NEBRASKA'S MARIJUANA LAW: A CASE OF UNEXPECTED LEGISLATIVE INNOVATION

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The social processes involved in the development of criminal laws have been studied by several scholars (Jeffery, 1957; Hall, 1952; Chambliss, 1964; Lindesmith, 1965; Sutherland, 1950; Becker, 1963). Generally, two major perspectives have guided these studies. One orientation has been the functionalist perspective (Pound, 1922, 1942; Durkheim, 1964) which stresses the emergence of moral consensus and the functional interdependence of the law with other institutions. Dicey (1920) suggests that public consensus is preceded by the origination of such ideas among elites, and is only later accepted by the mass of citizens. Such consensus, he claims, supplies the foundation for eventual legal change. An alternative view is the conflict orientation (Quinney, 1970; Vold, 1958: 203-219; Engels, 1972; Laski, 1935) which views law as the instrument through which one interest group dominates another. In the development of workman's compensation laws, Friedman and Ladinsky (1967) trace the history of conflict and eventual accommodation between workers and factory owners.

Both the functionalist and conflict orientations either explicitly or implicitly assume that people typically make rational decisions to maximize what they imagine will be their material gains. However, Edelman (1964) suggests that this assumption may not be correct, and that the political behavior of citizens often is determined not on the basis of their real or material

interests, but on whether or not a given piece of legislation symbolically reassures them.

Within the sociology of law there have been more studies directed to the development of radically new legislation than to adjustments in existing statutes. Perhaps these latter instances are less dramatic, or it may be that they seem to be less clearly instances supporting the major theoretical perspectives. We have chosen to focus on the process of legal change as represented by the widespread phenomenon of alteration of drug laws controlling the possession of marijuana.

Becker (1963: 121-146) and Dickson (1968: 143-156) have written about the early history of marijuana control legislation, and have shown how the Federal Bureau of Narcotics successfully lobbied during the 1930's for the passage of legislation that would eliminate what it claimed to be the marijuana "drug problem." Although drug use appears to have been viewed earlier as an evil affecting the lower classes (Clausen, 1961: 189-196), by the late 1960's, marijuana use had become fashionable among many middle and upper class college youths (Goode, 1970: 35-40; 1972: 36-37). With this new class of law violators, including the children of senators, judges, and other prominent citizens, the conditions were set for a reconsideration of the existing laws.

Late in 1968 and early in 1969, ten states changed their narcotics control laws to make the maximum penalty for possession of marijuana a misdemeanor, punishable by less than one year of confinement.[1] Nebraska was one of these first states to pass such legislation and, moreover, it established the lowest maximum penalty among these states. In fact, the maximum penalty of seven days, which was prescribed in Nebraska's law, was much lower than that stipulated in the bills of most other states which later passed similar legislation (National Organization for the Reform of Marijuana Laws, 1971).

Earlier, the accepted model for controlling drug usage had been one of increasing prescribed penalties (*see* Lindesmith, 1965: 80-82; Clausen, 1961: 215-217). Becker (1963: 136) suggests that these attempts to suppress drug use are legitimized by the Protestant Ethic which proscribes loss of self-control, by traditional American values that disapprove of any action taken solely to produce a state of ecstasy, and by the humanitarian belief that all drugs enslave the user. The question that stimulated our research was why a traditionally conservative state such as Nebraska, which, we suspected, might reflect the values

discussed by Becker, would be a leader in passing legislation reducing penalties for a vice such as marijuana use. Using either the consensus model, which views law as the product of compromise and shared values, or the conflict model, which sees law as the outcome of struggles between the interests of differing groups, one would not predict this development in Nebraska. We would not have predicted early consensus on such a radical departure in social control in this tradition-oriented state, nor would we have predicted that the proponents of reduced penalties would be strong enough to overcome a more conservative orientation in the control of drugs.

