

**"FREE THE WEED"  
INTERVIEW WITH RUSSELL BENNETT,  
CANNABIS LAWYER IN CANADA**

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The passion for fair and equitable access to cannabis for adult use and medicinal purposes drives advocates and community members to push for cannabis legalization and decriminalization around the world. In 2021, Canada and five other countries (Uruguay, Georgia, Jamaica, South Africa and Guam) have 100 per cent legal adult-use of cannabis. Over thirty other countries have some form of cannabis legalization or decriminalization, including Argentina, Paraguay, Ecuador, Chile, Colombia, Mexico, Australia, Peru, Belize, Costa Rica, Switzerland, Israel, Austria, Czech Republic, Belgium, St. Kitts and Nevis, Bermuda, Antigua and Barbuda, Malta, Estonia, Slovenia, Moldova, Luxembourg, the Netherlands, Portugal, Spain, Italy, Germany and the United States (World Population Review, 2021). Russell Bennett, filmmaker, podcaster and lawyer-turned-actor-turned-lawyer in Canada, with expertise in cannabis regulations, stands out among global cannabis advocates for his arts-based approach to normalizing and destigmatizing cannabis.

Russell entered the cannabis field in 1997, when he produced and co-directed the 48-minute documentary *Stoned: Hemp Nation on Trial*, which was broadcast nationally across Canada on CBC News World in 1998. Russell's co-director was Sarah Jane Flynn, and his cinematographer was Jeremy Benning. In the film, the trio documents the story of Chris Clay, who was the owner of Canada's first hemp store, Hemp Nation, and who was arrested twice and put on trial for selling cannabis seeds and cannabis plant cuttings. The documentary features interviews with cannabis users, the then Federal Minister of Health, lawyers and expert witnesses in the

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168 legal case that focused on a constitutional challenge to cannabis laws in Canada. The cover of the *Stoned* videocassette showcases a reproduction of a painting by artist and photographer Paolo Santo ([www.runningleappictures.com](http://www.runningleappictures.com)) of a large cannabis leaf juxtaposed over a profile of Lady Justice, who is blindfolded and holding a set of scales with one hand (Box 1). The image reveals two reoccurring themes in Russell's creative approach to cannabis in the past two decades: the intrinsic beauty of cannabis as a creative resource for people to use for consumption and educational purposes, and the virtue of justice and the weighing of evidence as moral forces in judicial systems.

In his play *The Reefer Man* (2004), Russell performed the one man show about a young bankruptcy lawyer who is passionate about cannabis, growing it and "freeing the weed" from legal constraints (Babiak, 2004). The play was co-written by Russell and Gillian Bennett (Russell and Gillian got married three years after they wrote the play). The solo performance included Charlie Kovacs and over two dozen other characters who talk back and forth in a series of cannabis-related adventures and relationships (Larsen, 2004). The play was part biographical and featured Russell's real-life experiences related to his relationship with his father's job as a bankruptcy lawyer, Jewish heritage, and desire to legalize cannabis (Birnie, 2004). Audience members learned about the racial injustices of drug prohibition and Canada's anti-drug laws (Larsen, 2004). While the play received praise from reviewers and received top Fringe Festival recognition, *The Reefer Man* also received an enthusiastic response from audience members at the final performance in Vancouver, Canada, who tossed cannabis buds and joints onto the stage at the end of the performance. The playful reaction from the audience was consistent with the subtitle of *The Reefer Man*, which read *A Criminal Comedy*, as well as the tagline on the play's two-page flyer, "Late-Comers Will Be Rolled and Smoked!" Russell's use of the stage to promote cannabis knowledge and build community stands as an example for others interested in cannabis as a platform for theater performance and story sharing among diverse audiences and performers.

## Russell Bennett's Approach to Cannabis



The front cover of Russell Bennett's 1998 documentary *Stoned: Hemp Nation on Trial* (left), features a cannabis leaf juxtaposed over a profile of Lady Justice. The image helps to destigmatize cannabis through its association with the cannabis plant and virtues of justice and the weighing of evidence, which are part of the subtext of Russell Bennett's legal and creative approach to cannabis. Russell wears a barrister robe required for lawyers in Canada and holds a cannabis plant, running out of the courthouse in Vancouver, Canada (right). The photograph was a companion image for Russell's 2004 play *The Reefer Man, a Criminal Comedy*. In rescuing the plant from the court, Russell makes the claim that cannabis legalization is morally and legally just. The image juxtaposes the natural beauty of the cannabis plant, the judiciary as a site where cannabis legalization battles are played out, and a touch of physical comedy to disarm and engage the viewer.

