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Official Report of Debates (Hansard)

Thursday 19 May 2011

Journal des débats (Hansard)

Jeudi 19 mai 2011

**Standing Committee on
Finance and Economic Affairs**

**Comité permanent des finances
et des affaires économiques**

Supporting Smoke-Free Ontario
by Reducing Contraband
Tobacco Act, 2011

Loi de 2011 appuyant
la stratégie Ontario sans fumée
par la réduction du tabac
de contrebande

Chair: Pat Hoy
Clerk: Sylwia Przewdziecki

Président : Pat Hoy
Greffière : Sylwia Przewdziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES**

Thursday 19 May 2011

Jeudi 19 mai 2011

The committee met at 0901 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Pat Hoy): The Standing Committee on Finance and Economic Affairs will now come to order. We're here for public hearings on Bill 186, An Act to amend the Tobacco Tax Act.

Our first order of business is to have the subcommittee report read into the record. Ms. Pendergast.

Ms. Leeanna Pendergast: Your subcommittee on committee business met on Tuesday, May 17, 2011, to consider the method of proceeding on Bill 186, An Act to amend the Tobacco Tax Act, and, subject to the bill's being referred to the Standing Committee on Finance and Economic Affairs, recommends the following:

(1) That the committee hold public hearings in Toronto, at Queen's Park, on Thursday, May 19, 2011, during its regular meeting times, as per the order of the House dated Tuesday, May 17, 2011.

(2) That the clerk of the committee, with the authorization of the Chair, post information regarding the committee's business on the Ontario parliamentary channel and on the Legislative Assembly website.

(3) That interested people who wish to be considered to make an oral presentation on Bill 186 should contact the clerk of the committee by 5 p.m. on Wednesday, May 18, 2011.

(4) That the clerk of the committee, in consultation with the Chair, be authorized to schedule witness presentations as the requests are received, on a first-come, first-served basis.

(5) That groups and individuals be offered 10 minutes for their presentations, followed by up to five minutes for questioning by committee members.

(6) That the deadline for receipt of written submissions be 2 p.m. on Tuesday, May 24, 2011.

(7) That the research officer provide the committee with a summary of oral presentations by 2 p.m. on Tuesday, May 24, 2011. This summary may include any written submissions received by 5 p.m. on Friday, May 20, 2011.

(8) That amendments to the bill be filed with the clerk of the committee by 4 p.m. on Wednesday, May 25, 2011, as per the order of the House dated Tuesday, May 17, 2011.

(9) That the committee meet on Monday, May 30, 2011, at 2 p.m. for clause-by-clause consideration of the bill, as per the order of the House dated Tuesday, May 17, 2011.

(10) That the clerk of the committee, in consultation with the Chair, be authorized to commence making any preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

The Chair (Mr. Pat Hoy): Shall the report be accepted? All in favour? Carried. Very good.

**SUPPORTING SMOKE-FREE ONTARIO
BY REDUCING CONTRABAND
TOBACCO ACT, 2011**

**LOI DE 2011 APPUYANT
LA STRATÉGIE ONTARIO SANS FUMÉE
PAR LA RÉDUCTION DU TABAC
DE CONTREBANDE**

Consideration of Bill 186, An Act to amend the Tobacco Tax Act / Projet de loi 186, Loi modifiant la Loi de la taxe sur le tabac.

**ASSOCIATION OF IROQUOIS
AND ALLIED INDIANS**

The Chair (Mr. Pat Hoy): Now we'll have our first presentation of the morning, the Association of Iroquois and Allied Indians. If you would come forward, please. Good morning.

Grand Chief Randall Phillips: Good morning, Mr. Chair.

The Chair (Mr. Pat Hoy): You have 10 minutes for your presentation. There could be up to five minutes of questioning following that. In this round, the questioning will come from the official opposition.

Interjection.

The Chair (Mr. Pat Hoy): I'll just finish here. Before you start, if you would just state your name for our records.

Ms. Gélinas.

M^{me} France Gélinas: I was wondering if it would be possible to divide the five minutes equally among the

three parties so that we each have a chance to question all of the witnesses.

The Chair (Mr. Pat Hoy): It was agreed at the sub-committee level that we would do it this way. As Chair, I find it very difficult to divide three into five. Our experience has been that the questioning from one person and the answer have usually taken up the bulk of the five minutes. In the rotation, you would have the full five minutes for your person.

Ms. Lisa MacLeod: Chair, as much as I would like to have five minutes to talk with the chief, my understanding is that my colleague from the third party would like to talk to this witness. On behalf of the official opposition, we would like to do the swap, and I'll catch up with the chief outside.

We're looking forward to your presentation, but I know my colleague would like to talk to you. I sense she may have invited you here, so we'd be happy to make that change.

The Chair (Mr. Pat Hoy): So we would go NDP, official opposition, Liberal, and then back into the regular rotation?

M^{me} France G  linas: If we cannot have the time split equally, sure.

The Chair (Mr. Pat Hoy): I'm just stating that. Are we agreed on that? Agreed. So the questioning in this case will come from Ms. G  linas of the NDP. Then the rotation will go back to the official opposition, and then we'll start with the government after that and go into the normal rotation.

If you would just state your name, you can begin your 10-minute presentation.

Grand Chief Randall Phillips: *Remarks in Oneida.*

Good morning, committee members. My name is Randall Phillips. I am the newly re-elected grand chief of the Association of Iroquois and Allied Indians. If I could, just for the record, I want to acknowledge the eight member nations. I have left our assembly to make this presentation, so I just want it noted that it's on their good graces that I appear before you.

I've looked at your roster. I'm going to be one of only, I think, two who are going to oppose the bill, but I'm going to oppose the bill for entirely different reasons than I think the rest of your presenters. I don't believe that the focus of my concern is on the health aspects of this. Certainly, we know the impacts of cigarette-smoking, and I think that this bill does not address those issues. If there is such an ill, then perhaps the product itself should be illegal.

Having said that, Mr. Chair, shekoli. Good morning members of the committee. Thank you for giving me the opportunity to share our concerns with Bill 186, an Act to Amend the Tobacco Tax Act, otherwise known as the Supporting Smoke-Free Ontario by Reducing Contraband Tobacco Act, 2011.

The current debate, and the legislation itself, has been framed under a concern for the health and safety of our youth. The Association of Iroquois and Allied Indians certainly stands with this committee on that front and has

always been committed to doing what it can to support our youth. In fact, we are in the process of creating our own youth council to help support their needs and their development.

