

Fall 1975

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A HISTORY OF ILLINOIS DRUG CONTROL LAWS FROM 1818 TO 1975

by HON. GEORGE N. LEIGHTON* AND CHARLES S. BARGIEL**

INTRODUCTION

This paper will present a brief general history of drug control laws from 1818 to 1975, stressing the development of criminal laws which have characterized the social control of drugs in this state. The history of Illinois criminal laws and provisions in the Pharmacy Act will be treated first, beginning with the period from 1818 to 1931 when there was a confluence of several enactments in the first Narcotic Drug Control Law. Then, the development of the drug control laws in the criminal statutes from 1931 to 1975 will be discussed. The objective is to present an informative discussion of what is, unquestionably, a complex subject.

During the period with which we are concerned, there is substantial evidence that drug addiction was common throughout the United States, including Illinois. In his study, "Narcotics and the Law," William Butler Eldridge has observed that

[c]onjecture as to the extent of the use [of opium and narcotics, generally] before 1914 varies greatly, but the figures on the annual opium importation show that the practice spread widely. While opium smoking by Americans followed the oriental practices for a time, it soon changed when it found its way into the underworld. It then began to lose its mystical appeal and assumed, in popular opinion, the dimensions of a menace.¹

This observation is supported by the writings and studies of Terry and Pellens² and those of Alfred Ray Lindesmith,³ all students of narcotic addiction in the United States.

Several factors contributed to the growth of narcotics use in this country during the last half of the 19th century. The discovery of the hypodermic needle in the 1840's, and its subsequent utility as a means of injecting narcotics during the American Civil War, resulted in such extensive use of opiates that

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1. W. ELDRIDGE, *NARCOTICS AND THE LAW* 4 (2d ed. 1967).

2. TERRY & PELLENS, *THE OPIUM PROBLEM* (1928).

3. LINDESMITH, *OPIATE ADDICTION* (1947).

addiction to them became known as the "army disease." Utilization of the hypodermic needle grew and continued even after the Civil War. This proliferation alerted many medical investigators to the social harm connected with employing the hypodermic needle for the intake of opiates. This alert, and its accompanying public discussion, brought a reaction from writers of medical textbooks, who began warning practitioners of the extent to which narcotic addiction was a medical problem. Apparently, the public awareness had its effect, for, as will be disclosed by the following discussion, the Illinois Legislature responded in the latter quarter of the 19th century, and early in the 20th, with laws that sought to turn the ever-growing tide of drug abuse.

THE ILLINOIS CRIMINAL CODE, 1818 TO 1932

From 1818, when Illinois became a state, until 1931, the provisions in the criminal code⁴ that dealt with drugs consisted of only two sections which were enacted in 1853. These provisions merely prohibited druggists and other persons who sold medicines at retail from making sales unless the package containing the substance bore a label disclosing the name of the medicine. The penalty for violating these sections was a fine of not less than one nor more than five dollars for each offense.⁵

These two statutes remained essentially the same until 1874 when they were expanded to include a listing of substances considered "poisons," amended to increase the penalties, and to require for the first time that a record of the sale be kept. The first of these statutes provided that

4. The term "criminal code" as employed prior to 1962 has its origin in usage rather than enactment by the Illinois General Assembly. In 1827 the Legislature passed "An Act relative to Criminal Jurisprudence" which was designated as constituting "the code of criminal jurisprudence of this state." Act of January 30, 1827, [1827] Ill. Laws 124-68. During the 19th and 20th centuries there have been a number of unofficial reporters of the Illinois Revised Statutes such as Purple, Cothran, Cahill, Hurd, Smith-Hurd and others. The several compilations prepared by these reporters have not coincided in their organization of the statutes. For example, Cothran classified the Pharmacy Act, hereinafter discussed, as an independent chapter of the statutes, chapter 108a; whereas Hurd classified the Pharmacy Act as part of the chapter on Medicine and Surgery, chapter 91. Compare Cothran's ILL. REV. STAT. ch. 108a (1885) with Hurd's ILL. REV. STAT. ch. 91 (1885).

Even though the General Assembly did not officially enact a "Criminal Code" until 1962 (see Act of July 28, 1961, [1961] Ill. Laws 1983) the official reporters have classified the enactments for purposes of publication. In the balance of this article, therefore, references to the "criminal code," the "pharmacy act" or "medicine and surgery" prior to 1961 refer to the classification fixed by the official reporter of the laws rather than to that fixed by an unofficial compiler. When reference is made to an unofficial compiler of the statutes, it will be to Hurd's Illinois Revised Statutes.