Prelude to the New Law

Before 1969, the penalties in Nebraska for possession or sale of marijuana consisted of a two- to five-year sentence in prison and a fine. Marijuana was classed along with opium derivatives and other narcotic drugs in legislation, modeled after the federal Harrison Act of 1914 (38 STAT. 785 *as amended*), and passed in 1943 (REV. STAT. OF NEB. ch. 28, §§451-470).[2] Drug abuse was a minor problem in Nebraska prior to the late 1960's. Newspaper reports in the state capital, a city of more than 100,000 population, list one case per year between 1950 and 1967 (*Lincoln Star*, 1950-1967). The Nebraska State Patrol (1970: 3) recorded an average of 15 cases per year for the entire state between 1960 and 1967.

Late in 1967, numerous incidents of marijuana possession were recorded in the press, many of them involving college students. One prominent state senator (hereafter referred to as Senator C) spoke out publicly on the topic. His district, although primarily rural, had the third highest number of cases reported in the late 1960's (Nebraska State Patrol, 1970: 14). He spoke at the state university in November 1967 and was rebuked by a group of students when he proposed spending money for undercover agents to deal with the "definite problem" of marijuana use on campus (DeFrain, 1967: 5). Earlier in 1967, Senator C had been the sponsor of a law which expanded the 1943 drug laws to include depressant, stimulant, and hallucinogenic drugs, and established a narcotics control division in the state highway patrol (Legislative Bill 876, Ch. 161 at 460, June 7, 1967; henceforth LB 876).

In 1968, drug arrests in Nebraska increased sevenfold over the number in 1967 (Nebraska State Patrol, 1970: 3). Many of the arrests involved students; but in the western, more rural part of the state, several out-of-state persons were arrested

with substantial harvests of marijuana in the hundreds of pounds. Marijuana had grown abundantly in the state since World War I, when it was commercially harvested to produce rope fiber. One knowledgeable official at the Nebraska State Patrol estimated that there were 115,000 acres of marijuana growing wild in the state as late as 1969 (Thomas, 1969).

Response to the increasing number of arrests consisted primarily of statements of concern by some public officials and occasional newspaper editorials. Senator C felt that administrators at the state university were not taking the problem seriously (Senate Debate on LB 876, May 2, 1967). There was also mention of legislation to declare marijuana a noxious weed and to provide penalties for farmers who did not eradicate it on their property. Farmers vigorously opposed this, maintaining that such weed control was costly, time-consuming, and ultimately impossible (Wall, 1968: 14). The issue was not raised again.

In 1969, Senator C introduced legislation (LB 8, 1969) that would permanently expel from college any student convicted of marijuana possession. It was amended to provide for a 30-day suspension from college, but, although it passed the legislature, it was vetoed by the governor. The veto prompted a public expression of outrage by the senator and an unsuccessful attempt to overturn the veto (*Lincoln Journal,* February 25, 1969).

One day after introducing the suspension bill, Senator C had introduced another bill (LB 2, April 11, 1969) which would have reduced the penalty for possession of marijuana to a misdemeanor; and as amended, it provided for a maximum seven-day sentence for first possession, and a mandatory drug education course. It is this innovative bill that we focus on in this paper.

Public Response to LB 2

LB 2 was assigned to the Committee on Public Health and Welfare and the first hearings were held on January 28, 1969. We reviewed newspapers from the two urban areas of the state, Omaha and Lincoln, the state capital, from January 1969 to June 1969. This included the period immediately preceding the bill's introduction, during its consideration by the legislature and after its passage. We wanted to see what publicly identifiable groups were lobbying for or against the legislation and what the public reaction was to its passage. We expected that most of the interest in drugs and related legislation would be

concentrated in these two cities since they had recorded the greatest increase in drug arrests, and since both had several colleges in addition to a university.

We found no debate about the bill in the press either by politicians or citizens. The newspapers merely noted that the bill was being considered. It quickly passed the unicameral legislature without a dissenting vote, and was signed into law by the governor with little commentary thereafter. A total of three short articles appeared within six months of the bill's passage, all supporting the educational provision of the legislation. We also reviewed the newspaper from January to June 1969 in the small town where Senator C lived, to see the reaction of his constituents. As with the urban newspapers, the local paper simply noted the bill, but made no editorial comment.

