances and the law.

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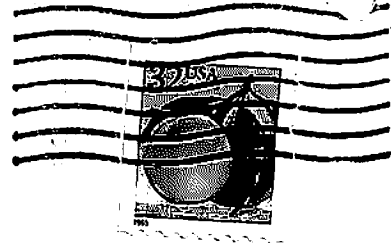
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TO ENTHEOGENS AND THE LAW  
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