

**SUBSTANCE ABUSE ISSUES AND PUBLIC POLICY IN CANADA:  
II. PARLIAMENTARY ACTION (1987-2005)**

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**13 April 2006**

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## **SUBSTANCE ABUSE ISSUES AND PUBLIC POLICY IN CANADA: II. PARLIAMENTARY ACTION (1987-2005)<sup>(1)</sup>**

### **INTRODUCTION**

The use and abuse of psychoactive substances is an issue of concern to many Canadians, including parliamentarians and legislators, who have taken various actions to address the health, social and economic consequences of drug abuse and drug trade in Canada.

This brief paper will outline key parliamentary actions undertaken since the creation of Canada's first drug strategy in 1987. The focus is on committee activities and government legislation rather than on numerous private Members' bills and initiatives.

#### **A. *Booze, Pills and Dope: Reducing Substance Abuse in Canada:* Report of the House of Commons Standing Committee on National Health and Welfare**

In 1987, the same year that the Government of Canada launched its National Drug Strategy (which became Canada's Drug Strategy in 1992), the House of Commons Standing Committee on National Health and Welfare completed its study of alcohol and drug abuse in Canada and tabled a report entitled *Booze, Pills and Dope: Reducing Substance Abuse in Canada*.<sup>(2)</sup> The Committee made numerous recommendations to increase prevention activities, treatment and rehabilitation services and substance abuse programs for Aboriginal peoples. It also made several recommendations aimed at reducing and preventing alcohol abuse and

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(1) This document is the second in a series entitled *Substance Abuse Issues and Public Policy in Canada* by the same author. The others are: *I. Canada's Federal Drug Strategy*, PRB 06-15E; *III. What, When, Who and Why?*, PRB 06-11E; *IV. Prevalence of Use and Its Consequences*, PRB 06-19E; and *V. Alcohol and Related Harms*, PRB 06-20E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2006.

(2) House of Commons Standing Committee on National Health and Welfare, *Booze, Pills and Dope: Reducing Substance Abuse in Canada, Report of the Standing Committee on National Health and Welfare on Alcohol and Drug Abuse*, October 1987.

impaired driving, and at addressing substance use in the workplace. Indicating that a complete statistical picture of substance abuse in Canada did not exist, the Committee recognized the need for additional research on substance abuse and recommended the development of a national substance abuse database. The Committee also recommended the creation of a national centre on substance abuse with a governing body that would be composed of representatives of the federal and provincial governments, the private sector, and labour and volunteer organizations.

In response to the Committee's report and to a similar proposal from the Task Force on the National Focus, which produced its report a few months later, an Act of Parliament created the Canadian Centre on Substance Abuse (CCSA) in 1988 as an independent national organization to be funded by the National Drug Strategy. The Centre was to provide a national focus for the implementation of the strategy. To this day, the CCSA promotes and supports cooperation among all parties interested in substance use and abuse, contributes to the dissemination of information and knowledge related to these issues, promotes the development of effective policies and programs, increases Canadians' awareness, and contributes overall to a more informed debate on problematic substance use in Canada. Its efforts over the last decade have resulted in the creation of important research and knowledge networks and services such as the Canadian Community Epidemiology Network on Drug Use, the Health, Education and Enforcement Partnership Network, and the Canadian Executive Council on Addictions. The CCSA is the lead national agency on problematic substance use in Canada and continues to play an increasing role under Canada's Drug Strategy, which was renewed in May 2003.