Conducting the debate solely from health considerations, however, is creating a false sense of simplicity regarding the issue of tobacco products. The reality is that for First Nations engaged in the tobacco industry, this is a highly complex issue within a murky jurisdictional context. These First Nations use the tobacco industry now to support households and finance community development. Organized crime and cross-border smuggling is in no way part of these industries for most First Nations communities. Rather, they are legitimate, federally licensed and inspected businesses—a point that has gone ignored in this debate.

As the committee may already know, the Association of Iroquois and Allied Indians has adamantly opposed Bill 186 as it's written and the process undertaken by Ontario to pass it through the Legislature. Over the next few minutes, I'm going to outline those key issues that underpin our concerns and opposition.

First, Bill 186 infringes upon the rights of First Nations people—straight and simple. First Nations have used and traded tobacco since time immemorial and have never surrendered this inherent right. Although regulating the product may appear to be a straightforward exercise from a health perspective, it is an intrusion on First Nation jurisdiction and in violation of section 35 of the Canadian Constitution.

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Incidental to the right is the ability to transport tobacco between First Nation lands. Enabling law enforcement officers to stop, search and, in some cases, seize tobacco products disrupts this right and is also in violation of the rights affirmed in section 35.

The second issue presented by this bill, then, is jurisdiction. Section 25 of Bill 186 attempts to smooth over these rights violations by enabling Ontario to enter into arrangements and agreements with First Nations for the purposes of administering the Tobacco Tax Act. Although the provision attempts to capture the interests of First Nations, it only serves to facilitate the introduction of provincial regulation onto reserve land through band consent and administration. The goal of this provision is to absorb the reserve land into provincial jurisdiction, not to create any meaningful recognition of First Nations' jurisdiction and governing abilities.

This is significant because under Canadian law, provincial jurisdiction on reserve land and its authority to make arrangements with First Nations is unsubstantiated, yet assumed by Ontario. Section 18 of the Indian Act clearly states that reserve lands are held by the crown, and therefore fall under the jurisdiction of the federal government.

Additionally, section 91 of the Constitution clearly establishes dealing with First Nations as a federal responsibility. Consequently, if any non-First Nation regulations exist on reserve lands, it would be those of the

federal government. So within the context of the Indian Act, First Nations manufacturers may be subject to the federal tobacco tax act, not Ontario's Tobacco Tax Act, 1990.

Many First Nation tobacco manufacturers have chosen to operate under Canadian law and obtain a federal tobacco licence. With this licence, they adhere to the strict production, labelling, packaging and tracking requirements. Under Ontario's proposed legislation, however, contraband and illegal tobacco are defined as provincially unmarked tobacco products. In a backwards regulation, Ontario therefore considers tobacco products with federal markings as contraband or illegal. Since the legislation is punitive, First Nations tobacco manufacturers and people are now criminalized by Ontario, despite the fact that they hold a federal licence.

In fact, the applicability of the Ontario Tobacco Tax Act on reserve land has already come under scrutiny in Ontario courts. In *Bomberry versus Ontario*, 1989, it was found that the provincial quota system directly infringed on the right of First Nations under section 87 and the Indian Act to be exempt from tax, and intruded into federal jurisdiction.

Coming back to section 25 of the bill, Ontario is taking the assumption of jurisdiction on this issue for granted. Although the province has made agreements with First Nations with respect to land claims and programming, arrangements under section 25 would have direct implications on First Nations governance. This would represent a clear overstep of provincial authority.

Based on these two issues, I hope the committee members can begin to appreciate how complicated this tobacco issue is for First Nations. I also hope the members can begin to appreciate why governments are required to consult with First Nations.

This brings me to the last issue that I wanted to talk about, and that is consultation. It is an irrefutable fact that the crown governments have a legal duty to consult and accommodate First Nations' interests and concerns where there is an action that has an impact on their aboriginal and treaty rights. That legal duty is not for us to debate here today; it's well founded in constitutional statute and numerous decisions in your own common law.

Instead, the Legislative Assembly's responsibility extends to contemplating potential decisions based on its translation of that duty into actual and meaningful implementation. Bill 186 is only one in a long list of legislative initiatives that were created without suitable consultation with First Nations, whose human, aboriginal and treaty rights have come under threat.

Over the past 10 years, both the provincial and the federal governments have launched plans to improve their relationships with First Nations. Part of these plans is the establishment of guidelines to support government officials in their consultation and accommodation activities.

Though First Nations have clearly indicated that proper consultation needs to occur with full recognition

of individual First Nations' protocols, we do agree on some key principles found in the government guidelines:

First, that of timing. Government officials must ensure that consultations are initiated early in the planning and decision-making process. In this case, Bill 186, the Ministry of Revenue's activity consisted of a telephone call to our office less than 24 hours before the proposed legislation was introduced into the House: that is, zero consultation with our member nations and therefore zero efforts to accommodate the concerns the ministry would have heard. In fact, the timing of this process prevents any other voices from being heard. One day, nine committee members and nine potential presentations do not do this justice.

Not only is this kind of conduct deeply dishonourable to First Nations, it grossly contradicts the standards set out by the government itself, not to mention failing to meet these obligations with respect to the duty to consult.

Second, the crown governments should coordinate their consultation and accommodation activities where activities and jurisdictions overlap. With the existence of federal and provincial tobacco licensing regulations paired with the federal government's assumed jurisdiction over Indians and lands reserved for Indians, it is essential that the engagement take place on a tripartite basis. This issue does not belong at the public hearings of a time-allocated bill; rather, in the negotiating room with the province, federal government and First Nations.

When suitable consultation does take place, the resulting accommodation must consider the economic stability of First Nation citizens. Under the current process, the absence of consultation may result in an economic crippling of First Nations that the people have come to rely on through the tobacco industry.

In closing, I'd like to again thank you for giving me the opportunity to express my concerns with the bill. I hope that we can identify a mechanism to address these outstanding issues and concerns.

I await your questions.

The Chair (Mr. Pat Hoy): Thank you, and the questioning goes to the NDP and Ms. Gélinas.

M^{me} France Gélinas: I thank you for coming here today, Chief. I appreciate the presentation that you have given us. I think what you've shared with us is really troubling and very important. You said, in your opening statement, that you understand the health effects of tobacco and you also understand that you have rights under treaties, crown, etc. Could you describe for us, if we were to do this right, what the consultation process would look like?

Grand Chief Randall Phillips: If I could try to address it this way: Over the course of the last few years I think we've all been struggling with this idea in terms of what consultation looks like. We've all added little pieces in terms of how it goes. The provincial government has set out guidelines; the federal government has set out guidelines. But underpinning all of that is the First Nations communities themselves, which have said that direct consultation is the only and key way to do so. We

have to do that, ladies and gentlemen, simply because of the diversity of those First Nation governments and those communities themselves. They have different impacts on them. We tend to look at these things that we can blanket them with just one and make sure that these things happen. Unfortunately, that's not the case. So when they talk about consultation, it's directly with them.

