

# SHOULD WE END PROHIBITION?



Scott Reid

*Many currently banned substances have physical and psychological effects that are no more harmful than those associated with legal recreational drugs such as caffeine and alcohol. Like the prohibition of alcohol in the United States in the 1920s, their prohibition skews the allocation of law enforcement resources, artificially raises prices to extremely high levels, encourages crime by addicts, and prevents the emergence of privately institutions and products to deal with the very real social problems posed by addiction. In the first half of the 20th century, decisions about whether or not to prohibit alcohol consumption in Canada were made at the local level, often by means of direct consultation with voters in plebiscites. We should consider returning to this system of decision-making.*

*Les effets physiques et psychologiques de nombreuses substances interdites ne sont pas plus nuisibles que ceux qu'on attribue à certaines drogues récréatives légales comme la caféine et l'alcool. Or, comme l'a montré dans les années 1920 la prohibition de l'alcool aux États-Unis, cette interdiction entraîne plusieurs conséquences : dispersion des ressources policières et judiciaires, augmentation extrême et artificielle des prix, hausse de la criminalité chez les toxicomanes, et impossibilité pour le secteur privé de créer les produits et institutions qui s'attaqueraient aux graves problèmes sociaux causés par la toxicomanie. Dans la première moitié du XXe siècle, c'est au niveau régional qu'on décidait au Canada de prohiber ou non la consommation d'alcool, souvent en consultant directement les électeurs par plébiscite. Nous devrions envisager de renouer avec ce processus décisionnel.*

*My guess is that if we outlawed soda pop, we could produce a similar effect. Bootleg cola-from-a-still would flow like water; people would pay a high price for illegal root beer; criminal gangs would supply it; and the feds would spend billions fighting the soda pop cartel.*

Lawrence Reed

**S**it yourself down to dinner with an apologist for the War on Drugs, and at some point between the moment the first glass of wine is poured and the last of the coffee and cigarettes have been cleared away, make sure to ask this question: Why is it legal to use the recreational drugs that we have just enjoyed when the use of so many others is punishable by criminal sanctions?

Those who support the war on drugs typically assert that there are important chemical differences that cause the illegal drugs to be more addictive or more damaging to the nervous systems or lungs or livers of chronic users than are caffeine, nicotine or alcohol. Or else it is implied that under the influence of the illegal mood-altering drugs, people will act with greater irresponsibility than when their moods have been altered by a legal recreational drug.

All of this is, of course, demonstrably false.

It is true, as the drug warriors assert, that many (although not all) illegal drugs are inherently dangerous. But neither caffeine nor tobacco nor alcohol is inherently safe. In its refined state, the chemical known as caffeine is a deadly poison with remarkable similarities to cocaine. The permanent damage that alcohol abuse can cause to the livers and nervous systems of those who overuse it is indisputable, and is distinctly worse than the side effects of many illegal substances. Nicotine is not in itself particularly damaging in the quantities that even heavy smokers consume, but when consumed in the form of tobacco smoke, it regularly inflicts fatal damage to the lungs and heart, and disfiguring damage to the gums and teeth. When ingested as chewing tobacco, it can cause cancer in the lips, gums and cheek.

Nor are illegal drugs, taken as a class, more addictive than the ones that are legal. Nicotine is at least as addictive as heroin, while marijuana does not appear to induce chemical addiction at all (although psychological dependence does exist in some cases). Many prescription drugs, including a variety of painkillers and sleep-inducing agents, are more addictive than whole classes of illegal drugs.

