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11785 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

concerns only criminal legislation, and does not mean that the legal system has no further jurisdiction of any kind in this regard. Other, non-criminal, laws may regulate the behaviour or activity that has been decriminalized (civil or regulatory offences, etc.).

Diversion

The use of measures other than prosecution or a criminal conviction for an act that nonetheless remains against the law. Diversion can take place before a charge is formally laid, for example if the accused person agrees to undergo treatment. It can also occur at the time of sentencing, when community service or treatment may be imposed rather than incarceration.

Depenalization

Modification of the sentences provided in criminal legislation for a particular behaviour. In the case of cannabis, it generally refers to the removal of custodial sentences.

Dependence

State where the user continues its use of the substance despite significant health, psychological, relational, familial or social problems. Dependence is a complex phenomenon which may have genetic components. Psychological dependence refers to the psychological symptoms associated with craving and physical dependence to tolerance and the adaptation of the organism to chronic use. The American Psychiatric Association has proposed seven criteria (see Chapter 7).

Dopamine

Neuromediator involved in the mechanisms of pleasure.

Drug

Any chemical agent that alters the biochemical or physiological processes of tissues or organisms. In this sense, the term drug refers better to any substance which is principally used for its psychoactive effects. Also used to refer to illicit rather than licit (such as nicotine, alcohol or medicines) substances.

European Monitoring Centre on Drugs and Drug Addiction (EMCDDA)

The European Monitoring Centre was created in 1993 to provide member states within the EU objective, reliable and comparable information on drugs, drug addictions and their consequences. Statistical information, documents and techniques developed in the

EMCDDA are designed to give a broad perspective on drug issues in Europe. The Centre only deals with information. It relies on national focal points in each of the Member States.

Fat soluble

Characteristic of a substance to irrigate the tissues quickly. THC is highly fat-soluble.

Gateway / Gateway Theory

Theory suggesting a sequential pattern in involvement in drug use from nicotine to alcohol, to cannabis and then to "hard" drugs. In regard to cannabis, the theory rests on a statistical association between the use of hard drugs and the fact that these users have generally used cannabis as their first illicit drug. This theory has not been validated by empirical research and is considered outdated.

Half-life

Time needed for the concentration of a particular drug in blood to decline to half its maximum level. The half-life of THC is 4.3 days on average but is faster in regular users than in occasional users. Because it is highly fat soluble, THC is stored in fatty tissues, thus increasing its half-life to as much as 7 to 12 days. Prolonged use of cannabis increases the period of time needed to eliminate it from the system. Even one week after use, THC metabolites may remain in the system. They are gradually metabolised in the urine (one third) and in feces (two thirds). Traces of inactive THC metabolites can be detected as long as 30 days after use.

Hashish

Resinous extract from the flowering tops of the cannabis plant transformed into a paste.

International conventions

Various international conventions have been adopted by the international community since 1912, first under the League of Nations, then under the United Nations, to regulate the possession, use, production, distribution, sale, etc., of various psychotropic substances. Currently, the three main conventions in force are the 1961 Single Convention, the 1971 Convention on Psychotropic Substance and the 1988 Convention against Illicit Traffic. Canada is a signatory to all three conventions. Subject to countries' national constitutions, these conventions establish a system of regulation where only medical and scientific uses are permitted. This system is based on the prohibition of source plants (coca, opium and cannabis) and the regulation of synthetic chemicals produced by pharmaceutical companies.

International Narcotics Control Board (INCB)

The Board is an independent, quasi-judicial organization responsible for monitoring the implementation of the UN conventions on drugs. It was created in 1968 as a follow up to the 1961 Single Convention, but had predecessors as early as the 1930s. The Board makes recommendations to the UN Commission on Narcotics with respect to additions or deletions in the appendices of the conventions.

Intoxication

Disturbance of the physiological and psychological systems through substance use. Pharmacology generally distinguishes four levels of intoxication: light, moderate, serious and fatal.

Joint

Cigarette of marijuana or hashish with or without tobacco. Because joints are never identical, scientific analyses of the effects of THC in their use are more difficult, especially to determine the therapeutic benefits of cannabis and to examine its effects on driving.

League of Nations

International organisation organization of Sstates until in existence until 1938; now the United Nations.

Legalization

Legislating under a regulatory system the culture, production, marketing, sale and use of substances. Although no such provision currently exist in relation to "street-drugs" (as opposed to alcohol or tobacco which are regulated products), a legalization system could take two forms: free of state control (free markets) and with state controls (regulatory regime).

Marijuana

Mexican term originally referring to a cigarette of poor quality. Has now become a synonym for cannabis in popular language usage.

Narcotic

Substance which can induce stupor or artificial sleep. Usually restricted to opiates. Sometimes used incorrectly to refer to all drugs capable of inducing dependence.

Office of National Drug Control Policy (ONDCP) USA

Created in 1984 under the Reagan administration, the Office is under the direct authority of the White House. It coordinates US policy on drugs. Its budget is currently US \$18 billion.

Opiates

Substance derived from the opium poppy. The term opiate excludes synthetic opioids such as heroin and methadone.

Prohibition

Historically, the term most often refers to the period of national interdiction of alcohol sales in the United States between 1919 and 1933. By analogy, the term is now used to describe UN and State policies aiming for a drug-free society. Prohibition is based on the interdiction to cultivate, produce, fabricate, sell, possess, use, etc., some substances except for medical and scientific purposes.

Psychoactive substance

Substance which alters mental processes such as thinking or emotions. We prefer to use this term as it is more neutral than the term "drug" and does not refer to the legal status of the substance.

Psychotropic substance (see also psychoactive)

Used synonymously with psychoactive substance, however the term refers to drugs primarily used in the treatment of mental disorders, such as anxiolytics, sedatives, neuroleptics, etc. More specifically, the term refers to the substances covered in the 1971 Convention on Psychotropic Substances.

Regulation

System of control specifying the conditions under which the cultivation, production, marketing, prescription, sales, possession or use of a substance are allowed. Regulatory approaches may rest on interdiction (as for illegal drugs) or controlled access (as for medical drugs or alcohol). Our proposal of an exemption regime under the current legislation is a regulatory regime.

Tetrahydrocannabinol (Δ^9 -THC)

Main active component of cannabis, Δ^9 -THC is highly fat-soluble and has a lengthy half-life. Its psychoactive effects are modulated by other active components in cannabis. In its natural state, cannabis contains between 0.5% to 5% THC. Sophisticated cultivation methods and plant selection, especially female plants, lead to higher levels of THC concentration.

Tolerance

Reduced response of an organism and increased capacity to support the effects of a substance after a more or less lengthy period of use. Tolerance levels are extremely variable between substances, and tolerance to cannabis is believed to be lower than for most other drugs, including tobacco and alcohol.

Toxicity

Characteristic of a substance which induces intoxication, i.e., "poisoning". Many substances, including some common foods, have some level of toxicity. Cannabis presents almost no toxicity and cannot lead to an overdose.

United Nations Drug Control Program (UNDCP)

Established in 1991, the Program works to educate the world about the dangers of drug abuse. The Program aims to strengthen international action against drug production, trafficking and drug-related crime through alternative development projects, crop monitoring and anti-money laundering programs. UNDCP also provides accurate statistics through the Global Assessment Programme (GAP) and helps to draft legislation and train judicial officials as part of its Legal Assistance Programme. UNDCP is part of the UN Office for Drug Control and the Prevention of Crime.

World Health Organization (WHO)

The World Health Organization, the United Nations' specialized agency for health, was established on April 7, 1948. WHO's objective, as set out in its Constitution, is the attainment by all peoples of the highest possible level of health. Health is defined in WHO's Constitution as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

Introduction

The Senate Special Committee on Illegal Drugs addressed the question of drugs just as

everyone else does, with the same preconceptions, attitudes, fears and anxieties we all share. Of course, we had at our disposal the 1996 study our colleagues conducted on government legislation dealing with illegal drugs, which had enabled them to hear a number of witnesses over several months. We also knew at the outset that research expertise would be available to us, but it is still difficult to overcome attitudes and opinions that we have long taken for granted. Whether one is in favour of enhanced enforcement or, on the contrary, greater liberalization, opinions often resist the facts and in a field such as this the production of facts, even through scientific research, is not necessarily a neutral undertaking. We, like you, have our prejudices and preconceptions. Together we must make the effort to go beyond such predispositions. That is one of the objectives of this report.

The public policy regime we propose expresses the fundamental premise underlying our report. *in a free and democratic society, which recognizes fundamentally but not exclusively the rule of law as the source of normative rules and in which government must promote autonomy as far as possible and therefore make only sparing use of the instruments of constraint, public policy on psychoactive substances must be structured around guiding principles respecting the life, health, security and rights and freedoms of individuals, who, naturally and legitimately, seek their own well-being and development and can recognize the presence, difference and equality of others.*

We are aware, as much now as we were at the start of our work, that there is no pre-established consensus in Canadian society on public policy choices in the area of drugs. In fact, our research has shown us that there are few societies where there is a broadly shared consensus among the general public, let alone between the public and experts. We are well aware, perhaps more so than at the outset, that the question of illegal drugs, viewed from the standpoint of public policy, has a broad international context and that we cannot think or act in isolation. We know our proposals are provocative, that they will meet with resistance. However, we are also convinced that Canadian society has the maturity and openness to welcome an informed debate.

Part I – General Orientation

Chapter 1 – Our mandate

“That a special committee of the Senate be struck to examine:

- the approach taken by Canada to cannabis, its preparations, derivatives and similar synthetic preparations, in context;
- the effectiveness of this approach, the means used to implement it and the monitoring of its application;
- the related official policies adopted by other countries;
- Canada's international role and obligations under United Nations agreements and conventions on narcotics, in connection with cannabis, the Universal Declaration of Human Rights and other related treaties; and

- the social and health impacts of cannabis and the possible consequences of different policies;

That the special committee consist of five senators, three of whom shall constitute a quorum;

That the Honourable Senators Banks, Kenny, Nolin, Rossiter and (a fifth Senator to be named by the Chief Government Whip) be named to the committee;

That the committee be authorized to send for persons, papers and records, to hear witnesses, to report from time to time, and to print from day to day such papers and evidence as may be ordered by it;

That the briefs and evidence heard during consideration of Bill C-8, An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof, by the Standing Senate Committee on Legal and Constitutional Affairs during the 2nd Session of the 35th Parliament be referred to the committee;

That the documents and evidence compiled on this matter and the work accomplished by the Special Senate Committee on Illegal Drugs during the 2nd Session of the 36th Parliament be referred to the committee;

That the committee be empowered to authorize, if deemed appropriate, the broadcasting on radio and/or television and the coverage via electronic media of all or part of its proceedings and the information it holds;

That the committee present its final report no later than August 31, 2002; and that the committee retain the powers necessary to publicize its findings for distribution of the study contained in its final report for 30 days after the tabling of that report;

That the committee be authorized, notwithstanding customary practice, to table its report to the Clerk of the Senate if the Senate is not sitting, and that a report so tabled be deemed to have been tabled in the Senate."

The Committee's mandate is a continuation of the evolution of drug legislation passed by the Parliament of Canada in 1996, the *Controlled Drugs and Substances Act*. While this legislation was being studied by the Sub-Committee on Bill C-7 of the Standing Committee on Health of the House of Commons in 1994 and 1995, the vast majority of witnesses were highly critical of the bill. The most common criticisms concerned three points: first, the lack of basic principles or an expressed statement as to the purpose of the act; second, the fact that the bill perpetuated the prohibition system of the 1920s, and third, the absence of any emphasis on harm reduction and prevention criteria. Despite the amendments made by the Sub-Committee of the House, the testimony heard by the Senate Committee was equally critical. Witnesses noted that the Act did not categorize drugs on the basis of the dangers they represented, that it did not contain any specific, rational criteria and that it was impossible, particularly in view of the Act's complexity, to determine how it would be implemented in practice. All of these criticisms led that Senate Committee to "*propose energetically*" the creation of a Joint Committee of the House of Commons and the Senate that would review all Canadian drug legislation, policies and programs. However, the 1997 federal election intervened. Senator Nolin, convinced of the need for action and faced with the inaction of the House of Commons, tabled his first motion in 1999 - that a Senate Committee be struck and given a mandate to examine the legislation, policies and programs

on illegal drugs in Canada. The motion was adopted by the Senate in April 2000.

However, that Committee was dissolved by general election of October 2000, and was restructured on March 15, 2001, with an amended mandate: the scope of its work was now restricted to cannabis "in its context". We chose to interpret this sentence broadly.

Chapter 2 – Our Work

At the Committee's public hearings, the Chair presented the research program as follows:

"In order to fully satisfy the mandate conferred upon the committee, the committee has adopted an action plan. This plan centres around three challenges. The first challenge is that of knowledge. We will be hearing from a wide variety of experts, both from Canada and afar, from academic settings, the police, legal specialists, medical specialists, the government sector and social workers. (...)

The second challenge, surely the most noble challenge, is that of sharing knowledge. The committee hopes that Canadians from coast to coast will be able to learn and share the information that we will have collected. In order to meet this challenge, we will work to distribute this knowledge and make it accessible to all. We would also like to hear the opinions of Canadians on this topic and in order to do so, we will be holding public hearings in the spring of 2000 throughout Canada.

And finally, the third challenge for this committee will be to examine and identify the guiding principles on which Canada's public policy on drugs should be based."

In view of our mandate, including an obligation to provide Canadians with objective and rigorous information, we have emphasized rigour and openness throughout the entire process, an approach that was all the more important as opinions on all sides of the illegal drugs issue are strong and often categorical. But rigour is not enough. For the information to reach Canadians, we could not reserve it for our exclusive use, hence the second principle that guided us: openness. From the outset, we insisted that all our work be made available as soon as possible on our Web site and we entered into direct dialogue with our fellow citizens as well as with experts.

The Committee approved a research program divided into five major axes of knowledge, sub-dividing each one into specific issues:

- the socio-historical, geopolitical, anthropological, criminological and economic issues of the use and regulation of cannabis;
- the medical and pharmacological aspects of the consumption, use and regulation of cannabis;
- the legal aspects from a national perspective;
- the legal and political issues in an international perspective; and
- the ethical issues and Canadians' moral and behavioural standards.

In an attempt to answer these questions in the most effective and economical manner possible, the Committee agreed to perform two tasks concurrently: conduct a research program and hear expert witnesses—complementary activities. We asked the Parliamentary Research Branch and other researchers to produce syntheses and analyses of the relevant literature. In all, the Committee received 23 reports and benefited from summaries of work conducted in other countries, including attendance at international conferences. In all, the Committee held more than 40 days of public hearings in Ottawa and 10 other Canadian communities, hearing more than 100 witnesses from all backgrounds, from across Canada and abroad.

The second component of our program of work was to examine public opinion. That meant we had two closely related responsibilities. The first was a duty to inform, indeed, to educate. We hope those who are offended by that term will pardon our presumption, but we are convinced that on public policy topics that are societal issues, it is the duty of political leaders to transmit information that educates, not merely convinces. The level of knowledge about drugs, even about cannabis, perhaps the best known drug, is often limited and clouded by myth. Our second responsibility in taking public opinion into account was to go out and discover it. We did so in three ways. We publicized our work as widely and as openly as possible to enable everyone to learn about it and react to it. Many chose to write us, although they were relatively few compared with the number of people in this country. We commissioned a qualitative public opinion study. The focus groups conducted across the country as part of that study are described in detail in Chapter 10. We also held public hearings in eight communities across the country, enabling citizens to come and tell us what they thought, what they knew and what they had experienced.

In order to be able to interpret all this knowledge and come to conclusions and recommendations, the third component of our work focussed on guiding principles.

Chapter 3 – Guiding principles

It has now been thirty years since the Royal Commission of Inquiry on the Non-Medical Use of Drugs, the Le Dain Commission, studied issues similar to those we are studying today. Its report on cannabis, whose scientific conclusions on the effects of the drug were generally accepted by all members of the Commission, led to three reports: a majority report by three of the members, and two minority reports. Each expressed a different concept of the role of the State and of criminal law, and the roles of science and ethics in the choices that had to be made. Having examined each of these subjects, we have elected to set down the guiding principles that clarify the concept we have of the roles that the state, criminal law, science and ethics must play in the development of a public policy on cannabis.

Ethical considerations take us through what is, that is the realm of facts, to the realm of what should be, what would be desirable, moving from recognized facts to standards, then more importantly to values and finally to the means of passing on and above all implementing these values. This is why ethics was our first subject. As a guideline, we have adopted the principle that an ethical public policy on illegal drugs, and on cannabis in particular, must **promote reciprocal autonomy built through a constant exchange of dialogue within the community.**

We always find ourselves in paradoxical situations where, to a certain degree, each person has the free will to make decisions and makes free decisions for himself, while at the same

time rules are established in order to regulate interaction with others, a complex and more or less formal, but appropriate approach. The goal of governance is freedom, and not control. It is a question of defining the goals of society through policies and programs of action that are then implemented through systems and processes and upheld by those who govern that permits the encouragement and affirmation of those goals for human action. The law, as a vehicle of choice of governance, does not merely express rules or limitations passed for the benefit of and on behalf of citizens, but seeks a reciprocal process of building social relationships through which people, citizens and governments, can constantly adjust their expectations of behaviour. We therefore accept as a guiding principle for governance that **all of the means the State has at its disposal must work towards facilitating human action, particularly the processes allowing for the building of arrangements between government of the citizenry and governance of the self.**

On the whole, the legal basis of the criminal law is weak where the prescribed standard first, does not concern a relationship with others and where the characteristics of the relationship do not establish a victim and a perpetrator able to recognize his/her actions; second, has to find its justification outside fundamental social relationships; and third, results in the form of enforcement, the harmful effects of which undermine and challenge the very legitimacy of the law. Where criminal law is involved in these issues, the very standard prescribed by the law turns the perpetrator into the victim and tries to protect him from himself, something it can do only by producing a never-ending stream of knowledge that remains constantly out of his reach. In this context **only offences involving significant direct danger to others should be matters of criminal law.**

The Committee's Report - especially the second part - puts great emphasis on research-based knowledge. This focus is an attempt to do justice to the knowledge that has been developed over the past few decades. We considered it important and indeed necessary to give it detailed consideration. Indeed, the Committee recommends that the drive to acquire knowledge on specific issues we deem important be continued. We do not claim, however, to have answered the fundamental question of why people consume psychoactive substances, such as alcohol, drugs or medication. We were indeed surprised, given the quantity of studies conducted each year on drugs, that this area has not been covered. It is almost as if the quest for answers to technical questions has caused science to lose sight of the basic issue!

