

Sinclair

Mike Tyre

1968

Marijuana—a harmful and dangerous drug.

This is the title of a paper by Joseph E. Maher, Records Court Judge, which states the ruling of a three judge panel on the constitutionality of Michigan's marijuana laws. The decision stems from a case brought to court by John Sinclair, head of Trans-Love Energies, to test the constitutionality of these laws.

Sinclair, who has been twice convicted for possession of marijuana, faces a possible third conviction for the possession and dispensing of marijuana. Such a conviction would automatically entail a 20 year minimum jail sentence and possibly a maximum of life imprisonment.

Sinclair's third trial will be to answer charges of giving two joints to an undercover police agent who had infiltrated Trans-Love. A twenty year sentence for such a crime seems grossly out of line and resulted in Sinclair's constitutionality charges of the law.

Justin Ravitz, Sinclair's attorney, presented the judges with a number of arguments against the law. Questioning why marijuana was included under a law designed for opiate drugs such as heroin and opium, Ravitz asked the judges to justify this classification. In answer, Judge Maher said that marijuana is included as a narcotic under Public Act 266, 1952. He further said, "The legal term narcotic has no precise technical meaning but is used to describe a varied assortment of harmful and dangerous drugs. The legal definition does not provide a generic definition of a narcotic, but resorts to definition by specific inclusion." "According to that," Sinclair said, "the legislature could make milk, or whatever it wanted a narcotic."

The attorneys are now in the process of going to the Court of Appeals to get a higher court to rule on their case. In the meantime, John's trial for his third offense will be put off until a favorable decision is reached or until all areas of appeal are exhausted.

In regards to the 20 year sentence, Judge George W. Crockett, Jr. agreed that the law is harsh but not unconstitutional. Crockett said, "So long as you have a 20 year minimum sentence, you find a lot of people who would otherwise be convicted, not convicted, because the prosecutor does not want to prosecute for sale and judges are reluctant to apply that 20 year minimum in imposing sentences." Consequently, the harshness of the law keeps it from being enforced. Such reluctance to use the law by judges indicates an outmoded law and a need for change. Ravitz feels that the way things are now the law is administered unfairly. "If the law was applied equally, many persons could face the same proposition of 20 years in jail," he said. "But, they take a look at the defendant first to see what kind of action to take."

The question of equality in the law is more involved than the application of marijuana laws to hippies.

It is simply one example of how American justice works. When asked if he thought he was being used as an example to show others what happens to people who smoke grass, Sinclair answered no, rather "We are trying to make an example out of them." This could be his chance to show the selective application of the law.

Sinclair feels things are already changing. Publicity such as that which he is creating, is producing subtle changes in public conscious. The growing use of marijuana by all classes of people reflects this change.

There is also a Special Committee on Narcotics in the Michigan State House of Representatives. This committee, headed by Dale Warner, is seriously studying marijuana and other drugs to see if the existing laws and penalties are in line with current ideas.

Next issue this paper will feature an interview with John Sinclair.

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Fifth Estate #53, May 1-15, 1968

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