And finally, there is no evidence at all that illegal drugs as a group induce behaviours that are any worse than those induced by legal mood-altering drugs. To judge from depictions in popular cinema starting in the 1930s with *Reefer Madness* and presented most recently in last year's *Traffic*, the behaviours in question include promiscuity, a neglect of personal health and hygiene, violence towards others, the enhancement of suicidal tendencies and induced negligence of duties towards others (as depicted in another movie, *Trainspotting*, by the death of a baby from dehydration while its drug-addled parents lie in a stupor in an adjoining room). In 1922, suffragist and prohibition advocate Emily Murphy warned in her anti-marijuana tract, *The Black Candle*:

*The addict loses all sense of moral responsibility. Addicts to this drug, while under its influence, are immune to pain, and could be severely injured without having any realization of their condition. While in this condition they become raving maniacs, and are liable to kill or indulge in any form of violence to other persons, using the most savage methods of cruelty without ... any sense of moral responsibility.*

Leaving aside the dubious accuracy of Murphy's assertions, it is not clear why the state has any business dictating acceptable levels of promiscuity, healthy behaviour or personal hygiene. On the other hand, most of us would recognize the need for sanctions against violent behaviour and against the grossest forms of negligence towards others, and it is perfectly reasonable to expect some form of legislated limitation on what economists would describe as the "negative externalities" (harmful or annoying side effects to others) of all personal behaviours, including drug use.

Which is, of course, precisely what the state does in the case of legal recreational drugs. Driving or boating while under the influence of alcohol is a criminal offence, as it ought to be. Smoking in public places and in the workplace is increasingly limited by legislation, thereby largely eliminating the clouds of second-hand smoke that in past decades had been the bane of non-smokers, including asthmatics like myself. One can argue that sometimes the measures taken to place limits on negative externalities are insufficient, or that they are poorly enforced. But everybody understands that such an argument simply represents a case for improving these measures, rather than for making the use of alcohol or nicotine a criminal offence.

Meanwhile, in parallel with the changes that have occurred in the laws regarding negative externalities, two important social developments have been taking place which reduce the harm caused by legal recreational drugs. First, norms of accepted behaviour are evolving that make it increasingly unacceptable to impose negative externalities on others. Most smokers now accept that it is the norm to refrain from lighting up at a social gathering without first inquiring if this is acceptable to all who are present. The social enforcement of anti-drunk-driving rules by hosts who take away car keys or who issue taxi chits are also becoming the norm rather than the exception, and most of us have served at one point or another as a "designated driver." In addition, the level of knowledge necessary to enforce such norms has been growing; most of us are now aware of the rule of thumb that it is safe to drive after one standard drink, but that two drinks will put a driver over the legally permissible blood-alcohol level.

Second, a number of commercial innovations allow responsible individuals to reduce or eliminate the damaging effects of legal drugs in their lives. Nicotine addicts who wish to avoid the damage caused by cigarettes can ingest the drug by means of chewing gum or by wearing an adhesive patch that allows the nicotine to enter through the skin. Coffee and tea lovers have the option of caffeine-free varieties, as do consumers of soft drinks that are normally caffeinated. Bottles of wine, beer and spirits are always labeled to show the alcohol content in order to allow drinkers to make informed decisions about consumption levels. A wide variety of low-alcohol drinks are now available, ranging from summer "coolers" to low-alcohol beer and the non-alcoholic wine available at most grocery stores. In parallel with these profit-motivated institutional changes, voluntary associations have emerged to assist persons who are addicted to legal drugs or who are affected by the addictions of others. The best-known of these are Alcoholics Anonymous for alcohol addicts, and Alanon for their families. But there are many others.

All of these beneficial developments are possible because the use of these drugs is legal. The permanent physical damage suffered in the 1970s when some American marijuana-smokers ingested the herbicide Paraquat, or that takes place when hard drugs are improperly refined, can occur only because the rules, norms and quality controls associated with the safe use of legally sanctioned drugs cannot operate in the

**There is no evidence at all that illegal drugs as a group induce behaviours that are any worse than those induced by legal mood-altering drugs.**

The distinction between legal and illegal substances is clearly arbitrary, and would seem to be based on nothing more substantial than the fact that some drugs have a long history in our culture and therefore are more socially acceptable than others.

vacuum created by illegality. In principle, there is no difference between these poisonings and the alcohol poisoning that occurred regularly when alcohol prohibition caused illegally distilled whisky to replace legally produced wine and beer.

