

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to table its

TWENTY-THIRD REPORT

Your committee, which was authorized to study the subject matter of those elements contained in parts 1, 2, 8, 9 and 14 of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, has, in obedience to the order of reference of February 15, 2018, examined the said subject matter and now reports as follows:

The committee held seven meetings on this study. In total, the committee heard from 39 witnesses, including the Minister of Justice and Attorney General of Canada, the Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health, officials from the Department of Justice Canada, Health Canada, Public Safety Canada, Quebec's Minister responsible for Canadian Relations and the Warden of Kamouraska RCM, Quebec, police organizations, legal experts, academics, health professionals and other stakeholders (see Appendix A). The committee also received written submissions.¹

Bill C-45 and the Cannabis Act

Bill C-45 would enact the Cannabis Act and make various amendments to other acts to provide a new regime to legalize and strictly regulate cannabis, because according to the government, the current situation is not sustainable. The Cannabis Act would permit some currently prohibited activities pertaining to the production, distribution, sale and possession of quality-controlled cannabis, while also restricting access and prohibiting other activities in order to, according to the Bill's stated purposes, protect the health of young persons and protect young persons and others from inducements to use cannabis, reduce the burden on the criminal justice system, deter and reduce illicit activities, and enhance public awareness of the health risks associated with cannabis use (clause 7).

Part 1: Prohibitions, obligations and offences (Clauses 8 to 50)

Part 1 of Bill C-45 sets out the offences and penalties for activities that will be prohibited under the Cannabis Act pertaining to the possession, distribution, sale, import and export and production of cannabis. The committee explored these topics with witnesses, in particular those provisions that: affect young people (from 12 to 17 years of age), place limits on cannabis possession, regulate the packaging, labelling and promotion of cannabis products and permit the cultivation of up to four cannabis plants in a dwelling-house.

With regard to young people, the committee examined the differential manner in which youth are treated under the Cannabis Act. For instance, Part 1 sets a limit on young people for possessing or distributing the equivalent of more than 5 grams (g) of dried cannabis (clauses

¹ Due to the committee's intention to hear from as many witnesses as possible leading up to the May 1, 2018 reporting deadline, a full summary of witness testimony is not possible. Given the wide range of important issues that were raised and discussed and the value of this evidence, the committee has nonetheless summarized the key issues that were studied.

8(1)(c) and 9(1)(b) and prohibits them from cultivating, propagating or harvesting cannabis (clauses 12(6) and (7)). The committee was informed by government representatives that all provincial and territorial legislatures intend to prohibit cannabis possession and use for youth through their own laws in accordance with their own jurisdiction.² Clause 5 states that the *Youth Criminal Justice Act*³ applies in respect of contraventions of the Act and its regulations. While this law is intended to ensure youth are dealt with under the criminal law in a manner that is appropriate for their age, the committee heard that the effect of the Cannabis Act will be that the criminal law will be used to prohibit an activity for young people that will be legal for adults. For example, a young person could face criminal charges for having 6 g of cannabis, whereas an adult possessing less than 30 g would not.⁴ The committee explored many questions with witnesses concerning the best ways to protect youth from the negative health consequences associated with cannabis use, including the roles played by criminal laws and by public awareness campaigns (targeting youth, their families and their educators) in preventing youth consumption of cannabis.

The committee engaged with witnesses on matters pertaining to the permissions and restrictions with regard to the possession and cultivation of cannabis in a “dwelling-house”, in particular how the Cannabis Act places no restriction on the amount of licit cannabis that may be kept in a dwelling-house, imposes a limit of 30 g of licit cannabis that may be carried in public places, and limits the cultivation of cannabis in a dwelling-house to four plants (clauses 12(4)(b) and 12(5)). Concerns were raised that the lack of a limit on the possession of dried cannabis in a home might prevent law enforcement agencies from identifying an illegal cannabis operation.⁵ Concerns were also raised that the home cultivation limit of four cannabis plants could be difficult for law enforcement to enforce and that home cultivation in general could risk more cannabis being diverted to the illicit market.⁶ Home safety concerns were also discussed, given that home cultivation could present a risk that young people would have access to the plants and consume them.⁷ Also, indoor cannabis cultivation uses large amounts of electricity, involves

² See the testimony of Eric Costen, Health Canada; Carole Morency, Department of Justice; Paul Saint-Denis, Department of Justice; Diane Labelle, Department of Justice ([21 March 2018](#)); Trevor Bhup Singh, Public Safety Canada ([22 March 2018](#)); Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada ([28 March 2018](#)); Bill Blair, Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health (25 April 2018), among others.

³ [Youth Criminal Justice Act](#), S.C. 2002, c. 1.

