



The Supreme Court of Canada rules that Quebec’s ban on possessing and cultivating cannabis plants for personal purposes is constitutional.

In 2018, the federal government enacted a law about cannabis, which says people cannot possess or cultivate more than four cannabis plants at home. Provinces and territories then enacted their own laws to regulate practical matters, such as how cannabis can be sold and stored. In Quebec, the *Cannabis Regulation Act* prohibits the possession and cultivation of cannabis plants for personal purposes. If caught breaking this law, people can be fined between \$250 and \$750.

Soon thereafter, Mr. Murray-Hall brought a case to Quebec’s Superior Court on his own behalf and on behalf of everyone in that province who might be fined for possessing or cultivating cannabis plants. He argued that the Quebec government does not have the power to ban cannabis plants. He said that only the federal government has that power as a matter of criminal law, which is within federal jurisdiction under section 91(27) of Canada’s Constitution. Alternatively, Mr. Murray-Hall argued that the Quebec ban should be declared of no force or effect because the federal law should prevail over the provincial law.

The judge agreed and declared the Quebec ban unconstitutional. The Attorney General of Quebec appealed that decision on behalf of the province.

The Quebec Court of Appeal disagreed and ruled that the ban is constitutional because it pertains to matters of provincial jurisdiction under two other sections of the Constitution: section 92(13), which allows provinces to make laws related to property and civil rights; and section 92(16), which permits them to make laws of a local or private nature within a province. That outcome meant Quebecers could not possess or cultivate cannabis plants. Mr. Murray-Hall appealed the decision to the Supreme Court.

The Supreme Court has dismissed the appeal.

In pursuing public health and security objectives, the Quebec legislature has jurisdiction to prohibit the possession and cultivation of cannabis for personal purposes.

Writing for a unanimous Court, Chief Justice Wagner found that the pith and substance of the challenged provisions of the provincial law is to ensure the effectiveness of the state monopoly over cannabis in order to protect the health and security of the public, and of young persons in particular, from cannabis harm. Banning the possession of cannabis plants and their cultivation at home is a means of achieving the provincial law’s public health and security objectives. According to the Chief Justice, the prohibitions act as incentives for the integration of consumers into the legal cannabis market that ensures “control of the quality of the products offered, education on the risks of cannabis consumption and compliance with rules on the minimum age for purchasing cannabis”, among other things. Such provincial legislative action in the field of public health comes within the provinces’ jurisdiction over property and civil rights and residual jurisdiction over matters of a merely local or private nature.

The Chief Justice also determined that the challenged provisions of the provincial law do not frustrate the purpose of the federal law. Contrary to Mr. Murray-Hall’s argument that the purpose of the federal law is to confer a positive right to possess or cultivate a maximum of four cannabis plants in order to eliminate or reduce the illicit cannabis market, the Chief Justice stated that the purpose of the federal law is rather to reduce the presence of criminal organizations in the cannabis market while at the same time excluding the possession and cultivation of a maximum of four cannabis plants from the scope of the criminal offences in that law. Although the provincial law prohibits any possession or cultivation of cannabis plants, the same objective guided both levels of government.

For these reasons, the Chief Justice concluded that the provisions of the provincial law banning the possession and cultivation of cannabis plants in Quebec are valid and operative under Canada’s Constitution.

Breakdown of the decision: *Unanimous*: Chief Justice [Wagner](#) dismissed the appeal (Justices [Karakatsanis](#), [Côté](#), [Rowe](#), [Martin](#), [Kasirer](#), [Jamal](#) and [O'Bonsawin](#) agreed)

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Lower court rulings: [Decision](#) (Quebec Superior Court) | [Appeal](#) (Quebec Court of Appeal – in French only)
