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Legalization or Bust: A Brief History of Marijuana Prohibition

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Peter Tosh's prophetic anthem "Legalize It" is sounding pretty good these days. Since the former Wailer penned the reggae tune in 1976, the legalization movement has come a long way. Still, others may say: What's taking so long?

America's longest prohibition dates back to 1937 -- the "Reefer Madness" era when the country's earliest anti-drug zealots (led by former head of the Federal Bureau of Narcotics, Harry J. Anslinger) convinced a gullible public that marijuana caused people to commit unspeakable acts of depravity, such as when the hopped-up stoner runs over an elderly man in the guffaw-inducing exploitation flick.

While most Americans no longer accept the bald-faced lies that propelled the campaign to ban marijuana for all its uses -- recreational as well as industrial (hemp) and medical -- it remains an uphill battle to counter the government's standard-issue pot propaganda, such as increased harm due to greater potency, the gateway theory that marijuana leads to hard drugs and suggestions that cannabis use [causes cancer](#) (quite the opposite, actually).

Our hidden marijuana history contradicts the most outlandish claims. Though used for pain relief in the 19th and early 20th centuries in the U.S., synthetic drugs would replace cannabis and other natural remedies as the pharmaceuticals industry expanded after World War II. The same could be said for hemp - cannabis' versatile relative. Despite being the material on which the Declaration of Independence was written, and its use as rope and sails for ships (see "[Hemp for Victory](#)," the 1943 government short extolling the marijuana's industrial virtues), as seed for birds and as fiber for clothing, hemp was also curiously phased out in favor of cotton and synthetics such as nylon.

Marijuana's emergence as the drug of choice of the '60s had little to do with medicinal and industrial applications and everything to do with its profound power to intoxicate an entire generation. While parents popped pills and drank martinis, the younger generation (dubbed hippies) [smoked pot and chugged Boone's Farm wine](#).

By 1970, for the first time a political movement began to coalesce around legalizing marijuana. Founded by a lawyer, [NORML](#) (National Organization for the Reform of Marijuana Laws) would put a serious face on an issue whose time had come.

Turning up the propaganda machine, Richard Nixon answered with the "War on Drugs." In 1961, the U.S. had signed on to the [International Single Convention Treaty](#), which divided illegal and legal drugs into [four schedules](#), placing marijuana along with heroin and LSD in Schedule I, which is defined as having "no currently accepted medical use" and a "high potential for abuse." (Cocaine and morphine are in Schedule II.) The [Controlled Substances Act of 1970](#) implemented these

schedules. And in 1973, the Drug Enforcement Administration (DEA) was formed to enforce these schedules, focusing primarily on marijuana - the most widely-used illegal drug.

With Nixon's impeachment around the corner and the Democrats ready to take over the White House, the prospects of liberalizing the marijuana laws seemed very likely. Twelve states voted to decriminalize pot in the '70s, most while Jimmy Carter was in office. Carter voiced support for decrim, but soon backed off as another Republican backlash loomed and Carter's second term was in jeopardy.

The '80s was hardly a pothead's paradise. Americans took their cues from Ronald Reagan -- an aging actor turned President -- and his headline-grabbing wife, who together ratcheted up the drug-war with their "Just Say No" rhetoric. With cocaine use up and pot down, it took the crack epidemic of the mid-'80s to spur marijuana's gradual reemergence as a safer alternative to the drugs it was supposedly a gateway to.

At the same time, largely thanks to instructions and pictorials in High Times magazine, smokers began to take control of the means of production, growing their own small crops in basements, closets, spare rooms and backyards. Rather than face detection, many went indoors, simulating the outdoor environment using soil or soil-less mediums to create bushy plants that could feed a family of stoners or the whole block. What was exclusively a smuggler's business in the '60s and '70s shifted to domestic cultivation in the '80s and '90s. Now more than 50% of the marijuana consumed is grown in the U.S.

As a result of yet another political shift from Republican to Democrat, new life was breathed into the marijuana legalization cause when Bill Clinton arrived in Washington in 1993. He may not have inhaled, but Clinton's White House projected tolerance and soon pot was "hot" again, just like in the '70s.

However, this time, rather than decrim, medical marijuana would be the new call to arms. It proved highly successful, first winning in California ([Prop 215](#)) in 1996 and sweeping across the nation with [13 additional states](#) voting or passing legislation that allows patients to medicate with pot.

Those opposing medical cannabis viewed it as a stalking horse for complete legalization, and they were right. In states like California and [Colorado](#), where more than 600,000 people have doctor's recommendations and nearly 3,000 dispensaries cater to those with ailments ranging from debilitating diseases to insomnia, qualifying is generally not a problem, as long as you can afford the \$150 doctor's consultation.

Stores up and down the California coast and across the Colorado Rockies now stock a full range of colorfully named marijuana strains and edible products. You really don't need go to a dealer any longer in these states (count Montana in as well) to acquire marijuana. It's de facto legalization.