⁴ See the testimony of Carole Morency, Department of Justice; Diane Labelle, Department of Justice ([21 March 2018](#)); Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada ([28 March 2018](#)); Michael Spratt, Criminal Lawyers’ Association ([29 March 2018](#)); Pascal Lévesque, Barreau du Québec (18 April 2018), among others.

⁵ See the testimony of Mario Harel, Canadian Association of Chiefs of Police; Mike Serr, Canadian Association of Chiefs of Police; Tom Stamatakis, Canadian Police Association ([29 March 2018](#)); John Dickie, Canadian Federation of Apartment Associations (19 April 2018), among others.

⁶ See the testimony of Dennis Daley, RCMP ([22 March 2018](#)); Benedikt Fischer, Centre for Addiction and Mental Health ([28 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police; Tom Stamatakis, Canadian Police Association ([29 March 2018](#)); John Dickie, Canadian Federation of Apartment Associations (19 April 2018), among others.

⁷ See the testimony of Serge Brochu, University of Montreal ([28 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police ([29 March 2018](#)); Karine J. Igartua, Association des médecins psychiatres du Québec (18 April 2018), among others.

high humidity levels, and may raise electrical and fire safety issues, which present problems for landlords.⁸ It was explained to the committee that the Government of Canada's position is that the cultivation of four cannabis plants is a reasonable amount that would not defeat the purposes of Bill C-45.⁹

The committee reviewed the maximum penalties included for offences in the Bill, some of which are set at 14 years of imprisonment. When permanent residents and foreign nationals (among others) are charged with offences having maximum penalties of 10 or more years of imprisonment, they will be deemed inadmissible to Canada for reasons of serious criminality under the *Immigration and Refugee Protection Act*¹⁰ (clauses 9(5)(a)(i), 10(5)(a), 11(3)(a), 12(9)(a) and 14(2)(a), and section 36(1) of the *Immigration and Refugee Protection Act*). In addition to concerns being raised over these consequences,¹¹ it was noted by witnesses that maximum penalties of 14 years of imprisonment would preclude the application of non-custodial options such as discharges and conditional sentences during sentencing.¹²

The committee reviewed the various provisions in Part 1 pertaining to the promotion of cannabis (clauses 16 to 24) and the rules regarding packaging and labelling (clauses 25 to 28). Some witnesses emphasized the importance of ensuring that the regulations will require that the level of delta-9-tetrahydrocannabinol (THC), cannabidiol (CBD) and other cannabinoids be clearly indicated on packaging, along with health warnings.¹³ In particular, strong concerns were noted about ensuring that cannabis products do not appeal to young people and that they get proper information about cannabis.¹⁴ Some discussion was also had with regard to whether limits should be placed on the THC content of cannabis and cannabis-related products, either generally or for specific age groups (e.g. restricting access to high potency cannabis to those over the age of 21).¹⁵ Concerns were raised that strict minimum standards on cannabis content and on the information pertaining to cannabis content on packaging and in promotion (including the use of appropriate health warnings) are needed. Without such standards, the federal

⁸ See the testimony of John Dickie, Canadian Federation of Apartment Associations (19 April 2018), among others.

⁹ See the testimony of Bill Blair, Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health (25 April 2018).

¹⁰ [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27.

¹¹ See the testimony of Michael Spratt, Criminal Lawyers' Association and Ayesha Kumararatne, Criminal Lawyers' Association ([29 March 2018](#)), among others.

¹² See the testimony of Paul J. Calarco, Canadian Bar Association (18 April 2018). Canadian Bar Association, [Brief Submitted to the Standing Senate Committee on Legal and Constitutional Affairs](#), 17 April 2018.

¹³ See the testimony of Benedikt Fischer, Centre for Addiction and Mental Health; Rebecca Jesseman, Canadian Centre on Substance Use and Addiction ([28 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police ([29 March 2018](#)); Luc Thibaudeau, Barreau du Québec; Karine J. Igartua, Association des médecins psychiatres du Québec (18 April 2018).

¹⁴ See for example the testimony of Eric Costen, Health Canada; John Clare, Health Canada ([21 March 2018](#)); Benedikt Fischer, Centre for Addiction and Mental Health ([28 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police ([29 March 2018](#)); Karine J. Igartua, Association des médecins psychiatres du Québec (18 April 2018), among others. The committee notes that clause 31 would prohibit the sale and distribution of cannabis or a cannabis accessory that could appeal to young persons.