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In 2023, Russell spends his time as a cannabis lawyer, educator and podcaster. He uses his skills to navigate Canada's legal system to support businesspeople and entrepreneurs who want to enter the legal cannabis system or who want to remain free from the restrictions of cannabis rules and regulations. An excerpt from the bio for his co-authored book *Canada's Cannabis Act* (Bennett and Young, 2021) illustrates the range of his activities as a cannabis lawyer: "Services include federal and retail licensing applications, defence of regulatory offences, employee issues, intellectual property, land use planning, asset protection and partner/shareholder issues. [His firm] Cannabis Law also challenges questionable cannabis laws under the Constitution of Canada".

To reach broader audiences, Russell hosts the podcast "Cannabis Law in Canada" (<https://cannabislaw.ca/pages/russell-bennett-podcast>). Established in 2020, the podcast has nineteen episodes and features guests with expertise in cannabis industry issues including law, litigation, policy and cultivation. Through long-form podcast interviews with guests, Russell helps to demystify cannabis-related rules and regulations and offer insights into the rapidly changing laws that impact industry stakeholders and community members. Our conversation in March 2021 explores Russell's educational and creative activities that contributed to and continue to impact the global momentum to legalize and liberate the cannabis plant.



Cannabis Lawyer Russell Bennett



## The Interview

**Marty:** Tell us how you became a cannabis lawyer and what an ordinary day is like for you?

**Russell:** I never imagined that I would ever be a cannabis lawyer. When it became clear to me after the birth of our first child that I had to abandon my theatrical and filmmaking career in favor of being a dad, falling back on my law degree and license seemed like the best option. When I went into law school, I didn't think like most students, "What am I going to practice?" I kept thinking, "How am I going to turn these crazy cases into films?"

The areas of criminal and corporate law, which are what cannabis lawyers typically do, didn't appeal to me. My dad is a bankruptcy lawyer, so I started working with him for a few years. While I learned a lot, I realized that we are like oil and water. So I began working with another lawyer doing fraud recovery law, and this really wasn't for me either, except for a case defending a chain of pre-legalization cannabis retail dispensaries that were busted under Toronto

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172 zoning laws. I mounted a constitutional challenge and realized that cannabis law resonates with me. It's sticking up for the underdog. And the whole idea of sticking up for the underdog really appeals to me and has appealed to me from day one. My cannabis clients include small businesspeople, entrepreneurs who are either in the licensed industry or who are trying to stay out of the legal cannabis industry.

For example, I represented a young couple who created an educational lounge to have medical cannabis consumers be able to consume their medicine outside of their home. The local police said "No" and raided their lounge and farmers' market. I defended them against the charges. I represent nowadays a retailer who wants to sell CBD products that were created from hemp stalk, and so apparently fall outside of the law. I represent several licensed cannabis retailers and producers and processors, helping them with compliance issues and corporate issues. And now I'm writing legal opinions for small companies that want to be listed on the stock exchange and defending personal medical cannabis growers from municipalities.

**Marty:** Share a memory about working a case or with a client that contributed to people rethinking cannabis prohibition and the harmful effects of cannabis.

**Russell:** One of my cases involves rewriting the dominant narrative. A businessman, who is Black and from the Caribbean, believes that cannabis should be grown just like any other plant. It's like any other flower. It just happens to have medicinal qualities. He thinks, why he should be limited to selling only products that are licensed through a regulated market? Why can't he sell products from growers who don't want to get a license? His growers produce incredible products without heavy use of pesticides, and they are lab-tested. He's got customers in lines around the block and a membership of fifty thousand people. He's a perfect example of a man who's challenging the system. But the system is not ready for this guy. The system is going to try to crush him.

Another example involves a lesbian couple made up of two freedom fighters. They are in their early twenties. One is a medicinal user for all kinds of ailments. She found that she couldn't

consume cannabis in her house, so she created a lounge out of necessity. She is trying to break this stigma. She is the kind of person who visits a police station, educates officers about cannabis and the ways that people consume cannabis produces. She's trying to break and shatter myths about cannabis use.

**Marty:** One of your recent accomplishments is as a podcaster. Tell us about why you decided to start in that and about one of your favorite episodes.