Scientific knowledge cannot replace either personal reflection or the political decision-making process. It supports those processes, science's greatest contribution to public drug policy. Our guiding principle is that **science, which must continue to explore specific areas of key issues and reflect on overarching questions, supports the public policy development process.**

These principles have guided our interpretation of the available information as well as our choice of recommendations; the reader should always keep them in mind when reading our report.

Chapter 4 – A changing context

This chapter puts the Committee's work in context. In recent years, in fact, in the past few months, events of some significance have taken place; some directly linked to illegal drugs, others far removed from them. Obviously, September 11 comes to mind. In social and political terms, the claims of medical users, of recreational users, within the changing context of drug use and, more generally, inter-generational conflict, have to be taken into account.

Legislation passed in the aftermath of September 11, some provisions of which could affect police drug investigations, the fight against organized crime and the trial of the Hells Angels in Quebec, must also be taken into account. In legal terms, court decisions have had a direct effect on medical use and a decision will be rendered in the next few months by the Supreme Court on recreational use. In international terms, the fragility of the UNDCP and the development of a continental drug policy for the Americas are relevant to an understanding of certain issues that may even overdetermine national policy. Finally, globalization and the more extreme forms of economic liberalism have been factors too, primarily in western societies but worldwide as well, in the increase of addictive behaviours, be they the use of drugs or other substitutes for social life.

Part II – Cannabis: Effects, types of use, attitudes

Chapter 5 – Cannabis: from plant to joint

This chapter first describes the cannabis plant and the various forms in which it becomes a consumer drug. We then take a brief look at the geographical origin of the cannabis plant and the routes along which it circulates in the modern world, noting at the same time current modes of production (soil-based and hydroponic) that have developed in certain regions of Canada. We then describe the pharmacokinetics of the cannabis plant, in particular its main active ingredients, and their metabolism in the body.

Available information on cannabis markets is weak and contradictory. Since 1997, the RCMP's annual reports on drugs suggest that 800 tons of cannabis circulate in Canada each year. Yet, many people told us that cannabis production has increased significantly and that cannabis has become more available than ever in this country. Data on the economic value of the cannabis market are no more reliable. We noted that:

- The size of the national production has significantly increased, and it is estimated that 50% of cannabis available in Canada is now produced in the country;
- The main producer provinces are British Columbia, Ontario and Quebec;
- Estimates of the monetary value of the cannabis market are unreliable. For example, if 400 tons are grown yearly in Canada, at a street value of \$225 per ounce, the total value of the Canadian production would be less than \$6 billion per year, less than the often quoted value of the BC market alone;
- An unknown proportion of national production is exported to the United States; and
- A portion of production is controlled by organized crime elements.

We heard many alarmist comments on the increased level of active ingredient (THC) in cannabis, however, it is currently impossible to estimate the average content of cannabis available in the market. More sophisticated growing methods have likely contributed to increasing the THC concentration. We observed that:

- In its natural state, cannabis contains between 0.5% and 3% THC. Sophisticated growing methods and genetic progress have made it possible to increase THC content in recent years, but it is impossible to estimate the average content of cannabis available in the market; it is reasonable to consider that content varies between 6% and 31%.
- THC is fat soluble and readily spreads in the innervated tissues of the brain; it reaches a peak in the blood plasma in less than nine minutes and falls to approximately 5% after one hour.
- The body is slow to eliminate THC and inactive THC metabolites can be detected in urine up to 27 days after use in the case of regular users.
- Psychoactive effects generally last two to three hours and may last as many as five to seven hours after use.

Chapter 6 – Users and uses: form, practice, context

Who uses cannabis? How do the patterns of use in Canada compare to those in other countries? In what context is cannabis used? Why? What populations are most vulnerable? What are the social consequences of cannabis, specifically on delinquency and criminal behaviour? Most important, what trajectories do cannabis users follow, specifically with respect to consumption of other drugs?

At the very least, partial answers to these questions are prerequisite to establishing policy on a substance. In Canada, knowledge of patterns and contexts of cannabis use verges on the abysmal. In the early 1980s, the USA, the United Kingdom, and Australia introduced monitoring systems for the general population and the student population. In the last five years, a number of European countries have introduced data collection systems as part of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Canada, by contrast, has carried out only two epidemiological general population surveys specific to drugs (in 1989 and 1994), and only some provinces conduct surveys of the student population, using different methods and instruments that preclude data comparison. Furthermore, few sociological or anthropological studies are conducted on the circumstances or context of illegal drug use, specifically for cannabis. The result is that our pool of knowledge on users and characteristics of use is sorely lacking.

We have no explanation for this situation, at least no satisfactory explanation. In the 1970s, following up on the work done by the Le Dain Commission, Canada could have set up a trend monitoring system. In the 1980s, when Canada's Anti-Drug Strategy was adopted, to which the federal government allocated \$210M over five years, a data collection system could well have been created. The fact that it was not could be due to an absence of leadership or vision, a fear of knowing, the division of powers among levels of government, or the absence of a socio-legal research tradition within the departments responsible for justice and health. In fact, all of the above are probable factors. Whatever the case, it is our contention that this situation, unacceptable by definition, requires timely remedial action. We must resign ourselves to working with the scarce Canadian data available, and, more significantly, the virtually non-existent comparable data. We will also look at studies and data from other countries.

The chapter is divided into four sections. The first covers consumption patterns in the

population as a whole, then specifically in the 12-18 year age group and compares the patterns in various countries. In the adult population we observed that:

- The epidemiological data available indicates that close to 30% of the population (12 to 64 years old) has used cannabis at least once;
- Approximately 2 million Canadians over age 18 have used cannabis during the previous 12 months, approximately 600,000 have used it during the past month, and approximately 100,000 use it daily. Approximately 10% used cannabis during the previous year; and
- Use is highest between the ages of 16 and 24.

For youth in the 12-17 age group, we observed that:

- Canada would appear to have one of the highest rates of cannabis use among youths;
- Approximately 1 million would appear to have used cannabis in the previous 12 months, 750,000 in the last month and 225,000 would appear make daily use; and
- The average age of introduction to cannabis is 15.

The second section looks at what we know about reasons for and details on use, including origins and cultural differences. The third section deals specifically with cannabis user trajectories, including escalation. We have observed the following:

- Most experimenters stop using cannabis;
- Regular users were generally introduced to cannabis at a younger age. Long-term users most often have a trajectory in which use rises and falls;
- Long-term regular users experience a period of heavy use in their early 20s;
- Most long-term users integrate their use into their family, social and occupational activities; and
- Cannabis itself is not a cause of other drug use. In this sense, we reject the gateway theory

The fourth and last section covers the relationship between cannabis use and delinquency and crime. Based on research evidence, we concluded that:

- Cannabis itself is not a cause of delinquency and crime; and
- Cannabis is not a cause of violence.

Chapter 7 – Cannabis: Effects and Consequences

When it comes to cannabis, one hears anything and its opposite. While in some areas more research is needed and in others research results are contradictory, there exists nevertheless a strong basis of information contradicting many of the myths that continue to be perpetuated.

This chapter is divided into five sections. The first is a collection of statements on the presumed effects of marijuana that the Committee heard or became aware of through its research. The following three sections examine the acute effects of cannabis, followed in turn by the physiological and neurological consequences, the psychological consequences and the social consequences. Then, because of its significance and the central place it holds in social and political concerns, we turn our attention specifically to the question of any possible dependence arising from prolonged use of cannabis.

With respect to the effects of cannabis, the Committee observed that:

- The immediate effects of cannabis are characterized by feelings of euphoria, relaxation and sociability; they are accompanied by impairment of short-term memory, concentration and some psychomotor skills; and
- Long term effects on cognitive functions have not been established in research.

The Committee has distinguished between use, at-risk use and excessive use. Quantities used, psychosocial characteristics of the users and factors related to use contexts and quality of the substance all come into play to explain the passage from one category to the other. On at-risk use, the Committee observed that:

- Most users are not at-risk users insofar as their use is regulated, irregular and temporary, rarely beyond 30 years of age;
- For users above 16, at-risk use is defined as using between 0.1 to 1 gram per day; and
- Available epidemiological data suggests that approximately 100,000 Canadians might be at-risk users.
- The Committee feels that, because of its potential effects on the endogenous cannabinoid system and cognitive and psychosocial functions, any use in those under age 16 is at-risk use.

With respect to excessive use we observed that:

- More than one gram per day over a long period of time is heavy use, which can have certain negative consequences on the physical, psychological and social well-being of the user. According to the epidemiological data available, there is reason to believe that approximately 80,000 Canadians above age 16 could be excessive users;
- For those between the ages of 16 and 18, heavy use is not necessarily daily use but use

in the morning, alone or during school activities;

- Heavy use can have negative consequences for physical health, in particular for the respiratory system (chronic bronchitis, cancer of the upper respiratory tract);
- Heavy use of cannabis can result in negative psychological consequences for users, in particular impaired concentration and learning and, in rare cases and with people already predisposed, psychotic and schizophrenic episodes;
- Heavy use of cannabis can result in consequences for a user's social well-being, in particular their occupational and social situation and their ability to perform tasks; and
- Heavy use of cannabis can result in dependence requiring treatment; however, dependence caused by cannabis is less severe and less frequent than dependence on other psychotropic substances, including alcohol and tobacco.

Chapter 8 – Driving under the influence of cannabis

If there is one issue, other than the effects of cannabis use on young people or the effects of substance abuse, that is likely to be of concern to society and governments, then it is certainly the effect of the use of cannabis on the ability to drive a vehicle. We are already familiar with the effects of alcohol on driving and the many accidents involving injuries or deaths to young people. In spite of the decreases in use noted in recent years, one fatal accident caused by the use of a substance is one accident too many.

Next to alcohol, cannabis is the most widely used psychoactive substance, particularly among young people in the 16-25 age group. Casual use occurs most often in a festive setting, at weekend parties, often accompanied by alcohol. People in this age group are also the most likely to have a car accident and are also susceptible to having an accident while impaired.

Cannabis affects psychomotor skills for up to five hours after use. The psychoactive effects of cannabis are also dependent on the amount used, the concentration of THC and the morphology, experience and expectations of users. But what are the specific effects of cannabis on the ability to drive motor vehicles? What are the effects of alcohol and cannabis combined? And what tools are available to detect the presence of a concentration of THC that is likely to significantly affect the psychomotor skills involved in vehicle operation?

This chapter is divided into three sections. The first considers the ways of testing for the presence of cannabinoids in the body. The second analyzes studies on the known prevalence of impaired driving, in both accident and non-accident contexts. The third and last summarizes what is known about the effects of cannabis on driving based on both laboratory and field studies. As in the other chapters, the Committee then draw its own conclusions.

The Committee feels it is quite likely that cannabis makes users more cautious, partly because they are aware of their deficiencies and compensate by reducing speed and taking fewer risks. However, because what we are dealing with is no longer the consequences on the users themselves, but the possible consequences of their behaviour on others, the Committee feels that it is important to **opt for the greatest possible caution** with respect to the issue of driving under the influence of cannabis.

Given what we have seen, we conclude the following:

- Between 5% and 12% of drivers may drive under the influence of cannabis; this percentage increases to over 20% for young men under 25 years of age;
- Cannabis alone, particularly in low doses, has little effect on the skills involved in automobile driving. Cannabis leads to a more cautious style of driving. However it has a negative impact on decision time and trajectory. This in itself does not mean that drivers under the influence of cannabis represent a traffic safety risk;
- A significant percentage of impaired drivers test positive for cannabis and alcohol together. The effects of cannabis when combined with alcohol are more significant than is the case for alcohol alone;
- Despite recent progress, there does not yet exist a reliable and non intrusive rapid roadside testing method;
- Blood remains the best medium for detecting the presence of cannabinoids;
- Urine cannot screen for recent use;
- Saliva is promising, but rapid commercial tests are not yet reliable enough;
- The visual recognition method used by police officers has yielded satisfactory results; and
- It is essential to conduct studies in order to develop a rapid testing tool and learn more about the driving habits of cannabis users.

Chapter 9 - Use of marijuana for therapeutic Purposes

There has been renewed interest in the issue of the use of marijuana for therapeutic purposes in recent years, particularly in Canada. In the wake of an Ontario Court of Appeal ruling which found the provisions of the *Controlled Drugs and Substances Act* to be unconstitutional pertaining to the therapeutic use of marijuana, the federal Minister of Health made new regulations in July 2001 that give people with specified medical problems access to marijuana under certain conditions.

However, the scientific community, the medical community in particular, is divided on the real therapeutic effectiveness of marijuana. Some are quick to say that opening the door to medical marijuana would be a step toward outright legalization of the substance.

But none of that should matter to physicians or scientists. It is not a question of defending general public policy on marijuana or even all illegal drugs. It is not a question of sending a symbolic message about "drugs". It is not a question of being afraid that young people will use marijuana if it is approved as a medicine. The question, and the only question, for physicians as professionals is whether, to what extent and in what circumstances, marijuana

serves a therapeutic purpose. Physicians should have to determine whether people with certain diseases would benefit from marijuana use and weigh the side effects against the benefits. If they do decide the patient should use marijuana, they then have to consider how he or she might get it.

This chapter is devoted to the history of the use of marijuana for therapeutic purposes and the status of contemporary knowledge of marijuana and synthetic cannabinoids. We then give a brief account of compassion clubs and other organizations that supply marijuana for therapeutic use, as well as various public policy regimes. We conclude with our views on medical use of marijuana. In a later chapter, we discuss which public policy regime would be most appropriate given the status of medical use of marijuana

We observed that:

- There are clear, though non-definitive indications of the therapeutic benefits of marijuana in the following conditions: analgesic for chronic pain, antispasm for multiple sclerosis, anticonvulsive for epilepsy, antiemetic for chemotherapy and appetite stimulant for cachexi;
- There are less clear indications regarding the effect of marijuana on glaucoma and other medical conditions;
- Marijuana has not been established as a drug through rigorous, controlled studies;
- The quality and effectiveness of marijuana, primarily smoked marijuana, have not been determined in clinical studies;
- There have been some studies of synthetic compounds, but the knowledge base is still too small to determine effectiveness and safety;
- Generally, the effects of smoked marijuana are more specific and occur faster than the effects of synthetic compounds;
- The absence of certain cannabinoids in synthetic compounds can lead to harmful side effects, such as panic attacks and cannabinoid psychoses;
- Smoked marijuana is potentially harmful to the respiratory system;
- People who smoke marijuana for therapeutic purposes self-regulate their use depending on their physical condition and do not really seek the psychoactive effect;
- People who smoke marijuana for therapeutic purposes prefer to have a choice as to methods of use;
- Measures should be taken to support and encourage the development of alternative practices, such as the establishment of compassion clubs;
- The practices of these organizations are in line with the therapeutic indications arising from clinical studies and meet the strict rules on quality and safety;

- The studies that have already been approved by Health Canada must be conducted as quickly as possible;
- The qualities of the marijuana used in those studies must meet the standards of current practice in compassion clubs, not NIDA standards;
- The studies should focus on applications and the specific doses for various medical conditions; and
- Health Canada should, at the earliest possible opportunity, undertake a clinical study in cooperation with Canadian compassion clubs.

Chapter 10 - Canadians' Opinions and Attitudes

It is always difficult to gauge the public's opinions, attitudes and concerns. The traditional method of surveying a representative sample of the population was too expensive for our resources. Surveys also have limits that we discuss in more detail. However, we did commission a qualitative study using focus groups, the results of which are presented in this chapter. We also report the results of other surveys that we researched and considered. As well, many Canadians wrote to us or sent us e-mails, and others came out to our public hearings to participate. Obviously we cannot draw solid conclusions from this. The people who wrote to us were probably those to whom the issue is very important, regardless of which way they may lean. Some are cited in our Report but we must reiterate that no conclusion should be drawn from these opinions in terms of representativeness. No account of Canadians' opinions on and attitudes toward drugs in general would be complete without an examination of the role of the media in shaping those opinions and attitudes. In recent years, as a result of this Committee's work and other initiatives, various Canadian newspapers and magazines have run stories or have written editorials on the issue. These are the focus of the first part of the chapter. The next part presents the results of surveys and polls, including the survey we commissioned and surveys conducted in different provinces. The last part covers our understanding of what Canadians told us.

We observed the following:

- Public opinion on marijuana is more liberal than it was 10 years ago;
- There is a tendency to think that marijuana use is more widespread and that marijuana is more available than it used to be;
- There is a tendency to think that marijuana is not a dangerous drug;
- The concern about organized crime is significant;
- Support for medical use of marijuana is strong;
- There is a tendency to favour decriminalization or, to a lesser degree, legalization;
- People criticize enforcement of the legislation in regards to simple possession of

marijuana; and

- There is a concern for youth and children.

part iii -- policies and practices in canada

Chapter 11 - A National Drug Strategy?

Based on the importance of the subject, it would probably surprise many Canadians to learn that only from 1987 to 1993 did Canada have a fully funded national drug strategy. It is true that Canada has had legislation dealing with the use of psychoactive substances since the passage of the *Opium Act* in 1908. This Act was followed by several pieces of criminal legislation over the years that increased federal enforcement powers over psychoactive substances and expanded the list of illicit substances. These pieces of legislation have historically focused on the supply of psychoactive substances, adopting a prohibitionist approach to use. It is widely acknowledged now, however, that a more balanced approach is required if one is to deal effectively with those who abuse psychoactive substances.