The distinction between legal and illegal substances is clearly arbitrary, and would seem to be based on nothing more substantial than the fact that some drugs have a long history in our culture and therefore are more socially acceptable than others. Tobacco use was introduced in Elizabethan times, coffee even earlier and tea in the reign of Charles II. (Pepys' diary records his first taste of this "China drink" in the 1660s; he did not much care for it, and went back to coffee.) Alcohol has been used by Europeans since time immemorial. All illegal drugs are of a more recent vintage in Western culture, although some have been used for centuries in other cultures. Their more exotic origin has been posited as a primary reason for their illegality: the simple reason that they were, in some cases, made illegal prior to the prohibition on alcohol, and have continued to be illegal even in the wake of the legalization of alcohol. In Canada, opium and heroin were made illegal by the *Opium Act* of 1908, and marijuana was banned in 1923. In the United States, federal prohibitions on marijuana and other substances were introduced in 1933 as a way of insulating Congress and the Roosevelt administration from the charge that their aggressive moves to end the criminalization of alcohol were motivated by a spirit of libertinism.

The Cato Institute's Patrick Basham argues that in the early decades of the 20th century, the drugs that today remain illegal had three factors working against them:

*[F]irst, anti-Chinese racism successfully cast this minority group both as the supplier of, and the demand behind, many of these drugs; second, a then-powerful Christian activism sought to outlaw those lifestyles and behaviours deemed unhealthy, both to the individual and to society in general; and, third, economic rent-seeking on the part of medical doctors, who desired a professional monopoly over the legal dispensation of these drugs.*

Despite the fact that alcohol had only one of these three strikes against it, it became the central focus of the experiment with government-enforced substance control at the height of the prohibitionist movement in the early 20th century. Alcohol was assigned such pejorative labels

as "booze" and "demon rum," and was implicated in the same undesirable behaviours that are today attributed to the drugs that remain illegal.

In Canada, alcohol prohibition was introduced piecemeal, with individual provinces introducing prohibition laws of varying levels of restrictiveness following the rejection of a federally enforced ban in Canada's first nationwide referendum. Technically, the prohibitionists won the 1898 plebiscite by 278,487 votes to 264,571 (51 per cent to 49 per cent). However, the vote revealed a deep regional split, with 83 per cent of Quebecers voting against prohibition, and 64 per cent of voters outside Quebec voting in favour. From this point onwards, a consensus developed that even though criminal law in Canada is a federal responsibility, prohibition would be decided at the provincial level. Ironically, the reverse took place in the United States: Criminal law is a state responsibility, but it was the federal government that banned alcohol, following the passage in 1919 of a constitutional amendment that replaced state and country measures and transferred this responsibility upwards. In consequence, it took another constitutional amendment to undo this transfer of jurisdiction.

In the heady early days of American alcohol prohibition, there were many who argued that this great exercise in social engineering had moved mankind to the far side of a momentous watershed. In 1920, the great evangelist, Billy Sunday, declared joyously: "The reign of tears is over. The slums will soon be a memory. We will turn our prisons into factories and our jails into storehouses and corncribs. Men will walk upright now, women will smile, and the children will laugh. Hell will be forever for rent."

In some small measure, alcohol prohibition did achieve its primary goal of reducing consumption. The total annual volume of alcohol that passed over the lips of Canadians and Americans probably declined while it was banned. But something else also happened that had not been anticipated by the idealists who had banned alcohol. The advocates of prohibition had, of course, been quite right to observe that it is prudent to stop drinking, or to abstain altogether, whenever the longer-term harms outweigh the short-term benefits that alcohol can bestow in the form of fellowship, amorousness or just feeling good. But the short-term benefits of alcohol consumption cause some people to ignore the longer-term harms that overconsumption can cause to themselves and others, even when the overall balance is negative. Thus, for a

certain segment of the population, alcohol consumption can be regarded as being either self-destructive or destructive towards others. It was this negative balance that the prohibitionists sought to eliminate.