**Russell:** Isn't it wonderful through a podcast interview to meet and explore stories from other people? I love stories and I love other people telling stories of their own experiences. There are many rich stories out there and I decided to start a podcast focused on cannabis law in Canada. I've only recorded three episodes. The pandemic put me behind schedule.<sup>1</sup>

The first podcast I hosted was with Professor Emeritus Alan Young in the Osgoode Hall Law School in Toronto. He wrote the book *Justice Defiled: Perverts, Potheads, Serial Killers & Lawyers* (Young, 2003). Professor Young has been one of the seminal lawyers in Canada to challenge what he calls our consensual crimes —prostitution, consumption of drugs, gambling activities—, that are an individual's choice and not hurting anyone else. A consensual crime is not like a crime of assault or hurting someone else. These are crimes that just don't make any sense. It's simply government trying to control people's behavior. Alan's life work has been to defend these kinds of cases against the state. In the podcast interview, we go into the history of the cannabis prohibition in Canada, and how and why we achieved legalization.

**Marty:** In the 1990s you produced the documentary *Stoned: Hemp Nation on Trial* (1998). In the film you interviewed the Honourable Justice John P. McCart. Tell us more about the interview and its significance.

<sup>1</sup> Since this interview, Russell has released another sixteen podcast episodes of *Cannabis Law in Canada*; see <<https://cannabislaw.ca/pages/russell-bennett-podcast>>.

174 **Russell:** *Stoned* tells the story of Chris Clay and his store, Hemp Nation. Chris fought against his charges for selling cannabis in London, Ontario, for which he faced four life sentences. In the opening moments of the film, Justice McCart is heard on voiceover, announcing his decision in court about the case against Chris. The judge actually read his decision in open court, which was very unusual, and months after the case was over, I interviewed him and he re-read his opening statement for me. It was such a rare honor and privilege because judges are not allowed to give interviews. But he decided he was going to break the rules and allow me in there because I think it was one of his last cases, and so groundbreaking. His decision in 1997 set legalization in motion in Canada. We're talking about a judge who's seventy something years old, who writes a list of why marijuana is ok. No court had ever done this, dispelling the myths about marijuana, accepting a long list of experts' testimonies. This was in writing, in a court case that you couldn't dispute. The judge stated the reasons why cannabis is not criminogenic. Cannabis use does not cause more crime. It does not fry your brain as the classic commercial said it did. Cannabis is not a gateway drug, and it does not make you want to smoke opium or crack. It does not make you use heroin or other drugs. Yes, cannabis has some challenges. If you're schizophrenic, it can induce an episode. It's not great for all kinds of people to use and it causes some lung impairment if you are smoking a joint. But cannabis is not the dangerous drug that we all thought it was, and that 1997 judgment started the ball rolling because of the work of Professor Alan Young, who represented Chris, and who brought in all the expert witnesses from across North America to testify about the scientific evidence available at that time regarding the minimal impairment of cannabis use.

**Marty:** A number of years after the film you wrote and performed *Reefer Man*, a seventy-five-minute solo multi-character play. Tell us about *Reefer Man*.

**Russell:** The play came out of my aggravation, annoyance and discontent for the government not yet legalizing cannabis. My film *Stoned* gave me a national spotlight and I wanted to keep the

discussion going about cannabis legalization. I just decided to make and star in a play. And I wanted to tour this show across the country. I moved to Vancouver because it was known as the capital of BC Bud, where growers had been cultivating high quality weed underground for decades (and sometimes literally under the ground —there was a high-profile case of a group of growers using truck trailers buried in the ground). My goal was to research growers' lives so I could tell the story of a grower who is passionate about weed, who knows everything about it, and who loves the plant. The main character also happened to be a lawyer working in his dad's bankruptcy law firm during the day. Around this time, I applied to the Canadian Fringe Festival Tours Lottery and, unbelievably, won, which allowed me to do ten performances in each of eight cities across Canada.

A bit of backstory: two years earlier, I graduated from the Neighborhood Playhouse School of the Theater in New York City. I wanted to make sure that I wasn't going to just be some ham actor. I wanted to make sure that I was a damn good actor. I had met Gillian as a fellow student at the Neighborhood Playhouse, but we were not really friendly back then. When I came back to Toronto, I studied acting for two more years with the great acting teacher Jacqueline McClintock and met Gillian again —but we were dating other people. Then, during the research phase of writing the play in Vancouver, I started an acting workshop to teach the Sanford Meisner technique that I learned in New York. I reconnected with Gillian, who had also moved from Toronto, and we co-taught at the acting workshop, which I called "Foundation". That's when I pitched her the idea for *The Reefer Man*.