5. Act of February 12, 1853, §§ 1-2, [1853] Ill. Laws 215.

[e]very druggist or other person who shall sell and deliver any arsenic, strychnine, corrosive sublimate, prussic acid or other substance or liquid usually denominated as poisonous, without having the word 'poison' written or printed upon a label attached to the phial or parcel in which such drug is contained, or shall sell and deliver any drug or medicine other than upon the prescription of a physician, without having the name of such drug or medicine printed or written upon a label attached to the phial or parcel containing the same, shall be fined not exceeding \$25.⁶

The second section provided that

[i]f any druggist or other person sells or gives away any arsenic, strychnine, corrosive sublimate or prussic acid without the written prescription of a physician, and fails to keep a record of the date of such sale or gift, the article, and amount thereof sold or given away, and the person to whom delivered, he shall be fined not exceeding \$50 for each neglect. Whoever purchases any such poison and gives false or fictitious name, shall be punished in the same manner.⁷

As the criminal code was revised and renumbered from 1874 until 1931, these two provisions remained a part of the criminal laws of the state with changes only in the numbering of sections. In 1929, the last enactment of Illinois revised statutes before a drug control law became part of the criminal code, these two sections were compiled in chapter 38 as sections 184 and 185.⁸

THE PHARMACY ACT, 1881 TO 1931

The absence of an elaborate scheme of control in the criminal code should not be construed as indicating the absence of a drug problem during these years. The problem was a real and growing one during the late 19th century, and the statutory efforts to control it during this period were to be found in the Pharmacy Act.⁹

Though the Pharmacy Act was primarily concerned with regulation of pharmaceutical practices and the establishment of a regulatory board, its final two provisions touched on controlling the dispensing of drugs, the first such effort outside the criminal code. The 1881 Act was the most elaborate which had been adopted up to that time. For the first time, substances such as laudanum, morphine, oil of bitter almonds, and opium were listed as "poisons," and sellers of the substances were absolutely prohibited from delivering any of the said poisons to any person under the age of fifteen. The statute, for the first time, also imposed a duty upon the seller to determine "that such poison

6. ILL. REV. STAT. ch. 38, § 62 (1874).

7. *Id.* § 63.

8. ILL. REV. STAT. ch. 38, §§ 184, 185 (1929).

9. Act of May 30, 1881, [1881] Ill. Laws 119-24.

is to be used for a legitimate purpose."¹⁰

It is worth observing that, although the statutory provisions were more elaborate than those of the criminal laws then in force, the penalty provisions emphasized the regulatory, rather than criminal, nature of the statute. For example, any person who failed to comply with the Act was subject to a penalty of five dollars for each offense. If a penalty was collected after prosecution, one-half of the penalty inured to the benefit of the pharmacy board created by the Act, and the other half to the school fund of the county of prosecution.¹¹

The Pharmacy Act remained essentially the same until 1903, when a dramatic change occurred, for the 1903 Act specifically dealt with, and emphasized the control of, cocaine and its derivatives:

[I]t shall not be lawful for any druggist or other person to retail, or sell, or give away any cocaine, hydro-chlorate, or any salts of, or any compound of cocaine, or any preparation containing cocaine, or any salts of, or any compound thereof, excepting upon the written prescription of a licensed physician or licensed dentist, licensed under the laws of the State, which prescription shall only be filled once, and must have written plainly upon it, the name and address of the patient: *Provided*, that the provisions of this section shall not apply to sales at wholesale by any manufacturer or wholesale dealer, who shall sell to the retail druggist, or other person so sold, as original packages only, when such manufacturer or wholesale dealer shall have affixed to each box, bottle or package containing such cocaine, hydro-chlorate, or salts or compounds of cocaine, or preparations containing cocaine, a label specifically setting forth the proportion of cocaine contained therein.¹²

The penalty provisions of the 1903 enactment were also more elaborate. Any druggist or other person who sold the listed substances in violation of the Act or any person who prescribed any cocaine to any person addicted to the habitual use of cocaine, or any preparation or compound thereof was liable to a fine of not less than fifty dollars nor more than two hundred, for the first offense; and not less than two hundred nor more than one thousand dollars for each subsequent offense. Sellers at wholesale were specifically exempted from its provisions, except for labelling. If the offender were a physician, dentist or pharmacist, the statute provided that his license be revoked.¹³

A scant five years later, in 1908, the pertinent sections of the Pharmacy Act underwent another dramatic change. Under the 1908 Act, any retail transaction involving cocaine and speci-