Is it a process? Yes, it is, very much like this. Is it going to require resources to do so in that manner? Of course it is. But again, anything that you want to do: If you do it right and you do it properly, it's going to cost you. You can get a T-shirt done at the corner market for \$5 or you can go someplace else and get one for \$45. There's a difference in terms of quality as opposed to speed.

M^{me} France G elinas: In your presentation, you talked about a telephone call made to your cell 24 hours before the bill was introduced. Do you mean to say that, although we know that First Nations have been dealing with tobacco before we were here, no other talks took place with you? You didn't know what was going to be in the bill or how it was going to affect you at all?

Grand Chief Randall Phillips: If I could, I just want to focus on this particular legislation. Have there been discussions about jurisdiction on a variety of things, including trade? Yes, there have been. Were there discussions in a general sense about tobacco? Yes, there have been. That's part of what the disappointment is: that we were under the impression—I was told directly to my face by two ministers of this government—that we would have discussions about this in a wider context. That was my concern. While we were waiting for a plan, while we were waiting for the government to honour its commitments, I got a telephone call saying, "We're going ahead with this legislation." That's the disheartening part about this.

So were there discussions? Yes. Were we promised future discussions on this? Yes. That's when I think that we would have been able to address all of these issues. Since they weren't identified, we didn't have the opportunity to even talk about this proposed legislation. We were totally left out on what the government's intention was in terms of how to move forward with this.

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M^{me} France G elinas: Who were the ministers who promised you further discussion but never did?

Grand Chief Randall Phillips: We were in discussions with Minister Bentley, the aboriginal affairs minister. We've also touched base with the Minister of Revenue.

M^{me} France G elinas: They promised you further discussion. Did you try to follow up, or you were expecting them to come back to you?

Grand Chief Randall Phillips: In all attempts, we were certainly trying to follow up with them.

M^{me} France G elinas: And then you were told that this bill was coming.

Grand Chief Randall Phillips: I received a phone call at 5:30 that evening saying that they wanted to have

special accommodations to have a phone call meeting with me at 6 o'clock that evening. We couldn't accommodate them, so they called us first thing in the morning. That was told to us by some senior bureaucrats; not ministers or deputy ministers.

M^{me} France G elinas: It hasn't been very long since the bill was introduced, but since the bill has been introduced, has there been any explanation as to why the promised further discussions never took place?

Grand Chief Randall Phillips: No.

M^{me} France G elinas: Nothing at all?

Grand Chief Randall Phillips: No.

M^{me} France G elinas: Did you ask?

Grand Chief Randall Phillips: Of course we did.

M^{me} France G elinas: What did you get for an answer?

Grand Chief Randall Phillips: Not sufficient; they were going ahead with the bill. They were not going to do this. That's why we're here today.

The Chair (Mr. Pat Hoy): Thank you for your presentation.

Grand Chief Randall Phillips: That's it? No more questions? Thank you very much.

M^{me} France G elinas: Just to let you know; it's not necessarily that there are no more questions; it's that the process is set up so that we cannot ask any more questions.

ONTARIO CAMPAIGN FOR ACTION ON TOBACCO

The Chair (Mr. Pat Hoy): Now I would ask the Ontario Campaign for Action on Tobacco to come forward, please. Good morning. As you've witnessed, you have 10 minutes for your presentation. There could be up to five minutes of questioning following that. In this case, it'll come from the official opposition. I'd just ask you to identify yourself for our recording Hansard, and then you can begin.

Mr. Michael Perley: Good morning, Mr. Chairman and members of the committee. I'm Michael Perley. I'm director of the Ontario Campaign for Action on Tobacco. With me today are Laura Syron, vice-president of research, advocacy and health promotion at the Heart and Stroke Foundation of Ontario; and Joanne Di Nardo, who is senior manager of public issues at the Canadian Cancer Society's Ontario division.

On behalf of all our member agencies, including the Ontario Medical Association and the Non-Smokers Rights Association, who couldn't be here today, we're here today to speak in support of Bill 186, An Act to amend the Tobacco Tax Act, which, although it's a bill under the aegis of the Minister of Revenue, we absolutely view as a health piece of legislation. We would not be here if we didn't think it was a health bill.

We've had several opportunities to appear before the committee in support of action on provincial tobacco taxes and the issue of contraband specifically. We're very

pleased to be here to speak in support of this important piece of legislation.

As you no doubt already know, reliable research sources estimate that between one in three and one in four cigarettes in Ontario are contraband. The 2008 provincial Auditor General's report estimated the province was losing approximately \$500 million annually in lost tobacco tax revenue as a result of the contraband problem. However, contraband has impacts far beyond revenue loss, and they're of particular interest, of course, to us as health charities.

Contraband's increasing presence has correspondingly reduced the provincial government's willingness to raise tobacco taxes. Apart from the HST increase last July, which was welcome, we've had no tobacco tax increases in Ontario since 2006. My colleague Ms. Di Nardo will speak to the importance of this issue in a little more detail.

Second, the widespread presence of contraband in our communities also undermines the effectiveness of the various legislative and programmatic approaches of the smoke-free Ontario strategy.

Perhaps most importantly, easy access to cheap cigarettes has the potential to create a new cohort of addicted youth. Research from the Centre for Addiction and Mental Health and survey data commissioned by the Heart and Stroke Foundation of Ontario earlier this year together show that between 60,000 and 80,000 of our young people are accessing contraband cigarettes.

Bill 186 takes several important steps in the right direction towards comprehensive contraband control. First and foremost, the bill's new system to manage the supply of raw leaf tobacco in Ontario is critical and it's long overdue, especially in light of the 2008 federal buyout of Ontario farmers' quota, and replacement of that quota system with a new tobacco-growing licensing system. This buyout has directly led to an increase in the provincial tobacco crop from approximately 23 million pounds in 2009 to a projected 46.3 million pounds in 2011, although if it keeps raining, that amount may change. A larger crop means greater potential for leakage of raw leaf to unlicensed manufacturers.

The new leaf management system will create capacity to prevent such leakage. It will also control raw leaf imports from the United States and is essential to any comprehensive effort to control contraband.

The bill's creation of new authority to register shipments of raw leaf and seize those that are not registered is very similar to a system that has been in place in Quebec since 2005. There, the provincial government has seized thousands of pounds of raw leaf and loose tobacco destined to unregistered manufacturers and reduced the manufacturing capacity of unlicensed cigarette makers in that province.