This chapter recounts the development and implementation of the 1987 National Drug Strategy, which had as an objective the promotion of a balanced approach to the problem of psychoactive substance abuse. This is followed by a discussion of what became of the national strategy and what goals have been achieved.

We observed the following:

- Canada urgently needs a comprehensive and coordinated national drug strategy for which the federal government provides sound leadership;
- Any future national drug strategy should incorporate all psychoactive substances, including alcohol and tobacco;
- To be successful, a national drug strategy must involve true partnerships with all levels of government and with non-governmental organizations;
- Over the years, the intermittency of funding has diminished the ability to coordinate and implement the strategy; adequate resources and a long-term commitment to funding are needed if the strategy is to be successful;
- Clear objectives for the strategy must be set out, and comprehensive evaluations of these objectives and the results are required;
- At the developmental stage, there is a need to identify clear and shared criteria for "success";
- The core funding for the Canadian Centre on Substance Abuse (CCSA) has been insufficient for it to carry out its mandate; proper funding for the CCSA is essential;

- There is a need for an independent organization – the CCSA – to conduct national surveys at least every second year; there is also a need to achieve some level of consistency, comparability and similar time frames for provincially-based school surveys;
- Coordination at the federal level should be given to a body that is not an integral part of one of the partner departments; and
- Canada's Drug Strategy's should adopt a balanced approach – 90% of federal expenditures are currently allocated to the supply reduction.

Chapter 12 - The National Legislative Context

Drugs have been prohibited for fewer than a hundred years; cannabis for slightly more than 75 years. It is tempting to think that the decisions made over the years to use criminal law to fight the production and use of certain drugs are in keeping with social progress and the advancement of scientific knowledge about drugs. But is this really the case? The history of legislation governing illegal drugs in Canada, like the analysis in Chapter 19 of the structure of international conventions, suggests that it is highly doubtful. To what extent is such reasoning really rational? Is the rationale of the system of controls acceptable in the eyes of civil society, users as well as abstainers? What criteria motivated legislator decisions? Indeed, were there criteria? What motivated parliamentarians from Canada and elsewhere to prohibit certain substances, to control access to certain others, and to permit still others to be sold over the counter?

Knowing where we have been helps in understanding where we are going. That is the goal of this chapter, retracing the evolution of Canadian drug laws from 1908 to the present day. We have identified three legislative periods. The first, and longest, spans 1908 to 1960, the period of hysteria. We were told that drugs were made criminal because they are dangerous. Analysis of debates in Parliament and in media accounts clearly shows how far this is from truth. When cannabis was introduced in the legislation on narcotics in 1923, there was no debate, no justification, in fact many members did not even know what cannabis was.

The second period, much shorter, runs from 1961 to 1975, the search for lost reason. Following the explosion in drug use in the early 1960s and demands for reform from various sectors of society, governments appointed a commission of inquiry in Canada, the Le Dain Commission. Last comes the contemporary period at the beginning of the 1980s. Reform is not on the policy agenda any more and anti-drug policies have forged ahead.

In summary, we observed that:

- Early drug legislation was largely based on a moral panic, racist sentiment and a notorious absence of debate;
- Drug legislation often contained particularly severe provisions, such as reverse onus and cruel and unusual sentences; and
- The work of the Le Dain Commission laid the foundation for a more rational approach to illegal drug policy by attempting to rely on research data. The Le Dain Commission's

work had no legislative outcome until 1996 in certain provisions of the *Controlled Drugs and Substances Act*, particularly with regard to cannabis.

Chapter 13 - Regulating Therapeutic Use of Cannabis

Cannabis has an extremely long history of therapeutic use, going back several thousands of years. It was often used for the same medical conditions it is used for today. With the development of the pharmaceutical industry in the last century, the medical community has gradually discontinued its use. Various factors may explain this. Developments in the pharmaceutical industry provided the medical community with more stable and better tested medication. The practice of medicine itself has changed and so has our conception of health. Then, at the turn of the 20th century, the plants from which opium, cocaine and cannabis are derived were banned by the international community, except for medical and scientific purposes. In the case of cannabis, no rigorous study had been done until recently.

Further to the social rediscovery of cannabis and the identification of its molecular composition and chemical elements in the 1960s, renewed interest in the therapeutic applications of cannabis grew in the early 1970s. More people began using the plant for its therapeutic benefits and many demanded a relaxation of the prohibitionist rules governing cannabis.

Partly because its safety and effectiveness have yet to be reviewed in clinical trials, cannabis has not been approved for sale in Canada as a medical product. Despite this lack of approval, many use cannabis for its therapeutic purposes without legal authorization. In addition, because of the many claims regarding its therapeutic benefit, a growing number of people have called for a less restrictive approach and are demanding access to cannabis for people who could benefit from its use.

This chapter reviews the events that prompted the recent enactment of the *Marihuana Medical Access Regulations*. One of the objectives of the regulations is to provide a compassionate framework of access to marijuana for seriously ill Canadians while research regarding its therapeutic application continues. Also discussed is the implementation of these regulations, which came into force on 30 July 2001.

We have observed the following:

- The MMAR are not providing a compassionate framework for access to marijuana for therapeutic purposes and are unduly restricting the availability of marijuana to patients who may receive health benefits from its use;
- The refusal of the medical community to act as gatekeepers and the lack of access to legal sources of cannabis appear to make the current regulatory scheme an "illusory" legislative exemption and raises serious Charter implications;
- In almost one year, only 255 people have been authorized to possess marijuana for therapeutic purposes under the MMAR and only 498 applications have been received – this low participation rate is of concern;
- Changes are urgently needed with regard to who is eligible to use cannabis for

therapeutic purposes and how such people gain access to cannabis;

- Research on the safety and efficacy of cannabis has not commenced in Canada because researchers are unable to obtain the product needed to conduct their trials;
- No attempt has been made in Health Canada's current research plan to acknowledge the considerable expertise currently residing in the compassion clubs;
- The development of a Canadian source of research-grade marijuana has been a failure.

Chapter 14 - Police Practices

Views on police priorities regarding enforcement of laws on illicit drugs are, at the very least, inconsistent, if not contradictory. Some believe that too much police time, effort and resources are spent in investigating illicit drug offences and, more specifically, possession offences, even more specifically, cannabis possession offences. Others, including the police themselves, claim that police priorities are already focused on traffickers and producers, and that possession charges are laid as a result of police presence to deal with other criminal activity. Thus, they maintain that the vast majority of cannabis possession charges are incidental to other police responsibilities.

This chapter reviews the key organizations that are responsible for enforcing Canada's current illicit drugs legislation, the *Controlled Drugs and Substances Act* (CDSA). It includes a discussion of the powers they have been granted, and the investigative techniques used, in relation to illicit drug investigations. Finally, key police-related statistics are explored. This information should help clarify some of the misconceptions related to enforcement of laws on illicit drugs.

The Committee found that:

- The annual cost of drug enforcement in Canada is estimated to be between \$700 million and \$1 billion;
- Reduced law enforcement activities resulting from amendments to the drug legislation on cannabis could produce substantial savings or a significant reallocation of funds by police forces to other priorities;
- Due to the consensual nature of drug offences, police have been granted substantial enforcement powers and have adopted highly intrusive investigative techniques; these powers are not unlimited, however, and are subject to review by Canadian courts;
- Over 90,000 drug-related incidents are reported annually by police; more than three-quarters of these incidents relate to cannabis and over 50% of all drug-related incidents involve possession of cannabis;
- From 1991 to 2001, the percentage change in rate per 100,000 people for cannabis-related offences is +91.5 – thus, the rate of reported cannabis-related offences has almost doubled in the past decade;

- The number of reported incidents related to the cultivation of cannabis increased dramatically in the past decade;
- Reported incident rates vary widely from province to province;
- Cannabis was involved in 70% of the approximately 50,000 drug-related charges in 1999. In 43% of cases (21,381), the charge was for possession of cannabis.;
- The rate of charges laid for drug offences vary significantly from province to province;
- The uneven application of the law is of great concern and may lead to discriminatory enforcement, alienation of certain groups within society, and creation of an atmosphere of disrespect for the law; in general, it raises the issue of fairness and justice; and
- Statistics on seizure seem to confirm an increase in cannabis cultivation in Canada and also a shift in police priorities regarding this offence.

Chapter 15 - The Criminal Justice System

The previous chapter examined how people first come into contact with the criminal justice system through the enforcement of criminal legislation. Several questions remain, however. What happens once a person has been charged with a drug offence? Who is responsible for prosecuting drug cases? What type of punishment do people receive? Who ends up with a criminal record? Have there been any challenges to the constitutional validity of drug legislation? These issues and others related to the criminal justice system are reviewed in this chapter

We have observed the following:

- The cost of prosecuting drug offences in 2000-2001 was \$57 million with approximately \$5 million or roughly 10% of the total budget relating to prosecuting cannabis possession offences;
- In 1999, it was estimated that Canadian criminal courts heard 34,000 drug cases, which involved more than 400,000 court appearances;
- The Drug Treatment Court initiatives seem very encouraging, although comprehensive evaluations are needed to ensure such programs are effective;
- Disposition and sentencing data with respect to drug-related offences are incomplete and there is an urgent need to correct this situation;
- Correctional Service Canada spends an estimated \$160 million annually to address illicit drugs through incarceration, substance abuse programs, treatment programs and

security measures; expenditures on substance abuse programs are unreasonably low, given the number of inmates who have substance-abuse dependence problems;

➤ A criminal conviction can negatively affect a person's financial situation, career opportunities and restrict travel. In addition, it can be an important factor in future dealings with the criminal justice system; and

➤ Provincial courts of appeal have so far maintained the constitutionality of cannabis prohibition. They have found that because there is some evidence of harm caused by marijuana use that is neither trivial nor insignificant, Parliament has a rational basis to act as it has done, and the marijuana prohibition is therefore consistent with the principles of fundamental justice in section 7 of the Charter. These decisions have been appealed, and the Supreme Court of Canada will soon decide whether cannabis prohibition is constitutionally sound.

Chapter 16 - Prevention

Viewed in theory, at least, as a public health issue, a policy on illegal drugs should call for a strong prevention strategy. Nothing, however, is more fluid, vague, or even controversial, than prevention. When it comes to illegal drugs, the legal and political context makes the issue of prevention even harder to clarify and actions even harder to define. The national legal context surrounding illegal drugs and the interpretation of international drug policies are such that because they are defined *a priori* as harmful substances, illegal drugs must not be used. Another way of putting it is that any use is abuse. If use is abuse, if individuals or organizations involved in prevention are unable to make distinctions that are essential in setting objectives and devising preventive measures, what hope is there of establishing successful prevention programs? There are, as this chapter will show, many prevention programs that are not aimed solely or even particularly at the prevention of use, but rather the prevention of at-risk behaviour. Harm reduction, for example, is not only a general strategy for dealing with psychoactive substances, but is also a preventive approach that seeks to lower the risks associated with drugs and drug control without requiring abstinence. However, harm reduction is the subject of much controversy and criticism because it is based on the premise that use of drugs is a social reality. Addressing the issue of prevention means considering at the same time government policies on illegal drugs. Any discussion of prevention entails discussion of the limits of government intervention and of how one conceives of human action. How far should government interventions go in identifying groups at risk without further stigmatizing groups already at risk? To what extent are humans rational beings who act in their best interest provided they are given the right information?

This chapter on prevention begins with a statement that will come as no surprise to health or justice experts: when it comes to prevention, there is lots of talk, but the resources allocated are small and the initiatives weak. The second section asks the question: what prevention? We look at current knowledge of the factors underlying prevention initiatives and the effectiveness of some preventive measures, with special emphasis on one of the most important weapons in the war on drugs, the DARE program. The third section looks at the harm reduction approach to prevention. As in the other chapters, our conclusions are in the form of observations that may serve to guide future actions.

The Committee found that:

- Prevention is not designed to control but rather to empower individuals to make informed decisions and acquire tools to avoid at-risk behaviour;
- A national drug strategy should include a strong prevention component;
- Prevention strategies must be able to take into account contemporary knowledge about drugs;
- Prevention messages must be credible, verifiable and neutral;
- Prevention strategies must be comprehensive, cover many different factors and involve the community;
- Prevention strategies in schools should not be led by police services or delivered by police officers;
- The RCMP should reconsider its choice of the DARE program that many evaluation studies have shown to be ineffective;
- Prevention strategies must include comprehensive evaluation of a number of key elements;
- A national drug strategy should include mechanisms for widely disseminating the results of research and evaluations;
- Evaluations must avoid reductionism, involve stakeholders in prevention, be part of the program, and include longitudinal impact assessment;
- Harm reduction strategies related to cannabis should be developed in coordination with educators and the social services sector; and
- Harm reduction strategies related to cannabis should include information on the risks associated with heavy chronic use, tools for detecting at-risk and heavy users and measures to discourage people from driving under the influence of marijuana.

Chapter 17 - Treatment practices

With the exception of the treatment given to offenders imprisoned in federal institutions and Aboriginals, the care available to individuals who are substance-dependent is essentially the responsibility of the provinces and territories. This chapter is therefore brief since we received only a few submissions and heard few witnesses on this question.

In Chapter 7 we determined that physical dependency on cannabis was rare and insignificant. Some symptoms of addiction and tolerance can be identified in habitual users but most of them have no problem in quitting and do not generally require a period of withdrawal. As far as forms of psychological dependency are concerned, the studies are still incomplete but the international data tend to suggest that between 5% and 10% of regular

users (using at least in the past month) are at risk of becoming dependent on cannabis. We estimated that approximately 3% or 600,000 adult Canadians have consumed cannabis in the past month and that approximately 0.5% or 100,000 use it on a daily basis. This indicates that somewhere between 30,000 and 40,000 people might be at-risk and 5,000 to 10,000 might make excessive use. For those aged 16 and 17, the numbers were between 50,000 and 70,000 at-risk and 8,000 to 17,000 potentially excessive users. The data also indicated that the peak period for intensive use is between the ages of 17 and 25 years. These broad parameters indicate where to look to prevent dependency and offer treatment services for those in need.

What form does cannabis dependency take? Most authors agree that psychological dependency on cannabis is relatively minor. In fact, it cannot be compared in any way with tobacco or alcohol dependency and is even less common than dependency on certain psychotropic medications.

We have observed that:

- The expression 'drug addiction' should no longer be used and we should talk instead of substance abuse and dependency;
- Between 5% and 10% of regular cannabis users are at risk of developing a dependency;
- Physical dependency on cannabis is virtually non-existent;
- Psychological dependency is moderate and is certainly lower than for nicotine or alcohol;
- Most regular users of cannabis are able to diverge from a trajectory of dependency without requiring treatment;
- There are many forms of treatment but nothing is known about the effectiveness of the different forms of treatment for cannabis dependency specifically;
- As a rule, treatment is more effective and less costly than incarceration;
- Studies of the treatment programs should be conducted, including treatments programs for people with cannabis dependency; and
- Studies should be conducted on the interaction of the cannabinoid and the opioid systems.

Chapter 18 - Observations on practices

Previous chapters have described public action by dividing it into the major sectors of involvement. Before closing the third part of this report, we make some general observations that cut across the individual areas we have examined. The first concerns difficulties in harmonizing the various levels and sectors of involvement; the second, the difficulty in co-

ordinating their various approaches; and the third, the costs of drugs and public policy.

A study published by CCSA in 1996 but based on 1992 data had identified the following costs of substance abuse:

- The costs associated with all illegal drugs were \$1.4 billion, compared with \$7.5 billion in the case of alcohol and \$9.6 billion in the case of tobacco.
- Expressed as a percentage of the gross domestic product, the total costs for all substances was 2.67%. Of this, 0.2% was for illegal drugs, 1.09% for alcohol and 1.39% for tobacco.
- The principal costs of illegal drugs are externalities, that is, loss of productivity - \$823 million, health care - \$88 million, and losses in the workplace - \$5.5 million, for a total of about 67% of all costs related to illegal drugs.
- The cost of public policies, or opportunity costs, represent about 33%.
- The cost of enforcing the law represents about 29.2% of all costs, or about 88% of all policy costs. The balance goes to prevention, research and administration.

Previous studies conducted in British Columbia in 1991, in Ontario in 1988 and in Quebec in 1988, using different methodologies, established costs of \$388 million, \$1.2 billion and \$2 billion respectively, for a total cost of \$3.5 billion in these three provinces alone. These figures demonstrate the extent to which such estimates can vary, according to the methodology selected and the availability of data.

Nevertheless, with the CCSA study taken as the standard, two comments must be made. First, loss of productivity – the major cost – is measured in mortality - \$547 million and morbidity - \$275 million. Except in the case of traffic fatalities, cannabis is not a cause of death and involves none of this type of social cost. Morbidity corresponds to losses attributed to problems caused by drug use as measured by the difference between the average annual income of users and of the population in general. Here, two further observations about cannabis should be noted. A large proportion of cannabis users are young people who are not yet part of the workforce and cannabis use involves none of the addiction and attendant problems that follow from heroin or cocaine use. Therefore, the costs that can be attributed to cannabis in this regard are likely minimal. If one accepts the methodology of the authors, **cannabis in itself entails few externalities**, which are the main measures of the social cost of illegal drugs.

However, it should also be noted that the study did not calculate the costs of substance-related crime. Alcohol is well known for its frequent association with crimes of violence (at least 30% of all cases), as well as with impaired driving, which results in major social and economic losses. Crime related to illegal drugs is of several types: organized crime, crimes against property committed in order to pay for drugs, true mainly in the case of heroin and cocaine, and crimes of violence committed under the influence of drugs. With the exception of organized crime and driving under the influence, cannabis involves few of the factors that generate criminal behaviour.