Legislative Hearings

Another reflection of lack of concern with this legislation is that only one witness came to the public hearings. A county attorney argued in favor of the new law as more reasonable and humane than treating "experimenting" with drugs by young people as a felony (Public Hearings on LB 2, January 28, 1969: 4).[3]

The sponsor of the bill, Senator C, was from a rural area of the state and was well-known for being one of the most conservative members of a very conservative legislature. Considering his previous record for introducing tough drug bills (LB 876 and LB 8), he hardly seemed the type of person to introduce such lenient legislation. Nevertheless, the records of public hearings, legislative debate, and our personal interviws with Senator C revealed quite clearly that his motivation for introducing the bill was punitive and not humanitarian. His argument to the senate, supported indirectly by the prosecutor at the public hearings, was that too many people had been getting away without being punished for possession of marijuana. Prosecutors and judges did not favor convicting young people under a law requiring what these officials considered to be much too severe a punishment.

> We have found the penalties were too severe . . . to the point where we nullified what we are trying to do because the courts in many cases would not enforce the penalties (Public Hearings on LB 2, January 28, 1969: 1).
>
> The County Attorneys of this state and the courts that would hear these charges feel that the felony charge in the

> case of possession for the first time is too strong and irregardless [sic] of the evidence, generally speaking, they will not enforce it (Senate Debate on LB 8, February 21, 1969: 350).
>
> The penalty of a felony was so great, it was the belief of the County Attorneys that they wasted their time trying to enforce it, because the judges would not apply the felony penalty (Senate Debate on LB 2, March 18, 1969: 744).

To ensure that those found in possession of marijuana would receive some punishment, Senator C advocated a reduction in the penalty to a point that he felt would seem reasonable to those enforcing the law.

> With the 7 day penalty for the possession of a nominal amount, the courts will rather promiscuously [sic] based on the evidence, apply these penalties (Senate Debate on LB 2, March 18, 1969: 744).

While the sponsor's motivation was clear, it still was not evident why Nebraska was one of the first states to pass this type of legislation, why it was supported by other legislators, and why no public opposition emerged to this legislation.

Critical Events

To further our understanding of the events involved in the bill's passage, the two senior authors interviewed key informants, including several other members of Nebraska's unicameral legislature, newsmen covering the legislature for both local newspapers, and a legislative reporter for a local radio station. Selected civil servants were also interviewed, including several county attorneys, the head of the state police narcotics division, and the head of the legislative drafting group, an agency of the state legislature which assists elected representatives in writing bills. A professor from the University of Nebraska Law School who specializes in criminal law and two defense attorneys in narcotics cases were also interviewed, as well as the ex-governor under whose administration the bill was passed. We also interviewed several of the former administrative aides to the ex-governor.[4]

The law professor recalled that a few months before the legislation had passed, a county attorney's son had been arrested for possession of marijuana. He felt this might have had some influence on the bill's success. Checking out his lead through back issues of the newspapers in the state capital, we found that, indeed, in August 1968, six months before the new marijuana control bill passed, the son of an outstate county attorney was arrested in the state capital where he was a student at the state university, and charged with possession of marijuana.

The county attorney resigned his office to serve as his son's defense attorney, and in a press release he vowed to fight to change what he considered a harmful and unjust law (*Lincoln Journal,* August 13, 1968). Another university student arrested with the county attorney's boy was the son of a university professor. The county attorney's son was represented at first by his father, but soon his father hired a prominent Democratic lawyer who was later to become president of the Nebraska Bar Association. The university professor's son was represented by a popular Republican ex-governor who had declined to run for re-election. According to the outstate county attorney, these lawyers were intentionally selected as the most politically powerful bipartisan team of attorneys in the state. With regard to using this influence, the ex-governor said, "We recognized the case on our clients was air-tight so [we] figured it was best to attack the law." He wrote a draft of a first-offense marijuana possession misdemeanor law, and, after discussing the issue with the county attorney who was prosecuting the two boys, sent him the proposal.