The revised enforcement provisions are also long overdue. We would have liked to see a Provincial Offences Act part I ticketing system under which police at all levels could enforce against possession of contraband. However, such a ticketing system can be put in

place through a policy decision and accompanying regulations under the Provincial Offences Act at any time, without the need to amend legislation. We look forward to that happening separately in the near future.

The act's new provisions to conclude arrangements and agreements with First Nations are critical. In discussing the province's system of allocating tax-exempt cigarettes to First Nations in his 2008 report, the provincial Auditor General referred to shipments of tax-exempt cigarettes to reserves totalling 2.5 times the total allowable for all companies for all reserves in the province. If the source or sources of the cigarettes that he referred to were to be a First Nations manufacturer, it would be impossible, without Bill 186's enactment, to conclude any kind of formal agreement with the manufacturer to rectify this situation.

While these new provisions do not agree that such a formal agreement will in fact be reached, they at least make it possible, and we support them.

Finally, I'd like to note that in the April 21 announcement about Bill 186, there was no mention of any public education campaign to accompany passage and implementation of the bill. This is a serious oversight and must be rectified. Until today, there has not been any visible public education campaign of any kind from any level of government about the contraband problem. Those who purchase contraband in Ontario today, while they may not exactly believe that the product is legal, have not been specifically informed that it's illegal and that certain consequences will result from the purchase and use of contraband, nor have adult purchasers been educated about our young people's easy access to cheap contraband. We believe that it's essential that adult purchasers understand that their use of contraband fuels a province-wide supply system whose expansion makes it easier and easier for our young people, in turn, to buy contraband cigarettes.

Thank you again for this opportunity. I'd now like to ask Ms. Di Nardo of the Canadian Cancer Society's Ontario division to comment on the bill.

The Chair (Mr. Pat Hoy): You have about four minutes.

Ms. Joanne Di Nardo: Thank you, Mr. Chair, and members of the committee. On behalf of the Canadian Cancer Society, Ontario division, I would like to express our support for Bill 186. We urge all committee members to support adoption of this bill.

Tobacco products cause 30% of cancer deaths, including 85% of lung cancer deaths. Smoking rates in Ontario remain unacceptably high, including among youth, and we must do everything we can to reduce smoking. High prices are the single most effective measure to reduce tobacco use, especially among youth, who are more price-sensitive due to limited disposable income. Research has shown that when more adolescents can afford to smoke, and more can today in Ontario as a result of being able to access cheap contraband cigarettes, more of their contemporaries, in turn, start smoking.

This increased visibility of smoking among young people and the increased potential for peer pressure to smoke as a result are trends that reinforce each other, and that results directly from low prices.

As we know, contraband products can sell for as little as \$5 to \$6 for a bag of 200 cigarettes in this province. Despite claims to the contrary, contraband is not primarily caused by high taxes but rather by available sources of supply, of which there are several in Quebec, northern New York state and Ontario. As you can see from the attached chart in our presentation, Ontario and Quebec have the lowest provincial tobacco tax rates, yet have the highest levels of contraband.

0930

Finally, the smoking rate among the aboriginal population is two to three times the Canadian smoking rate of 18%. Cheap, illegal cigarettes are addicting aboriginal kids. They are also having a decimating impact on the aboriginal population, causing suffering, disease and death through cancer, heart disease, diabetes and other afflictions.

For all these reasons, measures like those contained in Bill 186 to control cheap, easily accessed contraband cigarettes are critically important. We urge you and your colleagues to do everything you can to speed this important bill toward passage as soon as possible. Thank you.

Mr. Michael Perley: I'd like to ask Ms. Syron to comment on behalf of the Heart and Stroke Foundation.

Ms. Laura Syron: Thank you, Mr. Chair, and members of the committee. The Heart and Stroke Foundation of Ontario is fully supportive of Bill 186, and we urge you to support it.

The Heart and Stroke Foundation continues its decades-long focus on and investment in tobacco control in Ontario. Why has it been our focus? Really, there are just a couple simple facts:

Fact 1: Smoking is very likely to mean you will die of heart disease. Almost 11,000 people die in Canada each year from heart disease related to smoking.

Fact 2: If you sit here today and you are a smoker, you are at 70% greater risk than I am, as a non-smoker, of dying of heart disease.

Fact 3: If you are under 65 and smoke, you account for almost half of the deaths due to heart disease—half of the deaths from smoking under 65.

Without being able to better control contraband, these kinds of statistics can get worse. You probably know that 42% of kids in Ontario who are in grades 10 to 12 have tried smoking, and that basically can lead to those statistics. They're on the road to heart disease.

The Chair (Mr. Pat Hoy): You have about a minute left for your presentation.

Ms. Laura Syron: Okay. So our health system cannot afford these young children coming down the pipe with heart disease.

In conclusion, the Heart and Stroke Foundation of Ontario is fully supportive of Bill 186, and we urge you to consider it. Thank you.

The Chair (Mr. Pat Hoy): Thank you. We'll move now to our questioning from the official opposition. Mr. Miller.

Mr. Norm Miller: Thank you, Mr. Chair, and thank you for your presentation this morning.

Certainly contraband tobacco is a significant problem that needs to be addressed, and I think there are lots of good reasons why, many that you've pointed out. You can't really address health concerns of smoking if—I think you said one third of the cigarettes sold are contraband, but I've heard that up to 50% of the cigarettes sold are contraband. So if half the cigarettes sold are outside the system, I guess you'd say, then you can spend a lot of money on health programs that just won't be effective.

You also brought up the lost-revenue issue. I think we've heard estimates of \$500 million to \$1 billion in lost tax revenue for the province of Ontario that could be used for lots of good programs.

I've also heard about organized crime being involved with illicit tobacco. Do you have any information on the organized crime part of it, or is that outside of your area of expertise?

Mr. Michael Perley: Well, we certainly have talked a great deal with the RCMP and the OPP, as well as the Canada Border Services Agency and others, about the exact extent of the problem. I mean, their first comment is usually, "You can't measure an illegal market because it's illegal; it's outside the bounds of normal measurement techniques." But they tell us that when there are specific measures that are brought in, in a few cases, or when there have been specific measures, there's a detectable cause-and-effect relationship between the measure and the flow of contraband. I'll give you a quick example.

When the border post on Akwesasne, on Cornwall Island, was moved from the island to the foot of the international bridge in Cornwall, thus forcing all US-to-Canada traffic to come through a border post that was on non-reserve land, all the enforcement personnel in eastern Ontario reported an immediate twofold impact: One, the flow of baggies from the St. Regis Akwesasne Mohawk territory decreased, and the price went from an average, at that point, of \$8 to \$10 a bag to over \$20 a bag. We started to hear from health units, going westward as far as Windsor, that they were noting in their communities a corresponding increase in price and a reduction in flow. So when we take specific measures that are aimed at restricting flow, we can have a direct impact on contraband. We think that some of these measures will go in that direction.