¹⁵ See the testimony of Karine J. Igartua, Association des médecins psychiatres du Québec (18 April 2018).

government could be at risk of litigation, particularly class actions, in relation to the possible negative health consequences of cannabis on users.¹⁶

Part 2: Ticketable offences (Clauses 51 to 60)

Part 2 of Bill C-45 would create a ticketing scheme for minor violations of certain Part 1 offences. Peace officers will have the discretion to issue a ticket instead of proceeding with criminal charges under Part 1 (and the applicable *Criminal Code*¹⁷ procedures). Some witnesses were concerned that this discretion could result in discriminatory practices towards racialized persons and suggested that the ticketing option should be mandatory for ticketable offences to ensure equality and fairness.¹⁸ Examples of ticketable offences include: the possession of between 31 and 50 g of dried cannabis in a public place; the distribution of between 31 and 50 g of dried cannabis; and the possession or distribution of five or six cannabis plants. The ticketing option is intended to create a category of offences with more lenient penalties and less severe criminal consequences.

Some witnesses noted that the 30-day time period to pay the fine associated with a ticket is not long enough for those living in remote areas (clause 54(1)(d)).¹⁹

Some witnesses raised concerns that the ticketing regime will only be available when the individual is 18 years of age or older (clause 51(1)), and so youth would again be treated differently and could possibly receive a stricter sentence or at least have more interaction with the criminal justice system under the *Youth Criminal Justice Act* than if they simply received a \$200 ticket under Part 2.²⁰ It was suggested to the committee that a new section could be added to the Cannabis Act stating that, for greater certainty nothing in it should be construed as limiting the provisions of the *Youth Criminal Justice Act*, including with regard to the use of warnings, cautions, referrals or, extrajudicial measures or sanctions.²¹

The committee also examined the procedures for handling the records of ticketable offences. Under the Cannabis Act, upon conviction and the payment of a fine or completion of the period of imprisonment in default of payment, “the judicial record of the accused in relation to the offence must be kept separate and apart from other judicial records and it must not be used for any purpose that would identify the accused as a person dealt with under this Act” (clauses 52(b), 53(b) and 54(2)). Some witnesses were concerned about how this will be managed, particularly when the Cannabis Act does not define “judicial record”, indicate what it will contain, who would have access to it, or what would be shared with Canadian and international

¹⁶ See the testimony of Luc Thibaudeau, Barreau du Québec (18 April 2018).

¹⁷ [Criminal Code](#), R.S.C., 1985, c. C-46.

¹⁸ See the testimony of Michael Spratt, Criminal Lawyers’ Association ([29 March 2018](#)); Michael Bryant, Canadian Civil Liberties Association; Paul J. Calarco, Canadian Bar Association (18 April 2018).

¹⁹ See the testimony of Michael Spratt, Criminal Lawyers’ Association; Eric Neubauer, Canadian Council of Criminal Defence Lawyers ([29 March 2018](#)).

²⁰ See the testimony of Michael Spratt, Criminal Lawyers’ Association ([29 March 2018](#)); Pascal Lévesque, Barreau du Québec (18 April 2018).

²¹ See the testimony of Pascal Lévesque, Barreau du Québec (18 April 2018).

partners.²² The committee heard that an individual would not be required to provide fingerprints for a ticketable offence, despite that fingerprints are used as identifiers in Canadian Police Information Centre (CPIC) databases.²³ The committee also learned that since the Cannabis Act does not address what happens to these records when an individual is unable to pay the fine, it is possible that their records will not be “kept separate and apart from other judicial records.”²⁴

Part 8: Search warrants (Clauses 87 and 88) and Part 9: Disposition of seized things (Clauses 89 to 109)

Part 8 of Bill C-45 sets out the rules and procedures governing search warrants, searches and seizures. Some witnesses voiced concerns over the broad scope of powers available to inspectors designated under the Cannabis Act and peace officers, for instance, to enforce the limits on possession and home cultivation, or for peace officers to enter a place without a warrant in “exigent circumstances”.²⁵

Part 9 provides for the disposition of non-chemical offence-related property and cannabis and chemical property seized under Part 8 by a peace officer or under Part 7 by an inspector. The committee learned that some police services and municipalities may not have the capacity to store seized cannabis, cannabis-related products or cannabis plants while judicial decisions are pending.²⁶

Organized crime

One of the stated objectives of Bill C-45 is to keep profits from the sale of cannabis out of the hands of organized crime groups and to prevent criminal networks from infiltrating the legal cannabis market. The committee learned that the illicit cannabis market in Canada generates approximately \$6 to 7 billion a year, and organized crime is heavily involved.²⁷ The committee heard from witnesses that some criminal organizations have already entered the licit cannabis market through the designated persons regime under the *Access to Cannabis for Medical Purposes Regulation*²⁸ and by using foreign tax havens and other means to invest in legal

²² See the testimony of Paul J. Calarco, Canadian Bar Association; Pascal Lévesque, Barreau du Québec (18 April 2018).