The problem they confronted in applying this policy was that with no magic wand at their disposal they could not simply render alcohol an inert substance with no psychoactive effects. Instead, they had to impose penalties for the production, distribution and use of alcohol, in the hope that by raising the costs of its consumption, these penalties would eliminate the demand for alcohol almost as effectively as a magic wand would have.

What the penalties could not do, however, was diminish the short-term pleasures of alcohol consumption, which had been the source of the problem in the first place. For much of the population, the increased costs associated with the moral and legal sanctions against alcohol (to say nothing of the increased price for black-market liquor) were sufficient to cause a cessation of use. But for others, there was still a net balance in favour of consumption. For the small proportion of the population that had already been the most prone to overuse—that is to say, those users for whom longer-term considerations are always subservient to the imperative need to satisfy immediate desires—the sharply increased costs on the long-term side of the equation seem to have had almost no impact at all upon demand.

Nor should one have expected anything different. In the definition employed by economists, demand represents the sacrifices that one is willing to make in order to obtain a good or a service. For much of the population, demand was “elastic”: that is, the willingness to pay considerably more for alcohol in the form of increased prices for illegal product or to sacrifice utility by consuming an inferior or adulterated homemade version was not high enough to override the limits that had been placed upon consumption by the new law. For others, however, demand was “inelastic”: their need was strong enough to overcome the new barriers. The rise in price had but minimal effect in discouraging their consumption.

At least one of the immediate consequences of Prohibition was therefore entirely predictable: the creation of a black market in alcohol. Because quality controls cannot be enforced for illegal products, it was only reasonable to expect that some of what was sold would be contaminated, impure, or even accidentally poisoned, and that

some illicit drinkers would be killed or rendered blind or paralyzed by moonshine liquor that was improperly distilled. My own great-grandfather was one of those who willingly took the gamble of drinking unregulated liquor. He died of alcohol poisoning, leaving behind a young family and a pregnant wife.

The creation of a black market had another important result. Even when alcohol was not adulterated, it tended now to be much more highly concentrated. Prior to Prohibition, most alcohol had been consumed in the form of beer, which typically has an alcohol content of around five per cent, or wine, in which the alcohol content is usually in the range of 10-12 per cent. But whenever a substance is outlawed, the most sensible course of action for vendors of the product is to refine it into its purest form in order to hide it from the authorities more easily. Richard Cowen, writing in *National Review*, has described this as the “iron law of prohibition”—the more intense the punishment for using an illegal substance, the more intense the pressure to refine the product so that it will take up as little volume as possible.

During Prohibition, therefore, wine and beer were abandoned in favour of whisky, rum and gin, and much of what was sold was nearly pure alcohol. It was up to consumers to cut the end product with water or tonic. Reviewing the situation in America in 1930, the British author, G.K. Chesterton, wrote with horror about the impact of the iron law upon American drinking habits: “Alcoholism has never threatened disaster as it is threatening America today. It isn’t normal that girls at 16 should go to dances and drink raw alcohol.”

The contemporary analogue of this practice is, of course, the trend towards miniaturized, highly refined drugs. The hardest drugs (that is, the drugs that are the most highly refined) can be smuggled across borders and police checkpoints hidden in swallowed condoms, inside vaginas or rectums, in the false heels of shoes, in the false bottoms of valises and so on. Unfortunately, this sometimes leads to inadvertent consumption of the over-refined product by those smuggling it in these ways, and this in turn results in many preventable fatalities. Similarly, the “iron law of prohibition” has caused marijuana growers to engage in selective breeding, producing a product that is as much as 20 times more potent than the relatively gentle “pot” of the 1960s and 1970s. Marijuana has thus been transformed from a soft to a hard drug.