### ***B. Controlled Drugs and Substances Act***

In 1992-1993, the House of Commons Legislative Committee studied Bill C-85, the Psychoactive Substance Control Act, and reported it back with amendments. Bill C-85 died on the *Order Paper* when the federal election was called, but it was reintroduced in February 1994 as Bill C-7, the Controlled Drugs and Substances Act. It was eventually amended and studied by the Senate but, like its predecessor, it died on the *Order Paper* when Parliament prorogued in February 1996.<sup>(3)</sup> After prorogation, Bill C-8, an identical Act to the amended version of Bill C-7, was introduced in March 1996 and was deemed to have passed all legislative

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(3) It should be noted that pursuant to a recommendation of the committee that had studied Bill C-7 on controlled drugs and substances, the House of Commons Standing Committee on Health reviewed Canada's drug policy in 1997. The Committee heard from witnesses about the prevalence, effects and associated costs of alcohol, tobacco, prescription drugs, cannabis, cocaine, and opiates, but did not prepare a report prior to the 1997 election.

stages in the House of Commons. Shortly thereafter, the Standing Senate Committee on Legal and Constitutional Affairs resumed its study of Bill C-8, the Controlled Drugs and Substances Act (CDSA), which finally received Royal Assent on 20 June 1996. The CDSA came into force in 1997 and repealed Parts III and IV of the *Food and Drugs Act* and all of the *Narcotic Control Act*. It provides the framework for the control, import, production, export, distribution, and possession of psychoactive substances in Canada.

**C. *Cannabis: Our Position for a Canadian Public Policy:*  
Senate Special Committee on Illegal Drugs**

In 1999, Senator Pierre Claude Nolin tabled a motion that a Senate committee be struck and given the mandate to study the legislation, policies and programs related to illicit drugs in Canada. The motion was passed in April 2000 but the committee was dissolved due to the October 2000 election. The Senate Special Committee on Illegal Drugs was reconvened in March 2001 with a mandate to examine Canada's approach to cannabis and its derivatives, official policies of foreign countries, and Canada's international role and obligations under United Nations agreements and conventions on narcotics, the Universal Declaration of Human Rights and other related treaties.

Chaired by Senator Nolin, the Senate Special Committee on Illegal Drugs conducted an exhaustive study of public policies related to marihuana. Over a two-year period, Committee members heard many experts from Canada and other countries, as well as commissioning research reports that collected and analyzed existing knowledge from many disciplines, including pharmacology, law, criminology, medicine, and psychology. The Committee produced a discussion paper highlighting its key findings and held public hearings across Canada to give Canadians an opportunity to voice their opinions and share their knowledge. On 4 September 2002, the Committee released its lengthy report, *Cannabis: Our Position for a Canadian Public Policy*. The report concluded that cannabis should not be treated as a criminal issue but as a social and public health issue, and that the drug should be legalized. Proceedings, testimony, research, general information and the Special Committee's report can be found on the Committee's Web site.

**D. *Policy for the New Millennium: Working Together to Redefine Canada's Drug Strategy*: House of Commons Special Committee on Non-Medical Use of Drugs**

In May 2001, a special committee of the House of Commons was struck with a much broader mandate to study “the factors underlying or relating to the non-medical use of drugs in Canada” and to bring forward recommendations aimed at reducing “the dimensions of the problem involved in such use.” In April 2002, the mandate of the Special Committee on Non-Medical Use of Drugs was expanded with the addition of the subject matter of a private Member’s bill, Bill C-344, An Act to amend the Contraventions Act and the Controlled Drugs and Substances Act [marihuana]. That bill proposed making possession, possession for the purposes of trafficking, and trafficking in small amounts of cannabis, “ticketable” (i.e., not criminal) offences.

Members of the Committee heard evidence from more than 200 individuals across Canada, including researchers, policy experts, academics, treatment providers, and other interested parties. They travelled across Canada to visit treatment facilities and low-threshold services and to hear from people who directly experience the consequences of substance abuse. They also travelled to the United States and Europe to discuss drug policies with addictions experts, researchers, politicians, law enforcement agents, and senior government officials, and to experience first-hand the impact of some of those countries’ more innovative policies.

The Special Committee on Non-Medical Use of Drugs tabled its final report, *Policy for the New Millennium: Working Together to Redefine Canada's Drug Strategy*, in December 2002. Together with the report of the Senate Special Committee on Illegal Drugs, these reports represent the most comprehensive policy response to the legal, social and health implications of the non-medical use of drugs since the Le Dain report in 1973.<sup>(4)</sup> The Special Committee on Non-Medical Use of Drugs set out a plan for developing a renewed federal drug strategy and made 41 recommendations concerning Canada’s Drug Strategy, research and knowledge, public health, public safety, and cannabis reform.