²³ See the testimony of Carole Morency, Department of Justice; Paul Saint-Denis, Department of Justice ([21 March 2018](#)); Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada ([28 March 2018](#)).

²⁴ See the testimony of Michael Spratt, Criminal Lawyers’ Association ([29 March 2018](#)).

²⁵ See the testimony of Michael Bryant, Canadian Civil Liberties Association (18 April 2018); Canadian Bar Association, *Brief Submitted to the Standing Senate Committee on Legal and Constitutional Affairs*, 17 April 2018.

²⁶ See the testimony of Mario Harel, Canadian Association of Chiefs of Police ([29 March 2018](#)); Canadian Association of Chief of Police, *Brief submitted to the House of Commons Standing Committee on Health*, 12 September 2017. See also the testimony of Patrick Émond, Fédération québécoise des municipalités (18 April 2018).

²⁷ See the testimony of Eric Costen, Health Canada ([21 March 2018](#)); Mike Serr, Canadian Association of Chiefs of Police ([29 March 2018](#)); Bill Blair, Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health (25 April 2018).

²⁸ See the testimony of Mike Serr, Canadian Association of Chiefs of Police ([29 March 2018](#)); Marwah Rizqy, University of Sherbrooke’s School of Management; Bill Blair, Parliamentary Secretary to the Minister of Justice and

companies to obtain licences to produce and distribute medical cannabis. A concern is that these and other similar illegal practices could continue in some form under the proposed legal cannabis regime.²⁹

Some witnesses stressed the importance of having a strict and thorough review of the application processes to obtain licences and permits under Part 3 of Bill C-45, including detailed background checks of individuals involved with cannabis-related companies in order to ensure the transparency of their financial information and any use of tax havens.³⁰ The committee also received general recommendations pertaining to combating organized crime that focused on improving the regulation of Canadian businesses and tax measures, increasing the transparency of their operations and tracking international financial transactions and investments.³¹

Part 6 of the Cannabis Act establishes a national cannabis tracking system that will monitor inventories and the overall movement of cannabis throughout the supply chain in order to prevent diversion of cannabis to the illegal market. Some witnesses suggested that organized crime may find opportunities to remain involved in the illicit market due to home cultivation, the lack of any limits on possession within dwelling-houses, and the possibility of Internet-based sales of cannabis.³²

Pre-existing criminal records for simple possession of cannabis

Under Bill C-45, certain criminal activities under the *Controlled Drug and Substance Act*³³ will become legal, such as the simple possession of dried cannabis (30 g and less). While the *Criminal Records Act*³⁴ provides a process of general application for an offender to apply for a record suspension,³⁵ witnesses noted that Bill C-45 does not provide any additional mechanism to address past convictions for cannabis-related offences.³⁶ Witnesses described how difficult it

Attorney General of Canada and to the Minister of Health (25 April 2018). [Access to Cannabis for Medical Purposes Regulations](#), SOR/2016-230.

²⁹ See the testimony of Yves Goupil, RCMP ([22 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police; Mike Serr, Canadian Association of Chiefs of Police ([29 March 2018](#)); Marwah Rizqy, University of Sherbrooke's School of Management; Miville Bédard, Retired member of the Sûreté du Québec (25 April 2018).

³⁰ See the testimony of Yves Goupil, RCMP ([22 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police; Mike Serr, Canadian Association of Chiefs of Police ([29 March 2018](#)); Jean-Marc Fournier, Quebec Minister responsible for Canadian Relations and the Canadian Francophonie and Government House Leader; Marwah Rizqy, University of Sherbrooke's School of Management; Miville Bédard, Retired member of the Sûreté du Québec; Bill Blair, Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health (25 April 2018).

³¹ See the testimony of Marwah Rizqy, University of Sherbrooke's School of Management (25 April 2018).

³² See the testimony of Dennis Daley, RCMP ([22 March 2018](#)); Benedikt Fischer, Centre for Addiction and Mental Health ([28 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police; Tom Stamatakis, Canadian Police Association ([29 March 2018](#)); John Dickie, Canadian Federation of Apartment Associations (19 April 2018), among others.

³³ [Controlled Drug and Substance Act](#), S.C. 1996, c. 19.

³⁴ [Criminal Records Act](#), R.S.C., 1985, c. C-47.

³⁵ Record suspensions were previously known as pardons.