Secondly, according to the CCSA's study, the main cost of illegal drugs, after loss of

productivity, is the cost of law enforcement, which the study estimates at approximately \$400 million. In Chapters 14 and 15, we note that police and court costs are certainly much higher than this figure, and probably total between \$1 and \$1.5 billion. The proportion of these costs attributable to cannabis is impossible to determine for certain. But, insofar as 77% of all drug-related offences involve cannabis, and of these 50% simple possession, and given that about 60% of incidents result in a charge, of which some 10% to 15% of cases the accused receives a prison sentence, it is clear that a considerable proportion of the drug-related activity addressed by the penal justice system is concerned with cannabis. While admitting this to be a very rough estimate, we suggest that about 30% of the activity of the justice system is tied up with cannabis. On the basis of our estimates and the lowest cost of law enforcement, or \$1 billion, it costs about \$300 million annually to enforce the cannabis laws.

In effect, the main social costs of cannabis are a result of public policy choices, primarily its continued criminalization, while the consequences of its use represent a small fraction of the social costs attributable to the use of illegal drugs.

Overall, we observed the following:

- The lack of any real national platform for discussion and debate on illegal drugs prevents the development of clear objectives and measurement indicators;
- The absence of a national platform makes exchange of information and best practices impossible;
- Practices and approaches vary considerably between and within provinces and territories;
- The conflicting approaches of the various players in the field are a source of confusion;
- The resources and powers of enforcement are greatly out of balance compared with those of the health and education fields and the civil society;
- The costs of all illegal drugs had risen to close to \$1.4 billion in 1992;
- Of the total costs of illegal drugs in 1992, externalities (social costs) represented 67% and public policy costs 33%;
- The social costs of illegal drugs and the public policy costs are underestimated ;
- The cost of enforcing the drug laws is more likely to be closer to \$1 billion to \$1.5 billion per annum;
- The principal public policy cost relative to cannabis is that of law enforcement and the justice system; which may be estimated to represent a total of \$300 to \$500 million per annum;
- The costs of externalities attributable to cannabis are probably minimal - no deaths, few hospitalizations, and little loss of productivity;

- The costs of public policy on cannabis are disproportionately high given the drug's social and health consequences; and
- The Canadian Centre on Substance Abuse is seriously under-funded; its annual budget amounts to barely 0.1% of the social costs of illegal drugs alone (alcohol not included). Its budget should be increased to at least 1%; that is, approximately \$15 million per annum.

Part IV - Public Policy Options

Chapter 19 - The International Legal Environment

This chapter could begin and end with the same words: The international drug control conventions are, at least with respect to cannabis, an utterly irrational restraint that has nothing to do with scientific or public health considerations.

Three points bear making concerning the substance of the current conventions.

The first has to do with the absence of definitions. The terms drugs, narcotics and psychotropics are not defined in any way except as lists of products included in schedules. It follows that any natural or synthetic substance on the list of narcotics is, for the purposes of international law, a narcotic, and that a psychotropic is defined in international law by its inclusion in the list of psychotropics. The only thing that the 1961 Convention tells us about the substances to which it applies is that they can be abused. The 1971 Psychotropics Convention, which reversed the roles in that the synthetic drug producing countries wanted narrower criteria, indicates that the substances concerned may cause dependence or central nervous system stimulation or depression and may give rise to such abuse as to "constitute a public health problem or a social problem that warrants international control."

The second point, following from the first, relates to the arbitrary nature of the classifications. While cannabis is included, along with heroin and cocaine, in Schedules I and IV of the 1961 Convention, which carry the most stringent controls, it is not even mentioned by name in the 1971 Convention, though THC is listed as a Schedule I psychotropic along with mescaline, LSD and so on. The only apparent criterion is medical and scientific use, which explains why barbiturates are in Schedule III of the 1971 Convention and therefore subject to less stringent controls than natural hallucinogens. These classifications are not just arbitrary, but inconsistent with the substances' pharmacological classifications and their danger to society.

Third, if there was so much concern about public health based on how dangerous "drugs" are, one has to wonder why tobacco and alcohol are not on the list of controlled substances.

We conclude from these observations that the international regime for the control of psychoactive substances, beyond any moral or even racist roots it may initially have had, is **first and foremost a system that reflects the geopolitics of North-South relations in the 20th century**. Indeed, the strictest controls were placed on organic substances – the coca bush, the poppy and the cannabis plant – which are often part of the ancestral traditions of the countries where these plants originate, whereas the North's cultural products, tobacco and alcohol, were ignored and the synthetic substances produced by the North's

pharmaceutical industry were subject to regulation rather than prohibition. It is in this context that the demand made by Mexico on behalf of a group of Latin American countries during the negotiations leading up to the 1988 Convention, that their use be banned, must be understood. It was a demand that restored the balance to a degree, as the countries of the South had been forced to bear the full brunt of the controls and their effects on **their own people** since the inception of drug prohibition. The result may be unfortunate, since it reinforces a prohibitionist regime that history has been shown to be a failure, but it may have been the only way, given the mood of the major Western powers, to demonstrate the irrationality of the entire system in the longer term. In any case, it is a short step from there to question the legitimacy of instruments that help to maintain the North-South disparity yet fail miserably to reduce drug supply and demand.

We make the following observations:

- The series of international agreements concluded since 1912 have failed to achieve their ostensible aim of reducing the supply of drugs;
- The international conventions constitute a two-tier system that regulates the synthetic substances produced by the North and prohibits the organic substances produced by the South, while ignoring the real danger the substances represent for public health;
- When cannabis was included in the international conventions in 1925, there was no knowledge of its effects;
- The international classifications of drugs are arbitrary and do not reflect the level of danger they represent to health or to society;
- Canada should inform the international community of the conclusions of our report and officially request the declassification of cannabis and its derivatives.

Chapter 20 - Public Policies in Other Countries

The vast majority of Canadians have heard about the "war on drugs" which the USA is conducting and about its prohibitionist approach, but many would be surprised to see the major variations between states, indeed between cities, within that country. Even fewer know that Sweden enforces a prohibitionist policy at least as strict as that of the US, but through other means. Many of us have, in one way or another, heard about the "liberal" approach introduced in the Netherlands in 1976. Fewer people know of the Spanish, Italian, Luxembourg or Swiss approaches, which are even more liberal in certain respects. More recently, Canadians learned of the decision by the UK's Minister of the Interior to reclassify cannabis as a Class C drugs, but it is not clear that we know precisely what that means. In view of the preconceptions that many may have in relation to France with regard to wine, many may be surprised to learn that its policy on cannabis appears more "conservative" than that of neighbouring Belgium, for example. As may be seen, after the overall framework of the puzzle has been established by the international community, the ways the pieces are put together vary widely among states, and at times among the regions of a single state.

That is why, in order to learn about the experience and approaches of other countries, the Committee commissioned a number of research reports on the situations in other countries and heard representatives of some of those countries in person. We of course had to make some choices, such as limiting ourselves to the western countries of the northern hemisphere. This is a weak point in our Report, we agree, but our resources were limited. In addition, as we wanted to compare public policies with data on use trends and judicial practices, we were forced to choose countries with an information base. In our hearings with representatives of those countries, we were mainly limited by time and cost.

In this chapter, we describe the situations in five European countries — France, the Netherlands, the United Kingdom, Sweden and Switzerland — and in Australia and the United States.

Chapter 21 - Public policy options

Public policy is not just a matter of enabling legislation, in this case criminal legislation. Nonetheless, when it comes to illegal drugs, criminal legislation occupies a symbolic and determinative place. It is as if this legislation is the backbone of our public policy. Public discussions of cannabis do not deal so much with such matters as public health, user health, prevention of at-risk or excessive use, but with such questions as the pros and cons of decriminalization, establishing a civil offence or maintaining a criminal offence, or possible legalization and the extent thereof.

In respect of illegal drugs, where the key issues are, first and foremost, matters of public health and culture (including education and research), and where criminal law should be used only as a last resort, public policy must be based primarily on clear principles and objectives. For this to come about, public policy must be equipped with a set of tools designed to deal with the various issues that drugs represent to societies. Legislation is only one such tool. The social and economic costs of illegal drugs affect many aspects of society through lower productivity and business loss, hours of hospitalization and medical treatment of all kinds, police time and prison time, and broken or lost lives. Even if no one can pinpoint the exact figures, a portion of these costs arise, not from the substances themselves, but from the fact that they are criminalized. In fact, more than for any other illegal drug, its criminalization is the principal source of social and economic costs. However, in spite of the fact that the principal social costs of drugs affect business, health and family, the emphasis on the legal debate tips the scales of public action in favour of law enforcement agencies. No one can deny that their work is necessary to ensure public order and peace and fight organized crime. At the same time, over 90% of resources are spent on enforcing the law, the most visible actions with respect to drugs in the public sphere are police operations and court decisions and, at least with respect to cannabis, the law lags behind individual attitudes and opinions, thus creating a huge gap between needs and practice.

Most national strategies display a similar imbalance. The national strategies that appear to have the greatest chance of success, however, are those that strive to correct the imbalance. These strategies have introduced knowledge and observation tools, identified indicators of success with respect to their objectives, and established a veritable nerve centre for implementing and monitoring public policy. The law, criminal law especially, is put in its proper place as one method among many of reaching the defined objectives, not an aim in itself.

This chapter is divided into three sections. The first examines the effectiveness of legal measures for fighting drugs, and shows that legal systems have little effect on consumption or supply. The second section describes the various components of a public policy. The

third considers the direction of criminal policy, and defines the main terms used: decriminalization, depenalization, diversion, legalization, and regulation.

In our view, it is clear that if the aim of public policy is to diminish consumption and supply of drugs, specifically cannabis, all signs indicate complete failure. One might think the situation would be worse if not for current anti-drug action. This may be so. Conversely, one might also think that the negative impact of anti-drug programs that are currently centre stage are greater than the positive effect, specifically non-compliance with laws that are inconsistent with majority attitudes and behaviour. One of the reasons for this failure is the excessive emphasis placed on criminal law in a context where prohibition of use and a drug-free society appear to remain the omnipresent and determining direction of current public policies.

We think that a public policy on psychoactive substances must be both integrated and adaptable, target at-risk uses and behaviours and abuses based on a public health approach that neither trivializes nor marginalizes users. Implementation of such a policy must be multifaceted.

Some say that decriminalization is a step in the right direction, one that gives society time to become accustomed to cannabis, to convince opponents that chaos will not result, to adopt effective preventive measures. We believe however that **this approach is in fact the worst case scenario, depriving the State of a necessary regulatory tool for dealing with the entire production, distribution, and consumption network, and delivering hypocritical messages at the same time.**

In our opinion, the data we have collected on cannabis and its derivatives provide sufficient grounds for our general conclusion that the regulation of the production, distribution and consumption of cannabis, inasmuch as it is part of an integrated and adaptable public policy, is best able to respond to the principles of autonomy, governance that fosters human responsibility and limitation of penal law to situations where there is demonstrable harm to others. A regulatory system for cannabis should permit, specifically:

- *more effective targeting of illegal traffic and a reduction in the role played by organized crime;*
- *prevention programs better adapted to the real world and better able to prevent and detect at-risk behaviour;*
- *enhanced monitoring of products, quality and properties;*
- *better user information and education; and*
- *respect for individual and collective freedoms, and legislation more in tune with the behaviour of Canadians.*

In our opinion, Canadian society is ready for a responsible policy of cannabis regulation that complies with these basic principles.

Conclusions and recommendations

The Senate Special Committee on Illegal Drugs' mandate was to examine Canada's public policy approach in relation to cannabis and assess its effectiveness and impact in light of the knowledge of the social and health-related effects of cannabis and the international context. Over the past two years, the Committee has heard from Canadian and foreign experts and reviewed an enormous amount of scientific research. The Committee has endeavoured to take the pulse of Canadian public opinion and attitudes and to consider the guiding principles that are likely to shape public policy on illegal drugs, particularly cannabis. Our report has attempted to provide an update on the state of knowledge and the key issues, and sets out a number of conclusions in each chapter.

This final section sets out the main conclusions drawn from all this information and presents the resulting recommendations derived from the thesis we have developed namely: *in a free and democratic society, which recognizes fundamentally but not exclusively the rule of law as the source of normative rules and in which government must promote autonomy as far as possible and 'herefore make only sparing use of the instruments of constraint, public policy on psychoactive substances must be structured around guiding principles respecting the life, health, security and rights and freedoms of individuals, who, naturally and legitimately, seek their own well-being and development and can recognize the presence, difference and equality of others.*

Le Dain –thirty years ago Already

Thirty years ago, the Le Dain Commission released its report on cannabis. This Commission had far greater resources than we did. However, we had the benefit of Le Dain's work, a much more highly developed knowledge base since then and of thirty years' historical perspective.

The Commission concluded that the criminalization of cannabis had no scientific basis. Thirty years later, we confirm this conclusion and add that continued criminalization of cannabis remains unjustified based on scientific data on the danger it poses.

The Commission heard and considered the same arguments on the dangers of using cannabis: apathy, loss of interest and concentration, learning difficulties. A majority of the Commissioners concluded that these concerns, while unsubstantiated, warranted a restrictive policy. Thirty years later, we assert that the studies done in the meantime have not confirmed the existence of the so-called amotivational syndrome and add that most studies rule out this syndrome as a consequence of the use of cannabis.

The Commission concluded that not enough was known about the long-term and excessive use of cannabis. We assert that these types of use exist and may present some health risks; excessive use, however, is limited to a minority of users. Public policy, we would add, must

provide ways to prevent and screen for at-risk behaviour, something our policies have yet to do.

The Commission concluded that the effects of long-term use of cannabis on brain function, while largely exaggerated, could affect adolescent development. We concur, but point out that the long-term effects of cannabis use appear reversible in most cases. We note also that adolescents who are excessive users or become long-term users are a tiny minority of all users of cannabis. Once again, we would add that a public policy must prevent use at an early age and at-risk behaviour.

The Commission was concerned that the use of cannabis would lead to the use of other drugs. Thirty years' experience in the Netherlands disproves this clearly, as do the liberal policies of Spain, Italy and Portugal. And here in Canada, despite the growing increase in cannabis users, we have not had a proportionate increase in users of hard drugs.

The Commission was also concerned that legalization would mean increased use, among the young in particular. We have not legalized cannabis, and we have one of the highest rates in the world. Countries adopting a more liberal policy have, for the most part, rates of usage lower than ours, which stabilized after a short period of growth.

Thirty years later, we note that:

- Billions of dollars have been sunk into enforcement without any greater effect. There are more consumers, more regular users and more regular adolescent users;
- Billions of dollars have been poured into enforcement in an effort to reduce supply, without any greater effect. Cannabis is more available than ever, it is cultivated on a large scale, even exported, swelling coffers and making organized crime more powerful; and
- There have been tens of thousands of arrests and convictions for the possession of cannabis and thousands of people have been incarcerated. However, use trends remain totally unaffected and the gap the Commission noted between the law and public compliance continues to widen.

It is time to recognize what is patently obvious: our policies have been ineffective, because they are poor policies.

Ineffectiveness of the current approach

No clearly defined federal or national strategy exists. Some provinces have developed strategies while others have not. There has been a lot of talk but little significant action. In the absence of clear indicators accepted by all stakeholders to assess Canadian public policy, it is difficult to determine whether action that has been taken is effective.

Given that policy is geared to reducing demand (i.e. drug-use rates) and supply (by reducing the availability of drugs and pushing up drug prices), both these indicators may be used. A look at trends in cannabis use, both among adults and young people, forces us to

admit that current policies are ineffective. In Chapter 6, we saw that trends in drug-use are on the increase. If our estimates do indeed reflect reality, no fewer than 2 million Canadians aged between 18 and 65 have used cannabis at least once over the past 12 months, while at least 750,000 young people between the ages of 14 and 17 use cannabis at least once per month, one third of them on a daily basis. This proportion appears, at least in the four most highly-populated provinces, to be increasing. Statistics suggest that both use and at-risk use is increasing.

Of course, we must clearly establish whether the ultimate objective is a drug-free society, at least one free of cannabis, or whether the goal is to reduce at-risk behaviour and abuse. This is an area of great confusion, since Canadian public policy continues to use vague terminology and has failed to establish whether it focuses on substance abuse as the English language terminology used in several documents seems to suggest or on drug-addiction as indicated by the French language terminology.

It is all very well to criticize the "trivialization" of cannabis in Canada, to "explain" increases in use, but it must also be established why, if this is indeed the case, this trivialization has occurred. It is also important to identify the root cause of this trivialization against a backdrop of mainly anti-drug statements. The courts and their lenient attitude might be blamed for this. Perhaps the judiciary is at the forefront of those responsible for cannabis policies and the enforcement of the law. It must also be determined whether sentences are really as lenient as some maintain. A major issue to be addressed is whether harsher sentences would indeed be an effective deterrent given that the possibility of being caught by the police is known to be a much greater deterrent. Every year, over 20,000 Canadians are arrested for cannabis possession. This figure might be as high as 50,000 depending on how the statistics are interpreted. No matter what the numbers, they are too high for this type of conduct. However, even those numbers are laughable numbers when compared to the three million people who have used cannabis over the past 12 months. We should not think that the number of arrests could be significantly increased even if billions more dollars were allocated to police enforcement. Indeed, such a move should not even be considered.

A look at the availability and price of drugs, **forces us to admit that supply-reduction policies are ineffective.** Throughout Canada, above all in British Columbia and Quebec, the cannabis industry is growing, flooding local markets, irritating the United States and lining the pockets of criminal society. Drug prices have not fallen but quality has improved, especially in terms of THC content – even if we are sceptical of the reported scale of this improvement. Yet, police organizations already have greater powers and latitude – especially since the September 11, 2001 tragedy – in relation to drugs than in any other criminal matter. In addition, enforcement now accounts for over 90 % of all spending related to illegal drugs. To what extent do we want to go further down this road?

Clearly, current approaches are ineffective and inefficient. Ultimately, their effect amounts to throwing taxpayers' money down the drain in a crusade that is not warranted by the danger posed by the substance. It has been maintained that drugs, including cannabis, are not dangerous because they are illegal but rather are illegal because they are dangerous. This is perhaps true of other types of drugs, but not of cannabis. We should state this clearly once and for all, for public good: it is time to stop this crusade.