One other quick comment about the organized crime issue is that we hear constant references to non-First Nations organized crime groups being involved in this traffic, either through financing unlicensed or unregistered manufacturers or directly running such operations. When we ask who exactly it is—I won't even repeat some of the stuff I've heard: references to obscure mafia groups and so on. But we more often hear that they

absolutely are non-First Nations groups. When it comes to organized crime, they're into drug and gun running and contraband fuels, those other activities, in terms of financing them.

Mr. Norm Miller: It's my understanding that Ontario is just about the worst in terms of the rate of contraband tobacco in the country. Is that correct?

Mr. Michael Perley: That's correct. Since Quebec has already moved more aggressively in some of the directions that are in Bill 186—I mentioned the leaf management system they already have in place or the seizure system. They're estimating a revenue increase this coming year of about 30% as a result of the effectiveness of some of their measures and a corresponding reduction in flow. We're only estimating, I think, from last year to this fiscal year, a revenue increase of about 10%. So some of the things we've already been doing are working, including some of the federal RCMP enforcement activity, but we're behind Quebec.

Mr. Norm Miller: I guess my next question is, why so long? We have a rushed process now. We just had the first presenter representing the aboriginal community complaining about the fact that they weren't consulted, I think legitimately: They only had 24 hours' notice. Why has it taken so long to get to this process, and now we've got a rushed process?

Mr. Michael Perley: I think there have been a certain number of measures brought in over the last five to six years in various provincial budgets—modest measures, absolutely not enough—but they have been added incrementally.

Also, I think there's been a general perception, as the chief said, that this is a federal responsibility and jurisdiction, at least in part. I have to respectfully disagree somewhat with the chief. I think the province has more of a role than the chief described—or could have.

We were very hopeful that the provisions allowing conclusion of agreements and arrangements would lead the way to a new era of co-operation. I was told by a number of officials that, previously, the crown did not have the authority to conclude formal agreements with First Nations in Ontario respecting matters of tobacco commerce. Now with this bill passing, they will have. Does that mean that's a magic solution? Well, at least it's an enabling mechanism to allow discussions to go forward—another reason to pass the bill, I think.

The Chair (Mr. Pat Hoy): Thank you for your presentations.

IMPERIAL TOBACCO CANADA

The Chair (Mr. Pat Hoy): Now I ask Imperial Tobacco Canada to come forward, please. Good morning. You have 10 minutes for your presentation. The questioning in this round will come from the government. I'd just ask you to state your name for our recording.

Mr. Derek Ogden: Thank you, Mr. Chair and committee members. My name is Derek Ogden, and I'm with Imperial Tobacco.

Imperial Tobacco is pleased with the Minister of Revenue's initiative to reduce illegal trade of tobacco products. This is a very serious problem in Ontario; in fact, 68.6 % of Canada's illicit tobacco is found in this province. We have been asking for action on the contraband problem for some time now, and we think this bill may help resolve some of the issues associated with illicit tobacco.

Imperial Tobacco believes that the amendments proposed under Bill 186 may go a long way toward reducing the illegal sale of tobacco products, reinstating millions of dollars of lost government revenues and restoring the public's faith that the government of Ontario is taking a positive step to ensure the health, safety and well-being of its citizens.

As a former police officer and someone who has been working in the tobacco business on illicit trade issues for a number of years, I am pleased with the Ontario government's decision to delegate authority to allow local police to seize contraband on the spot. From now on, police officers working in our communities will have the means to seize illegal tobacco products wherever they come across them in the distribution channel.

For years, black market distributors openly flouted the law, knowing that local police didn't have the jurisdiction to grab and confiscate illegal smokes. The delegation of authority has the potential to remove millions of illegal cigarettes from the streets and empower police officers in every corner of the province to have an immediate impact on illegal trade. I can assure you their efforts will be most welcome.

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However, experience has shown that for this delegation of authority to work most effectively, it must allow for the immediate issuance of a notice of offence by an officer. That means that local police officers should be in a position to issue a ticket for straightforward possession on the spot. You want your police officers out on the streets pursuing criminals, not spending needless hours producing paperwork to process violations. It may prove to be cost-effective to supplement police enforcement both financially and with dedicated resources when you take into account the potential revenue this bill can generate. After all, local police officers will be the front line in the fight against contraband across the province.

On the matter of raw leaf tobacco, we are pleased that the Ministry of Revenue will now take on the responsibility of auditing and verifying licensed raw leaf tobacco buyers. Bill 186 proposes to transfer the oversight for the production, process and sale of raw leaf tobacco from the Ontario Flue-Cured Tobacco Growers' Marketing Board to the Ministry of Revenue. While we strongly support this change, we want to take this opportunity to emphasize that the raw leaf market is complex and will require adequate resources and expertise to track the flow of tobacco from the farm to the manufacturing process. We invite the government to make use of industry expertise where it may prove beneficial.

Ultimately, this new legislation and its accompanying resources will be most effective if there is widespread

public support for the fight against illegal tobacco in the province. We urge the Ontario government to use the occasion of the proclamation of Bill 186 to implement a sustained public awareness campaign about the new law and its penalties. We believe that Ontarians will be highly supportive of this legislation once they learn more about the detrimental impact contraband tobacco is having on the social and economic progress of the province.

In the past, governments have placed blame on illegal manufacturing sites based in the United States for fuelling the illicit market in Ontario. While sites in the United States certainly continue to have an impact, what can't be ignored is the continual increase in capacity and expansion of illicit sites based within this province. We urge the province to take a realistic approach to enforcement and deal with the Ontario-based illicit production. Those who manufacture and sell the clear plastic bags of illegal cigarettes abide by none of the over 200 federal and provincial regulations governing tobacco products, including mandatory warning labels. Most alarming is the fact that illegal, unregulated cigarettes are being sold to young people at a fraction of the cost by criminals who do not, of course, ask for proof of age. In short, the illegal trade undermines every single tobacco control measure put in place by governments.

Imperial Tobacco supports your government's efforts to reach negotiated agreements with First Nation communities. Furthermore, we ask that you include the industry representatives in the consultation process. We have learned from experience with the federal government that while it's easy to issue a licence, it is much more difficult to verify regulatory compliance.

In closing, Imperial Tobacco supports the government of Ontario's initiative to fight the scourge of contraband tobacco in this province. There are no easy solutions. We're confident that by allowing local police to issue tickets, by allocating additional resources to enforcement and monitoring, and with the launch of a comprehensive public awareness campaign, Bill 186 may go a long way toward removing illegal cigarettes from the streets and communities. Thank you.