³⁶ Criminal Lawyers' Association, [Brief Submitted to the Standing Senate Committee on Legal and Constitutional Affairs](#), 28 March 2018, pp. 8-10.

can be for individuals with a criminal record to find employment, obtain housing, cross international borders and fully engage in educational opportunities.³⁷ The committee learned that the Minister of Public Safety is considering how to handle this matter.³⁸

Ensuring consistency between the Access to Cannabis for Medical Purposes Regulations and the Cannabis Act

Witnesses reminded the committee that the current framework applying to medical cannabis under the *Access to Cannabis for Medical Purposes Regulations* has been developed in part in response to Supreme Court of Canada decisions that emphasized the right of certain individuals to possess cannabis for medical purposes.³⁹ Some witnesses suggested that the medical cannabis regime should be evaluated in order to ensure that it remains effective for medical users should the Cannabis Act become law and that it should not be possible for organized crime to enter the cannabis market by using the designated persons regime.⁴⁰

Constitutional matters

The committee reviewed questions pertaining to the constitutional division of powers between the federal and provincial legislatures with regard to the regulation of cannabis use and distribution.⁴¹ While the Cannabis Act would provide a national framework addressing the criminal and health-related aspects of these matters, the provinces, territories, municipalities and Indigenous communities are expected to further regulate the possession, use, sale, and distribution of cannabis. In the spirit of cooperative federalism, several witnesses mentioned the importance of achieving the right balance and providing opportunities for local governments and provinces to work together with the federal government to ensure a harmonious and coordinated approach, especially as the new regime is put into place. In particular, it was a shared concern that the laws should all seek to achieve the same purposes of protecting youth, keeping organized crime out of the cannabis market, and providing access to a quality-controlled supply of cannabis.⁴²

The committee raised a key issue with witnesses and also with the Minister of Justice herself, the Honourable Jody Wilson-Raybould and Jean-Marc Fournier, Quebec's Minister responsible for Canadian Relations, concerning the intention of Quebec and Manitoba to prohibit any home cultivation of cannabis and only allow licenced production, and whether this would interfere with the legislative purposes of the Cannabis Act. While the federal government considers that home

³⁷ See the testimony of Paul J. Calarco, Canadian Bar Association; Michael Bryant, Canadian Civil Liberties Association (18 April 2018).

³⁸ See the testimony of Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada ([28 March 2018](#)).

³⁹ See the testimony of Eric Costen, Health Canada ([21 March 2018](#)).

⁴⁰ See the testimony of Mike Serr, Canadian Association of Chiefs of Police ([29 March 2018](#)); Task Force on Cannabis Legalization and Regulation, *A Framework for the Legalization and Regulation of Cannabis in Canada*, Final Report, 30 November 2016, p. 50.

⁴¹ [Constitution Act 1867](#), 30 & 31 Victoria, c. 3 (U.K.), sections 91 and 92.

⁴² The committee discussed these matters with numerous witnesses.

cultivation will be of value to users and discourage an illicit market, some witnesses had an opposite view that cannabis produced through home cultivation will end up being distributed outside of the licit regime.⁴³ The Minister of Justice indicated that the federal government would only take a position if a constitutional challenge is brought by another party on the basis of a conflict between a provincial law and the Cannabis Act. The Minister of Justice reiterated her view that “if there is a conflict, then the federal law will prevail.”

Quebec’s Minister responsible for Canadian Relations presented his government’s view that their proposed legislation⁴⁴ would not be in conflict with the Cannabis Act, but rather would support its purposes of restricting access and discouraging consumption by youth and eliminating the illicit market. He provided an interpretation of the federal criminal law power whereby Parliament is able to prohibit activities, such as the possession of more than four cannabis plants in a dwelling-house. Provincial powers, however, permit the Quebec legislature to regulate the production of cannabis through authorized businesses and measures that penalize and prevent home cultivation. As such, he emphasized that further legislative steps are unnecessary, as the Quebec and federal laws are not in conflict, though he added that the Minister of Justice’s comments created uncertainty that requires clarification. He also mentioned that an amendment setting out that the provinces have the option to regulate over the number of plants permitted for home cultivation would remove doubt and help avoid any constitutional challenge someone may otherwise consider commencing.⁴⁵

Another matter that is important to the committee is the impact the Bill could have on Indigenous communities. The committee raised questions pertaining to the ability of Indigenous communities to restrict or ban the use of cannabis through the enactment of bylaws relating to “intoxicants” as it is presently possible to do under the *Indian Act*⁴⁶ for alcohol. The Minister of Justice indicated that there are ongoing consultations between the Minister of Health and Indigenous communities in this respect, but that “there are a number of challenges [that they are] mindful of and want to address in a very respectful way.” The committee did not explore these matters further at this time given that the Standing Senate Committee on Aboriginal Peoples has been mandated to study the Bill as it relates to Indigenous peoples.