Public policy based on guiding principles

However much we might wish good health and happiness for everyone, we all know how

fragile they are. Above all, we realize that health and happiness cannot be forced on a person, especially not by criminal law based on a specific concept of what is morally 'right'. No matter how attractive calls for a drug-free society might be, and even if some people might want others to stop smoking, drinking alcohol, or smoking joints, we all realize that these activities are part of our social reality and the history of humankind.

Consequently, what role should the State play? It should neither abdicate responsibility and allow drug markets to run rife, nor should it impose a particular way of life on people. We have opted, instead, for a concept whereby public policy **promotes and supports freedom for individuals and society as a whole**. For some, this would undoubtedly mean avoiding drug use. However, for others, the road to freedom might be via drug use. For society as a whole, in practice, this concept means a State that does not dictate what should be consumed and under what form. Support for freedom necessarily means flexibility and adaptability. It is for this reason that public policy on cannabis has to be clear while at the same time tolerant, to serve as a guide while at the same time avoiding imposing a single standard. This concept of the role of the State is based on the **principle of autonomy and individual and societal responsibility**. Indeed, it is much more difficult to allow people to make their own decisions because there is less of an illusion of control. It is just that: an illusion. We are all aware of that. It is perhaps sometimes comforting, but is likely to lead to abuse and unnecessary suffering. An ethic of responsibility teaches social expectations, expectations not to use drugs in public or sell them to children and responsible behaviour, recognizing at-risk behaviour and being able to use moderately, and supports people facing hardship by providing a range of treatment.

From this concept of government action ensues a limited role for criminal law. As far as cannabis is concerned, **only behaviour causing demonstrable harm to others should be prohibited**: illegal trafficking, selling to minors and impaired driving.

Public policy shall also draw on available knowledge and scientific research but without expecting science to provide the answers to political issues. Indeed, scientific knowledge does have a major role to play **in supporting decision-making**, at both the individual and government levels. But science should play no greater role. It is for this reason that the Committee considers that a drug and dependency monitoring agency and a research program should be set up to help future decision-makers.

A clear and coherent federal strategy

Although the Committee has focused on cannabis, we have nevertheless observed inherent shortcomings in the federal drug strategy. Quite obviously, there is no real strategy or focused action. Behind the assumed leadership provided by Health Canada there emerges a lack of necessary tools for action, a patchwork of ad hoc approaches varying from one substance to another and piecemeal action by various departments. Of course, co-ordinating bodies do exist, but lack real tools and clear objectives, each focusing its action according to its own particular priorities. This state of affairs has resulted in a whole series of funded programs being developed without any tangible cohesion.

Many stakeholders have expressed their frustration to the Committee at the apparently vanishing pieces of the puzzle and at the whole gamut of incoherent decisions, that cause major friction on the front lines. Various foreign observers also expressed their surprise that a country as rich as Canada, which is not immune to psychoactive substance-related

problems, did not have a "champion", a spokesperson or a figure of authority able to fully grasp the real issues and obtain genuine cooperation from all of the stakeholders.

It is for this reason that we are recommending the creation of the position of National Advisor on Psychoactive Substances and Dependency to be attached to the Privy Council. We do not envisage this as a superstructure responsible for managing budgets and action related to psychoactive substances. We favour an approach similar to that of the *Mission interministérielle à la drogue et à la toxicomanie* in France over one modelled on that of the United States' Office of National Drug Control Policy. The Advisor would have a small dedicated staff, the majority of whom would be on assignment from various federal departments and bodies involved in drug issues.

The Advisor would be responsible: for advising the Cabinet and the Prime Minister on national and international psychoactive substance-related issues; for ensuring coordination between federal departments and agencies; for overseeing the development of federal government psychoactive substance-related objectives and ensuring these objectives are satisfied; and to serve as a Canadian government spokesperson on issues related to psychoactive substances at an international level.

Recommendation 1

The Committee recommends that the position of National Advisor on Psychoactive Substances and Dependency be created within the Privy Council Office; that the Advisor be supported by a small secretariat and that the necessary staff be assigned by federal departments and agencies involved with psychoactive substances on request.

National strategy sustained by adequate resources and tools

A federal policy and strategy do not in themselves make a national strategy. Provinces, territories, municipalities, community organizations and even the private sector all have a role to play in accordance with their jurisdiction and priorities. This is necessary and this diversity is worth encouraging. However, some harmonization and meaningful discussion on practices and pitfalls, on progress and setbacks, and on knowledge are to be encouraged. Apart from those provided by the resource-starved piecemeal actions of the Canadian Centre on Substance Abuse, there are all too few opportunities and schemes to promote exchanges of this type. **The current and future scale of drug and dependency-related issues warrants that the Canadian government earmark the resources and establish the tools with which to develop fair, equitable and considered policies.**

Like the majority of Canadian and foreign observers of the drug situation, we were struck by the relative lack of tools and measures for determining and following up on the objectives of public psychoactive substance policy. One might not agree with the numbers-focused goals set out by the Office of National Drug Control Policy for the reduction of drug use or for the number of drug treatment programs set up and evaluated. However, we have to admit that at least these figures serve as guidelines for all stakeholders and as benchmarks against which to measure success.

Similarly, one might not feel totally comfortable with the complex Australian goal-definition

process, whereby the whole range of partners from the various levels of government, organizations and associations meet at a conference every five years to review goals. However, at least those goals agreed upon by the various stakeholders constitute a clear reference framework and enable better harmonization of action.

The European monitoring system with its focal points in each country of the European Union under the European Monitoring Centre for Drugs and Drug Addiction umbrella might seem cumbersome; and the American system of conducting various annual epidemiological studies might appear expensive. We might even acknowledge that there are problems with epidemiological studies, which are far from providing a perfect picture of the psychoactive substance use phenomena. However, at least these tools, referred to and used throughout the western world, permit the development of a solid information base with which to analyse historical trends, identify new drug-use phenomena and react rapidly. In addition, it allows for an assessment of the relevance and effectiveness of action taken. No system of this type exists in Canada, which is the only industrialized western country not to have such a knowledge structure.

It is for these reasons that the Committee recommends that the Government of Canada support various initiatives to develop a genuine national strategy. Firstly, the Government should call a national conference of the whole range of partners with a view to setting out goals and priorities for action over a five-year period. This conference should also identify indicators to be used in measuring progress at the end of the five-year period. Secondly, the Canadian Centre on Substance Abuse needs to be renewed. Not only does this body lack resources but it is also subject to the vagaries of political will of one Minister, the Minister of Health. The Centre should have a budget in proportion with the scale of the psychoactive substance problem and should have the independence required to address this issue. Lastly, a Canadian Monitoring Agency on Drugs and Dependency should be created within the Centre.

Recommendation 2

The Committee recommends that the Government of Canada mandate the National Advisor on Psychoactive Substances and Dependency to call a high-level conference of key stakeholders from the provinces, territories, municipalities and associations in 2003, to set goals and priorities for action on psychoactive substances over a five-year period.

Recommendation 3

The Committee recommends that the Government of Canada amend the enabling legislation of the Canadian Centre on Substance Abuse to change the Centre's name to the *Canadian Centre on Psychoactive Substances and Dependency*; make the Centre accountable to Parliament; provide the Centre with an annual basic operating budget of \$15 million to be increased annually; require the Centre to table an annual report on actions taken, key issues, research and trends in Parliament and in the provincial and territorial legislatures; mandate the Centre to ensure national coordination of research on psychoactive substances and dependency and to conduct studies into specific issues; and mandate the Centre to

undertake an assessment of the national strategy on psychoactive substance and dependency every five years.

Recommendation 4

The Committee recommends that, in the legislation creating the Canadian Centre on Psychoactive Substances and Dependency, the Government of Canada specifically include provision for the setting up of a Monitoring Agency on Psychoactive Substances and Dependency within the Centre; provide that the Monitoring Agency be mandated to conduct studies every two years, in cooperation with relevant bodies, on drug-use trends and dependency problems in the adult population; work with the provinces and territories towards increased harmonization of studies of the student population and to ensure they are carried out every two years; conduct ad hoc studies on specific issues; and table a bi-annual report on drug-use trends and emerging problems.

A public health policy

When cannabis was listed as a prohibited substance in 1923, no public debate or discussion was held on the known effects of the drug. In fact, opinions expressed were disproportionate to the dangers of the substance. Half a century later, the Le Dain Royal Commission of Inquiry on the Non-Medical Use of Drugs held a more rational debate on cannabis and took stock of what was known about the drug. Commissioners were divided not so much over the nature and effects of the drug but rather over the role to be played by the State and criminal law in addressing public health-related goals. Thirty years after the Le Dain Commission report, we are able to categorically state that, **used in moderation, cannabis in itself poses very little danger to users and to society as a whole, but specific types of use represent risks for users.**

In addition to being ineffective and costly, criminalization leads to a series of harmful consequences: users are marginalized and exposed to discrimination by the police and the criminal justice system; society sees the power and wealth of organized crime enhanced as criminals benefit from prohibition; and governments see their ability to prevent at-risk use diminished.

We would add that, **even if cannabis were to have serious harmful effects, one would have to question the relevance of using the criminal law to limit these effects.** We have demonstrated that criminal law is not an appropriate governance tool for matters relating to personal choice and that prohibition is known to result in harm which often outweighs the desired positive effects. However, current scientific knowledge on cannabis, its effects and consequences are such that this issue is not relevant to our discussion.

Indeed available data indicate that the scale of the cannabis use phenomenon can no longer be ignored. Chapter 6 indicated that no fewer than 30% of Canadians (12 to 64 years old) have experimented with cannabis at least once in their lifetime. In all probability, this is an underestimation. We have seen that approximately 50% of high school students have used cannabis within the past year. Nevertheless, a high percentage of them stop using, and the vast majority of those who experiment do not go on to become regular users. Even among regular users, only a small proportion develop problems related to excessive use, which may include some level of psychological dependency. Consumption patterns among cannabis

users do not inevitably follow an upward curve but rather a series of peaks and valleys. Regular users also tend to have a high rate of consumption in their early twenties, which then either drops off or stabilizes, and in the vast majority of cases, most often ceasing altogether in their thirties.

All of this does not in any way mean, however, that cannabis use should be encouraged or left unregulated. Clearly, it is a psychoactive substance with some effects on cognitive and motor functions. When smoked, cannabis can have harmful effects on the respiratory airways and is potentially cancerous. Some vulnerable people should be prevented, as much as possible, from using cannabis. This is the case for young people under 16 years of age and those people with particular conditions that might make them vulnerable, for example those with psychotic predispositions. As with alcohol, adult users should be encouraged to use cannabis in moderation. Given that, as for any substance, at-risk use does exist, preventive measures and detection tools should be established and treatment initiatives must be developed for those who use the drug excessively. Lastly, it goes without saying that education initiatives and severe criminal penalties must be used to deter people from operating vehicles under the influence of cannabis.

As for any other substance, there is at-risk use and excessive use. There is no universally accepted criterion for determining the line between regular use, at-risk use and excessive use. The context in which use occurs, the age at which users were introduced to cannabis, substance quality and quantity are all factors that play a role in the passage from one type of use to another. Chapters 6 and 7 identified various criteria, which we have collated in table form below.

Proposed Criteria for Differentiating Use Types

Experimental / Occasional

Curiosity

Variable

A few times over lifetime

None

Regular

Recreational, social

Mainly in evening

Mainly in a group

A few joints

Less than one gram per month

A few times per month

Spread over several years but rarely intensive

At-risk

Recreational and occupational (to go to school, to go to work, for sport...) Alone, in the morning

Under 16 years of age

Between 0.1 and 1 gram per day

A few times per week, evenings, especially weekends

Spread over several years with high intensity periods

Excessive

Occupational and personal problems

No self regulation of use

Over one gram per day

More than once per day

Spread over several years with several months at a time of high intensity use

Even if cannabis itself poses very little danger to the user and to society as a whole, some types of use involve risks. It is time for our public policy to recognize this and to focus on preventing at-risk use and on providing treatment for excessive cannabis users.

Recommendation 5

The Committee recommends that the Government of Canada adopt an integrated policy on the risks and harmful effects of psychoactive substances covering the whole range of substances (medication, alcohol, tobacco and illegal drugs). With respect

to cannabis, this policy should focus on educating users, detecting and preventing at-risk use and treating excessive use.

A regulatory approach to cannabis

The prohibition of cannabis does not bring about the desired reduction in cannabis consumption or problematic use. However, this approach does have a whole series of harmful consequences. Users are marginalized, and over 20,000 Canadians are arrested each year for cannabis possession. Young people in schools no longer enjoy the same constitutional and civil protection of their rights as others. Organized crime benefits from prohibition and the criminalization of cannabis enhances their power and wealth. Society will never be able to stamp out drug use – particularly cannabis use.

Some might believe that an alternative policy signifies abandoning ship and giving up on promoting well-being for Canadians. Others might maintain that a regulatory approach would fly in the face of the fundamental values of our society. We believe, however, that the continued prohibition of cannabis jeopardizes the health and well-being of Canadians much more than does the substance itself or the regulated marketing of the substance. In addition, we believe that the continued criminalization of cannabis undermines the fundamental values set out in the *Canadian Charter of Rights and Freedoms* and confirmed in the history of a country based on diversity and tolerance.

We do not want to see cannabis use increase, especially among young people. Of note, the data from other countries that we compared in Chapters 6 and 20 indicate that countries such as the Netherlands, Australia and Switzerland, which have put in place a more liberal approach, have not seen their long-term levels of cannabis use rise. The same data also clearly indicate that countries with a very restrictive approach, such as Sweden and the United States, are poles apart in terms of cannabis use levels and that countries with similar liberal approaches, such as the Netherlands and Portugal, are also at opposite ends of the spectrum, falling somewhere between Sweden and the United States. We have concluded that public policy itself has little effect on cannabis use trends and that other more complex and poorly understood factors play a greater role in explaining the variations.

An exemption regime making cannabis available to those over the age of 16 could probably lead to an increase in cannabis use for a certain period. Use rates would then level off as interest wanes and as effective prevention programs are set up. A roller coaster pattern of highs and lows would then follow, as has been the case in most other countries.

This approach is neither one of total abdication nor an indication of abandonment but rather a vision of the role of the State and criminal law as **developing and promoting but not controlling human action** and as **stipulating only necessary prohibitions** relating to the fundamental principle of respect for life, other persons and a harmonious community, and as **supporting and assisting others, not judging and condemning difference**.

We might wish for a drug-free world, fewer smokers or alcoholics or less prescription drug dependency, but we all know that we shall never be able to eliminate these problems. More importantly, we should not opt to criminalize them. The Committee believes that the same healthy and respectful approach and attitude should be applied to cannabis.

It is for this reason that the Committee recommends that the Government of Canada amend the *Controlled Drugs and Substances Act* to create a criminal exemption scheme, under which the production and sale of cannabis would be licensed. Licensing and the production

and sale of cannabis would be subject to specific conditions, which the Committee has endeavoured to specify. For clarity's sake, these conditions have been compiled at the end of this section. It should be noted at the outset that the Committee suggests cigarette manufacturers should be prohibited from producing and selling cannabis.

Recommendation 6

The Committee recommends that the Government of Canada amend the *Controlled Drugs and Substances Act* to create a criminal exemption scheme. This legislation should stipulate the conditions for obtaining licences as well as for producing and selling cannabis; criminal penalties for illegal trafficking and export; and the preservation of criminal penalties for all activities falling outside the scope of the exemption scheme.

Recommendation 7

The Committee recommends that the Government of Canada declare an amnesty for any person convicted of possession of cannabis under current or past legislation.

A compassion-based approach for therapeutic use

In Chapter 9, we noted that cannabis has not been approved as a medicinal drug in the pharmacological sense of the word. In addition to the inherent difficulties in conducting studies on the therapeutic applications of cannabis, there are issues arising from the current legal environment and the undoubtedly high cost to governments of conducting such clinical studies.

Nevertheless, we do not doubt that for some medical conditions and for certain people cannabis is indeed an effective and useful therapy. Is it more effective than other types of medication? Perhaps not. Can physicians currently prescribe cannabis at a known dosage? Undoubtedly not. Should persons suffering from certain physical conditions diagnosed by qualified practitioners be permitted to use cannabis if they wish to do so? Of this, we are convinced.

The regulations made in 2001 by Health Canada, even though they are a step in the right direction, are fundamentally unsatisfactory. They do not facilitate access to therapeutic cannabis. They do not consider the experience and expertise available in compassion clubs. These regulations only govern marijuana and do not include cannabis derivatives such as hashish and cannabis oils.

It is for these reasons that the Committee recommends that Health Canada amend the *Marihuana Medical Access Regulations* in order to allow compassionate access to cannabis and its derivatives. As in the previous chapter, proposed rules have been compiled at the end of this chapter.

Recommendation 8

The Committee recommends that the *Marijuana Medical Access Regulations* be amended to provide new rules regarding eligibility, production and distribution with respect to cannabis for therapeutic purposes. In addition, research on cannabis for therapeutic purposes is essential.

Provisions for operating a vehicle under the influence of cannabis

In Chapter 8, we discussed the fact that research has not clearly established the effects of cannabis when taken alone on a person's ability to operate a vehicle. Nevertheless, there is enough evidence to suggest that operating a vehicle while under the influence of cannabis alters motor functions and affects a person's ability to remain in his or her lane. We have also established that the combined effects of cannabis and alcohol impair faculties even more than does alcohol taken alone. Epidemiological studies have shown that a certain number of cannabis users do drive under the influence of the substance and that a large proportion of these people, mainly the young, appear to believe that cannabis does not impair their ability to drive.

This chapter also indicated that no reliable and non-intrusive roadside detection tools exist. Saliva-based equipment is a promising development but for the time being, provide random results. We have also established that a visual recognition system, which has mainly been developed and assessed in the United States, is a reliable way of detecting drug-induced impaired driving faculties.

Recommendation 9

The Committee recommends that the Criminal Code be amended to lower permitted alcohol levels to 40 milligrams of alcohol per 100 millilitres of blood, in the presence of other drugs, especially, but not exclusively cannabis; and to admit evidence from expert police officers trained in detecting persons operating vehicles under the influence of drugs.

