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CANNABIS BILL

**BILL TO AMEND—THIRD READING—
DEBATE CONTINUED**

Speech by:

The Honourable Patricia Bovey

Monday, June 4, 2018

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BILL TO AMEND—THIRD READING— DEBATE CONTINUED

Hon. Patricia Bovey: Honourable senators, I rise today to speak to third reading of Bill C-45, the cannabis act, in regard to Canada's international obligations. I commend the chair, the deputy chair and members of the committee for the comprehensive study done under strict timelines. I thank the clerk and researchers who put in many extra hours as well.

Three International Drug Control Conventions in particular relate to Bill C-45: The 1961 Single Convention on Narcotic Drugs as amended by the 1972 protocol, the 1971 Convention on Psychotropic Substances and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

We heard from the Minister of Foreign Affairs, officials from Global Affairs Canada, from the Canada Border Services Agency, academics and NGOs and received written submissions from UNICEF Canada, the International Narcotics Control Board and the Canadian Bar Association. To be clear, with no uncertainty, we were made aware by all that passing Bill C-45 would cause Canada to be in violation of the three international drug conventions. There is no equivocation regarding that. We also heard of potential damage to Canada's international reputation and the need for Canada to support international law as an example to other countries. All very serious implications.

The committee heard what implications of being in violation might be and how that might be dealt with: sanctions, negotiation, mediation, consultation or remedial measures. If brought to the attention of the UN General Assembly or the International Narcotics Control Board, an embargo on trade and drugs and medicines may be recommended.

However, the committee also heard testimony regarding the experiences of countries that have gone down this path before. We heard of the Netherlands' and Portugal's decriminalization of cannabis in 1976 and 2001 respectively. No sanctions came as a result of that. Spain's limited decriminalization in 2001 also drew no sanctions. Uruguay legalized non-medical marijuana for use in 2013 yet remains a signatory to the conventions. Bolivia withdrew from the 1961 Single Convention and received a reservation for traditional use of coca leaf and was re-acceded to the treaty.

The inter se option was also discussed. Article 41 of the Vienna Convention on the law of treaties allows for the negotiating of a side deal amongst like-minded signatories to the three drug conventions. While an uncommon procedure, it could be a viable option for countries moving to create an updated regime within their own jurisdictions regarding cannabis.

Also put forth was a non-compliance principle by which a state admits to being in contravention yet remains active on the international stage. This was described by one witness, Steve Rolles from Transform U.K., as:

... moving into a temporary period of technical non-compliance with certain articles of the treaties, whilst — in parallel — proactively seeking to reform and modernize the outdated and malfunctioning drug control framework, would seem to be far more respectful of the treaty system than abandoning the system altogether, propping up a failing system with compromise reforms, or hiding behind dubious legal arguments.

Colleagues, our neighbours to the south find themselves in the situation today where 29 states have some form of legalized cannabis. Nine states and Washington, D.C., have legalized recreational use of cannabis. That is roughly 190 million people, or slightly more than six times Canada's population, with legal access to some form of cannabis.

There are 15 bills now before Congress dealing with access or respecting a state's right to legalize cannabis or allowing for taxation of cannabis.

I think we have to understand that Canada is not alone as society changes. As the minister said, "... it is ... our government's view that our approach is consistent with the overarching goal of these conventions, namely, to protect the health and welfare of society."

Several Social Affairs Committee recommendations have been included in the Bill C-45 report. First, that the Government of Canada engage with the relevant U.S. federal authorities to adopt a common understanding among Canadians and Americans of the changes in Canadian domestic policy, of the consequences of these changes, and of the different approaches undertaken by the two states regarding the legalization of cannabis.

Regarding the Canada Border Services Agency, no changes are foreseen. It is illegal now to take cannabis across the border; it will be illegal post Bill C-45.

CBSA officials testified that bill 45 "... maintains the existing control framework associated with the prohibition of the cross-border movement of cannabis ..."

Second, the Government of Canada should take such action that mitigates Canada's violation of the three drug control treaties, and that should be communicated in a clear and transparent manner to Canadians, Parliament and the international community.

The Minister of Foreign Affairs said there is no indication of the change in Canada-U.S. relations regarding the passage of Bill C-45. She noted that consultations have been held with the

G7 partners as well as Austria, New Zealand, Mexico, the Netherlands, Sweden, Ireland, Finland, Israel and Portugal, and assured the committee that “. . . our international partners agree with us, with Canada’s approach to staying within the framework of the conventions.”

Third, the government examined Part 1, Division 1, clause 8 of Bill C-45 by which Canadian youth are criminalized for behaviour that is legal for adults.

Fourth, the Minister of Foreign Affairs reported back to the Standing Senate Committee on Foreign Affairs and International

Trade their actions taken regarding Canada’s compliance with the international conventions impacted by Bill C-45.

Minister Freeland added the goal is to work with “. . . international partners to prevent international drug trafficking, while also mitigating the consequences of substance abuse.” And is “. . . designed to prevent young people from having ready access to cannabis and to prevent organized crime from continuing to profit from its illegal market.”

Therefore, colleagues, I support Bill C-45 and the international actions recommended in the report.
