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Liberty to change Nixon's law

"For all these reasons, we reject the total prohibition approach and its variations."

We agree with the above quote – although it's not from us. The quote is from 1972 and the only presidential report on cannabis – *The National Commission on Marihuana and Drug Abuse*.

The war on cannabis has had two distinct federal laws. First there was the 1937 Marihuana Tax Act, which was ruled unconstitutional by the Supremes in *Leary vs. U.S.* (1969). This means for 32 years people were unconstitutionally prosecuted, convicted and incarcerated.

Into this vacuum was sucked Nixon's contribution to 21st century cannabis policy – the 1970 Comprehensive Drug Abuse Prevention and Control Act. This law contains the Controlled Substances Act (CSA) making cannabis Schedule 1. This means in *Bizarro World* herbal cannabinoids have no medical value and 40 more years of prosecution, conviction and incarceration.

Nixon is history and yet his tricky law lives on – though one can predict not much longer. That is because of the ECS. The ECS is not political: it is a fact of biology. It is now only a matter of time until the biological ECS upends the political CSA in a way that even a bureaucrat can understand. The cannabis conflict has morphed into a matter of *will* – the willfully ignorant and the willingly scientific.

Willful ignorance had a great friend in POTUS 37 Nixon. One can see this ignorance in his willingness to politicize cannabis use. Listen to Nixon's voice on the infamous tapes and hear how he hated the Jews, the hippies, the blacks and marijuana. Nixon was good at hating.

In March 1972, Nixon was presented with the commission's conclusions. The recommendations were rejected. It was the year of Nixon's re-election and two years before his disgraceful resignation.

The commission's report, *Marihuana: A Signal of Misunderstanding*, is remarkable for its clarity. As compared to alcohol prohibition, the report noted that from 1937-69 the federal government had aimed to eliminate the use of marijuana. This was done by utilizing a policy "***far more comprehensive than the restrictions established during the prohibition of alcohol.***" It was still legal to possess and consume alcohol during its prohibition. What was forbidden by constitutional amendment was the "manufacturing" of alcohol.

During the 37-69 phase, the elimination of the plant was pursued through a get-tough punishment model. The commission noted penalties for cannabis possession were made heavier and heavier. First-time possession was a felony in every jurisdiction and a second offense generally carried a mandatory sentence. The commission noted that society was moving away from a zero-tolerance model toward a more reasonable and humane policy – a form of decriminalization.

Nixon's response was the exact opposite. He furthered the cause of total cannabinoid prohibition by defining cannabis as a Schedule 1 controlled substance. A Schedule 1 drug is supposed to have no medicinal value: in the grand hypocritical tradition, in 2003 the US government received a patent on cannabinoids as antioxidants and neuroprotectants, US patent #6,630,507. Obviously, something is wrong.

In 2010 federal law is still a total prohibition law – just like Nixon wanted. His commission defined total prohibition as when “***all marihuana-related behavior, including possession for personal use within the home, is prohibited by criminal law.***” Today this policy lives on with over 800,000 cannabinoiders annually arrested for cannabis possession.

It really is that strange in *Bizarro World*. Nixon and Congress not only ignored the commission's recommendations – they actually did what the commission said **not** to do. The report spelled out three points against total cannabis prohibition – all of which have become our reality! The report found that total cannabis prohibition was ***Philosophically Inappropriate, Constitutionally Suspect and Functionally Inappropriate***:

- ***Philosophically Inappropriate*** because cannabis prohibition undermined privacy: “*The actual and potential harm of use of the drug [i.e., cannabinoids] is not great enough to justify intrusion by the criminal law into private behavior.*”
- ***Constitutionally Suspect*** because cannabis prohibition is opposed to a free society and the provisions of the Bill of Rights. The report identified the Fourth Amendment as “*reflecting a constitutional commitment to the value of individual privacy.*” Quoting from *Olmstead vs. U.S. (1928)*, the commission noted that “*the right to be let alone*” is “*the most comprehensive of rights and the right most valued by civilized men.*”
- ***Functionally Inappropriate*** because cannabis prohibition does nothing to stop supply: “*prohibiting possession for personal use has no substantive relation to interdicting supply.*”

That's a lot of clarity. One would think Jon Stewart could have a bit of fun with this. He could start by showing the cannabis using sons of POTUS 38 and POTUS 39, a weedable Governor Reagan, a smoking Quayle and Gore, an edible-eating POTUS 42, a frat-party puffin' POTUS 43, and a 1975 “see through all the hypocrisy and bullshit and cheap moralism” POTUS 44. The commission warned against such folly: “***the possession offense is of little functional benefit to the discouragement policy and carries heavy social costs, not the least of which is disrespect and cynicism among some of the young.***”

Cue Stewart's trademark look of exasperation and *this ain't funny but I better laugh because it hurts* moment.

The commission's cover letter closed with a message of **hope**:

*"We **hope** this Report will be a foundation upon which credibility in this area can be restored and upon which a rational policy can be predicated."*

Beyond hope is action. It's time to end Nixon's infamous legacy of lies, trickery and ignorance.

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Search terms

Shafer Commission; PubMed hypothalamic-pituitary-adrenocortical (HPA axis) and cannabinoids; POTUS cannabis use; Timothy Leary; Controlled Substances Act; Nixon's marijuana tapes; Law Enforcement Against Prohibition (LEAP).

Research and selected readings

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