But because of the rapid spread of dispensaries in California, Colorado and Montana, counties, cities and towns have enacted moratoriums, ordinances, regulations and outright bans to get a handle on this new pot economy. Until Barack Obama took over the White House in 2009, the DEA under G.W. Bush regularly raided pot shops and busted patients. That changed when Obama's Attorney General Eric Holder ordered U.S. attorneys to back off. Though the Feds have stopped bashing in dispensaries' doors, the Los Angeles City Council recently passed an [ordinance](#) to close as many as 800 shops. Still, Oakland has forged ahead, taxing marijuana (10%) and licensing [large-scale grow operations](#) that will supply the city's four dispensaries. There's a good reason why they call it Oaksterdam.

Which brings us to [Prop 19](#) -- or the Regulate, Control and Tax Cannabis Act of 2010 - which is on the California ballot on November 2. It's not the first time voters have had a chance to "tax and regulate" marijuana. Similar initiatives failed twice each in Alaska (2000, 2004) and Nevada (2002, 2006). What's different now is the county's mood. Still battling a recession, marijuana is being seen as a boon, if not savior, to California's staggering economy. With a 10% tax in place, based on sales

of [\\$14 billion per year](#) worth of marijuana, that's a potential \$1.4 billion raised in taxes. Considering that California, like most states, can barely pay its bills, Prop 19 has to be mighty tempting -- even to the gubernatorial candidates Jerry Brown and Meg Whitman, both of whom are currently opposed to the tax-pot initiative.

What are the drug warriors saying about Prop 19? Nothing new, as you might expect. They mouth their usual concerns: use will rise, minors will have easier access, emergency room visits will skyrocket, blah, blah, blah. The most ludicrous argument is: "We have enough problems with alcohol and tobacco, we don't need pot legal too." Let's examine: Tobacco-related deaths and ailments remain at epidemic levels ([440,000 deaths per year](#)). Alcohol related deaths: 110,000. All hard drug deaths: [17,000](#). Marijuana: zero.

This is the argument pot smoker's can't lose. But smoking anything causes cancer, right? Wrong. Though combusting cannabis creates tar and carbon monoxide, this still doesn't lead to cancer, And studies are now showing that marijuana [may inhibit the growth of tumors](#). Marijuana cures cancer? Very possibly.

Potheads are not dummies, no matter what the government and all those Partnership for a Drug Free America TV spots would lead you to believe. Stoners practice what is known as harm reduction on a daily basis. Countering the low-grade imported weed from Mexico, Jamaica and Colombia (a.k.a schwag), home growers converted to sinsemilla (seedless female plants), increasing potency from 2% THC to anywhere from 10% to 25% levels. Not only is domestic weed prettier to look at and smells like roses, you need to smoke less to get high.

Rather than toke out of metal and plastic pipes and bongos, stoners shifted to glass -- a cleaner alternative. There are even so-called "clear" papers made out of cellulose that are safer than standard bleached rolling papers and will save trees.

But the biggest harm reducer is the vaporizer. You might even call it the equalizer. No flame is necessary for these space-aged looking contraptions. A heating device vaporizes marijuana rather than combusts it, preventing the creation of tar and carbon monoxide. Medical patients swear by vaporizers, and so do more and more daily smokers.

Clearly, marijuana doesn't kill or cause cancer. So then it's worst harm has to be getting arrested. Nearly [900,000](#) Americans were busted for pot in 2008. About 5% of that total, 46,000, took place in New York, which has been dubbed, "[The Marijuana Arrest Capital of the World](#)," thanks to two successive mayors, Guiliani and Bloomberg, who have had no sympathy for the city's pot-smoking citizens.

Second worst harm? Failing a drug test. An entire new industry was founded in the '80s to detect small amounts of illegal drugs in people's urine. Marijuana is by far the easiest drug to detect, since its metabolites remain in the body's tissues for up to 45 days after smoking. So, let's say you puffed at a party on the 10th, got randomly tested on the 20th and flunked the test. What exactly does this have to do with your work performance? Absolutely nothing. And now they can test hair, saliva, your work station for residue. Drug testing clearly targets those who choose to recreate with marijuana. Smoke pot or lose your job? It's a tough call.

Perhaps even more harmful is the stereotyping of marijuana smokers as lazy, dumb, slow, passive, apathetic, memory-challenged junk-food addicts. Though anti-drug organizations like the Partnership gladly re-enforce all of these supposed stoner traits, the media has piled on with constant jokey references to pot-heads adding "dude" to every sentence (ok, maybe that one's true, dude) with their groggy heads buried in colossal sized bags of Doritos. Stephen Colbert is one of the biggest perpetrators of this archetype.