Health research and awareness

The committee engaged in much discussion with witnesses about the health risks of cannabis, particularly for youth, and considered ways in which the Cannabis Act, in particular the parts referred to the committee, will promote the health of Canadians. While the new legislation proposes to move from a criminal law-based approach to cannabis use to one that is health-

⁴³ See the testimony of Dennis Daley, RCMP ([22 March 2018](#)); Benedikt Fischer, Centre for Addiction and Mental Health ([28 March 2018](#)); Mario Harel, Canadian Association of Chiefs of Police; Tom Stamatakis, Canadian Police Association ([29 March 2018](#)); John Dickie, Canadian Federation of Apartment Associations (19 April 2018), among others.

⁴⁴ Quebec, [Bill n°157 : An Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions](#), 1st Session, 41st Legislature.

⁴⁵ See the testimony of Jean-Marc Fournier, Quebec Minister responsible for Canadian Relations and the Canadian Francophonie and Government House Leader (25 April 2018).

⁴⁶ [Indian Act](#), R.S.C., 1985, c. I-5.

based, some witnesses felt that the law maintains too strong of a criminal law component and could place more emphasis on prioritizing health concerns. Many witnesses advocated for non-criminal law programs to promote awareness of health risks and for investment in harm reduction programs.⁴⁷ Many noted that the current state of scientific research is underdeveloped and a greater investment in this area is needed. Experts agreed that there is a lot more that needs to be studied about the effects of cannabis.⁴⁸ Some witnesses underscored the serious health risks of cannabis (especially high-potency cannabis), in particular with regard to brain development in youth and young adults and for persons vulnerable to mental illness,⁴⁹ and some emphasized that the health risks are largely dependent on who the user is and their consumption habits, and noted that its use does not always lead to harms such as the consumption of other substances, addiction, or mental illness, though the science in this area is still being developed.⁵⁰ Some witnesses noted that a strictly regulated cannabis industry coupled with awareness campaigns, treatment services, and appropriate health warnings could reduce the health consequences of cannabis on Canadians.⁵¹

Implementation of the Cannabis Act

The committee heard from some witnesses that there is much confusion surrounding the status of the laws pertaining to cannabis in Canada at present, making it difficult for law enforcement and creating a need to clear up any ambiguity.⁵² Others advocated for delaying the entry into force to ensure that provincial and municipal governments, among other affected stakeholders, are fully prepared for the changes the Cannabis Act would bring about.⁵³ Still others noted that the regulations to the Act are expected to cover many concerns they have about the Bill (e.g. potency limits for certain cannabis products), but as these are not available yet, they could not comment on any particulars.⁵⁴

⁴⁷ See the testimony of Rebecca Jesseman, Canadian Centre on Substance Use and Addiction; Benedikt Fischer, Centre for Addiction and Mental Health ([28 March 2018](#)); Michael Spratt, Criminal Lawyers' Association ([29 March 2018](#)); Paul J. Calarco, Canadian Bar Association (18 April 2018); Michael Bryant, Canadian Civil Liberties Association, among others.

⁴⁸ See the testimony of Rebecca Jesseman, Canadian Centre on Substance Use and Addiction; Benedikt Fischer, Centre for Addiction and Mental Health; Serge Brochu, University of Montreal ([28 March 2018](#)); Karine J. Igartua, Association des médecins psychiatres du Québec (18 April 2018), among others.

⁴⁹ Karine J. Igartua, Association des médecins psychiatres du Québec (18 April 2018), among others.

⁵⁰ See the testimony of Serge Brochu, University of Montreal; Benedikt Fischer, Centre for Addiction and Mental Health ([28 March 2018](#)), among others.

⁵¹ See the testimony of Serge Brochu, University of Montreal; Benedikt Fischer, Centre for Addiction and Mental Health; Rebecca Jesseman, Canadian Centre on Substance Use and Addiction ([28 March 2018](#)); Jean-Marc Fournier, Quebec Minister responsible for Canadian Relations and the Canadian Francophonie and Government House Leader (25 April 2018), among others.

⁵² See the testimony of Tom Stamatakis, Canadian Police Association ([29 March 2018](#)), among others.

⁵³ See the testimony of Yvon Soucy, Fédération québécoise des municipalités; Patrick Émond, Fédération québécoise des municipalités (18 April 2018); Jean-Marc Fournier, Quebec Minister responsible for Canadian Relations and the Canadian Francophonie and Government House Leader (25 April 2018).

⁵⁴ See the testimony of Michael Bryant, Canadian Civil Liberties Association; Paul J. Calarco, Canadian Bar Association (18 April 2018), among others.