The theme of the play is freedom, and its structure is a loop, with two songs that bookend the performance. In the opening scene, while Cab Calloway's song "Reefer Man" plays, my character, Charlie Kovacs, is dressed in black court robes running back and forth across the stage, running away from someone. The tone is set from the first moment that you're going to see some physical comedy. Eventually Charlie comes center stage and bellows "I love pot! Is that wrong?" As Charlie tells his story, we learn that he is a young lawyer running from the courthouse

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176 because he's been arrested and is framed as a criminal for growing and selling cannabis and managed to escape. This theater is where he just happened to see an open door, where he ran in to be safe, and now can tell his story.

The play is also a coming-out story, ending with Charlie, who has gone through the trials and tribulations of this court case and the family issues and wrestling with the demons of loving this illegal cannabis flower and yet needing to be a grower, who realizes that he is "The Reefer Man". Nina Simone's song "I wish I knew how it would feel to be free" plays thematically in the background. At the very end, Charlie rips open his white court shirt to reveal a t-shirt with an insignia of a man with a pot leaf as a head and declares himself to be The Reefer Man. Charlie tosses pot seeds into the audience, like a Weed Johnny Appleseed, encouraging people to plant pot seeds everywhere to "overgrow the government!"

The first performance was in Hamilton, Ontario, where I played to an audience of four people: two volunteers and two uniformed police officers, who likely came to ensure I wasn't selling weed, because I had posted fliers with reefer man symbols on all the local cop cars' windshields. Half-way through the show, the officers walked out because they realized I was not selling marijuana, just political comedy. But by half-way across the tour in Saskatoon, I won "Pick of the Fringe", an award given by the Fringe Festival for the best fringe plays and performances in Canada. I sold out every show after that, winning "Pick of the Fringe" in every city afterwards. My last performance was to a sold-out theatre of mostly pot activists on Vancouver's Granville Island, who gave me a standing ovation and threw bud and joints onto the stage. The enthusiastic audience reaction with buds and joints was better than roses, and the culmination of many months of hard work. The local newspaper put me on its cover page. I could not have done any of this without my wife (girlfriend at the time) Gillian. We actually fell in love while creating the show together, and we have been married since 2007. I'm a very lucky man.

**Aaraon:** Do you think the Canadian or American film industries are going to build characters that are less stigmatized and more relatable to the ordinary cannabis user?

**Russell:** It's inevitable that the portrayal of cannabis users will be destigmatized or changed because of how cannabis is being researched and used as medicine. Cannabis is being used for pain, discomfort, symptoms of joint pain and insomnia, PTSD [post-traumatic stress disorder] and other ailments. I think that there are great television shows and films being made now where cannabis use is represented fairly in a destigmatized way. I remember watching the U. S. television show *Six Feet Under*, where the main character Nate had a joint and his experience on the show was the point of view of what it's like to be high. It wasn't your typical kind of stoner way. Nate had some minor psychedelic effects from his weed. With shows like *Weeds*, showing a suburban mom as grower/dealer (both the TV series and the originating feature film, *Saving Grace*), we are going to see many different kinds of characters of ordinary people growing, using and selling cannabis.

**Marty:** Is there anything about cannabis in Canada that keeps you up at night?

**Russell:** What stresses me out is knowing that people are being left out of cannabis legalization. Canada made a decision to legalize and create an industry on top of an existing industry. They created two industries from legalization. Canada's method of legalization is a very narrow, monetary focused approach without any focus on social justice. I think what worries me the most are that those people who have been negatively impacted by the current wave of legalization, meaning all the people who didn't get a license, or who wanted to get a license but were unable to because of a criminal record, or were unable to overcome the mental hurdle of having to apply to the government for a license to do something they've been doing for twenty years. I have clients who say, "I don't want to apply to Health Canada for a license. I don't think I should have to. I've been growing this for twenty years. I know what I'm doing. Why do I now have to?" This worries me. And I have some initiatives related to my law firm that I am working on to help include these amazing people from the original market.