This county attorney said that during the fall of 1968 he felt compelled to prosecute his colleague's son in part because, in his judgment, the boys had quite a large amount (one ounce) of marijuana in their possession. He claimed to have had no enthusiasm for his task, yet he indicated that he never considered not enforcing the law. Undoubtedly, the unusual publicity created by this case narrowed his options. The notion of a marijuana misdemeanor law provided him with an option in handling his colleague's son's case, and he said that, more importantly, it provided an avenue for getting more convictions in other drug cases. He said that, in enforcing the felony law, "We felt compelled to reduce charges to all sorts of ridiculous things such as disturbing the peace." Reducing the penalty to a misdemeanor would result in more convictions on appropriate charges since judges and juries would be more willing to convict if penalties were lowered. He said that the County Attorneys Association unofficially endorsed the idea because the prosecutors from Lincoln and Omaha had experienced special difficulties in getting convictions in drug cases. Since large quantities of drugs had not yet penetrated the other areas of the state, the other county attorneys were not as concerned. The Association, therefore, did not go on record in favor of such legislation for fear of appearing to take a pro-marijuana position. Nevertheless, the county attorney said, they were all concerned about the potential of a felony conviction

for "college kids just experimenting with marijuana" — a concern reflected in the testimony of the county attorney who testified at the public hearings. In short, the county attorneys wanted a more nearly just and enforceable law, one that both should be and could be enforced. The county attorney in Lincoln sent a tentative version of the bill to the state legislative drafting group and contacted a friend in the legislature, Senator C, asking him to sponsor the bill. In making this request, he argued that, if penalties were reduced, it would help get more convictions. Senator C agreed to sponsor the bill.

Just prior to introducing the misdemeanor marijuana bill, Senator C introduced another bill (Public Hearings on LB 8, January 27, 1969) which would have suspended college students for life from any Nebraska college or university, state or private, upon conviction of possession of marijuana.[5] The day after the school suspension bill was introduced, Senator C introduced the county attorney's misdemeanor bill. No one except a TV newsman (Terry, 1969) characterized this legislator's proposal as being soft on drug offenses; certainly none of his colleagues in the legislature did. To think of this man introducing a permissive piece of drug legislation was beyond credibility, given his general conservatism and longstanding and well-known hostility toward drug use. Not only had he introduced anti-LSD legislation and the punitive college suspension bill, but he also had argued that the misdemeanor legislation would make it harder on drug users.[6] With these strong credentials, he hardly could be accused of being permissive on the drug issue.

Yet, even the punishment-oriented sponsor of the bill recognized the wisdom of leniency for at least some of the middle and upper classes. During the public hearings on the college suspension bill, a member of the firm of the ex-governor representing the professor's son spoke against the suspension bill and in support of the misdemeanor bill which the legislator had publicly promised to introduce. Senator C was unusually courteous and respectful of him and publicly volunteered to make the misdemeanor bill retroactive to cover the ex-governor's client (Public Hearings on LB 8, January 27, 1969: 12), which he later did (Senate Debate on LB 2, March 18, 1969: 745).

Conclusion

Nebraska was one of the first states to reduce first-offense possession of marijuana to a misdemeanor, and several events and conditions seem to explain its early lead. The timing of the county attorney's son's arrest was important, of course,

as a triggering event. This case assumed special significance because of the prestige of the defense attorneys. The speed with which the unicameral legislature can respond to such incidents is also an essential element in this explanation. A unicameral legislature avoids the usual conflict between the two houses, which often delays and sometimes kills prospective legislation. Moreover, several informants mentioned that in Nebraska there was perhaps special reluctance to punish young people for using marijuana because it commonly grows wild in the state. Reflecting this attitude was an editorial in one of the Lincoln newspapers (Dobler, 1968: 4), appearing approximately two months after the arrest of the outstate prosecutor's son, which discussed the long history of marijuana in the state. The editorial observed that the state had long endured the presence of large amounts of marijuana without serious disruption.