Upon reviewing the above-noted matters, the committee makes the following recommendations:

Recommendations adopted by the committee unanimously:

1. Amend the bill to specify the provinces and territories legislative authority over the possession, cultivation, propagation and/or harvesting of cannabis plants in designated areas, including the power to prohibit it.
2. Amend the bill to increase the allowable period to pay a ticket following conviction.
3. Amend the bill in order to relieve law enforcement agencies of all responsibilities regarding the conservation, return or compensation for seized cannabis plants.
4. Ensure that THC levels be clearly indicated on labels affixed on cannabis products and its derivatives, as recommended by the Quebec Association of Psychiatrists and provided for by the Proposed Approach to the Regulation of Cannabis, in order to protect the most vulnerable, including young persons and people with mental illness.
5. Amend the bill to impose a limit on the quantity of dried cannabis or its equivalent that an individual is allowed to possess for personal use in a dwelling-house.
6. The committee endorses the recommendation of the Quebec Bar, which proposes to add to the Cannabis Act a clause 5.1 which would read as follows: "It is understood that nothing in this Act shall be interpreted in such a way as to limit the provisions of the Youth Criminal Justice Act, including the use of a warning, caution, referral or extrajudicial sanction."
7. Amend the bill to increase the maximum fine for an organization found guilty of illegally exporting cannabis to \$300,000, an amount which is provided for in the Tobacco Act.
8. Considering that the provinces have all announced their intention to prohibit the possession of cannabis for young people under the age of 18, the Committee recommends that the bill provide that no harsher sanctions be applied to youth than are applied to adults.

Recommendation accepted by a majority (the Honourable Senators Ataullahjan, Batters, Boisvenu, Boniface, Carignan, P.C., and McIntyre) and rejected by a minority (the Honourable Senators Dupuis, Gold, Jaffer, Pate and Pratte):

1. Prohibit home cultivation.

Recommendations rejected by a majority (the Honourable Senators Boniface, Dupuis, Gold, Jaffer, Pate and Pratte) and proposed by a minority (the Honourable Senators Ataullahjan, Batters, Boisvenu, Carignan, P.C., and McIntyre):

1. Prohibit brand promotion and advertising around cannabis, including in cannabis outlets.
2. Limit the THC content of cannabis and cannabis-related products to 16% for adults over 21 years old and, if the age of 18 is maintained, limit the THC content to 8% for those aged between 18 and 21.
3. That the Government of Canada conclude agreements with the provinces and territories for the establishment of programs targeting education, prevention, rehabilitation and mental illness support.
4. Clarify the definition of “dwelling-house” in clause 12(8), especially with regard to certain terms related to subjacent and the immediate contiguous land and exclude cultivation on adjacent and underlying lands.
5. Add, as an aggravating factor in clause 15(2), the fact that the offence of using a young person to sell or distribute cannabis is committed by a criminal organization.
6. Increase from 18 to 21 the minimum age for legal purchasing of cannabis.
7. That Bill C-45, except for provisions 16 to 24, come into force one year after Royal Assent is given to Part 1 of Bill C-46.

Observations adopted by the committee unanimously:

1. The committee expresses serious concerns with the potential impact of cannabis use on vulnerable populations, including youth and people living with mental illness, including schizophrenia.
2. The committee suggests that the Government of Canada explores and adopts other measures to limit the intrusion of organized crime in the cannabis industry.
3. The Attorney General should consider entering into negotiations with provinces and municipalities for the purpose of sharing the revenues produced by the ticketing regime, revenues that could be used for the establishment of funds to support provincial and local programs targeting prevention, education and mental illness support to protect young and other vulnerable persons from the enticement of cannabis.

Observation accepted by a majority (the Honourable Senators Boniface, Dupuis, Gold, Jaffer, McIntyre, Pate and Pratte) and rejected by a minority (the Honourable Senators Batters, Boisvenu, Carignan, P.C., and Doyle):

1. The committee expresses its concern for the impact of the maximum penalty provisions, including but not limited to, the deportation provisions of the Immigration and Refugee Protection Act.

Observations rejected by a majority (the Honourable Senators Boniface, Dupuis, Gold, Jaffer, Pate and Pratte) and proposed by a minority (the Honourable Senators Atallahjan, Batters, Boisvenu, Carignan, P.C., and McIntyre):

1. Highlights several concerns expressed by key witnesses, among them municipalities and police forces, with regard to the implementation of this legislation and the limited time frame before the coming into force.
2. Expresses serious concerns with the fact that the bill lacks concrete and enforceable incentives and measures to ensure the delivery of efficient programs of prevention and education in the field of rehabilitation and mental illness.
3. Develop tools to increase transparency and possibly prohibit share ownership by foreign shareholders.
4. Expresses concern after legal experts mentioned the risk of class action lawsuits against the Government of Canada if labeling and promotion provisions are not improved.
5. Has significant concern with the total lack of clarity in the series of answers from officials from the Public Safety, Justice and Health Departments and from the RCMP who could not in any way coherently explain section 8(1) on possession of budding or flowering cannabis plants.
6. Has concerns about the lack of time to address the impacts that legalization will have on the behaviour of vulnerable persons in the criminal justice system.
7. Expresses concerns with regard to issues of workplace safety and the consumption of cannabis.