**Richard Cowen has described ... the “iron law of prohibition”—the more intense the punishment for using an illegal substance, the more intense the pressure to refine the product so that it will take up as little volume as possible.**

In an environment where the state had devoted a considerable share of its resources to the active imposition of pain upon alcohol consumers, these consumers now began the process of redistributing the misery.

In short, Prohibition was a gamble that the costs imposed by the state would in the minds of potential drinkers outweigh the short-term benefits of any further alcohol consumption. For some drinkers, it worked. For others, it did not. They continued to consume and had to endure the greater long-term pain that had now been added to the negative side of the consumption ledger.

Perhaps Prohibition would have been a sustainable policy if this had been its only failing. The argument could still have been made that while some people were continuing to consume alcohol, others no longer did so. The elimination for much of the population of the negative consequences of legal alcohol consumption could perhaps have justified the forced transfer to the less responsible element of the population of the additional suffering imposed by the loss of quality control, by increased prices, by the destruction of the social norms that had hitherto encouraged responsible consumption, and so on.

But one aspect of irresponsible alcohol consumption had always been a willingness among some consumers to impose costs on others. In an environment where the state had devoted a considerable share of its resources to the active imposition of pain upon alcohol consumers, these consumers now began the process of redistributing the misery. This transfer took place by means of the illegal networks that had sprung up to supply their demand for alcohol. Because a formerly legal industry was now illegal, a whole new class of criminals was created. Arrests and prison populations began to soar as the jails were filled with people who had become petty criminals for carrying out the simple act of selling alcohol to friends and neighbours. Because there was no judicially enforceable way of settling disputes between participants in the illegal trade in alcohol, force became the universally accepted method for settling accounts or for breaking into a rival's turf. So violent crime soared. And because individual operators could not survive in this Hobbesian war of all against all, organized crime gained a foothold in North American society that it has never fully relinquished.

The most extreme negative externalities included the well-publicized deaths of bystanders in shoot-outs between rival gangs and in the bombings that took place as gangsters like Al Capone engaged in open warfare for the control

of the liquor trade in Chicago and other American cities. The parallel between Capone's reign of terror and the deaths in recent years of innocent bystanders in the battle between the Hell's Angels and the Rock Machine for control of the illegal drug trade in Quebec is instructive.

Society as a whole also suffered because of Prohibition's impact on the American police and penal systems. Police resources were transferred to fight the war against liquor, and other areas of law enforcement received less attention than they needed. Police powers of search and seizure were expanded to cope with the explosion in crime, and civil liberties suffered as a result—particularly among blacks and recent immigrants. Because the illegal trade was profitable, it made good business sense to bribe policemen and other officials. During the period between the constitutionalization in 1919 of the *Volstead Act* as the 20th Amendment to the United States Constitution, which made the sale of alcohol a federal offence, and the law's repeal in 1933, police corruption became nearly universal.

These developments have been repeated during the War on Drugs. Prohibition-related police corruption seems to be much less widespread than it was in the 1920s, although it could hardly be said to be nonexistent. On the other hand, the expansion of police powers and the resulting destruction of civil liberties has been far worse.

In the 1920s, the rapid rise in the size of the prison population led to huge public expenditures, which diverted spending from other, more beneficial programs and from tax relief. This, too, has been replicated, but on a much grander scale. In the United States, where the war on drugs has been taken farther than anywhere else, more persons are being held for drug offenses than are being held in the European Union for all offences combined, even though the EU's population is greater, by 100 million, than the United States'.