The Chair (Mr. Pat Hoy): And thank you. The questioning will go the government. Mr. Delaney.

Mr. Bob Delaney: True or false: Smoking tobacco contributes to cancer, lung disease and many other preventable illnesses.

Mr. Derek Ogden: I'm certainly not an expert in that field, but I'd say true.

Mr. Bob Delaney: Thank you. What were Imperial Tobacco's profits in the last five fiscal years?

Mr. Derek Ogden: I'm sorry, I can't help you with that. Imperial Tobacco is a wholly owned subsidiary and it's part of British—

Mr. Bob Delaney: So an undertaking, then, you'll file that with the committee clerk for circulation to the committee?

Mr. Derek Ogden: Pardon me?

Mr. Bob Delaney: An undertaking from you, then, to file that information with the committee clerk for circulation to the committee.

Mr. Derek Ogden: For the British American Tobacco profits?

Mr. Bob Delaney: For Imperial Tobacco's profits in the last five fiscal years.

Mr. Derek Ogden: I can certainly make that request.

Mr. Bob Delaney: I'm asking for an undertaking: not that you make a request, not that you try and work it up the corporate ladder, but that you file it. Yes or no?

Mr. Derek Ogden: I'm not sure if I'll have the ability to do that in our office. I'm not trying to be obstructive—

Mr. Bob Delaney: That's a no.

Mr. Derek Ogden: I just don't know if somebody in our office would overrule me.

Mr. Bob Delaney: Okay, so that's a no.

How much, in the last five fiscal years, has Imperial Tobacco invested in smoking cessation programs among youth?

Mr. Derek Ogden: On that, I have no idea. I don't work in that area.

Mr. Bob Delaney: What area do you work in?

Mr. Derek Ogden: I work in anti-illicit trade, so I deal with organized crime groups that deal in illicit tobacco. I deal with looking at the market as far as where illicit tobacco is most prevalent.

Mr. Bob Delaney: So what have you done to keep your product out of the hands of the type of groups whom you've just described?

Mr. Derek Ogden: We've got very stringent measures up and down the supply chain to make sure that our product does go to the retailers that are licensed to retail tobacco and collect all applicable taxes.

Mr. Bob Delaney: Would you file a synopsis of those with the committee clerk for distribution?

Mr. Derek Ogden: Certainly, as in—

Mr. Bob Delaney: Thank you. I think Ms. Albanese has a question for you.

Mrs. Laura Albanese: Thank you. I just wanted to have a clarification about how the federal tax rates are applied to cigarette cartons in Canada; across the provinces, not only in Ontario. Is it the same tax rate across all the provinces, or does it vary?

Mr. Derek Ogden: Mr. Chair, I should mention that I'm certainly not any type of an expert in excise, but I believe that the federal excise tax is the same everywhere. In each one of the provinces, I think it's even.

Mrs. Laura Albanese: We're trying, with my colleague here, to have some clarity on—this is a chart that was presented by the presenter before you, and we see that there is quite a difference per province as far as provincial tobacco tax rates per carton of cigarettes. So we were wondering if maybe you could illuminate us a little more on how that worked.

Mr. Derek Ogden: No, and I'm actually not even sure exactly how the tax breaks down.

Mrs. Laura Albanese: From your knowledge, it is not the same across each province? Or it is?

Mr. Derek Ogden: I believe that the federal excise tax is the same, but I can't guarantee that for you. And I believe that provincial taxes vary from province to province. I do know that there are certain provinces that have HST as well.

Mrs. Laura Albanese: Thank you. And my colleague—

Ms. Helena Jaczek: To follow up, because we're wrestling with the cost chart for 200 cigarettes in each province: Does your company charge a different price for a carton of 200 cigarettes from province to province?

Mr. Derek Ogden: I'm not sure on the pricing. I don't think that they do. I know they charge different prices for different types—

Mrs. Laura Albanese: Like brands.

Mr. Derek Ogden: Some brands are more expensive than others. I don't believe that they charge a different price from province to province, though.

Mrs. Laura Albanese: Thank you.

The Chair (Mr. Pat Hoy): And thank you for your presentation.

Mr. Derek Ogden: Thank you, Mr. Chair.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Pat Hoy): Now I'd ask the Registered Nurses' Association of Ontario to come forward, please. Good morning. You have 10 minutes for your presentation. The questioning in this round will come from the official opposition. I would just ask you to identify yourself for Hansard.

Ms. Doris Grinspun: Thank you very much, and good morning. My name is Doris Grinspun, and I'm the executive director of RNAO, the Registered Nurses' Association of Ontario. With me today is Rob Milling, director of RNAO's policy department.

RNAO is the professional association for registered nurses who practise in all roles and sectors in Ontario. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of Ontarians.

RNAO was proud to represent Ontario's nurses on the vitally important Tobacco Strategy Advisory Group, known as TSAG, a panel of health experts established to advise the government on a five-year plan to build on the successes of the smoke-free Ontario strategy.

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Our final report called for a comprehensive tobacco strategy that reduces both demand for tobacco products, including preventing young people from getting addicted, and the supply of legal and unregulated tobacco products. We recommended practical and achievable outcomes that will lead to our shared vision of a tobacco-free Ontario.

Tobacco use is a well-known and totally avoidable cause of illness and death, killing 13,000 Ontarians per year and resulting in \$1.93 billion per year in direct health system costs, not to mention the cost in lost pro-

ductivity estimated at an additional \$5.8 billion. Smokers and non-smokers face significant health risks.

The good news is that Ontario has made progress in reducing smoking rates. Smoking prevalence dropped from 23% in 1999 to 15% in 2009. The progress is attributable to a range of steps taken by government to reduce the scourge of smoking. These steps include: the Smoke-Free Ontario Act, which we praise as one of the toughest in North America; the ban on smoking in cars when children are present; the ban on displays of tobacco; and support for smoking cessation, including support at the Ontario and federal levels for RNAO's best-practice guideline on smoking cessation and related tools that are being used across the nation today.

The bad news is that progress is levelling off and has levelled off since 2005. In fact, preliminary figures for 2010 show a marginal increase in smoking from 15% to 16%. We know that the tobacco industry is working hard to expand its consumer base, and government must maintain its commitment to tobacco control and work even harder with all of us to protect public health.

We are encouraged by the April 21 announcements of enhanced support for smoking cessation, prevention of youth smoking and access to nicotine replacement therapies through primary care providers such as nurse-practitioner-led clinics and physicians in their clinics.