Research

Research on psychoactive substances, and particularly on cannabis, has undergone a boom over the past 20 years. The Committee was able to fully grasp the actual extent of this increase since we faced the challenge of summarizing it. Not all research is of the same quality and the current political and legal climate governing cannabis hampers thorough and objective studies. Nevertheless, a solid fact base was available to the Committee, on which to establish its conclusions and recommendations.

However, more research needs to be done in a certain number of specific areas. In Chapter 6, we established that a lack of practical research on cannabis users has resulted in only a limited amount of information on contexts of use being available. It is also currently difficult to establish criteria on the various types of cannabis use in order to guide those responsible for prevention. The Committee suggests that cannabis use of over one gram per day constitutes excessive use and that between 0.1 and one gram per day equates to at-risk

use. We also suggest that any use below 16 years of age is at-risk use. This is of course enlightened speculation, but speculation nevertheless, which remains to be explored.

In Chapters 16 and 17, we referred to the fact that we know very little about the most effective prevention practices and treatment. Here also, the current context hindered. As far as prevention is concerned, the more or less implicit "*just say no*" message and the focus on cannabis use prevention are strategies that have been dictated by the prohibition-based environment. In terms of treatment for problem users, abstinence-based models have long been the dominant approach and continue to sit very poorly with harm-reduction-based models. Thorough assessment studies are required.

The Canadian Centre on Psychoactive Substances and Dependency must play a key role in co-ordinating and publishing the results of studies. The Centre does not have to conduct research itself. This can and indeed must sometimes be carried out by academics. The Health Research Institutes are also natural players. However, it is important to clearly identify a single central body to collect research information. This will enable the information to be distributed as widely possible and, we hope, used.

Recommendation 10

The Committee recommends that the Government of Canada create a national fund for research on psychoactive substances and dependency to fund research on key issues, more particularly on various types of use, on the therapeutic applications of cannabis, on tools for detecting persons operating vehicles under the influence of drugs and on effective prevention and treatment programs; that the Government of Canada mandate the Canadian Centre on Psychoactive Substances and Dependency to co-ordinate national research and serve as a resource centre.

Canada's international Position

The Committee is well aware that were Canada to choose the rational approach to regulating cannabis we have recommended, it would be in contravention of the provisions of the various international conventions and treaties governing drugs. We are also fully aware of the diplomatic implications of this approach, in particular in relation to the United States.

We are keen to avoid replicating, at the Canada - US border, the problems that marked relations between the Netherlands, France, Belgium and Germany over the issue of drug tourism between 1985 and 1995. This is one of the reasons that justifies restricting the distribution of cannabis for recreational purposes to Canadian residents.

We are aware of the fact that a proportion of the cannabis produced in Canada is exported, mainly to the United States. We are also aware that a considerable proportion of heroin and cocaine comes into Canada via the United States. We are particularly cognisant of the fact that Canadian cannabis does not explain the increase in cannabis use in the United States. It is up to each country to get its own house in order before criticizing its neighbour.

Internationally, Canada will either have to temporarily withdraw from the conventions and treaties or accept that it will be in temporary contravention until the international community

accedes to its request to amend them. The Committee opts for the second approach, which seems to us to be more consistent with the tradition and spirit of Canadian foreign policy. In addition, we have seen that international treaties foster the imbalanced relationship between the northern and southern hemispheres by prohibiting access to plants, including cannabis, produced in the southern hemisphere, while at the same time developing a regulatory system for medication manufactured by the pharmaceutical industry in the northern hemisphere. Canada could use this imbalanced situation to urge the international community to review existing treaties and conventions on psychoactive substances.

Canada can and indeed should provide leadership on drug policy. Developing a national information and action infrastructure would undoubtedly be key to this. **Canada must also play a leading role in the Americas.** We believe that Canada enjoys a favourable international reputation and that it can promote the development of fairer and more rational drug, in particular cannabis policies. We also contend that Canada should strive for the creation of a European observatory style Drug and Dependency Monitoring Agency for the Americas within the Organization of American States.

Recommendation 11

The Committee recommends that the Government of Canada instruct the Minister of Foreign Affairs and International Trade to inform the appropriate United Nations authorities that Canada is requesting an amendment to the conventions and treaties governing illegal drugs; and that the development of a Drugs and Dependency Monitoring Agency for the Americas be supported by the Government of Canada.

Proposals for implementing the regulation of cannabis for therapeutic and recreational purposes

**Amendments to the *Marijuana Medical Access Regulations*
(Production and sale of cannabis for therapeutic purposes)**

A. Eligible person

A person affected by one of the following: wasting syndrome; chemotherapy treatment; fibromyalgia; epilepsy; multiple sclerosis; accident-induced chronic pain; and some physical condition including migraines and chronic headaches, whose physical state has been certified by a physician or an individual duly authorized by the competent medical association of the province or territory in question, may choose to buy cannabis and its derivatives for therapeutic purposes. The person shall be registered with an accredited distribution centre or with Health Canada.

B. Licence to distribute

A Canadian resident may obtain a licence to distribute cannabis and its derivatives for therapeutic purposes. The resident must undertake to only sell cannabis and its derivatives to eligible persons; to only sell cannabis and its derivatives purchased from producers duly licensed for this purpose; to keep detailed records on the medical conditions and their development, consumption and the noted effects on patients; to take all measures needed to ensure the safety of the cannabis products and to submit to departmental inspections.

C. Licence to produce

A Canadian resident may obtain a licence to produce cannabis and its derivatives for therapeutic purposes. The resident must undertake: to not hold a licence to produce cannabis for non therapeutic purposes; to take the measures necessary to ensure the consistency, regularity and quality of crops; to take the measures necessary to ensure the security of production sites; to know and document the properties and concentrations of each harvest with respect to Delta 9 THC; to sell only to accredited distribution centres and to submit to departmental inspections.

D. Other proposals

- Ensure that expenses relating to the use of cannabis for therapeutic purposes will be eligible for a medical expenses tax credit;
- Establish a program of research into the therapeutic applications of cannabis, by providing sufficient funding; by mandating the Canadian Centre on Psychoactive Substances and Dependency to co-ordinate the research program; and by providing for the systematic study of clinical cases based on the documentation available in organizations currently distributing cannabis for therapeutic purposes and in future distribution centres; and
- Ensure that the advisory committee on the therapeutic use of cannabis represents all players, including distribution centres and users.

**Amendment to the *Controlled Drugs and Substances Act (CDSA)*
(Production and sale of cannabis for non therapeutic purposes)**

A. General aims of the bill

- To reduce the injurious effects of the criminalization of the use and possession of cannabis and its derivatives;
- To permit persons over the age of 16 to procure cannabis and its derivatives at duly licensed distribution centres; and
- To recognize that cannabis and its derivatives are psychoactive substances that may present risks to physical and mental health and, to this end, to regulate the use and trade of these substances in order to prevent at-risk use and excessive use.

B. Licence to distribute

Amend the Act to create a scheme providing for exemption to the criminal offences provided in the CDSA with respect to the distribution of cannabis. A Canadian resident may obtain a licence to distribute cannabis. The resident must undertake **not to distribute to persons under the age of 16; must never have been sentenced for a criminal offence, with the exception of offences related to the possession of cannabis, for which an amnesty will be declared;** and must agree to procure cannabis only from duly licensed producers. In addition, in accordance with potential restrictions under the *Canadian Charter of Rights and Freedoms*, licensed distributors shall not display products explicitly and shall not advertise in any manner.

C. Licence to produce

Amend the Act to create an exemption to the criminal offences provided in the CDSA with respect to the production of cannabis. A Canadian resident may obtain a licence to produce cannabis. The resident must undertake to only sell to duly licensed distributors; to sell only marijuana and hashish with a THC content of 13% or less; to limit production to the quantity specified in the licence; to take the measures needed to ensure the security of production sites; to keep detailed records of quantities produced, crops, levels of THC

concentration and production conditions; and to submit to departmental inspections. No person charged with and sentenced for criminal offences, with the exception of the possession of cannabis, for which an amnesty will be declared, shall be granted a licence. No person or legal entity, directly or indirectly associated with the production, manufacture, promotion, marketing or other activity connected with tobacco products and derivatives shall be granted a licence. In accordance with potential restrictions under the *Canadian Charter of Rights and Freedoms*, cannabis products and their derivatives shall not be advertised in any manner.

D. Production for personal use

Amend the Act to create an exemption to the criminal offences provided in the CDSA in order to permit the personal production of cannabis so long as it is not sold for consideration or exchange in kind or other and not advertised or promoted in any other way. In addition, quantities shall be limited to ensure production is truly for personal consumption.

E. Consumption in public

Consumption in public places frequented by young people under 16 years of age shall be prohibited.

F. International trade

All forms of international trade, except those explicitly permitted under the Act shall be subject to the penalties provided in the CDSA for illegal trafficking.

G. Other proposals

- Ensure the establishment of a National Cannabis Board with duly mandated representatives of the federal government and the governments of the provinces and territories. The Board would keep a national register on the production and sale of cannabis and its derivatives, set the amount and distribution of taxes taken on the sale of cannabis products and ensure the taxes collected on the production and sale of cannabis and derivatives are directed solely to prevention of at-risk use, treatment of excessive

users, research and observation of trends and the fight against illegal trafficking.

- The provinces and territories would continue to develop prevention measures that should be directed at at-risk use, as a priority. The Canadian Centre on Psychoactive Substances and Dependency should be mandated to collect best treatment practices and ensure an exchange of information on effective practices and their evaluation.
- The provinces and territories would continue to develop support and treatment measures that should be directed at excessive use, as a priority. The Canadian Centre on Psychoactive Substances and Dependency should be mandated to collect best prevention practices and ensure an exchange of information on effective practices and their evaluation.
- Resources available to police and customs to fight smuggling, export, in all its forms and cross-border trafficking should be increased.

CANNABIS : OUR POSITION FOR A CANADIAN PUBLIC POLICY
REPORT OF THE SENATE SPECIAL COMMITTEE ON ILLEGAL DRUGS
VOLUME I : PARTS I and II

Chairman: Pierre Claude Nolin
Deputy Chairman: Colin Kenny

SEPTEMBER 2002

ORDER OF REFERENCE

Extract from the Journals of the Senate of March 15, 2001:

Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Molgat:

That a special committee of the Senate be struck to examine:

- The approach taken by Canada to cannabis, its preparations, derivatives and similar synthetic preparations, in context;
- The effectiveness of this approach, the means used to implement it and the monitoring of its application;
- The related official policies adopted by other countries;
- Canada's international role and obligations under United Nations agreements and conventions on narcotics, in connection with cannabis, the Universal Declaration of Human Rights and other related treaties; and
- The social and health impacts of cannabis and the possible consequences of different policies;

That the special committee consist of five senators, three of whom shall constitute a quorum;

That the Honourable Senators Banks, Kenny, Nolin, Rossiter and (a fifth Senator to be named by the Chief Government Whip) be named to the committee.

That the committee be authorized to send for persons, papers and records, to hear witnesses, to report from time to time, and to print from day to day such papers and evidence as may be ordered by it;

That the briefs and evidence heard during consideration of Bill C-8, *An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof*, by the Standing Senate Committee on Legal and Constitutional Affairs during the Second Session of the Thirty-fifth Parliament be referred to the committee;

That the documents and evidence compiled on this matter and the work accomplished by the Special Senate Committee on Illegal Drugs during the Second Session of the Thirty-sixth Parliament be referred to the committee;

That the committee be empowered to authorize, if deemed appropriate, the broadcasting on radio and/or television and the coverage via electronic media of all or a part of its proceedings and the information it holds;

That the committee present its final report no later than August 31, 2002, and that the committee retain the powers necessary to publicize its findings for distribution of the study contained in its final report for 30 days after the tabling of that report;

That the committee be authorized, notwithstanding customary practice, to table its report to the Clerk of the Senate if the Senate is not sitting, and that a report so tabled be deemed to have been tabled in the Senate.

After debate,

The question then being put on the main motion as amended, it was adopted.

Extract from the Journals of the Senate of May 9, 2002:

The Honourable Senator Nolin moved, seconded by the Honourable Senator Stratton,

That the date of presentation by the Special Senate Committee on Illegal Drugs of the final report on its study into reassessing Canada's anti-drug legislation and policies, which was authorized by the Senate on March 15, 2001, be extended from August 31, 2002 to September 13, 2002.

The question being put on the motion, it was adopted.

ATTEST:

Paul C. Bélisle

Clerk of the Senate

A Word of Thanks

I am very proud of the report on cannabis being made public today by the Senate Special Committee on Illegal Drugs. It marks a stage in Canada's public policy on drugs, and I have no doubt that it will find an attentive readership, despite its impressive size.

The report is the product of a team effort over a period of two years. At the risk of leaving anyone out, and I hope I will be pardoned should I do so, I would like to express my gratitude to those most closely involved with the project.

I would first thank all Canadians, who, from near and far, shared in our efforts, by writing us, by attending our hearings and our open forums in the regions, by watching us on television and, quite simply, by taking the time to learn about this important social policy issue. Their contributions, their questions and their comments were a source of inspiration. We will not forget the welcome given us by the Chiefs of the Piapot tribe in Saskatchewan. The ceremony they held for us was truly healing.

The Committee could not have done its work without the immense contribution of its research team. This small group was under the able direction of sociologist Dr Daniel Sansfaçon, whose rigour and devotion enabled the Committee to meet the highest standards of quality in its work and in the drafting of its report. Mr Gérald Lafrenière and Ms Chantal Collin, researchers with the Parliamentary Research Branch of the Library of Parliament working with him, provided invaluable support. I would take the opportunity to thank the Parliamentary Research Branch and its Director General specifically for their diligence and professionalism in responding to our imposing program of work. Finally, I wish to mention the contributions by Ms Barbara Buston Wheelok, assistant to Senator Rossiter, to Mr François Dubois, my research assistant, and to Messrs Jean-Guy Desgagné and David Newman in Communications.

The Committee benefited in its work from the expertise and the generosity of the many experts who testified before it or whom it met privately, and whose names are appended. I would thank them one and all.

We were also able to draw on the competence of the committee clerks and on the efficiency of their administrative personnel in organizing our many working and public meetings. My thanks to Blair Armitage, Daniel Charbonneau and Adam Thompson.

Our report, with its great concern for transparency and rigour, exemplifies the highest standards maintained by the Senate. I would thank my colleagues in the Senate, who entrusted us with this mandate. In concluding, I would like to express my gratitude to my colleagues who took part in our work and especially to each of the members of the Senate Special Committee on Illegal Drugs: its Deputy Chair, Senator Colin Kenny, and Senators Tommy Banks, Shirley Maheu and Eileen Rossiter. They did a remarkable job.

My colleagues, I believe Canadians may rightly be proud of our parliamentary institution.

Pierre Claude Nolin
Senator
Chair, Senate Special Committee on Illegal Drugs

MEMBERS OF THE SENATE SPECIAL COMMITTEE ON ILLEGAL DRUGS

1. MEMBERS OF THE SENATE SPECIAL COMMITTEE ON ILLEGAL DRUGS

Honourable Pierre Claude Nolin
(Chair)

Honourable Colin Kenny
(Deputy Chair)

Honourable Tommy Banks

Honourable Eileen Rossiter

Honourable Shirley Maheu

Honourable John Lynch-Staunton *

Honourable Baron Carstairs, P.C. * **

Honourable Noël A. Kinsella *

Honourable Fernand Robichaud, P.C. *

**2. OTHER SENATORS WHO PARTICIPATED IN THE PROCEEDINGS OF THE
COMMITTEE**

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Honourable Laurier LaPierre

Honourable Pat Carney, P.C.

Honourable Jean Lapointe

Honourable Thelma Chalifoux

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Honourable John Wiebe

Honourable Lois M. Wilson

** Ex Officio Members*

*** The Honourable Sharon Carstairs was a member of the Committee from April 2000 to October 2000*

**** The Honourable Lucie Pépin was a member of the Committee from April 2000 to October 2000*

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Glossary of key terms

Abuse

Vague term with a variety of meanings depending on the social, medical and legal contexts. Some equate any use of illicit drugs to abuse: for example, the international conventions consider that any use of drugs other than for medical or scientific purposes is abuse. The Diagnosis and Statistical Manual of the American Psychiatric Association defines abuse as a maladaptive pattern of substance use leading to clinically significant impairment or distress as defined by one or more of four criteria (see chapter 7). In the report, we prefer the term excessive use (or harmful use).

Acute effects

Refers to effects resulting from the administration of any drug and specifically to its short term effects. These effects are distinguished between central (cerebral functions) and peripheral (nervous system). Effects are dose-related.

Addiction

General term referring to the concepts of tolerance and dependency. According to WHO addiction is the repeated use of a psychoactive substance to the extent that the user is periodically or chronically intoxicated, shows a compulsion to take the preferred substance, has great difficulty in voluntarily ceasing or modifying substance use, and exhibits determination to obtain the substance by almost any means. Some authors prefer the term addiction to dependence, because the former also refers to the evolutive process preceding dependence.

Agonist

A substance that acts on receptor sites to produce certain responses.

Anandamide

Agonist neurotransmitter of the endogenous cannabinoid system. Although not yet fully understood in research, these neurotransmitters seem to act as modulators, THC increasing the liberation of dopamine in nucleus accumbens and cerebral cortex.

At-risk use

Use behaviour which makes users at-risk of developing dependence to the substance.

Cannabinoids

Endogenous receptors of the active cannabis molecules, particularly 9-THC. Two endogenous receptors have been identified: CB1 densely concentrated in the hippocampus, basal ganglia, cerebellum and cerebral cortex, and CB2, particularly abundant in the immune system. The central effects of cannabis appear to be related only to CB1.