Of the other externalities that the War on Drugs has imposed on the general population, probably the most important has been the increase in property crimes and violent robberies caused by desperate drug addicts seeking to raise quick cash to feed their expensive habit. By contrast, such behaviour is simply not necessary for even the most wretched victims of alcohol dependency, who are able to maintain their self-destructive but relatively inexpensive addiction simply by panhandling. To the extent that the War on Drugs has been successful in suppressing

the supply of illegal drugs, and in pushing up the street price of drugs from what it otherwise would have been, it is directly responsible for this form of crime. The street price of heroin and cocaine is typically around 50 to 100 times the cost of manufacturing these drugs, with the result that addicts need as much as \$500 to \$1000 per day to support their habits. In consequence, most property crime—80 per cent in British Columbia as a whole and 90 per cent in Vancouver on its own—is drug-related. Moreover, the illegal status of drugs creates a class of individuals with a vested interest in perpetuating and expanding this system. Economist Milton Friedman explains how this works:

*Currently ... it pays a pusher of drugs to make a capital investment in creating an addict. He gives somebody a couple of doses free to get him started, because once he creates an addict he has a captive market. Given that the drug is illegal, his customer is likely to stick to him. After legalization, on the other hand, it wouldn't pay [any individual producer] to create addicts. This undoubtedly would tend to reduce usage.*

The parallels listed above all relate to the negative impact of drug and alcohol prohibition. Another parallel links the motivation behind these policies. The prohibition of both drugs and alcohol is based on the belief that governments ought to dictate personal conduct. The assumption is that when humans are placed in an environment in which there are temptations to engage in behaviours that might prove dangerous, the appropriate government response is to attempt to regulate the environment so as to remove these temptations. Citizens are treated as children, incapable of making intelligent personal decisions. Society is treated as an ineffectual institution, incapable of developing norms of acceptable behaviour. The capitalist economy is treated as if had the capacity to fulfill irresponsible demands, but not to respond to the demand for safer products. And our systems of civil and criminal law are treated as if they are not able to create effective incentives to responsible behaviour for those who might act irresponsibly towards others as a result of drug use. In 1990, the Religious Coalition for a Moral Drug Policy, an umbrella group representing Jews and most major American Christian denominations, observed that:

*[T]hese grave consequences of the drug war spring from the ideological assumption that we must make everything we disapprove of illegal.*

*We reject this notion, as it forgets the difference between vice and crime. Enforcing positive morality is our responsibility as individuals, as parents, and as clergy. To put the government in charge of all morality is to abdicate our individual responsibility, to weaken the moral authority of our religious institutions, and thus to fail in the execution of our duties ... [T]he primary obligation of government is to secure liberty, not to promote what is called virtue at the point of a gun.*

But the most important parallel between the prohibition of alcohol and the prohibition of other drugs may lie in the way in which alcohol prohibition was repealed. This could serve as a pattern for the repeal, or at least the reduction, of the penalties associated with the use of illegal drugs. Alcohol prohibition was introduced because of popular pressures. It was repealed almost entirely by means of referendum. In Canada, the repeal of prohibition took place slowly, and on a piecemeal basis, with some parts of the country voting to retain anti-alcohol measures long after other parts had re-legalized the sale of alcohol. In the United States, repeal took the form of a series of parallel, but simultaneous local consultations. In both countries, however, it was direct public consultation that allowed for the repeal to take place.

Following the defeat of Canada's 1898 referendum on nationwide prohibition, the Dominion government made provision for temperance to be enforceable on a county-by-county basis. This system came to be known as "local option" prohibition. Under the provisions of the local option law, a county could arrange for a plebiscite to be held on the question of a local ban on alcohol sales. Using this provision, many counties held referendums on the question over the course of subsequent decades. County governments were also authorized to hold referendums on the question of repealing temperance, provided that no plebiscite on repeal could be held within three years of a referendum in which prohibition had been approved. The final referendums under the provisions of the local option plebiscite law were held in 1959, when Huron and Perth counties, both in Ontario, voted to repeal existing prohibition laws. Provinces also held referendums on the prohibition question, with 12 votes taking place in various provinces during the 1920s alone. Prohibition had been introduced piecemeal and it was repealed piecemeal as well, with a great deal of political fuss

The prohibition of both drugs and alcohol is based on the belief that governments ought to dictate personal conduct. Citizens are treated as children, incapable of making intelligent personal decisions.