10. Act of May 30, 1881, § 14, [1881] Ill. Laws 123.

11. Act of May 30, 1881, §§ 14, 15, [1881] Ill. Laws 123-24.

12. Act of May 13, 1903, § 14a, [1903] Ill. Laws 248-49.

13. Act of May 13, 1903, § 14b, [1903] Ill. Laws 249.

fied derivatives mandated that the seller keep the prescription required for sale on permanent file. Any wholesale transaction required clear labelling of the package containing the substance, and its destination. For the first time, the 1908 Act required the wholesaler to keep a permanent file recording the date of sale, quantity sold, name and form in which sold, name and address of buyer, and the name of the person making the entry. The records were required to be maintained for five years from the date of the sale.¹⁴ The statute continued the prohibition against prescribing such substances to "any person addicted to the habitual use of cocaine, alpha or beta eucaine. . . ."¹⁵ The 1908 Act dramatically increased the scheme of penalties. Each offense was classified as a misdemeanor. The first offense was punishable by a fine of not more than \$1000 or imprisonment in the county jail for not more than one year, or both; each succeeding offense was punishable by a fine of not less than \$200 nor more than \$1000 or imprisonment in the county jail for not less than three months nor more than twelve months, or both. If the offender were a licensed physician, dentist, or pharmacist, his license was to be revoked.¹⁶

Federal law, particularly the Harrison Act,¹⁷ approved December 17, 1914, influenced the development of Illinois law, relative to the social control of drugs. Reflecting this influence, the Pharmacy Act was again amended in 1915. This amendment,¹⁸ the most elaborate to that date, prohibited any sale, barter, exchange, distribution or dispensing of any opium or coca leaves, or any compound, manufacture, salt, derivative or preparation thereof, except in pursuance of the written prescription of a licensed physician, licensed dentist or licensed veterinarian who was registered with the United States Collector of Internal Revenue. The penalties of the 1908 statute were retained. For the first violation of the statute there was a fine of not more than \$1000 or imprisonment in a county jail for one year, or both; and for each succeeding offense, a fine of not less than \$200 nor more than \$1000 and imprisonment not less than three months nor more than twelve months in a county jail, or both.¹⁹

The history of this 1915 statute discloses that from 1903, and until its repeal in 1931, there was a provision in the Act regulating pharmacies and pharmacists that prohibited any duly registered physician or other person from prescribing, selling, offering for sale, dispensing or giving any cocaine, alpha or beta

14. Act of January 17, 1908, § 14a, [1908] Ill. Laws 88-9.

15. Act of January 17, 1908, § 14b, [1908] Ill. Laws 89.

16. Act of January 17, 1908, § 14c, [1908] Ill. Laws 89-90.

17. Act of December 17, 1914, Pub. L. No. 63-223, 38 STAT. 785.

18. Act of June 23, 1915, §§ 14a, 14b, 14c, [1915] Ill. Laws 500-04.

19. Act of June 23, 1915, § 14c, [1915] Ill. Laws 503-04.

eucaïne, or any derivative or compound thereof to any person addicted to their habitual use. However, prior to 1915, any druggist in Illinois or other person could sell at retail or give away cocaine, alpha or beta eucaïne, or any compound or derivative thereof, providing it was on the written prescription of a registered physician, and such prescription was recorded and maintained in a file required by the statute.²⁰

Thus, the first Illinois penal provisions aimed at controlling the use of drugs were classified by the official reporter not as part of the criminal code, but because they were part of the statute regulating pharmacy, as part of the chapter on medicine and surgery. These provisions remained there until 1931 when, for the first time in Illinois law, a series of detailed criminal statutes were adopted to control and penalize the unlawful sale, barter and dispensing of narcotics.

As noted hereinabove, the Harrison Act had a pervasive influence on Illinois law. This influence is reflected in the narcotic drug control law approved July 3, 1931, which was classified by the official reporter as part of the criminal code.²¹ It should be observed that the 1931 enactment followed, generally, the statute prepared by the National Conference of Commissioners on Uniform State Laws, guided in large part by Harry J. Anslinger, who then headed the federal agency which had spearheaded the adoption of the Harrison Act.