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In response to some of these issues, I wrote the book *Canada's Cannabis Act*. The publication is about the law that created the industry framework, which is now oppressing many of the originators of the cannabis sector in Canada. When I read the law I realized that it was just a re-branding of the Controlled Drugs and Substances Act with increased penalties for the perpetrators of the unlicensed framework. The law was created with a two-tiered system in the hope that the same approach that they used during prohibition will stamp out the “black market”: the heavy-handed, heavy-militarized approach of going after people with powers of arrest, search and seizure. They gave broader powers under the Cannabis Act to enforcement officials to go in and find people who are not abiding by the law and make them into criminals. What's going to happen is more polarization. This approach is not going to work. It's going to put these people further into hiding, away from government control.

If you grow fifty plants in your basement, it's good quality, you're not using any kind of terrible chemicals on the weed and you sell it, is this going to hurt people? No, it's not going to hurt people. How can we open our minds as a country? Governments in Mexico and the United States are working on this right now. What are they doing? How are the two countries going to learn from Canada's example so that these people are allowed to get licenses and share their knowledge?

At the moment, I am writing a piece called “How Not to Legalize” that shows how Canada got it wrong. Don't get me wrong: I love that the government “legalized” and finally listened to the scientific evidence that was presented about cannabis back in the 1970s from the Le Dain Commission (the U. S. had the Shafer Commission) and updated by Professor Young for Chris Clay's trial. But no one wants to live in a country that has a two-tiered class system between the licensed class and the unlicensed class. You don't want to create that wedge. It is unnecessary policing and unnecessary resources diverted into policing. You want to have an industry that is robust and dynamic, and that incorporates other people's points of view besides the white people being able to obtain enough capital to create these massive facilities. You want to have many, many different people growing cannabis in a high-quality way by offering maybe what you call

a home license. We can create new license classes so that people can feel comfortable about starting their own initiatives and helping them enter a broader industry and not only help white classes who have easy access to capital.

As more information about growing cannabis for local economies gets out to lawmakers, they'll be able to embrace a broader perspective and support entrepreneurialism. During the pandemic with many people working from home, the timing couldn't be better for opening up your own little cannabis store at home and delivering cannabis to your neighbors. Why wouldn't this be better than some centralized, industrial complex cannabis factory where flowers have to be irradiated because of all the bugs that grow in their massive monocultures? We don't want that. We want organic. We want heirloom varieties. We want purple carrots and tomatoes that are different colors and sizes. I want my kids to understand what heirloom means. It's the same with cannabis. It's a plant. It's a flower. It's medicine. This is what we need to focus on for the new economy going forward.

I just finished editing the proofs for the third edition of my book and I'm very proud of this edition. I had the benefit of a young lawyer's assistance, Tamar Friedman, who is the research editor. Professor Young is my co-author. Tamar suggested I take the "Introduction" of the second edition and make it its own chapter. So I did. Chapter 1 is entitled "Legislative History of Canada's Cannabis Prohibition (1923-2018)". It's bizarre, this chapter is basically the same paper I wrote to pitch CBC (Canada's national TV broadcaster) with my documentary *Stoned* in 1996, then a ten-page paper, which the senior producer rejected immediately. (It was only after Ross Rebagliati lost his gold medal for snowboarding in the 1998 Winter Olympics because of cannabis use that CBC decided to license *Stoned*.) But Chapter 1 of my book is now very detailed, with an explanation of the one sentence that criminalized cannabis in 1923, "There is a new drug in the schedule". The amazing and horrible fact about Canada's 95-year cannabis prohibition was that it began in complete ignorance of what cannabis was. There was no debate between law makers, no interest in what this "new drug" was or why it had to be criminalized. There was

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180 nothing but that statement. And if you read what the lawmakers were talking about before and after that statement, you understand that the main concern of the day was how to limit immigrants from China, Japan and India, and how to extradite the existing citizens of colour. You have to remember that the drug law in Canada started with opium in 1908 as a means to marginalize and extradite Chinese Canadians. Imagine that! How horrible is that? But that's our country's legacy for its drug law, and the reason why it never should have existed. Cannabis was just added to that law without any scientific evidence.

To shine some light on this darkness, I started a petition in the federal government in December 2021, in order to get 10,000 signatures by Valentine's Day 2022, and 42,000 signatures by 420 (April 20, 2022), to have the government acknowledge that the drug law should never have existed, and to grant people who were convicted with cannabis offences, automatic expungements. No one with a criminal record for a cannabis offence should continue to be burdened now that it is legalized. That's just insane. Even more insane that the law itself! 🙄

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# ROMPER ESTIGMAS

Arte y cannabis en Norteamérica

# BREAKING STIGMAS

Art and Cannabis in North America



## Activismos / Activisms

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