One of the most striking features in Nebraska's early lead, paradoxically, was the absence of any organized support for or opposition to this legislation. The only organization known to have supported this bill was the County Attorneys Association, and this support was unofficial, or at least not publicly announced. From newspaper reports it was clear that at least some students favored reducing or eliminating penalties for marijuana use, but we could find no evidence of any active support by students.[7] The bill quickly passed with *no* opposition. It could not have been predicted that a radically different and apparently lenient piece of drug legislation would go unnoticed in a state supposed to be very much influenced by the fundamentalist sentiments which justify punitive reactions to drug use (*cf.* Becker, 1963: 136).

One explanation for both the absence of organized support as well as the unexpected lack of opposition may be that the felony marijuana law which had previously been used only on the lower classes was threatening to middle class families. Whether or not middle class parents continued to perceive marijuana as a harmful drug, the threat of a felony charge and a prison term for their children clearly was perceived as more harmful — a theme that emerged often in our interviews. This threat is clearly illustrated in the case of the prosecutor's son. In the search for support for the bill this type of interest is not visible as are organized groups, yet its influence in forestalling opposition may be no less real.

Both moral conservatives and liberals, for different reasons of course, supported the bill. The more liberal members of the

state government, including the governor, backed the legislation as a remedy against sending "decent" college kids to the penitentiary for a "minor mistake." This opposition to severe punishment for marijuana possession reflects a widespread feeling, according to Lindesmith (letter in possession of authors) that victimless crime or morality legislation arbitrarily creates "criminals" who not only do not view themselves as such; but, more importantly, are not so viewed by much of the public because of the absence of external social harm.

Apparently the moral conservatives in the state legislature did not oppose this bill because its sponsor justified it as a vehicle for insuring a greater likelihood of punishment since the felony possession law was not being enforced. Hall (1952) suggests that in a similar fashion at the end of the Middle Ages in England, merchants lobbied for the elimination of the death penalty for property crimes since severe penalties, out of line with public sentiment, allowed property offenders to escape any punishment under the law. In drug cases, Lindesmith (1965: 80-82) has also observed that, since felony convictions take more time in courts than do misdemeanors and are more difficult to get because of "technicalities," police will make fewer felony arrests and instead reduce charges to loitering or vagrancy. Also, with high minimum penalties, judges and prosecutors are likely to collaborate in avoiding imposition of the severe penalties by accepting guilty pleas to lesser charges. All of these things, apparently, were happening in Nebraska.

The issue of the seriousness of marijuana possession laws only developed with visible and seemingly widespread marijuana use among the middle and upper classes. As long as marijuana use appeared only among the poor, the problem of drug convictions didn't emerge for either conservatives or liberals. Only when confronting an increasing number of cases of middle class defendants did judges and juries begin to balk. While conservatives became angry with the leniency of the courts toward affluent defendants, liberals became worried and disgusted by the law's potential results, which included sending middle class defendants to prison.

Both moral conservatives and liberals recognized, for differing reasons, that severe penalties for possession of marijuana were not appropriate when the defendants were the children of middle class, affluent parents. Borrowing from the *consensus* and *conflict* models of legal change, we see that both conservatives and liberals *agreed* on the specific law although they

fundamentally *disagreed* on the basic issue covered by the law. Perhaps most significantly, this consensus among diverse groups may offer some clues to understanding why a number of states in rapid succession passed similar legislation even though these laws represented a radical departure in controlling marijuana use.[8] Yet, contrary to the conflict orientation, no organized interest groups are in evidence in this case; and, unlike the functionalist perspective, there is no evidence of a massive opinion shift involved in this legislative change. For a complete understanding of these events, we must turn, as Edelman (1964) advises, to the symbolic properties of political events.