APPENDIX A – LIST OF WITNESSES

Wednesday, 21 March 2018

- John Clare, Director, Policy, Legislative and Regulatory Affairs (*Health Canada*)
- Eric Costen, Director General, Cannabis Legalization and Regulation Secretariat (*Health Canada*)
- Diane Labelle, General Counsel (*Department of Justice Canada*)
- Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section (*Department of Justice Canada*)
- Paul Saint-Denis, Senior Counsel (*Department of Justice Canada*)

Thursday, 22 March 2018

- Trevor Bhupsingh, Director General, Law Enforcement and Border Strategies (*Public Safety Canada*)
- John Clare, Director, Policy, Legislative and Regulatory Affairs (*Health Canada*)
- Eric Costen, Director General, Cannabis Legalization and Regulation Secretariat (*Health Canada*)
- Chief Superintendent Dennis Daley, Director General, Criminal Operations, Community Aboriginal Policing (*Royal Canadian Mounted Police*)
- Superintendent Yves Goupil, Director, Federal Policing Criminal Operations (*Royal Canadian Mounted Police*)
- Rachel Huggins, Manager, Policy Development (*Public Safety Canada*)
- Kimberly Lavoie, Director, Drug Policy (*Public Safety Canada*)
- Paul Saint-Denis, Senior Counsel (*Department of Justice Canada*)

Wednesday, 28 March 2018

- The Honourable Jody Wilson-Raybould, P.C., M.P., Minister of Justice and Attorney General of Canada (*Department of Justice Canada*)
- Serge Brochu, Scientific Director, University Institute on Addictions, Professor Emeritus, University of Montreal (*As an Individual*)
- Benedikt Fischer, Senior Scientist, Institute for Mental Health Policy Research (*Centre for Addiction and Mental Health*)
- Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section (*Department of Justice Canada*)
- Rebecca Jesseman, Policy Director (*Canadian Centre on Substance Use and Addiction*)

Thursday, 29 March 2018

- Chief Mario Harel, President (*Canadian Association of Chiefs of Police*)
- Ayesha Kumararatne, Barrister and Solicitor, Affiliate Counsel to the Federal Practice Group (*Criminal Lawyers' Association*)
- Eric Neubauer, Representative (*Canadian Council of Criminal Defence Lawyers*)
- Deputy Chief Mike Serr, Co-Chair, Drug Advisory Committee (*Canadian Association of Chiefs of Police*)
- Michael Spratt, Member, Lawyer, Abergel Goldstein and Partners (*Criminal Lawyers' Association*)
- Tom Stamatakis, President (*Canadian Police Association*)

- Mark Walters, Professor of Law, McGill University (*As an Individual*)

Wednesday, 18 April 2018

- Michael Bryant, Executive Director and General Counsel (Canadian Civil Liberties Association)
- Paul J. Calarco, Member, Criminal Justice Section (Canadian Bar Association)
- Patrick Émond, Director, Research and Policy (Fédération québécoise des municipalités)
- Gaylene Schellenberg, Staff Lawyer (Canadian Bar Association)
- Dr. Karine J. Igartua, President (Association des médecins psychiatres du Québec)
- Nicolas Le Grand Alary, Lawyer, Secretariat of the Order and Legal Affairs (Barreau du Québec)
- Pascal Lévesque, Chair of the Committee on Criminal Law (Barreau du Québec)
- Yvon Soucy, Warden, Kamouraska RCM (Fédération québécoise des municipalités)
- Luc Thibaudeau, Chair of the Committee on Consumer Protection (Barreau du Québec)

Thursday, 19 April 2018

- John Dickie, President (*Canadian Federation of Apartment Associations*)

Wednesday, 25 April 2018

- Bill Blair, M.P., Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health (*Department of Justice Canada*)
- Jean-Marc Fournier, Minister responsible for Canadian Relations and the Canadian Francophonie and Government House Leader (*Government of Quebec*)
- Marwah Rizqy, Assistant Professor, Department of Taxation, University of Sherbrooke's School of Management (*As an individual*)
- Miville Bédard, Retired member of the Sûreté du Québec (*As an individual*)