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(4) Le Dain Commission of Inquiry into the Non-medical Use of Drugs, *Final Report of the Commission of Inquiry into the Non-medical Use of Drugs*, Information Canada, Ottawa, 1973.

**E. Bill C-38, An Act to amend the Contraventions Act  
and the Controlled Drugs and Substances Act**

In October 2003, the Special Committee on Non-Medical Use of Drugs was asked to consider Bill C-38, An Act to amend the Contraventions Act and the Controlled Drugs and Substances Act. This bill was read for the first time in the House of Commons in May 2003. It proposed legislative reforms that would decriminalize possession of small amounts of cannabis and allow possession to be designated as a contravention under the *Contraventions Act*, while imposing tougher penalties on marihuana grow operators. The bill was introduced following commitments made in the September 2002 Speech from the Throne and in response to the two special parliamentary committees, from the House of Commons and the Senate, which called for reforms of criminal laws regulating the possession and production of marihuana in Canada.

The Special Committee reported Bill C-38 with amendments on 5 November 2003, but the bill died on the *Order Paper* with the prorogation of Parliament on 12 November 2003. It was reintroduced in February 2004 as Bill C-10 in the same form as Bill C-38 and as amended by the Special Committee on Non-Medical Use of Drugs (Bill C-38).<sup>(5)</sup> Among other reforms, Bill C-10 proposed that anyone caught with up to 15 grams of cannabis could be prosecuted by means of a summons or a contravention, and not be subject to criminal proceedings and a criminal record. Fines would range from \$100 to \$400; anyone caught with more than 15 grams could receive harsher penalties if prosecuted by summary conviction.

The bill also proposed to make a distinction between large-scale production of cannabis and production for personal use. Producing cannabis from not more than three plants was to be an offence punishable on summary conviction and liable to a fine of not more than \$500 or, in the case of a young person (aged 12 to 18), \$250. The change was intended to dissuade marihuana-users from buying from criminal organizations. Tougher penalties were included for those running marihuana grow operations. For example, anyone found guilty of the production of more than 50 marihuana plants could face up to 14 years' imprisonment.

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(5) For example, one of the significant amendments made by the Special Committee was a reduction in the punishment for the offence of production of not more than three marihuana plants. The original punishment for this offence in Bill C-38 was a fine of \$5,000 or one year's imprisonment, or both, but it was reduced to a maximum fine of \$500 if designated as a contravention under Bill C-10.



Bill C-10, like its predecessor, died on the *Order Paper* with the dissolution of Parliament in May 2004. Its substance, without change, was reintroduced as Bill C-17 and referred to the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness in November 2004. It too died on the *Order Paper*, having not yet been studied by the time Parliament was again dissolved in November 2005.<sup>(6)</sup> On 23 January 2006, a new government was elected.

Prime Minister Stephen Harper outlined his government's plans to fight crime in a speech delivered at the Executive Board Meeting and Legislative Conference of the Canadian Professional Police Association on 3 April 2006. Among other things, the Prime Minister indicated that his government would not reintroduce the marihuana decriminalization legislation and that it would propose changes to the *Criminal Code* to ensure that mandatory minimum prison sentences and large fines are imposed on marihuana grow operators and drug dealers.<sup>(7)</sup>

## **F. Impaired Driving**

Following recommendations from parliamentary committees<sup>(8)</sup> to strengthen the law regarding drug-impaired driving, the government introduced Bill C-32 on 26 April 2004. The bill was referred to a committee on 3 May 2004 but died on the *Order Paper* with the dissolution of Parliament on 23 May 2004.

Driving while impaired by alcohol or drugs is prohibited under Canadian criminal law. Offences include: driving with a blood alcohol concentration (BAC) in excess of 80 mg/100 ml of blood; impaired operation of a motor vehicle, boat or aircraft causing bodily harm or death; and failing to provide a breath and/or blood sample when requested by a police officer. If convicted, impaired drivers face various penalties, ranging from a mandatory minimum driving prohibition period and a fine, to a jail term of up to life imprisonment, depending on the seriousness of the offence and whether the person convicted of it is a repeat offender.