THE NARCOTIC DRUG CONTROL LAW OF 1931

The Act of 1931 consisted of twenty-three sections, the first gave it its name, "The Narcotic Drug Control Law," the last repealed those provisions of the Pharmacy Act which had originally been enacted in 1901.²² The statute defined the common terms met in dealing with drugs, and included a paragraph that defined the Harrison Act, emphasizing its tax aspects.²³ Following the definition section, the statute provided that it was "unlawful for any person to possess, have under his control, sell, distribute, administer, dispense, or prescribe any habit forming drug except as provided in this Act."²⁴ Habit forming drugs could be sold or distributed by a manufacturer, wholesaler or apothecary to other manufacturers, physicians, dentists or veterinarians, or to public or private hospitals or institutions, providing all of the parties in such transactions were registered under the Harrison Act, if such registration were

20. Act of June 23, 1915, §§ 14a, 14b, [1915] Ill. Laws 501-03.

21. Act of July 3, 1931, [1931] Ill. Laws 455-60.

22. Act of July 3, 1931, §§ 1, 23, [1931] Ill. Laws 455, 460.

23. Act of July 3, 1931, § 2, [1931] Ill. Laws 455-56.

24. Act of July 3, 1931, § 3, [1931] Ill. Laws 456.

required by that statute.²⁵ With regard to any order for a supply of any habit forming drug, the provisions of the statute were met if the person giving the order had complied with the provisions of the Harrison Act.²⁶ This statute contained a section that made its provisions inapplicable to medical preparations containing cannabis indica or cannabis sativa, when combined with other ingredients in medicinal doses.²⁷ Medical preparations, prescriptions or remedies containing no more than two grains of opium or more than one-fourth of a grain of morphine, or one-eighth grain of heroin or more than one grain of codeine, were excluded from the statute.²⁸ Although, in substance, the statute included all the provisions of the Pharmacy Act, the penalties of that Act were increased substantially. A violation of the 1931 Act was a felony, punishable by imprisonment for a term not exceeding ten years, if any person peddled, sold, bartered or exchanged any habit forming drug in violation of the terms of the statute.²⁹ Any violation other than peddling, selling, bartering or exchanging a habit forming drug in violation of the Act was a misdemeanor punishable by a fine not exceeding \$500 or imprisonment not exceeding one year, or both said fine and imprisonment.³⁰ Although this law did not refer to what later developed as the Uniform Narcotic Drug Act, the general structure of the 1931 statute followed the product of the National Conference of Commissioners on Uniform State Laws, which was first published in 1932.³¹ Later developments in Illinois criminal law, aimed at controlling the abuse of drugs, coincided generally with the structure and provisions of the Uniform Narcotic Drug Act.

THE UNIFORM NARCOTIC DRUG ACT OF 1935

The Uniform Narcotic Drug Act became part of the criminal code of Illinois on July 8, 1935. It consisted of twenty-eight sections, constituting the most sophisticated statutory scheme ever to confront the problem of drug abuse. The definition section defined no less than nineteen terms and gave an indication of the scope of the statute, one that touched corporations, reached individuals, and affected manufacturers, hospitals and laboratories.³² The statutory scheme was closely linked to the then existing federal narcotic laws.³³

25. Act of July 3, 1931, § 4(1), [1931] Ill. Laws 456.

26. Act of July 3, 1931, § 4(2), [1931] Ill. Laws 456-57.

27. Act of July 3, 1931, § 5(1), [1931] Ill. Laws 457.

28. Act of July 3, 1931, § 5(2), [1931] Ill. Laws 457.

29. Act of July 3, 1931, § 22, [1931] Ill. Laws 460.

30. *Id.*

31. Act of July 8, 1935, [1935] Ill. Laws 723-33.

32. Act of July 8, 1935, § 1, [1935] Ill. Laws 723-24.

33. See, e.g., Act of July 8, 1935, §§ 1(15), 1(16), 1(18), 9(5), 24, [1935] Ill. Laws 724, 728-29, 732-33.

The prohibition announced by section 2 of the Act was a broad one. It held that it was "unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this Act."³⁴ Persons who wished to operate as manufacturers and wholesalers were required to obtain a license from the Department of Registration and Education,³⁵ and the qualifications for a license were set out in the Act.³⁶ A sale by a licensed manufacturer or wholesaler could be made only to certain stipulated persons³⁷ and only on official written forms issued by the United States Commissioner of Narcotics, or on an official form provided by the state Department of Registration and Education.³⁸ Certain preparations which contained small amounts of narcotics were exempted from the operation of the Act,³⁹ but they were subject to stringent conditions.⁴⁰ In fact, even authorized drug traffic subjected parties to strict record keeping⁴¹ and labelling requirements.⁴² As to enforcement procedures, the Act contained detailed sections for the seizure of contraband,⁴³ with warrants⁴⁴ and without warrants,⁴⁵ as well as for the disposition of narcotics that had been seized.⁴⁶ Interestingly, however, the penalty for a first offense was less than it had been under the 1931 Act.⁴⁷ A first offense was punishable by a fine of not more than \$1000 or imprisonment in the county jail for not more than one year, or both; any subsequent offense was punishable by a fine not exceeding \$5000 or by imprisonment in the penitentiary for a term not exceeding five years, or both.⁴⁸