Canadians do not regard the current, arbitrary boundary between alcohol and other legal drugs, on one hand, and marijuana and all other drugs on the other, as being fixed at the appropriate point on the drug spectrum.

but very few negative social consequences, and the resulting step-by-step and region-by-region return to full legal status reflected the slow spread of a social consensus across Canadian society. (The history of these local referendums is described by Patrick Boyer in *Direct Democracy in Canada: The History and Future of Referendums*. Toronto: Dundurn Press, 1992, pp. 16-27.)

The repeal movement in the United States took a much more centralized form, but was also made possible by reliance on direct consultation with the voters. Because Prohibition was mandated by a constitutional amendment, repeal could not occur without the approval of two-thirds majorities in each of the two houses of Congress, as well as of the legislatures of three-fourths of the states. From 1930 to 1933, a massive and well-organized campaign developed, encouraging voters to cast their ballots for pro-repeal candidates for both federal and state office. The 1932 presidential and congressional elections, which took place at the absolute nadir of the Great Depression, were as much battles over the repeal of Prohibition as they were about the deplorable state of the economy.

Starting in March 1933, the new Roosevelt administration acted quickly to enact its pro-repeal promises. Congress approved a draft constitutional amendment which called, not for the direct repeal of Prohibition, but for the election of delegates to individual state ratifying conventions that would debate and then vote upon the text of a resolution repealing the 20th Amendment. The elections of delegates to these state conventions represented a *de facto* referendum on repeal—the only nationwide referendum in US history. Campaign literature for this referendum makes interesting reading. For example, one poster issued by a group called the “Women’s Organization for National Prohibition Reform” portrays a mother taking her small children with her to the ballot box, and contains the legend, “Family security demands you vote REPEAL.”

Direct democracy was therefore the key to allowing for the repeal of alcohol prohibition. Perhaps it is time to consider allowing Canadians to use some version of the same mechanism in determining the legal status of other drugs.

**P**olls indicate that if a referendum were held today, a majority of Canadians would probably vote to decriminalize, although not to legalize marijuana and to make the use of this

drug fully legal under medical supervision. Canadians might also be willing to consider legalizing heroin use for pain relief in terminally ill patients, and perhaps to adopt other liberalizing measures.

Views on these questions have tended to ebb and flow over the past 20 years, with attitudes towards all drugs, including marijuana, tending to harden during the Reagan years, and then to soften during the course of the 1990s. By 1997, a tiny pro-legalization majority (51 per cent to 45 per cent, with four per cent undecided) had emerged in this country in response to the question, “Some people say that smoking marijuana should not be a criminal offence while others say it should. What is your opinion? Should smoking marijuana be a criminal offence or not?” A striking shift took place, however, when those who had given a negative response to this question were asked, “Some people use marijuana for certain health-related purposes—for example, some patients feel it is helpful for pain relief. Do you think marijuana use should be a criminal offence even for health-related use or should it be legal to use it for health-related purposes?” To this question, 71 per cent responded in favour of legalization. (These figures are cited in Daniel Savas, “Public Opinion and Illicit Drugs: Canadian Attitudes towards Decriminalizing Marijuana,” in *Sensible Solutions to the Urban Drug Problem* Vancouver: Fraser Institute, 2001).

This does not suggest the emergence of a consensus in favour of the complete legalization of all currently banned substances. But it does provide evidence that Canadians do not regard the current, arbitrary boundary between alcohol and other legal drugs, on one hand, and marijuana and all other drugs on the other, as being fixed at the appropriate point on the drug spectrum. This in turn suggests that Canadians would like to take a gradual, cautious approach to decriminalization in general. The very sensible, gradual, and regionally sensitive approach that was adopted in the decades following Canada’s rejection of a nationwide prohibition 103 years ago suggests that some form of local-option balloting would be the most effective method of reflecting in Canadian law our culturally based, and therefore evolving, views towards drugs.

*Scott Reid is the Member of Parliament for Lanark-Carleton. The views expressed here are not necessarily those of the Canadian Alliance Party.*