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(6) For more information on marihuana law reform, see Wade Raaflaub, *Marijuana (Cannabis) Law Reform*, TIPS-108E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 30 September 2005, <http://lpintrabp.parl.gc.ca/apps/tips/printable/tip108-e.pdf>.

(7) The Right Honourable Stephen Harper, "Federal Government Plans to Fight Crime," 3 April 2006, <http://www.pm.gc.ca/eng/media.asp?id=1088>.

(8) The parliamentary committees include: the House of Commons Special Committee on Non-Medical Use of Drugs (Bill C-38), which tabled its report in November 2003; the Senate Special Committee on Illegal Drugs (2002); and the House of Commons Standing Committee on Justice and Human Rights (1999).

Bill C-32 was reintroduced in the House of Commons on 1 November 2004 as Bill C-16. The proposed amendments would have expanded drug enforcement capabilities by giving police the authority to demand physical sobriety tests and bodily fluid samples for impaired driving investigations. Such tests would have looked for impairment by illegal, over-the-counter, and prescription drugs. As a first step, police officers would have been authorized to administer physical sobriety evaluations at the roadside if the officer had a reasonable suspicion that the driver has a drug in his or her body. Upon failure of those tests, the officer would then have had reasonable grounds to believe that a drug-impaired driving offence had been committed, and could have escorted the driver to a police station for administration of a Drug Recognition Expert (DRE) evaluation involving a combination of interviews and physical observations. If the DRE officer had identified that a specific family of drugs was causing impairment, Bill C-16 would have allowed officers to take a saliva, urine, or blood sample. Charges would not have been laid without confirmation of preliminary DRE results through a toxicology report, but the results of such tests could then have been used as evidence in drug-impaired driving prosecutions. A driver's refusal to comply with an officer's request for a physical sobriety or bodily fluid sample test would have constituted a criminal offence punishable under the same provisions that are currently applicable for refusing to perform an alcohol breath or blood test. At committee stage, an amendment was added to Bill C-16, creating a new offence of driving while in possession of a drug. However, like its predecessor, Bill C-16 died on the *Order Paper* in November 2005.<sup>(9)</sup>

## CONCLUSION

Over the last two decades, Parliament has attempted both through legislative proposals and through committee studies to tackle problems related to the use and abuse of psychoactive substances in Canada. A wide range of recommendations have been made.

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(9) For more information on impaired driving, see Douglas J. Bierness, *The Risks Associated with Drugs in Traffic*, Traffic Injury Research Foundation, <http://www.issuesofsubstance.ca/NR/rdoonlyres/A158D117-F276-4952-8397-CFB1C919DB98/0/BriefPaperEN5DouglasBierness.pdf>. See also Reginald G. Smart, Jennifer Butters and Robert Mann, *Illicit Drug Use and Problem Drinking Among Frequent Road Ragers*, Centre for Addiction and Mental Health, Toronto, <http://www.issuesofsubstance.ca/NR/rdoonlyres/6AA8E1E5-8DA9-4D58-A115-3406558088D1/0/BriefPaperTXA3ReginaldSmart.pdf>.

Some reflected a difficult consensus; some took opposing views on how best to address the complexity of issues raised by substance use and abuse and the drug trade. In the Speech from the Throne of 5 April 2006, the present government made a commitment to a crack down on gun, gang, and drug crime. Early reports suggest that besides mandatory minimum prison sentences for drug traffickers and large fines for marihuana grow operators, the government plans to end conditional sentences for serious crimes, to replace statutory release with earned parole, and to introduce a national drug strategy, including an awareness campaign to prevent young people from getting hooked on drugs in the first place.<sup>(10)</sup> It can be predicted that, as is fitting in a parliamentary government, all these issues will be vigorously debated during the 39<sup>th</sup> Parliament of Canada.

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(10) Harper (2006).