1935 TO 1955: INCREASING PENALTIES

The Uniform Narcotic Drug Act went unchanged from 1935 to 1937,⁴⁹ but the next two decades witnessed amendments to the penalty provisions at almost every semi-annual session of Illinois General Assembly. The first such amendment came in

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34. Act of July 8, 1935, § 2, [1935] Ill. Laws 724.
 35. Act of July 8, 1935, § 3, [1935] Ill. Laws 724.
 36. Act of July 8, 1935, § 4, [1935] Ill. Laws 724-25.
 37. Act of July 8, 1935, § 5, [1935] Ill. Laws 725-26.
 38. Act of July 8, 1935, § 1(16), [1935] Ill. Laws 724.
 39. Act of July 8, 1935, §§ 8(1), 8(2), [1935] Ill. Laws 727.
 40. Act of July 8, 1935, § 8(3), [1935] Ill. Laws 727.
 41. Act of July 8, 1935, § 9, [1935] Ill. Laws 728-29.
 42. Act of July 8, 1935, § 10, [1935] Ill. Laws 729.
 43. Act of July 8, 1935, § 14, [1935] Ill. Laws 730.
 44. Act of July 8, 1935, § 16, [1935] Ill. Laws 730.
 45. Act of July 8, 1935, § 15, [1935] Ill. Laws 730.
 46. Act of July 8, 1935, § 17, [1935] Ill. Laws 730-31.
 47. See text accompanying note 29 *supra*.
 48. Act of July 8, 1935, § 23, [1935] Ill. Laws 732.
 49. See Act of July 24, 1939, §§ 1, 8, 9, [1939] Ill. Laws 498-501. Note in this amendment the expanded and more sophisticated definition of "Cannabis." See also Act of July 24, 1939, § 1(13), [1939] Ill. Laws 499.

1945. It retained the previous penalties for violations of the Act, but added a proviso for violations involving cannabis and its derivatives. First offenses involving cannabis were punishable by a fine not exceeding \$1000 or imprisonment in the penitentiary for not less than one nor more than five years, or both; subsequent offenses were punishable by a fine not exceeding \$5000 or imprisonment in the penitentiary for not less than three nor more than ten years, or both.⁵⁰ In 1949, the legislature relented. The harsher penalty for violations involving cannabis was repealed and the penalty provided in the 1935 Act was restored.⁵¹

The sixty-seventh session of the Illinois General Assembly, in 1951, reflected the ever-growing legislative concern with drug abuse and the legislators' attitude that increased penalties would have a deterrent effect on would-be violators. In fact, section 2 of the amendment announced: "Whereas, the ominous and ever-present problem of narcotics has recently become acute in many parts of this State, therefore an emergency exists and this Act shall take effect upon its becoming a law."⁵²

To meet the emergency, the penalty for those who violated the Act by selling, prescribing, administering or dispensing any narcotic drug was increased to a term in the penitentiary of not less than one nor more than five years for the first offense.⁵³ Possession and manufacture in violation of the Act was punishable by a \$5000 fine or imprisonment from one to five years, or both, for the first offense.⁵⁴ Any subsequent offense, or the selling, prescribing, administering or dispensing to any person under 21 years of age, was punishable by imprisonment for two years to life.⁵⁵ Persons authorized to manufacture, possess, sell, prescribe, administer or dispense drugs were also penalized for failure to comply with the Act.⁵⁶ When the severity of the penalties for subsequent offenses is considered, the final provision of the 1951 amendment takes on added significance:

Any offense under this Act shall be deemed a subsequent offense if the violator shall have been previously convicted of a felony under any law of the United State [sic] of America, or of any State or Territory or of the District of Columbia relating to narcotic drugs.⁵⁷

50. Act of July 18, 1945, § 23, [1945] Ill. Laws 686.

51. Act of August 3, 1949, § 23, [1949] Ill. Laws 717-19. It is also worth observing that with the 1949 amendment, "Methadon" was defined for the first time. See also Act of August 3, 1949, § 1(15), [1949] Ill. Laws 719.

52. Act of May 3, 1951, § 2, [1951] Ill. Laws 91.

53. Act of May 3, 1951, § 23, [1951] Ill. Laws 90.

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.* at 91.