We see some parallels in our data with the argument by Warriner (1958) about the symbolic functions of preserving official morality. In a small Kansas community he found inconsistencies between citizens' public expressions and private behavior regarding alcohol consumption. Publicly, they were uniformly opposed to drinking, yet most drank within the privacy of their homes. Irrespective of their behavior, citizens felt that it was important to give symbolic support to the community's normative structure. Public support for national prohibition, according to Gusfield (1963; 1967), was also mainly a result of an effort to give symbolic support to the values prescribing total abstinence. Gusfield distinguishes this *symbolic* function of the law from its *instrumental* or actual enforcement or control function. Edelman (1964) observes that often citizens are satisfied that their interests are being protected once relevant legislation is passed, even if it is not enforced. The mere passage of the law symbolizes to them that their values are being supported. This, apparently, was the case with national prohibition (Gusfield, 1963).

This distinction between the instrumental and symbolic functions of law seems ideally suited for an analysis of Nebraska's marijuana law. Using this distinction, it becomes clear that the senate sponsor of the misdemeanor marijuana bill essentially argued that it would be an improvement because of its instrumental features, *i.e.*, its ability to control. One unspoken, but no less real cost of this legislation was a certain loss of symbolic support for norms prohibiting drug use. Marijuana possession was still punishable under criminal law but the punishment was so light as to imply the offense was trivial. Those less condemning of marijuana use, on the other hand, gained some symbolic support for their position, and in fact made some instrumental gains as well because, while the proba-

bility of conviction might increase, the punishment was minimal. The basis for consensus on the legislation becomes clear: both moral conservatives and liberals gained something from this legal change.

Ironically, the pressure to enforce the law rather than to ignore it, as Edelman says so often occurs, was the result of the dramatic opposition to the law by the county attorney whose son was arrested. Because he was a prosecutor, he was in a special position to call public attention to his son's arrest. Moreover, his son was arrested in the state capital where state government and the mass media were centralized, which further served to publicize the case. Therefore, the other county attorney could not use the technique of ignoring the law to suit these specific interests. His options seemed limited by the publicity. The only course of action seemed to be a direct effort to change the relevant law.

It would appear that Senator C was taking a considerable chance of being labeled permissive regarding drug usage by introducing such legislation. He might have been protected from such criticism, however, by introducing the college suspension bill the day before. This emphasized his position on drugs, and, given the suspension bill's extreme provisions, absorbed most of the public and media attention. Like the county prosecutors, the senator made no statements to the press on behalf of the misdemeanor bill. Perhaps both the prosecutors and the senator were afraid of or at least uncertain of possible public reaction. However, the senator did have considerable commentary regarding the suspension bill and its ultimate veto. (See footnote 5.)

One possible interpretation of these events is that the senator intentionally introduced the suspension bill immediately prior to the misdemeanor bill in an attempt to distract the public and the media. Indeed, several respondents mentioned that the senator typically supports both extremes on an issue in an effort to protect himself from criticism. Another (not mutually exclusive) possibility is that those in the mass media felt that the bill was reasonable and they did not wish to arouse public indignation. Cooperation between the media and political officials is not uncommon, as Ross and Staines (1972) have concluded.

While the full impact of this legislation is not possible to assess so soon after its passage, some subsequent developments relevant to the legal change are apparent. In Omaha, which

accounts for almost fifty percent of all drug offenses in Nebraska (Nebraska State Patrol, 1970: 14), a city ordinance allowed cases involving possession of marijuana to be prosecuted in city courts as misdemeanors or, alternatively, under state law as felonies. Under the new state law county attorneys now have no option and must handle possession of marijuana as a misdemeanor. In Lincoln, where nearly one-fourth of all state narcotics cases are processed (Nebraska State Patrol, 1970: 14), the prosecutor claimed that all marijuana possession cases are now prosecuted as such, while under the previous felony law guilty pleas were often accepted to lesser non-narcotic offenses such as peace disturbance.

During the first full year this law was in effect, arrests involving marijuana possession nearly doubled (Nebraska State Patrol, 1970: 9). Even though arrests have rapidly escalated, a review of Omaha and Lincoln newspapers since the bill's passage indicates that neither student nor other groups have publicly protested, and there is no public argument that the law is oppressive. A maximum sentence of seven days is apparently acceptable, or at least tolerable. On the other hand, the bill's senate sponsor feels that most law-abiding citizens recognize that the increased arrests vividly demonstrate that the legislation which he introduced was badly needed. The lack of conflict regarding the consequences of the bill offers testimony to the symbolic and instrumental utility of the law. Moral conservatives may indeed feel, as Senator C speculates, that the new law offers more control as evidenced by increased convictions; those more tolerant of marijuana use may well regard the law as an instrumental and certainly a symbolic victory.