Cannabis

Three varieties of the cannabis plant exist: *cannabis sativa*, *cannabis indica*, and *cannabis ruderalis*. *Cannabis sativa* is the most commonly found, growing in almost any soil condition. The cannabis plant has been known in China for about 6000 years. The flowering tops and leaves are used to produce the smoked cannabis. Common terms used to refer to cannabis are pot, marijuana, dope, ganja, hemp. Hashish is produced from the extracted resin. Classified as a psychotropic drug, cannabis is a modulator of the central nervous system. It contains over 460 known chemicals, of which 60 are cannabinoids. Delta-9-tetrahydrocannabinol, referred to as THC, is the principal active ingredient of cannabis. Other components such as delta-8-tetrahydrocannabinol, cannabidiol and cannabivarin are present in smaller quantities and have no significant impacts on behaviour or perception. However, they may modulate the overall effects of the substance.

Chronic effects

Refers to effects which are delayed or develop after repeated use. In the report we prefer to use the term consequences of repeated use rather than chronic effects.

Commission on narcotic drugs (CND)

The Commission on Narcotic Drugs (CND) was established in 1946 by the Economic and Social Council of the United Nations. It is the central policy-making body within the UN system for dealing with all drug-related matters. The Commission analyses the world drug abuse situation and develops proposals to strengthen international drug control.

Decriminalization

Removal of a behaviour or activity from the scope of the criminal justice system. A distinction is usually made between *de jure decriminalization*, which entails an amendment to criminal legislation, and *de facto decriminalization*, which involves an administrative

decision not to prosecute acts that nonetheless remain against the law. Decriminalization concerns only criminal legislation, and does not mean that the legal system has no further jurisdiction of any kind in this regard: other, non-criminal, laws may regulate the behaviour or activity that has been decriminalized (civil or regulatory offences, etc.).

Diversion

The use of measures other than prosecution or a criminal conviction for an act that nonetheless remains against the law. Diversion can take place before a charge is formally laid, for example if the accused person agrees to undergo treatment. It can also occur at the time of sentencing, when community service or treatment may be imposed rather than incarceration.

Depenalisation

Modification of the sentences provided in criminal legislation for a particular behaviour. In the case of cannabis, it generally refers to the removal of custodial sentences.

Dependence

State where the user continues its use of the substance despite significant health, psychological, relational, familial or social problems. Dependence is a complex phenomenon which may have genetic components. Psychological dependence refers to the psychological symptoms associated with craving and physical dependence to tolerance and the adaptation of the organism to chronic use. The American Psychiatric Association has proposed seven criteria (see chapter 7).

Dopamine

Neuromediator involved in the mechanisms of pleasure.

Drug

Generally used to refer to illicit rather than licit substances (such as nicotine, alcohol or medicines). In pharmacology, the term refers to any chemical agent that alters the biochemical or physiological processes of tissues or organisms. In this sense, the term drug refers better to any substance which is principally used for its psychoactive effects.

European Monitoring Centre on Drugs and Drug Addiction (EMCDDA)

The European Monitoring Centre was created in 1993 to provide member states objective, reliable and comparable information within the EU on drugs, drug addictions and their

consequences. Statistical information, documents and techniques developed in the EMCDDA are designed to give a broad perspective on drug issues in Europe. The Centre only deals with information. It relies on national focal points in each of the Member States.

Fat soluble

Characteristic of a substance to irrigate quickly the tissues. THC is highly fat-soluble.

Gateway (theory)

Theory suggesting a sequential pattern in involvement in drug use from nicotine to alcohol, to cannabis and then "hard" drugs. The theory rests on a statistical association between the use of hard drugs and the fact that these users have generally used cannabis as their first illicit drug. This theory has not been validated by empirical research and is considered outdated.

Half-life

Time needed for the concentration of a particular drug in blood to decline to half its maximum level. The half-life of THC is 4.3 days on average but is faster in regular than in occasional users. Because it is highly fat soluble, THC is stored in fatty tissues, thus increasing its half life to as much as 7 to 12 days. Prolonged use of cannabis increases the period of time needed to eliminate it from the system. Even one week after use, THC metabolites may remain in the system. They are gradually metabolised in the urine (one third) and in feces (two thirds). Traces of inactive THC metabolites can be detected as many as 30 days after use.

Hashish

Resinous extract from the flowering tops of the cannabis plant and transformed into a paste.

International Conventions

Various international conventions have been adopted by the international community since 1912, first under the Society of Nations and then under the United Nations, to regulate the possession, use, production, distribution, sale, etc., of various psychotropic substances. Currently, the three main conventions are the 1961 Single Convention, the 1971 Convention on Psychotropic Substances and the 1988 Convention against Illicit Traffic. Canada is a signatory to all three conventions. Subject to countries' national constitutions, these conventions establish a system of regulation where only medical and scientific uses are permitted. This system is based on the prohibition of source plants (coca, opium and

cannabis) and the regulation of synthetic chemicals produced by pharmaceutical companies.

International Narcotics Control Board (INCB)

The Board is an independent, quasi-judicial organisation responsible for monitoring the implementation of the UN conventions on drugs. It was created in 1968 as a follow up to the 1961 Single Convention, but had predecessors as early as the 1930s. The Board makes recommendations to the UN Commission on Narcotics with respect to additions or deletions in the appendices of the conventions.

Intoxication

Disturbance of the physiological and psychological systems resulting from a substance. Pharmacology generally distinguishes four levels: light, moderate, serious and fatal.

Joint

Cigarette of marijuana or hashish with or without tobacco. Because joints are never identical, scientific analyses of the effects of THC are more difficult, especially in trying to determine the therapeutic benefits of cannabis and to examine its effects on driving.

Legalisation

Regulatory system allowing the culture, production, marketing, sale and use of substances. Although none currently exist in relation to « street-drugs » (as opposed to alcohol or tobacco which are regulated products), a legalisation system could take two forms: without any state control (free markets) and with state controls (regulatory regime).

Marijuana

Mexican term originally referring to a cigarette of poor quality. Has now become equivalent for cannabis.

Narcotic

Substance which can induce stupor or artificial sleep. Usually restricted to designate opiates. Sometimes used incorrectly to refer to all drugs capable of inducing dependence.

Office of national drug control policy (ONDCP) USA

Created in 1984 under the Reagan presidency, the Office is under the direct authority of the White House. It coordinates US policy on drugs. Its budget is currently US \$18 billion.

Opiates

Substance derived from the opium poppy. The term opiate excludes synthetic opioids such as heroin and methadone.

Prohibition

Historically, the term designates the period of national interdiction of alcohol sales in the United States between 1919 and 1933. By analogy, the term is now used to describe UN and State policies aiming for a drug-free society. Prohibition is based on the interdiction to cultivate, produce, fabricate, sell, possess, use, etc., some substances except for medical and scientific purposes.

Psychoactive substance

Substance which alters mental processes such as thinking or emotions. More neutral than the term "drug" because it does not refer to the legal status of the substance, it is the term we prefer to use.

Psychotropic substance (see also psychoactive)

Much the same as psychoactive substance. More specifically however, the term refers to drugs primarily used in the treatment of mental disorders, such as anxiolytic, sedatives, neuroleptics, etc. More specifically, refers to the substances covered in the 1971 Convention on Psychotropic Substances.

Regulation

Control system specifying the conditions under which the cultivation, production, marketing, prescription, sales, possession or use of a substance are allowed. Regulatory approaches may rest on interdiction (as for illegal drugs) or controlled access (as for medical drugs or alcohol). Our proposal of an exemption regime under the current legislation is a regulatory regime.

Society of Nations (SDN)

International organisation of States until 1938; now the United Nations.

Tetrahydrocannabinol (D9-THC)

Main active component of cannabis, Δ 9-THC is very fat-soluble and has a lengthy half-life. Its psychoactive effects are modulated by other active components in cannabis. In its natural state, cannabis contains between 0.5% to 5% THC. Sophisticated cultivation methods and plant selection, especially female plants, leads to higher levels of THC concentration.

Tolerance

Reduced response of the organisms and increased capacity to support its effects after a more or less lengthy period of use. Tolerance levels are extremely variable between substances, and tolerance to cannabis is believed to be lower than for most other drugs, including tobacco and alcohol.

Toxicity

Characteristic of a substance which induces intoxication, i.e., "poisoning". Many substances, including some common foods, have some level of toxicity. Cannabis presents almost no toxicity and cannot lead to an overdose.

United Nations Drug Control Program (UNDCP)

Established in 1991, the Programme works to educate the world about the dangers of drug abuse. The Programme aims to strengthen international action against drug production, trafficking and drug-related crime through alternative development projects, crop monitoring and anti-money laundering programmes. UNDCP also provides accurate statistics through the Global Assessment Programme (GAP) and helps to draft legislation and train judicial officials as part of its Legal Assistance Programme. UNDCP is part of the UN Office for Drug Control and the Prevention of Crime.

World Health Organization (WHO)

The World Health Organization, the United Nations specialized agency for health, was established on 7 April 1948. WHO's objective, as set out in its Constitution, is the attainment by all peoples of the highest possible level of health. Health is defined in WHO's Constitution as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

Introduction

The question of illegal drugs is one of the societal issues that can readily become a moral and indeed emotional matter. Who among us does not have an opinion on drugs and "drug addicts"? Who does not have a parent, friend, young cousin or uncle who has had personal problems at school or at work, perhaps even run-ins with the police and the criminal justice system, as a result of using drugs? Who has not heard of drug traffickers, veritable anti-

heroes, whom we find both repulsive and fascinating, all of whom we consider the worst kind of scum, who grow rich by selling adulterated and dangerous products to our children? Every day brings its share of newspaper articles and television news reports on anti-drug operations conducted by police forces: sometimes massive, and almost always spectacular arrests, huge seizures of drugs, cash and weapons of all kinds. Every day we also see articles on money laundering and the corruption of honest men through the illegal drug market. Even closer to home, the events of September 11 shed new light on the ambiguous and alleged relations between the drug trafficking world and the financing of "terrorist" networks. Security is now the key buzz word.

The drug issue involves the political values of life in society. In what kind of society do we want to live? What place should, and can, drugs occupy in it? For some, drugs are substances that keep individuals in a state of dependence. Using them weakens their moral fibre, makes them more malleable, more subject in particular to (bad) outside influences, and reduces their ability to be productive individuals in society. If they don't bring about human downfall, drugs do prevent the full achievement and realization of human potential. For others, drugs are tools to achieving greater productivity, being more competitive and thus better positioned in a hyper-competitive world. The obvious example of this is doping among elite athletes. For still others, drugs are a preferred means of entering into contact with other aspects of their being, spiritual, artistic aspects, or simply peace and serenity. The history of art is full of examples. These almost diametrically opposed conceptions often leave little room for dialogue and result in considerable prejudice on all sides.

In the past 20 years, we have introduced stringent anti-tobacco programs. And we have definitely achieved a measure of success. We have also adopted stricter measures to put a stop to impaired driving. Here too, we believe we have made significant inroads. The fight against drugs is a kind of metaphor for the type of social policies we expect of governments: policies based on the improved well-being of citizens.

Of course, everything depends on what each person means by the word "drugs". The term is clearly not neutral: it elicits varying degrees of fear and anxiety. And we do not necessarily all include the same substances under that heading. The examples cited above concern illegal drugs, alcohol, tobacco and performance-enhancing substances. A number of psychotropic drugs could also be included. And yet, when we think of drugs, the first things that come to mind are illegal substances: cocaine and heroin, of course, crack and amphetamines for the more sophisticated among us, and, obviously, cannabis and hashish. However, an increasing number of scientific studies and government policies strive to show the interrelationships between different drugs, discussing at-risk behaviours in relation to each drug. As will be seen below, the mere fact of considering alcohol as one drug among others signifies a genuine cultural revolution in a country such as France, a major producer and consumer of wine. And tobacco companies would certainly object to comparing nicotine to heroine.

The members of the **Senate Special Committee on Illegal Drugs** addressed the question of drugs as everyone else does, that is to say with the same preconceptions, with the same basic attitudes, the same fears and the same anxieties. Of course, we had at our disposal the study which a number of our colleagues had conducted in 1996 on government legislation dealing with illegal drugs, which had enabled them to hear a number of witnesses over several months. We also knew at the outset that research expertise would be available to us, but let there be no mistake, it is nevertheless difficult to go beyond attitudes and opinions that have long been taken for granted. Whether one is in favour of enhanced enforcement or, on the contrary, greater liberalization, opinions tend to resist the facts, particularly since, in a field such as this, the production of facts, even through scientific research, is not necessarily a neutral enterprise. It follows then that we too, like you, have our prejudices and

preconceptions. And together we must make the effort to go beyond them. That is one of the objectives of this report.

Our report is divided into four parts. Part I outlines our general orientations and comprises four chapters. Chapter 1 describes the Committee's origins and mandate, while Chapter 2 outlines the work we have undertaken, explaining certain choices we have made. Chapter 3 is central to the entire architecture of the report and, as it were, provides a "reading grid". In it, we state what we have called the **guiding principles** for a public policy on illegal drugs. Lastly, Chapter 4 offers a broad overview of the present situation with regard to illegal drugs, placing our efforts in the context of the changes that are occurring in various countries and on the international scene more generally.

Part II is the heart of our report. It provides a comprehensive outline of scientific research findings and the opinions of the experts we heard. Chapter 5 describes the plant from which smokable cannabis and hashish are derived and the pharmacological properties of the cannabinoids, which are their active ingredient. It also provides some figures on sources of production of cannabis and its main trafficking routes. Chapter 6 contains information on uses and users: who uses cannabis, in what circumstances, what do we know about their user trajectories and, in particular, the highly controversial question as to whether cannabis use leads to the use of other drugs. Chapter 7 describes the physiological and psychological effects and consequences of cannabis, focusing as well on the important issues of cannabis dependence and tolerance. Chapter 8 deals specifically with the important issue of driving under the influence of cannabis. Given the current debates on the issue of therapeutic uses of cannabis, Chapter 9 reviews existing findings. Chapter 10, the last chapter in the section, addresses public opinion, outlining public opinion polls and surveys, reporting also what we were told in the consultations we held in the regions following the publication of our discussion paper in May 2002.

Part III concerns public policy and practices in Canada. When we think of drugs, we immediately think of the legislation governing them. In so doing, we forget that the law is never more than one of a number of elements involved in a public policy. Chapter 11 focuses on the National Drug Strategy, which was in effect in Canada between 1987 and 1997. It must be considered since only in this period in the history of our public drug policies was an attempt made to adopt a comprehensive and integrated strategy. Chapter 12 then describes the history of Canadian drug legislation. Chapter 13 examines the current regulatory regime for therapeutic uses of cannabis. The following four chapters deal with the various components of the implementation of the public policies on illegal drugs. Chapters 14 and 15 discuss respectively police practices and legal practices central to the implementation of those statutory provisions, while Chapters 16 and 17 briefly examine prevention practices and health care practices. Finally, in Chapter 18, we conclude this third part of our report with a series of three observations on these practices, examining in particular the economic costs and unexpected consequences of current public policies.

Part IV addresses public policy options. When it comes to drugs, we cannot avoid the architecture of the international conventions that have governed these substances since 1912. This is the subject of Chapter 19. However, beyond this global framework, countries have chosen different approaches to respond to drug related issues and problems. Chapter 20 describes in detail the public policy frameworks in seven industrialized countries. Finally, chapter 21 is key to understanding our recommendations and their links with our guiding principles. This chapter shows that the criminal law is but one of the tools of public policy in this field. It then distinguishes between the various legal options and clarifies heavily loaded terms such as decriminalisation and legalisation. Finally, based on the accumulated knowledge, our reading of public opinion and our principles, this chapter explains our framework for a comprehensive public policy on cannabis.

Based on all this knowledge gathered, we state a certain number of conclusions and offer our recommendations, which express the fundamental premise underlying our report: *in a free and democratic society, which recognizes fundamentally but not exclusively the rule of law as the source of normative rules and in which government must promote autonomy insofar as possible and therefore make only sparing use of the instruments of constraint, public policy on psychoactive substances must be structured around guiding principles respecting the life, health, security and rights and freedoms of individuals, who, naturally and legitimately, seek their own well-being and development and can recognize the presence, difference and equivalence of others.*

We are aware, as much now as we were at the start of our work, that there is no pre-established consensus in Canadian society on public policy choices in the area of drugs. In fact, as we have seen, there are few societies where there is a broadly shared consensus among the general public and between the public and experts. We are also aware, perhaps more so than at the outset, that the question of illegal drugs, viewed from the standpoint of the public policies that govern them, is part of a broader international context and that we cannot think or act in isolation. We are aware that our proposals are provocative, that they may meet with some resistance. However, we are convinced that Canadian society has the maturity and openness to welcome this informed debate.

In this, as in so many other areas of public policy, we say that action must be taken and that the knowledge accumulated fully supports the orientations we propose, but that first and foremost the sharing of knowledge and public debate are both necessary and desirable in the democratic life in our society.

Part I

General Orientation

Chapter 1

Our Mandate

Wording

On April 16, 2000, pursuant to a motion by Senator Pierre Claude Nolin, the Senate adopted the following order of reference:

That a Special Committee of the Senate be appointed to reassess Canada's anti-drug legislation and policies, to carry out a broad consultation of the Canadian public to determine the specific needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs are more in evidence, to develop proposals to disseminate information about Canada's anti-drug policy and, finally, to make recommendations for an anti-drug strategy developed by and for Canadians under which all levels of government work closely together to reduce the harm associated with

the use of illegal drugs;

That, without being limited in its mandate by the following, the committee be authorized to:

- Review the federal government's policy on illegal drugs in Canada, its effectiveness, and the extent to which it is fairly enforced;
- Develop a national harm reduction policy in order to lessen the negative impact of illegal drugs in Canada, and make recommendations regarding the enforcement of this policy, **specifically the possibility of focusing on use and abuse of drugs as a social and health problem;** | |
- Study harm reduction models adopted by other countries and determine if there is a need to implement them wholly or partially in Canada;
- Examine Canada's international role and obligations under United Nations conventions on narcotics and the Universal Declaration of Human Rights and other related treaties in order to determine whether these treaties authorize it to take action other than laying criminal charges and imposing sentences at the international level;
- Explore the effects of cannabis on health and examine whether alternative policy on cannabis would lead to increased harm in the short and long term;
- Examine the possibility of the government using its regulatory power under the Contraventions Act as an additional means of implementing a harm reduction policy, as is done in other jurisdictions;
- Examine any other issue respecting Canada's anti-drug policy that the committee considers appropriate to the completion of its mandate.