Evidently, the state of emergency continued to 1953, for in that year a first offense committed by selling, prescribing, administering or dispensing in violation of the Act was punishable by imprisonment for any term from two years to life.⁵⁸ The other provision remained the same as in the 1951 amendment,⁵⁹ and remained substantially the same until 1957.⁶⁰

Thus, the two decades between 1935 and 1955 witnessed dramatically increased penalties for violation of the Illinois narcotic drug laws as the legislature responded to what it termed a "state of emergency." This response was underscored by enactment, in 1953, of the "Registration of Drug Addicts" law.⁶¹ Four years later, that law was repealed.⁶² That same year, 1957, witnessed a significant change in other narcotic drug laws.

THE UNIFORM NARCOTIC DRUG ACT OF 1957

The Uniform Narcotic Drug Act of 1957, consisting of forty-four sections, substantially revised the 1935 Act. For example, it defined "addict" in a way previously unknown to Illinois law, as "any person who unlawfully uses any narcotic drug or any person who has lost the power of self-control with reference to narcotic drugs and abuses the use of the narcotic drug to such an extent that the person or society is harmed."⁶³ It defined eleven substances as "narcotic drugs," along with every conceivable derivative or compound thereof.⁶⁴ Additionally, the 1957 Act shifted to the newly organized Division of Narcotic Control⁶⁵ much of the supervisory and enforcement authority⁶⁶ formerly exerted by the Department of Registration and Education.⁶⁷

Perhaps the most remarkable feature of the 1957 Act was that, for the first time in 20 years, the penalties for violations were, to a degree, lowered. Persons who solicited any individual under 21 years of age with intent to violate the Act could be imprisoned from two to five years.⁶⁸ Selling, prescribing and administering in violation of the Act were punishable by peni-

58. Act of July 15, 1953, § 23, [1953] Ill. Laws 1531-32.

59. *Id.*

60. See Act of July 11, 1955, § 23, [1955] Ill. Laws 1410.

61. Act of June 16, 1953, [1953] Ill. Laws 355.

62. Act of July 11, 1957, [1957] Ill. Laws 2569-86.

63. Act of July 11, 1957, § 2-18, [1957] Ill. Laws 2572. Compare this definition with that in the "Registration of Drug Addicts" law of 1953, Act of June 16, 1953, § 1, [1953] Ill. Laws 355.

64. Act of July 11, 1957, § 2-17(a)-(k), [1957] Ill. Laws 2571.

65. Act of July 11, 1957, § 2-16, [1957] Ill. Laws 2571.

66. Act of July 11, 1957, §§ 23, 32, 34, [1957] Ill. Laws 2579, 2582, 2582-83.

67. See, e.g., Act of July 8, 1935, §§ 1(19), 9(5), [1935] Ill. Laws 724, 728.

68. Act of July 11, 1957, § 38, [1957] Ill. Laws 2584.

tentiary terms of one to ten years. A second offense was punishable by life imprisonment and no probation or suspension of sentence could be granted to any violator convicted under this paragraph.⁶⁹ Less severe penalties were provided for violations by manufacturers, pharmacists and physicians.⁷⁰ For the first time, a specific provision for the probation of convicted addicts was included.⁷¹

THE REVISED CRIMINAL CODE OF 1961

Early in 1954, the Supreme Court of Illinois and the Governor separately requested the Illinois State and the Chicago Bar Associations to initiate a study looking toward a complete revision of the Illinois Criminal Code. A two-year study of the scope of the problem of revision revealed the magnitude of the project. As pointed out earlier in the article,⁷² Illinois had no "criminal code" in the sense of a codified, systematic body of criminal statutes. Many of the Illinois criminal statutes, though certainly not its drug control laws, were substantially unchanged since the 1827 chapter on criminal jurisprudence was enacted.⁷³ Six years after the original committee was appointed, in the fall of 1960, the substantive code was completed. It was submitted to the General Assembly in 1961, adopted, signed by the Governor and became effective January 1, 1962.⁷⁴ With regard to the Uniform Narcotic Drug Act of 1957, the revision committee made the following request:

In view of the extensive and comprehensive nature of the Uniform Narcotic Drug Act adopted by the General Assembly in 1957, effective January 1, 1958, the Committee deemed it unwise to attempt any modifications or amendments to the act in conjunction with the Code as a whole. It seems more appropriate to incorporate the present sections of the act into the format of the Code and then give special attention to any amendments that may seem indicated at a later date. The publisher of the statutes will be requested to incorporate such sections into Article 22 of the Code.⁷⁵

Thus, the Narcotic Drug Act of 1957, with the few amendments enacted in 1959 and 1961,⁷⁶ was engrafted into the Criminal Code of 1961 as section 22. For the next decade, excluding what may be classified as minor amendments, narcotic drug provisions of the Illinois Criminal Code of 1961 remained unchanged.