Bill 186 addresses one huge barrier to lowering smoking rates: the ready availability of cheaper contraband tobacco. It is well known that demand for tobacco is very sensitive to price, and raising its price through taxes is an effective way of deterring would-be smokers—I would say, in fact, current smokers. The presence of illegal tobacco makes it more difficult for government to impose health-saving taxes.

The bill lands chiefly on the side of regulation and enforcement against contraband tobacco. Consistent with one of our advisory group's recommendations to go beyond cigarettes to encompass all tobacco use, the bill itself would tighten regulation of tobacco in its raw leaf form by requiring producers, processors, dealers, importers and exporters to obtain registration certificates. This could allow more effective enforcement by reducing diversion of raw tobacco to unlicensed manufacturers. This is a step towards the advisory group's recommendation to use that regulation to reduce the production of tobacco.

Bill 186 would impose labelling on fine cut forms in the way that cigarettes must currently be labelled. This would combine with extension of authority of enforcement officers to seize illegal unmarked tobacco products.

The TSAG report also includes labelling and enforcement as tools in its suite of tools to raise tobacco prices and dissuade use of contraband tobacco. In the future, we look forward to the government adopting the advisory group's recommendations on minimum retail prices and tobacco tax hikes.

We also called for a dialogue with First Nations leadership and communities on contraband tobacco. We hope that section 13.5 of the amended act would facilitate

those discussions, which First Nations representatives say have not yet happened.

Taken together, Bill 186 and the April 21 announcements address a number of key recommendations of the advisory group's report. They steer tobacco control in Ontario a significant distance in the right direction. For that reason, we join with other health organizations in calling on all parties to quickly pass Bill 186.

During the coming election and beyond, Ontario's nurses will work with all parties to achieve an even stronger commitment to a vision and plan to virtually eliminate smoking from the province. We will not rest until that day.

At the same time, RAO again urges all parties to address the social injustice that is spawning much of the tobacco smuggling: the deplorable economic and social circumstances that exist in far too many aboriginal communities. The sad reality is that tobacco smuggling is an economic option in the absence of better alternatives. Would a community freely choose an industry that contributes to smoking prevalence double that of the rest of Ontarians? We don't think so.

Ontario has a poverty reduction program, and top priority must be placed on addressing poverty in aboriginal communities. All these strategies need to have better linkages. This is something that must be negotiated with aboriginal communities, respecting all traditional rights and mindful of equity considerations both in aboriginal communities and outside of them as well. Contraband tobacco may be a significant health threat on and off aboriginal communities, but it is also a warning sign pointing to the deep-seated and challenging inequities that we have across this nation. Solving them will not be easy, but it behooves us as a province to urgently devote the time and resources to right those historical inequities.

In closing, we urge the committee members to pass the bill as a good step towards addressing contraband tobacco and getting tobacco control more solidly on the rails. We look forward to working with all parties in building a comprehensive tobacco reduction plan as outlined by the TSAG report, which we would like to see completely and fully advanced forward.

Thank you again for giving us the opportunity to present the views of registered nurses in Ontario.

The Chair (Mr. Pat Hoy): Thank you, and the questioning will go to Mr. Miller of the official opposition.

Mr. Norm Miller: Thank you very much for your presentation this morning. I guess I'll start off with the problem I basically have. We're learning that pretty much half the cigarettes sold in the province of Ontario are contraband or illegal cigarettes. We heard from an earlier presenter that Ontario's the worst in the country, in terms of the rate of contraband cigarettes, up to pretty much 50%. So it's hard to have government programs, health programs, that are going to be effective if half the cigarettes sold are outside of the system.

I guess my question would be, why do you think it's taken so long to get to the point of bringing legislation in

to try to deal with the problem? Now we have a rushed process. We have a week or so left in the legislative schedule, and we're kind of rushing through it. The first aboriginal presenter took offence at the fact that they got 24 hours' notice, which is certainly not the right way to build support for the bill. Any comments on that?

Ms. Doris Grinspun: Absolutely. I just tend to take the positive of things and move forward with them.

Yes, it could have happened before, but we are delighted that it's happening now. We are asking for your support in making sure this moves forward quickly so that it happens. We see it, as I said, as a step in the right direction. It is not the comprehensive strategy that we are looking for, and we hope to see, in all of your platforms, the TSAG report reflected in its entirety.

We urge you again, all of you, to take this on and pass it. It is a step in the right direction. And if Ontario's the worst, that's more of a reason to do that.

Absolutely, we need to have dialogue with the aboriginal people. We said that in our submission, and we expect that will happen indeed.

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Mr. Norm Miller: You did talk a bit in your presentation about smuggling with reference to the aboriginal communities. We heard from another presenter that the smoking rate for aboriginal youth is the highest in the country. Comments about that?

Ms. Doris Grinspun: Yes, and of course it's the highest, both because of the availability of tobacco and also because of their social conditions. That is why we are saying to the government, current and future, that there are two strategies in this province going on: one, on poverty reduction, and we have asked in the past to put a special focus on aboriginal people, simply because it's the worst that we have—it's a shameful point for Canada, not only for Ontario; and two, to make better linkages between the various strategies that we have in moving forward.

Mr. Norm Miller: A couple of the other presenters also talked about—I think Mr. Perley from OCAT said something to the fact that he would have liked to have seen a ticketing system. Then we also heard from another presenter who said, I believe, that they would like the ability for police to write tickets on the spot to simplify the system. Have you looked at that at all or do you have any comments on that?

Ms. Doris Grinspun: No, I don't have comments on that.

Mr. Norm Miller: Okay, that's about all the questions I have on this.

The Chair (Mr. Pat Hoy): Thank you for your presentation.

Ms. Doris Grinspun: Thank you very much.

CHIEFS OF ONTARIO

The Chair (Mr. Pat Hoy): Now I would call on the Chiefs of Ontario to come forward, please. Good morning. You have 10 minutes for your presentation. There could be up to five minutes of questioning, this time

coming from the NDP. I'd just ask you to state your name and then you can begin your presentation.

Chief Angus Toulouse: Angus Toulouse, Giida Aandek from Sagamok Anishinabek.

Remarks in Anishinaabemowin.

Good morning, committee members. Again, I want to thank you for giving me the opportunity to present today. I am here, as was stated, on behalf of the Chiefs of Ontario. I'm also here today to urge you to wholly reject this legislation proposed by Bill 186.

I will begin my presentation with the process issue; that is, the motion that was passed by the Legislative Assembly two days ago to have this bill rushed through. This type of action, especially in this case, does not promote the principles underlying a true democracy, without giving all potentially affected groups the opportunity to conduct substantive analysis of this legislation.

Prior to this legislation even being introduced, the First Nations in Ontario were not consulted on this legislation, and it is aimed at affecting some of First Nations' most basic economic and aboriginal rights.