Are all stoners like Spicoli (Sean Penn's airhead surfer dude in *Fast Times at Ridgemont High*) and Cheech & Chong? Sure, these are funny characters whose lives revolve around consuming cannabis (in Spicoli's case, he digs "tasty waves" too). But they're also characters from another era (1978-1984). Now we have what might be called "smart stoners" on shows like *Weeds* and in movies like *Harold & Kumar Go to White Castle*. But despite this shift away from the dopey antics of Cheech & Chong, the media persists in belaboring all of the older marijuana stereotypes.

Marijuana legalization is a much a civil rights issue as blacks and women having the right to vote, as women having equal rights to men, as gay people having the right to marry each other. The two causes -- marijuana and gay rights -- are often compared. Due to laws and societal non-acceptance, stoners and gays have been relegated to the proverbial closet (during the civil rights era, it was "the back of the bus"). Both groups have had to hide their activities and behavior from those who might not approve -- family, friend employers, fellow employees, law enforcement. There's one big difference, however: Sodomy is no longer illegal ([the Supreme Court ruled in 2003](#)), while marijuana use remains prohibited. You can be persecuted and worse for being gay, but you can't go to jail for it.

Gay activists have wondered aloud in the past why initiatives such as Prop 8 in California failed while medical-marijuana ballot measures keep racking up victories at state and local levels. Certainly, homophobia is alive and well. But also you need to consider that there are many more stoners than gays (of course, there are plenty of gay stoners). And when pot is on the ballot, stoners turn out in droves.

This bodes well for Prop 19. However, a mixed bag of current polling shows support declining somewhat over the last few months. FiveThirtyEight.com has pointed out that when receiving an automatic phone poll (a.k.a. a "robocall"), support is at its highest. When a live operator asks the questions, people clam up. They don't want to admit to a stranger on the line that they are in favor of legalizing marijuana. After so many years of discrimination, pot-heads are a paranoid bunch. But this will not stop them from going to the polls in huge numbers. Forty years after NORML picked this fight with the government, one mighty wall may just come tumbling down in November.

While anti-drug groups mobilize around defeating the initiative, [criticism of the proposition](#) within the cannabis community is causing concern. With the coffers already low, Oaksterdam University founder Richard Lee (he's the principal financial backer of Prop 19) and his supporters have had to fend off barbs from growers who think they will be put out of business and contrarians who claim the ballot language is too conservative and consider it "legalization lite."

Prop 19 allows adults (over 21) to possess up to one ounce of marijuana. Home growers can devote 25 square feet to their own little pot patch (room for about eight plants). Marijuana will be sold and taxed in stores similar to dispensaries.

To some, an ounce and eight plants just isn't enough. Naysayers worry about the corporate takeover of the marijuana industry. Is Philip Morris poised to roll out packs of Humboldt Lights and Mendocino Menthols containing 10 to 20 machine-spun joints, complete with filter tips? With U.S. tobacco consumption way down, why wouldn't they be? The corporatization concern is real: additives in cigarettes pose as much of a risk as nicotine.

But the big difference between tobacco and marijuana (besides the fact that one can be lethal and the other can't) is that tobacco is not commonly grown at home and marijuana is. Everyone may not be capable of gardening pot, but the option is there to do it, balancing off the corporate takeover talk. It's like tomatoes. You have the choice (at least during the summer) to plant your own outdoor garden and not buy the commercial product that stock supermarket bins. The same with pot: if you have the wherewithal and "green-thumb" skills, you'll never have to go to a store in California to purchase pot again. Just grow your own. It's doubtful that police will be inspecting every plot, so growers will inevitably expand beyond the 25-square-foot limit.

The debate within the marijuana community over Prop 19 may be a form of vetting, but it can also erode support if suspicious stoners who love a good conspiracy theory convince others to either stay away from the voting booth, or even worse, vote against the ballot.

Money has been an issue as well. Until the last month, major pro-pot donors (George Soros, Peter Lewis, George Zimmer) held back support. Some are worried that Prop 19 will lose and deflate the positive momentum around this issue. Others were watching and waiting. Now that they've poured more than \$1 million into the campaign's coffers with late contributions, the question that will be asked if Prop 19 loses will be: Did they wait too long?

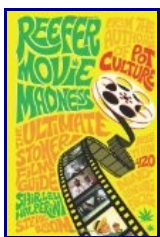
"A victory for Prop. 19 would be a major breakthrough," says Ethan Nadelmann, executive director of the Drug Policy Alliance, which receives funding from Soros.

If Prop 19 wins, more states will follow California's lead -- just as they did after Prop 215 passed 14 years ago. The White House's veiled threat to stand in the way of its implementation is mostly smoke and mirrors. As the legalization wave begins, Peter Tosh's words will not have been in vain.

*Steve Bloom is publisher of CelebStoner.com, and co-author of [Reefer Movie Madness: The Ultimate Stoner Film Guide](#) (2010) and [Pot Culture: The A-Z Guide to Stoner Language & Life](#) (2008). He was editor of *High Times* from 2004 to 2006.*

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