69. *Id.*

70. *Id.* at 2585.

71. *Id.*

72. Note 4 *supra*.

73. Act of January 30, 1827, [1827] Ill. Laws 124-68.

74. Act of July 28, 1961, [1961] Ill. Laws 1983-2049.

75. ILL. REV. STAT. ch. 38, preface to § 22 (1961).

76. See Act of July 22, 1959, [1959] Ill. Laws 1893-1905; Act of May 1, 1959, [1959] Ill. Laws 143-47; Act of August 1, 1961, [1961] Ill. Laws 2472-75.

REPEAL, REVISION AND RE-ENACTMENT—1971

In 1971, the entire Illinois statutory scheme with regard to narcotic drugs was revised. The Uniform Narcotic Drug Act of 1957, which had comprised section 22 of the Illinois Criminal Code, was repealed⁷⁷ and two statutes came forth to take the place of one: Public Act 77-757, the "Illinois Controlled Substances Act," and Public Act 77-758, the "Cannabis Control Act." These two statutes⁷⁸ are officially reported under the heading "Foods" and, therefore, have been included by the unofficial compiler as portions of Chapter 56½ of the Illinois Revised Statutes, "Food & Drugs."⁷⁹

*The Illinois Controlled Substances Act*⁸⁰

The Illinois Controlled Substances Act of 1971 is an exhaustive and ambitious effort at drug control, so much so that it does not readily admit to a synopsis. The Act sought to establish a uniform system for the control of the manufacture, distribution, and possession of what it defined as controlled dangerous substances, to provide enforcement procedures and penalties, to coordinate efforts against abuse and to develop a program to curb drug abuse in Illinois schools.

The Act is divided into six articles. Article I is principally devoted to definitions of terms, of which there are over forty. In addition, this article includes an expression of legislative intent, which evidences a more enlightened approach to drug abuse than can be found in earlier statutes. It states that

[i]t is not the intent of the General Assembly to treat the unlawful user or occasional petty distributor of controlled substances with the same severity as the large-scale, unlawful purveyors and traffickers of controlled substances. To this end, guidelines have been provided, along with a wide latitude in sentencing discretion, to enable the sentencing court to order penalties in each case which are appropriate for the purposes of this Act.⁸¹

Article II outlines the powers of the Director of the Department of Law Enforcement and includes five schedules of over one hundred controlled substances, classified by name and quantity.⁸² Article III deals with licensing, registration, manufacture, distri-

77. The repealing section of the new law was section 603. See ILL. REV. STAT. ch. 56 1/2, §§ 1100 *et seq.* (1971). Section 603 also repealed a number of other laws such as the "Drug Abuse Control Act." Act of August 17, 1967, ch. 111 1/2, § 801, [1967] Ill. Laws 3195 (repealed 1971).

78. ILL. REV. STAT. ch. 56 1/2, §§ 1100 *et seq.* (1971); ILL. REV. STAT. ch. 56 1/2, §§ 701 *et seq.* (1971).

79. *Id.*

80. ILL. REV. STAT. ch. 56 1/2, §§ 1100 *et seq.* (1971).

81. ILL. REV. STAT. 56 1/2, § 1100 (1971).

82. ILL. REV. STAT. ch. 56 1/2, §§ 1201-13 (1971).

bution and other related matters.⁸³ Article IV is a very elaborate penalty scheme classified by the drug and amount.⁸⁴ Article V deals with enforcement and disposition of seized property,⁸⁵ and Article VI principally with the repeal of earlier enactments.⁸⁶

*The Cannabis Control Act*⁸⁷

The Cannabis Control Act, as its name implies, is concerned only with controlling marijuana, hashish and other substances identified as including any part of the plant *Cannabis Sativa*.⁸⁸ One of the reasons given for treating cannabis separately, as declared by the General Assembly, was that previous legislation enacted to control and forbid its use often mercilessly and unrealistically drew a large segment of the population within the criminal justice system without succeeding in deterring the expansion of cannabis use. Therefore, the purpose of the legislators was to establish a penalty system that responded to contemporary knowledge of cannabis and to assist the efforts of law enforcement agencies toward suppression of commercial traffickers and purveyors. To this end, the Act provides for wide latitude in the sentencing discretion of the courts and establishes penalties in a sharply rising progression based on the amount of substance involved in each case. For example, section 4, concerning possession, outlines eight penalties depending on the amount, ranging from 2.5 grams to 500 grams, and whether it is a first or second offense.⁸⁹ On much the same schedule, section 5 deals with manufacture and possession with intent to deliver; section 6 with actual delivery.⁹⁰ The remaining sections deal with persons under 18 years of age, conspiracy, probation, authorized possession and manufacture, forfeiture, disposition after forfeiture and cooperation with federal authorities.⁹¹

