

Pebbles Trippet's Achievement

By Fred Gardner

On New Year's Eve —December 31, 2017, just before California's "legalization" of cannabis took effect— NBC San Francisco aired a documentary that gave Albion activist Pebbles Trippet proper credit for advancing the movement. Peter Coyote narrated the 45 minute video, which used the Ken Burns template of integrated interviews, still photos and spoken commentary. In case you missed it...

COYOTE: *(as the camera zooms slowly in on Sudie Trippet's high school yearbook photo):* "Pebbles Trippet grew up in Oklahoma when the world was at war. [This is inaccurate. She grew up during the Cold War.] She has never shied away from a fight. As a teenager in the '50s she became involved in the Civil Rights movement and helped integrate lunch counters in Tulsa. In the '60s she fought to end the Vietnam War. In 1970 she came to California and found a new cause."

Cut to Trippet, now in her mid-70s, saying, "We did end the war." She hears the overstatement and immediately corrects herself, "We ended the draft. And part of that was the marijuana movement. It was in the background, at least for me."

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The connection between pro-marijuana and pro-peace sentiment among US Americans in the Vietnam War era is rarely mentioned or analyzed. Knowing that the government was lying about marijuana made millions question whether they were telling the truth about Vietnam —or anything else.

COYOTE: "With the war winding down,

Trippet turned her organizing skills to the growing marijuana movement. In 1972 she helped get the California Marijuana Initiative on the Ballot. Proposition 19 would be the first time Americans could vote on legalizing marijuana. It was doomed to fail, but..."

TRIPPET: "It was a surprisingly good showing. We won 33% of the vote. Out of the blue. No one had ever thought of it before... We felt that was a tremendous victory... 'Let's go on in 1974 and let's do it again!'"

Thus our heroine stepped into the Single Issue Trap with eyes wide open!

COYOTE: "Trippet had been using cannabis to control her migraines for years. She carried low-potency marijuana leaves with her in her car. *(Shot of rolled joints)*... Every time she was arrested, she argued that it was her medicine. And she was arrested a lot."

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TRIPPET: "I was busted 10 times in 11 years in five counties. It was usually on the road driving late at night. My Sonoma County bust came in 1990. My Marin County bust in 1992. My Contra Costa bust in 1994, and also the Humboldt County bust and the Palo Alto bust."

COYOTE: "Trippet had a plan... aim for the Supreme Court. She went to the law library at UC Berkeley and read up on every case involving marijuana. Trippet learned how to file court papers and how to defend herself... She found hope in the US Constitution."

Trippet summarizes the ways in which she saw marijuana prohibition as unconstitutional: "It's cruel punishment to punish a medical act... It wasn't statutory law, it wasn't California law, but I had 'Unreasonable searches and seizures' of medicine

and 'Unequal protection' compared to other drugs."

COYOTE: "Trippet also had one key supporter: Dr. Tod Mikuriya, a psychiatrist who lived in Berkeley. He was also a director of marijuana research for the National Institute of Mental Health. In 1967 he published a book titled *Marijuana Medical Papers*. He became one of the first medical professionals to argue that cannabis did have medical benefits"

[Two factual errors here. Mikuriya's brief stint at NIMH had ended in '67, and his anthology of pre-prohibition medical literature on cannabis was self-published in 1973.]

TRIPPET: "Every county I would bring him to the stand and he would testify 'Yes, I believe that she uses it legitimately.' It made all the difference, because had I no advocate, I'd just have been up there flailing around about my Constitutional rights."

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COYOTE: "When she lost at one level the appeal moved up to a higher court because she was claiming Constitutional rights. It was an exhausting strategy. In the mid-1990s her argument for the right to transport marijuana for medical purposes was sent to the US Supreme Court."

TRIPPET: "My papers went to the Supreme Court and they all read it. And of course I was denied a hearing on these Constitutional grounds. The idea is simple: you must be able to carry with you the medicine you can legally possess, or it's unequal with every other medicine."

COYOTE: "In 1996 Proposition 215 legalized medical marijuana in California but it left out one key element: it was still illegal to transport marijuana. [Prop 215 was also silent on distribution.]

TRIPPET: "What about transporting? It wasn't there. That's because they [the primary drafters] thought 'It'll make us lose, people will think we're smuggling.' So they left it out."

"Somebody was going to win it, and it may as well be me."

COYOTE: "But by this time Trippet had spent decades building the legal foundation for the transportation of medicinal marijuana. The California Supreme Court used her work to create what the justices called 'The Trippet Standard.' *(Shot of federal court building.)*

TRIPPET: "Somebody had to argue to include it, so I did. And they granted 'the implicit right.' Those are their words! Wow! Perfect!"

COYOTE: "The Trippet standard also established how much marijuana a person could carry based on their medical condition. It had taken three decades, a dozen arrests, and two years in various jails, but Pebbles Trippet made it possible for California to have an entirely legal medical marijuana business."

The segment ends with Trippet explaining why "Personal sacrifice is a good thing. To lose is a good thing, because if you lose, you have the opportunity to win [in a higher court] for everybody. That's where you set precedent."

"Somebody was going to win it, and it



may as well be me. Or the next person after me who could benefit from what I had argued.

"In order to endure the punishments of prohibition, you have to believe in the benefits of this benign herb."

Trippet amplified her point to O'Shaughnessy's: "Lawyers have largely been discouraged from pursuing appeals once their clients lose at trial or take a plea, since the probability of winning on appeal is slim, only two to three percent.. When Tony Serra discovered this disparity in his own practice, he told me, 'Forget it. I want to win.' He turned [his efforts] to winning at jury trial where there is no need to appeal."

"Being ignored for years taught me how not to be ignored."

"But the problem with that is that very few cannabis defendants go to trial —two to five percent. And even fewer win, and most can't afford the appeal process. So the laws by and large have remained unchallenged for decades; the defense bar is trained in criminal, not civil, law. We have not built an infrastructure of lawyers schooled in civil constitutional challenges. So a marijuana challenge comparable to *Roe v Wade* eludes us and prohibition persists."

"I hold the lawyers responsible for this. Most defense lawyers rely on a statutory motion to suppress the evidence, based on no probable cause or lack of a warrant, or whatever —so they have nowhere to go once they lose on appeal. The 1538.5 suppression motion is the end of the line for appeals —unless constitutional rights are also argued."

"Usually on appeal lawyers use the suppression motion to get rid of the evidence, which I was instinctively opposed to because I wanted to bring out the evidence, not suppress it... Any lawyer could do the same thing but they are too afraid of losing their reputation on a futile or failed attempt, so they stop at the suppression-motion stage and don't even try. That's why I say 'losing is a good thing.' If you're incapable of accepting loss, you're incapable of getting a win."

"When Prop 215 passed, I suddenly had new statutory rights, which I of course incorporated. They could not ignore someone with knowledge and staying power. Being ignored for years taught me how not to be ignored."



PEBBLES TRIPPET DISTRIBUTED BUMPER STICKERS promoting marijuana legalization and other "movement" causes —peace, sexual and racial equality, an end to poverty— from a table set up on Castro Street in San Francisco. "Throughout the years of prosecutions, the Castro was my shelter from the storm," she says. "I was there when Dennis brought me the first news of my transportation victory on appeal."

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