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The Most Important November 6 Election: Americans Voted To End the War On Drugs

By: Doug Bandow – November 12th, 2012

The most important vote on November 6 was not reelecting Barack Obama as president. It was legalizing marijuana in Colorado and Washington. Drug prohibition is the latest addition to the endangered species list. The fight over drug policy will go on for a long-time. But the Drug War is ending.

For decades the federal and state governments have enforced a reprise of Prohibition. The authorities have used increasing violence to suppress the age-old desire of tens of millions of Americans to alter their mental states. But the government has failed: almost half of the teen through adult population has used marijuana.

Many of society's leaders were drug consumers in their youth. In fact, the last three presidents—the commanders-in-chief of the multi-billion dollar Drug War—used (though maybe not inhaled!) the same substances. If kids today belong in jail for smoking pot, so did Bill Clinton, George W. Bush, and Barack Obama.

Opposition to the Drug War has been steadily rising. The first mini-wave began with Oregon in 1972 and resulted in a dozen states decriminalizing marijuana use. Over the years the process continued to slowly advance; in June Rhode Island joined the club. The measures varied, but in general turned personal use of pot into a criminal misdemeanor or a civil offense and/or made marijuana prosecution a low priority.

Today 17 states minimize cannabis offenses: Alaska, Arkansas, California, Colorado, Connecticut, Maine, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, and Washington. Moreover, cities and counties (which, of course, cannot overrule state law) in ten states limit prosecution activities and penalties: California, Hawaii, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Missouri, Montana, and Wisconsin.

These reforms did not end enforcement. People are still arrested for possessing larger quantities of pot, cultivating or selling the drug, or committing multiple offenses. Too many people still needlessly go to jail.

The next wave of drug law liberalization, begun by California in 1996, involved use of pot for medical purposes. The issue remains controversial, but there is anecdotal evidence backed by serious medical professionals that marijuana is useful for treating AIDS, cancer, glaucoma, and other conditions. Rather than encourage research, the federal authorities have attempted to suppress medical marijuana irrespective of the human cost.

Over Washington's steadfast opposition 17 states eliminated penalties for use of marijuana as a medical treatment: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Maine, Massachusetts, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, and Vermont. The District of Columbia did so as well. Last week voters in Massachusetts and Montana approved medical marijuana initiatives while one in Arkansas barely failed, winning 49 percent of the vote.

The federal government resisted all of these efforts. Various "drug czars" have wandered the nation campaigning against both legislative proposals and popular initiatives to relax legal penalties. And presidents have pursued the Drug War with full ferocity, shutting down marijuana dispensaries legal under state law and threatening landlords who rent to pot suppliers. Even one-time druggie Barack Obama sacrificed his liberal principles to toss people in jail for doing what he did when he was their age.

This policy is impossible to defend in a free society. Marijuana smoking is unhealthy. So is cigarette smoking. And alcohol use. And eating sugar. People who ride motorcycles, climb mountains, and hang glide sometimes die. Every day life involves varying risks and trade-offs. Such judgments are best left with individuals and families, not the government, whether federal or state.

What else about smoking pot—in contrast to smoking tobacco—could warrant imprisoning someone? That is the basic question that always should be asked before criminalizing an activity. Drug abuse is a health, moral, and spiritual problem. That does not justify turning drug use into a criminal offense. Even worse is the spectacle of former drug users arresting current drug users.

Last week the third and final wave began to build against the Drug War. Voters in Colorado, Washington, and three Michigan cities approved initiatives legalizing pot use. People will be able to legally buy or grow as well as use marijuana.

Over the years similar measures in Alaska, California, Colorado, Nevada, and Oregon failed. As did another attempt in Oregon this year, which won 45 percent of the vote on November 6. But drug reform "is now a mainstream issue," declared Ethan Nadelmann of the Drug Policy Alliance.

Of course, the federal government remains unalterably opposed. Two years ago the Obama Justice Department said it would "vigorously" enforce drug prohibition if Californians voted to legalize recreational pot use. Attorney General Eric Holder's minions likely will do the same in Colorado and Washington, though so far the Justice Department only said that it was "reviewing" the issue. The day after the vote the Drug Enforcement Agency announced that federal law "remains unchanged."

However, the Drug War will never be the same. Uncle Sam has no power to force states to aid in the prosecution of federal statutes. Moreover, the federal government only has

limited ability to substitute for state law enforcement. The governors of both states admit that they don't know what is going to happen. Colorado Gov. John Hickenlooper (D) has specifically asked the Justice Department for guidance.

At the very least pictures of smiling cops and feds participating in joint task forces busting marijuana sellers will be a thing of the past. Without the assistance of state authorities the feds cannot hope to stem the marijuana trade: Jacob Sullum of Reason magazine pointed out that state and local authorities were responsible for 99 percent of last year's 750,000 marijuana arrests.

Today the Drug Enforcement Agency's 5500 agents are too few to stop drugs coming into the country. The DEA is incapable of patrolling the streets of hundreds of cities and towns across two states. Observed Robert Mikos of Vanderbilt Law School: "It'll be tough to get enough DEA agents to go after the hundreds if not thousands of distributors you'll have in Colorado and Washington." The agency may target large suppliers and threaten cooperating bankers, landlords, and retailers with prosecution or forfeiture, but prosecution resources will be increasingly stretched.

And after legalization succeeds—life continues normally, civilization does not collapse, the states are not overrun by drug-crazed murderers—voters elsewhere will take note. Last year Gallup found that Americans favored marijuana legalization 50-46 nationwide. California and Oregon will revisit the issue while others join the debate. Critical voices like former New Mexico Governor Gary Johnson and Law Enforcement Against Prohibition, which includes former Seattle, Washington police chief Norm Stamper, will receive greater attention. Congressmen from states that legalize will start to challenge federal efforts. Drug reform will proceed in Latin America, where reform supporters can press ahead knowing that the politics of prohibition is changing even in America.

Drug abuse is bad. The problem touches many families—I speak from experience—but tens of millions of people use drugs today despite the Drug War. Throwing abusers into jail is no solution. And the "collateral damage" of drug prohibition, including a widespread assault on civil liberties, has been enormous.

Nor is legalization a step into the unknown. Other nations have allowed some drug use without criminal prosecution. Portugal decriminalized use of all drugs a decade ago: "None of the parade of horrors that decriminalization opponents in Portugal predicted, and that decriminalization opponents around the world typically invoke, has come to pass," explained Glenn Greenwald.

Now the states of Colorado and Washington in the U.S. are leading the way. It is time to declare Drug Peace in America.