SUBSEQUENT HISTORY 1971-1975

In the four years that have elapsed since enactment of the Illinois Controlled Substances Act and the Cannabis Control Act, there have been eight amendments to these statutes.⁹² The

83. ILL. REV. STAT. ch. 56 1/2, §§ 1301-15 (1971).

84. ILL. REV. STAT. ch. 56 1/2, §§ 1401-12 (1971).

85. ILL. REV. STAT. ch. 56 1/2, §§ 1501-09 (1971).

86. ILL. REV. STAT. ch. 56 1/2, §§ 1601-03 (1971).

87. ILL. REV. STAT. ch. 56 1/2, §§ 701-19 (1971).

88. ILL. REV. STAT. ch. 56 1/2, § 703 (a) (1971).

89. ILL. REV. STAT. ch. 56 1/2, § 704 (1971).

90. ILL. REV. STAT. ch. 56 1/2, §§ 705-06 (1971).

91. ILL. REV. STAT. ch. 56 1/2, §§ 707-19 (1971).

92. Amendments to the Illinois Controlled Substances Act: Act of August 18, 1972, P.A. 77-2723, [1972] Ill. Laws 1885-92; Act of August 13, 1973, P.A. 78-255, § 16, [1973] Ill. Laws 786, 829-30; Act of August 28, 1973, P.A. 78-441, [1973] Ill. Laws 1285-92; Act of July 2, 1974, P.A.

most significant, again, related to changes in penalties. The Controlled Substances Act has been amended so that the penalties provided for in Article IV conform with the Unified Code of Corrections.⁹³ The Cannabis Control Act was also amended to conform with that statute.⁹⁴ With the exception of these minor amendments, both acts remain as they were enacted in 1971. Each is a complex statute whose sections are interrelated. Neither enactment admits to a facile synopsis; each requires a lengthy analysis for a full understanding of its import. One must examine the statutes to appreciate their operation. In a sense, the complexity of the Illinois Controlled Substances Act and the Cannabis Control Act is a true reflection of the social problem they confront.

CONCLUSION

Statistics can be found which support almost any view of the magnitude of drug abuse at any given time in the United States or any particular state. A history of drug control laws is another way of measuring the extent of the problem. It is suggested that an historical examination of drug control laws may not develop figures as to the number of addicts, but that individual enactments are usually an accurate reflection of public attitudes and concern.

This is true of Illinois. Our early criminal laws merely required accurate labelling. Later, a statutory scheme developed which sought to regulate those who handled drugs as an integral part of their professional calling. In the 1930's broad statutes were grafted into the criminal code where they remained, with ever-increasing penalties, until 1971.

The development of criminal laws which have characterized the social control of drugs in Illinois is typical of industrial states in this country. At this writing, seven states and the District of Columbia maintain the Uniform Narcotic Drug Act of 1932 as the principal means of drug control.⁹⁵ Forty-three others have supplanted it by enactment of the Uniform Controlled Substances Act of 1970.⁹⁶ In the two decades preceding that enactment, the statutes of other states also reflect, by amendments increasing

78-992, [1974] Ill. Laws 96, 101-02.

Amendments to the Cannabis Control Act: Act of August 17, 1972, P.A. 77-2627, [1972] Ill. Laws 1667-69; Act of June 12, 1973, P.A. 78-255, § 16, [1973] Ill. Laws 786, 829-30; Act of September 12, 1973, P.A. 78-827, [1973] Ill. Laws 2571-72; Act of July 2, 1974, P.A. 78-992, § 15, [1974] Ill. Laws 96, 116-17.

93. The specific amendments are found in Act of August 18, 1972, P.A. 77-2723, [1972] Ill. Laws 1885-92.

94. See Act of August 17, 1972, P.A. 77-2627, [1972] Ill. Laws 1667-69.

95. 9 UNIFORM LAWS ANNOTATED 523 (Master Edition 1973).

96. 9 UNIFORM LAWS ANNOTATED 24 (Supp. 1975).

the penalties, the public outcry against drug abuse. The enactment of the Controlled Substances Act and the Cannabis Control Act in Illinois reflects a more enlightened and temperate approach. Some say this is an attitude whose time has come; others disagree. After an historical examination of statutes which have characterized the social control of drugs in Illinois since 1853, the least that can be said is that its novel approach offers some hope that the tide of drug abuse can be curbed.