

Repealing the pot laws

By JOE PILATI,
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BOSTON (CUP-CPS)—Over the next few weeks, Boston attorney Joseph S. Oteri might become one of the most admired—and maligned—figures in the American legal profession.

Over the next few years, he might become the primary instigator of a precedent that could literally make this America of "duplicity" and "inconsistency" go up in a cloud of euphoric, metaphoric smoke.

And Oteri—a legal rationalist of the old school, who even looks a bit like Charles Darwin—is simply "doing his thing." In his own words: "Five years ago, I began defending kids accused of various marijuana violations. I've been singularly impressed with these people—decent kids, not criminals, not violent, full of life and peace.

"Each one told me the same story—marijuana is not addictive, not harmful, a relatively innocuous substance. I started checking into it and decided that the next time we got a case, we would challenge the law."

The challenge is here. It goes by the name Commonwealth vs. Leis and Weiss, and pre-trial hearings, expected to last for several weeks, have begun in Suffolk Superior Court in Boston.

The actual trial of Messrs. Leis and Weiss, two former students caught greenhanded at Boston's Logan International Airport, will be the second act in Oteri's drama. If he has his way, the "action" will still be rising, wafting inexorably toward the U.S. Supreme Court, after local hurdles are cleared.

In an interview at his office, the 36-year-old lawyer said he and his associates have lined up 23 expert witnesses who will attest to the unworkability and probable unconstitutionality of current anti-marijuana statutes. The witnesses' names cannot yet be made public—although compendia of names from the more level-headed recent anthologies and articles on pot provide a set of excellent hints.

background

Joe Pilati is the editor of the Boston University NEWS where this story first appeared. The NEWS is a member of the Collegiate Press Service which, in conjunction with the Canadian University Press, provides student newspapers of North America with features of national importance. Certainly, a case to regulate marijuana is of importance and significance to every university student in the world. Whether a verdict in favor of the defender is either 'good' or 'bad' is subject for thought and debate.

Oteri's firm—Crane, Inker, and Oteri—has offered the attorneys for the prosecution, Hale and Dorr (who are also attorneys for Boston University) "full mutual disclosure of witnesses before the hearings begin." Hale and Dorr have not yet responded to the offer.

Oteri's office in downtown Boston, lushly carpeted and paneled, is as subdued and conventional as the lawyer himself is not. A wooden sign hanging on his office bookcases bursting with legal tones, is indicative of the somewhat puckish but essentially dignified attitudes Oteri carries into the case: lettered in the serifed style of "B" Westerns and embellished with the curlicues and chiruscoro artwork, it says "Honest Lawyer: Two Flights Up." Oteri is by no stretch of the imagination (and no bending of the mind) a "hippie lawyer"—but he's a hip lawyer, and more importantly, he's angry.

He feels that present marijuana laws "run the risk of excluding perhaps 25 per cent of the future leaders of this country", branding them as "drug addicts." He says he is having trouble convincing people "I'm interested in a legal problem, not a medical problem. There are an awful lot of lives ruined by virtue of



—Lyll photo

TURNED ON AND TUNED IN

this law, and I'm trying to compel the courts and the Congress to take a long look at this problem.

"We are not advocating legalization of marijuana," he stressed, "but we say that it could be regulated, with prohibitions on age groups that can get it, and so forth." He drew the familiar analogy between current anti-marijuana laws and the Prohibition amendment of the Twenties: "Prohibition dealt with a downright dangerous and addictive drug: even now, fully three per cent of the population is addicted to alcohol. On the other side of the fence, we have the much more innocuous substance called marijuana—can we afford to prohibit it?"

Oteri's arguments for dismissal of charges against Leis and Weiss, codified and couched in the cumbersome sentence-structures of the legal brief, would be familiar to readers of the underground press. But their assertion in a court of law (perhaps especially in Massachusetts, with its heritage of witch-hunting both literal and figurative) represents an almost unprecedented progressive step.

The defendants' motion contends that the Massachusetts statute is "arbitrary and irrational and not suited to achieve any valid legislative end in that it fails to properly distinguish between marijuana and so-called 'hard narcotics,' such as cocaine, opium and morphine, and it imposes harsh penalties upon mere possession of marijuana or possession with intent to sell, or being present where marijuana is kept, without showing that use of this substance presents a threat to the public health, safety and morals."

The motion further argues that the statute "goes beyond the valid exercise of police power of the Commonwealth in that it seeks to control activity which has not been shown to pose a serious and immediate danger to the public health, safety or morals" and that it would "deny to the defendant his rights to life, liberty, and property, without due process of law, as well as the right to security, privacy and the pursuit of pleasure, in violation of the

Fourth and Fifth Amendments (. . .) as they are applied to the states by the Fourteenth Amendment."

And it goes on: present law "would deny to the defendant the equal protection of the laws in that it has singled out possessors of (. . .) marijuana while the laws permit use, sale and possession of substances far more harmful than marijuana, to wit: alcoholic beverages and cigarettes containing tobacco . . ." Finally, the motion points out that present law "would impose on the defendant excessive and cruel and unusual punishment (five-to-ten-year prison terms) in violation of the Eighth Amendment to the Constitution, as incorporated into the Fourteenth."

Oteri noted that since most states' marijuana laws are based upon the Uniform Narcotics Act, brain-child of the venerable if vulnerable Harry J. Anslinger, one-time head of the Federal Narcotics Bureau, if the Massachusetts statute is declared unconstitutional, "it is reasonable to expect other states to follow along."

"I've received more than 50 letters from other lawyers in at least ten states, who have started the same kind of proceedings," Oteri added. Many earlier cases brought to Oteri himself, prior to that of Leis and Weiss, are also held in abeyance pending a decision in the next few months.

Oteri emphasizes that he considers marijuana to be "a very harmful substance at the present time because it's illegal. I would strongly urge everyone not to use it, but not to give up the fight to change the law." To Oteri's thinking, "the only substantial argument against marijuana is that we don't need to legalize another intoxicant. But why put people who choose to use this particular intoxicant in jail?"

"And now that the argument that marijuana leads to heroin has been shot down," Oteri suggested, "the authorities are starting to say it leads to LSD. This is curious, because it amounts to saying marijuana should be a felony because it leads to a misdemeanor—which, in any case, it doesn't."

casserole

a supplement section
of the gateway

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Is SUB a new way to "freak out"?

Some people get kicks from their wives, some from drugs, and, we hope, a few from the new SUB.

On the drug scene this week are three stories; one from our big brothers to the south, one by a local satirist who spends some time working in the office of U of A's own Big Brother, the registrar, and the third by our own associate editor, Rich Vivone.

The picture on C-2 is our version of a psychedelic photo in black and white. Our photogs learned that when you don't want a negative to reticulate, it will, and when you do, it won't.

Fortunately, this one did. Unfortunately, the model no longer speaks to us.

Lydia Dotto thought the new SUB was a real "turned-on" building. Her feature on C-4 and C-5 gives you some of its design philosophy.

And to cap it off, on the arts pages you have everything from the Beatles to "An Idiot Joy".

Read on, gentle reader, and don't trip in the mud.