Upon adoption of the motion, the Committee chairman asked the Senate to name the members who would form the Committee. The following senators were thus appointed: Pierre Claude Nolin, Chair, Sharon Carstairs, Deputy Chair, Colin Kenny, Lucie Pépin and Eileen Rossiter.

The Committee thus constituted approved a work program and a budget, which it then submitted to its peers in the upper Chamber. The Committee's budget was approved in June 2000, thus making it possible to hire the scientific and administrative personnel who would support its work. The Committee organized its program of hearings of expert witnesses and held its first hearings on October 16, 2000.

However, the Committee was dissolved when the general election was called in October 2000, and restructured on March 15, 2001, but with an amended mandate: the scope of its work was now restricted to cannabis. The Committee's mandate in its present form therefore reads as follows:

That a special committee of the Senate be struck to examine:

- The approach taken by Canada to cannabis, its preparations, derivatives and similar synthetic preparations, in context;
- The effectiveness of this approach, the means used to implement it and the monitoring of its application;
- The related official policies adopted by other countries;
- Canada's international role and obligations under United Nations agreements and conventions on narcotics, in connection with cannabis, the Universal Declaration of Human Rights and other related treaties; and
- The social and health impacts of cannabis and the possible consequences of different policies;

That the special committee consist of five senators, three of whom shall constitute a quorum;

That the Honourable Senators Banks, Kenny, Nolin, Rossiter and (a fifth Senator to be named by the Chief Government Whip) be named to the committee;

That the committee be authorized to send for persons, papers and records, to hear witnesses, to report from time to time, and to print from day to day such papers and evidence as may be ordered by it;

That the briefs and evidence heard during consideration of Bill C-8, An Act respecting the control of certain drugs, their precursors and other substances and to amend certain other Acts and repeal the Narcotic Control Act in consequence thereof, by the Standing Senate Committee on Legal and Constitutional Affairs during the 2nd Session of the 35th Parliament be referred to the committee;

That the documents and evidence compiled on this matter and the work accomplished by the Special Senate Committee on Illegal Drugs during the 2nd Session of the 36th Parliament be referred to the committee;

That the committee be empowered to authorize, if deemed appropriate, the broadcasting on radio and/or television and the coverage via electronic media of all or part of its proceedings and the information it holds;

That the committee present its final report no later than August 31, 2002; and that the committee retain the powers necessary to publicize its findings for distribution of the study contained in its final report for 30 days after the tabling of that report;

That the committee be authorized, notwithstanding customary practice, to table its report to the Clerk of the Senate if the Senate is not sitting, and that a report so tabled be deemed to have been tabled in the Senate.

Origins

The Committee's mandate is a continuation of the history of drug legislation passed by the Parliament of Canada in 1996, the *Controlled Drugs and Substances Act*. That legislation, which revised drug statutes in Canada by repealing the *Narcotic Control Act* and certain sections of the *Food and Drugs Act*, grew out of a relatively lengthy history of which we will provide only a brief overview here, since Chapter 12 is devoted to a detailed history of drug laws in Canada.

Bill C-7, which was tabled by the newly elected government in February 1994, proposed a revision of illegal drug legislation, in particular to make it more coherent and to render national legislation consistent with Canada's obligations under the *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* signed in 1988. Following prorogation, it was reintroduced in the House of Commons at the start of the 2nd Session, on March 6, 1996, as Bill C-8. It was adopted by the House on the same day and was referred to the Standing Senate Committee on Legal and Constitutional Affairs which conducted a detailed study of it and heard a number of witnesses.

In its report, the Senate Committee on Legal and Constitutional Affairs proposed 15 amendments as well as the striking of a joint parliamentary committee of the House of Commons and the Senate, which would review Canada's drug policy. Bill C-8 was passed and received Royal Assent on June 20, 1996, and is thus Canada's current illegal drug legislation.

While this legislation was being studied by the Sub-Committee on Bill C-7 of the Standing Committee on Health of the House of Commons in 1994 and 1995, *"the vast majority of witnesses (...) were highly critical of the bill. The most general criticisms concerned three points: first, the lack of basic principles or an express statement as to the purpose of the act; second, the fact that the bill followed the prohibition system of the 1920s, subsequently codified in the Narcotic Control Act, and third, the absence of any emphasis on damage reduction and prevention criteria which form the basis of Canada's Drug Strategy."*[2]

Despite the amendments made by the Sub-Committee of the House, the testimony of the persons heard by the Senate Committee was equally critical. Witnesses noted that the Act did not categorize drugs on the basis of the dangers they represented, that it did not contain any specific, rational criteria and that it was impossible, particularly in view of the Act's complexity, to determine how it would be implemented in practice.

All of these criticisms led the Senate Committee to *"propose energetically"* the creation of a Joint Committee of the House of Commons and the Senate that would review all Canadian drug legislation, policies and programs.[3]

However, the 1997 federal election rendered this suggestion moot. Senator Nolin, convinced of the need for action and faced with the inaction of the House of Commons, thus tabled his first motion in 1999 - that a Senate Committee be struck and given a mandate to examine the legislation, policies and programs on illegal drugs in Canada. The motion was adopted by the Senate in April 2000. In support of the motion, Senator Nolin had commissioned a study on drugs and drug policy in Canada. The purpose of this study, in particular, was *"to assist in analyzing policy on the control of drug use from a new angle, without being influenced by the often unfounded prejudices that Canadian society has of drug addicts"*. [4] Senator Nolin wrote further that a Senate Special Committee *"would be charged, first, with transmitting to the Canadian public accurate and objective information on the use of illegal drugs, their effects on individuals and society and control measures in*

place. Second, it could conduct consultations on desirable amendments that Parliament should make to legislation on the control of drug use in the years to come."[5]

Interpretation

Our mandate comprises four components:

1. Examine the federal government policy on cannabis, the means used to implement it, its control and its effectiveness;
2. Examine the policies and approaches followed in other countries;
3. Examine the implications of the international conventions and treaties; and
4. Examine the social and health effects of cannabis and the possible impacts of different policies.

We chose to interpret our mandate in the broadest manner possible. Some asked us whether it was our ambition to be a second Le Dain Commission.[6] Others told us we did not have the resources to be so exhaustive and rigorous in our examination. Still others regretted the fact that we were restricted in the first phase of our work to cannabis, as though the various substances could be separated and their users classified accordingly.

Chapter 2, on our work program, will show that we were motivated by a desire to be rigorous and to cast our net wide. We are nevertheless aware of the scope and limits of our role as a Senate Committee, all the more so since the means put at our disposal were as limited as our ambition was generous.

The question of the distinction among substances is more problematical for various reasons. First, recent research shows that it is more important to distinguish between user behaviours than between substances. Based on this view, it is thus not so much the drugs themselves that should be distinguished as the different ways in which they are used and the environments in which those uses take place, and hence the risks a certain number of users run. Here we will discuss at-risk behaviours[7], which are not determined so much by the characteristics of the substances as by those of the users and the conditions in which they are used. Second, the distinctions between substances have no clear scientific basis. Thus, entirely different classifications are arrived at depending on how one views the pharmacological properties of the various drugs, their effects on physical health and their origins or cultivation methods. And third, a comprehensive and integrated drug policy cannot be put forward on the basis of this distinction between substances.

However, the result of this decision, which forced us to limit our work to cannabis, was something more than just disadvantages and limits. We should admit, first of all, that embracing the entire field of illegal drugs with so little in the way of resources would have been a monumental undertaking. And as recent commissions of inquiry and international scientific conferences have chosen, as we did, to survey the state of knowledge on cannabis, we were able both to make use of their work and to compare it to our own. Lastly, and more

particularly, experiments conducted in other countries, in particular the Netherlands, demonstrate the merit in treating cannabis separately, in a "market separation" approach.

In short, while restricting our work to cannabis, we invited the witnesses not to limit themselves to it alone and to show us the links between it and the various at-risk behaviours of users when they occur. We also bore in mind the necessity of addressing drugs in the context of an integrated policy, particularly with regard to the major parameters of public policy, legislation or knowledge infrastructure, for example.

[1] Emphasis in the original.

[2] Allain, J. (1997) *Bill C-8: Controlled Drugs and Substances Act*. Ottawa, Library of Parliament, page 35.

[3] Standing Senate Committee on Legal and Constitutional Affairs, Eleventh rapport, June 1996, page 8.

[4] Nolin, P.C. (1998) Preface. In Riley, D. (1998), *Drugs and Drug Policy in Canada. A Brief Review and Commentary*. Ottawa, page 10.

[5] *Ibid.*, page 11.

[6] The Le Dain Commission, which investigated illegal drugs in the early 1970s, will be discussed more fully in Chapter 12. See Canada (1970), *Interim Report of the Commission of Inquiry into the Non-Medical Use of Drugs*. (Le Dain Commission) Ottawa: Queen's Printer.

[7] See among others: Reynaud, M., P.J. Parquet et G. Lagrue (1999) *Les pratiques addictives. Usage, usage nocif et dépendance aux substances psychoactives*. Rapport préparé à la demande du Directeur général de la Santé. Paris: Secrétariat d'État à la Santé et aux Affaires Sociales.

Chapter 2

Our Work

Designing, developing and implementing public policy is the very essence of the role of government, of political life in the broad sense. This fundamental activity presupposes a choice between various alternatives and, in a democratic system, an explanation and justification of the choice that has been made. A public policy, regardless of its object, stands at the confluence of various influences: partisan political considerations of course, economic considerations as well, even increasingly so. However, if it lays claim to a certain degree of rationality and citizen support, a public policy must also be based on rigorous and objective data, preferably from scientific research, and on an understanding of society's expectations and resistance. Lastly, a public policy, in our view, should be founded on, and at the same time promote, guiding principles. By that, we mean a clear and express vision of the principles that guided the choice among various alternatives and that reflect a conception of government and of the relationship between government institutions and civil society.

From the outset, our Committee chose to remain above partisan issues. This is the advantage of belonging to the Senate, which makes it possible to take, on various questions, a more objective view not influenced by concern for re-election. Economic considerations affected us in two different ways. The first, a trivial matter, was related to the budgets allocated to us,

which necessarily limited the scope of our work, the second to the economic impact of various public policy options which are discussed in Chapters 18 and 21.

Our work thus focused on the other three sources that should influence a choice of public policy on illegal drugs: knowledge, public opinion and guiding principles.

At the Committee's public hearings, the Chair presented the research program as follows:

In order to fully satisfy the mandate conferred upon the committee, the committee has adopted an action plan. This plan centres around three challenges. The first challenge is that of knowledge. We will be hearing from a wide variety of experts, both from Canada and afar, from academic settings, the police, legal specialists, medical specialists, the government sector and social workers. (...)

The second challenge, surely the most noble challenge, is that of sharing knowledge. The committee hopes that Canadians from coast to coast will be able to learn and share the information that we will have collected. In order to meet this challenge, we will work to distribute this knowledge and make it accessible to all. We would also like to hear the opinions of Canadians on this topic and in order to do so, we will be holding public hearings in the spring of 2000 throughout Canada.

And finally, the third challenge for this committee will be to examine and identify the guiding principles on which Canada's public policy on drugs should be based. [1]

This chapter describes the various measures we took to ascertain the state of knowledge and public opinion on cannabis and to determine guiding principles. Chapter 3 presents our guiding principles in detail, while Parts II and III outline all the information we were able to gather. First, however, a few words on two working principles which we considered essential to the complete realization of this Committee's mandate.

Two working principles

In view of the formulation of our mandate, which included an obligation to provide Canadians with objective and rigorous information, we have emphasized rigour and openness throughout the entire process.

It was all the more imperative that we do our work in a rigorous manner since opinions on all sides of the illegal drugs issue are strong and often categorical. Like everyone else, we too had our opinions and preconceptions regarding illegal drugs when we began our work. How could it be otherwise? Like you, we have children. We have had friends and relatives whose lives have been ruined by addiction problems. Our study of the government bill (C-8), which afforded us the opportunity to hear from a certain number of stakeholders and experts, provided us with information, of course, but also revealed major gaps in our knowledge. It then seemed clear to us that opinions were often based on partial and at times

incorrect information. On what basis can it be said that cannabis leads to the use of other drugs? What is the empirical basis that supports the notion of cannabis dependence? What leeway does a nation have under the provisions of the international conventions governing the production, trafficking in and possession of illegal drugs?

One cannot assert both one thing and its opposite. However, on the subject of drugs, and specifically cannabis, such very assertions were made to us, and with conviction. How to determine who was right? And to tell opinions from facts?

These findings convinced us that the highest degree of rigour was necessary in the course of our work, as will be seen in the next section.

But rigour is not enough. For this information to reach Canadians, we could not reserve it for our exclusive use, hence the second principle that guided us: openness. From the outset, we insisted that all our work be made available as soon as possible on our Web site. There was nothing new in posting witnesses' testimony to a Web site, since this is common practice for most parliamentary committees. However, in addition to this testimony, we also posted a number of studies we had commissioned, many from the Parliamentary Research Branch of the Library of Parliament. These studies, which are often not made public until after a Committee's report is published, were made available to Canadians as they were completed.

Being legislators, we would of course like our work to have an impact on public policy. We also believe it important to provide Canadians with information that is as factual as possible to allow them to benefit from it.

State of knowledge

When the Commission of Inquiry into the Non-medical Use of Drugs conducted its work in the early 1970s, like most commissions of inquiry, it had a large staff and budgets enabling it to carry out a vast research program. That was all the more necessary since, at the time, no large pool of knowledge on illegal drugs existed. Virtually nothing was known about the active ingredients of cannabis or even about the pharmacological properties of more traditional drugs, such as heroin and cocaine, and little was known about user trajectories; criminological studies on the relationship between drugs and crime were virtually non-existent, and public policy impact studies were in their earliest stages.

To say the situation has completely changed would be an understatement. In all scientific disciplines, from molecular biology to anthropology, countless studies have been conducted over the past 25 years on illegal drugs in general, and cannabis in particular. They come from the United States, of course, but also from Australia, England, France, Switzerland, Italy, Germany, Sweden, Finland and Denmark to name only a few. They have been conducted by academics interested in these questions on a purely individual basis, by pharmacological laboratories and by research groups within organizations operating in the drug addiction field and in the context of scientific commissions appointed by the governments of various countries.

The Committee asked the Parliamentary Research Branch to prepare a survey of illegal drug

research under way or completed in the past five years at the federal level and in the provinces and territories.[2] That survey, which lays no claim to being exhaustive, but offers an overview of the extent and scope of recent research, clearly shows that, despite minuscule budgets compared to those allocated in the United States, research on illegal drugs is doing relatively well in Canada. We can only imagine that it would be a formidable task to survey the studies under way in the United States on the question of illegal drugs.

Ascertaining the state of knowledge on the subject thus first meant finding the means to prepare a rigorous synthesis. To that end, the Committee adopted a research program focusing on all aspects. However, as it lacked the financial resources to produce an extensive series of studies, and also wishing to ensure that the information was broadly transmitted to the public, the Committee designed a program of public hearings of expert witnesses who would likely be able to assist in more clearly determining the state of current knowledge on the subject.

The Committee approved a research program divided into five major axes of knowledge, sub-dividing each one into specific issues:

❖ *The socio-historical, geopolitical, anthropological, criminological and economic issues of the use and regulation of cannabis.* This axis of work will establish the context for a better understanding of modern practices in the production and use of cannabis. The main questions are:

- What are the key historical patterns in the production, use, consumption and circulation of cannabis?
- Is there a relationship between cannabis use and religious or cultural practices?
- What are the relationships between the production, use, consumption, and circulation of cannabis and the socio-demographic characteristics of populations? More specifically, what do we know about cannabis users?
- What are the key domestic and international drug routes and how are they related to national and international political and policy issues?
- What are the relationships between various drugs and how have current distinctions between licit and illicit drugs been created?
- What are the relationships between the production, use, consumption, circulation and regulation of drugs and criminality?
- What are the key economic issues in the production, use, consumption, circulation and regulation of cannabis?

❖ *The medical and pharmacological aspects of the consumption, use and regulation of cannabis.* The use of cannabis for medicinal purposes occupies an important place in current debates on regulatory systems governing it. The idea here is to produce state of the

art reviews on knowledge related to the physiological and psychological effects of various drugs. The key research questions are:

- How has cannabis been used for medicinal purposes?
- What is the state of knowledge on the therapeutic properties of cannabis?
- What is the state of knowledge on the physiological effects of cannabis, especially in respect of addictive capacity?
- What is the state of knowledge on the psychological effects of cannabis, especially in respect of dependence?
- What is the current state of knowledge on the effects of various forms of treatment for dependence and addiction problems, their impacts and their costs?

❖ *The legal aspects from a national perspective.* Federal legislative mechanisms exist in Canada to control the use, consumption, production and circulation of drugs, even though treatment and other areas, for example, are under the jurisdiction of the provinces and territories. Additionally, the courts have interpreted the relevant acts and regulations, particularly regarding policing powers. Overall, this section will examine the legislative and control arsenal, its rationality and objectives, from the standpoints of criminology, law, history, sociology and economics. The key questions guiding this third axis of the research program are:

- What are the history of and logic to the different regulatory and control modes of cannabis in Canada?
- What are the history and logic behind criminalization and penalization in Canada?
- What is the state of case law in respect of the legislative and regulatory arsenal relating to the production, use, consumption and circulation of drugs in Canada?
- What is the state of case law on police powers and sentences in relation to drug issues?
- What are the effects of criminalization and penalization in matters of drugs on the justice system (and its various components), the prison system and the criminal careers of delinquents?
- What are the economic and social costs of the various modes of regulation, control and criminalization in matters of drugs?
- What are the relations among justice and public health policies and government departments in matters of drugs?