NOTES

[1] The first states to pass such drug legislation were Alaska, August 4, 1968; Wyoming, March 7, 1969; New Mexico, April 2, 1969; Utah, May 13, 1969; Washington, May 23, 1969; North Carolina, June 23, 1969; Connecticut, July 1, 1969; Iowa, July 1, 1969; and Illinois, July 18, 1969 (*see* Rosenthal, 1969; Arnold, 1969: 1, 60). The date of Nebraska's legislation, April 11, 1969, is missing from both of the above accounts.

[2] The penalty prescribed under the 1943 Nebraska drug legislation was a fine of up to $3,000 and two to five years in prison.

[3] Prosecuting attorneys are called county attorneys in Nebraska.

[4] Perhaps because of pride in their state's trend-setting legislation, all respondents seemed eager to be interviewed and readily made their files available. Moreover, we found that each respondent volunteered the names of other people who might have some information relevant to our questions, and these other respondents volunteered yet another set of names. In this serial sample selection, we eventually found that no new names were being mentioned and felt we had contacted all knowledgeable respondents.

[5] The suspension period was amended to 30 days (Public Hearings LB 8, January 27, 1969: 12), and was passed, aided by what was often characterized as Senator C's aggressive, overwhelming style (Senate Debate LB 8, February 4, 1969: 105-08; February 21, 1969: 345-51). The bill,

however, was vetoed by the governor, and the outraged sponsor was only a few votes short of overriding the veto (Senate Debate LB 8, February 27, 1969: 454-66).

[6] Two years before, in 1967, this legislator had introduced a bill creating penalties for possession of LSD and establishing a narcotics control division in the state highway patrol (LB 876, effective June 7, 1967). He justified this legislation in punitive and control terms (Public Hearings on LB 876, April 18, 1967; Senate Debate on LB 876, May 2, 1967).

> As far as I am concerned, nothing can be too harsh for those people who pervade [sic] this step, because I can think of nothing more horrible, than to have a son or daughter of mine become afflicted with this habit . . . (and) . . . be unable to break themselves or himself of the habit (Public Hearings on LB 876, April 18, 1967:3).
>
> Are you going to wait until it happens in your family, to your son or daughter becomes contaminated [sic] or maybe your grandchild or the kid next door. [sic] Are you going to wait till you have to have a vivid explanation of this thing or are you going to do something about it? I think drugs is [sic] the most terrible thing that can happen to the human mind. And I am not willing to sit still and not attempt to do something about it (Senate Debate on LB 876, May 2, 1967: 1913).

[7] Because of his strong position on drugs and from other university-baiting positions, Senator C was not a popular figure on the state university campus. Perhaps this accounts for lack of student enthusiasm for his bill, or perhaps more likely, students might have viewed it as still too punitive to merit active support.

[8] It is interesting to observe that most of the states that were in the initial group making a first offense of marijuana possession punishable only as a misdemeanor or at least giving this option to the court were in the west or western plains. Besides Nebraska, these states include Alaska, California, Iowa, Montana, New Mexico, North Dakota, South Dakota, Utah, Washington and Wyoming. Only Connecticut, Illinois and North Carolina are early passage states clearly not in this region. Aside from mere geographical proximity which makes the spread of ideas easily understandable, the agricultural and cultural characteristics of Nebraska undoubtedly exist to a degree in many of these other western states. Large quantities of open land where marijuana grows wild is one similarity. Since many of these states are predominantly rural in character, the concern with sending local (often country) boys to the penitentiary may have been widespread. Finally, many of these states are also predominantly rural Protestant so that punitive and repressive arguments in favor of reduction of penalties were likely to have been used.

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