The Ontario Ministry of Revenue introduced this bill—proposed amendments to the Tobacco Tax Act—on April 21, 2011, in direct opposition to the inherent aboriginal right to the cultivation and trade of tobacco.

This bill also serves to, once again, trample on our collective rights. Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples provides that we have the right to freely determine our political status and our economic, social and cultural development.

Bill 186 makes the primary focus of the legislation punitive action rather than tobacco-use reduction strategies. It specifically targets products that are grown or manufactured within First Nation communities and under the jurisdiction of First Nations. For a government that prides itself on consultation and transparency, this lacks the goodwill that must underpin a successful working relationship.

Tobacco has been a trading commodity for First Nations for thousands of years. We possess inherent rights, protected by the treaty relationship between First Nations and the successor state of Canada, to produce, trade and use tobacco. Given these considerations, it's appalling that the province would proceed with this initiative.

First Nations chiefs within Ontario have clearly stated that it is “the right of First Nations to make rules and regulations on all tax (tobacco) matters that concern First Nations,” and that “both crown government and their agencies must understand that the regulations and monitoring of First Nation industries within First Nation territories are the responsibility of First Nation leadership/governments.”

First Nations have always exercised their right to self-determination, including the right to travel freely across their territories to carry on trade and political relations on a nation-to-nation basis, as affirmed by the Jay Treaty of 1794.

First Nations do not recognize borders in nation-to-nation trade and commerce. As indigenous nations, First Nations have the jurisdiction to manage, control and regulate trade and commerce within their traditional territories.

In its current form, the bill presents a narrow set of interests while ignoring those of First Nations.

Section 25, which enables the province to enter into agreements with bands for the purposes of administering the Tobacco Tax Act, only serves to facilitate the introduction of provincial regulation onto reserves through band consent and administration. It does not acknowledge the authority of First Nations to create their own regulations. The legislation is silent on the point of provincial acceptance of federally licensed tobacco products.

Cigarette manufacturers that currently hold federal manufacturing licences and are located on-reserve are required to pay federal excise taxes and adhere to strict health and labelling requirements. These tobacco products are federally marked.

Despite this, the Ministry of Revenue and the Ontario Provincial Police have been targeting federally licensed First Nations cigarette manufacturers, threatening to close down plant operations and arrest individuals transporting products from one reserve to another.

Ontario is currently overstepping its authority by attempting to apply provincial jurisdiction on reserve land.

The division of powers outlined in Canada's Constitution, as well as the Indian Act, describes the responsibilities of the federal government with regard to lands reserved for Indians. All levels of government are required to consult with First Nations on matters that impact on their aboriginal and treaty rights.

First Nations have used and traded tobacco since time immemorial and have never surrendered this inherent and constitutionally protected right. Ontario's attempt at regulating First Nations tobacco is an intrusion of their government's jurisdiction and in violation of section 35 of the Canadian Constitution. The Ontario Attorney General has the responsibility of upholding the constitutionally protected rights of First Nations, a responsibility that has thus far been ignored.

Seeking the input of First Nations after the tabling of the legislation creates a limited opportunity to broaden the scope of the legislation so that it protects their rights and interests.

These circumstances are further undermining the relationship between Ontario and First Nations, one that the government committed to reconciling through its participation in the Ipperwash inquiry priorities and action committee.

Based on these pressing and profoundly complex issues, Bill 186 must be stopped.

I will now provide some additional information you need also to consider as you report on this bill. Groups such as the Canadian Convenience Stores Association and the Canadian tobacco association are economically

impacted by the sale of illegal tobacco and are misleading the Canadian public by criminalizing the First Nations unregulated tobacco trade.

Canadian lawmakers are hesitant to address this issue for legal and jurisdictional reasons. Excessive taxes and regulation by Canadian law feed into the illegal markets, and further, more enforcement and higher penalties are not totally effective against illegal markets.

A number of tribes in the United States have taken a proactive approach in addressing these issues by creating institutions to address the following: creation of standards and an approval process for tobacco product entering and leaving the territory; an enforcement regime to monitor the sale and use of tobacco products within the territory; and also an education component to educate on the traditional uses of tobacco and the negative health effects of tobacco products.

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In addition to these factual considerations, there are also a number of questions that remain unanswered with respect to this legislation.

There are many aspects of this legislation that are unclear, including definitions of “specified purposes” and “self-regulation.” Does the province have constitutional authority to regulate on reserve lands, especially considering the aboriginal and treaty rights potentially implicated by this proposed legislation?

The Ministry of Revenue is using the anti-smoking campaign to combat contraband tobacco. First Nations have an interest in ensuring that their aboriginal right to grow and possess tobacco is not affected by this legislation. As an example, what happens if a First Nations individual is engaged in a ceremony and has tobacco in plain view, ready to put into their pipe? Can an officer just barge in and seize that unmarked, raw tobacco?

What is the status of federally licensed tobacco products? Will the proposed provincial tobacco regime affect those First Nations manufacturers holding federal licences? And to what extent is the province going to recognize First Nations’ jurisdiction in the self-regulation of the tobacco industry?

Our chiefs in assembly have asserted the rights of their people through resolutions. They have stated that Ontario does not have the jurisdiction to tax, administer, regulate or otherwise interfere with the trade and commerce between First Nations. Ontario has no jurisdiction to tax, administer or regulate the sale of tobacco products manufactured on First Nation territory or for transport and sale in another First Nation territory.

First Nations affirm that our immunity to Ontario and Canadian taxes is derived from the spirit and intent of our treaties. It is recognized and affirmed that our immunity to taxes is applicable anywhere on our historic original lands, both on and off reserve. Complete tax immunity must be honoured.

Finally, the crown must understand that the regulation and monitoring of First Nation industries within First Nation territories are the responsibility of First Nation leadership and governments.

To conclude, this bill is being sold as one aimed at helping smokers quit and preventing young people from getting addicted, but I submit that this is not the actual aim of the legislation, nor will this legislation have any real impact on reducing tobacco use amongst those who are intent upon smoking and those enabling young people’s addictions.

Again, thank you for the opportunity to present to you this morning.

The Chair (Mr. Pat Hoy): And thank you. The questioning will go to the NDP and Ms. Gélinas.

M^{me} France Gélinas: Thank you so much, Chief Toulouse, for coming here this morning. When Chief Phillips was here earlier on this morning, he made it clear that he had not been consulted before this bill was rolled out. Had you been consulted?

Chief Angus Toulouse: No, I was not consulted on this piece of legislation.

M^{me} France Gélinas: You have made it clear that treaty rights are not being respected by what will be implemented if Bill 186 passes. In your view, do you figure it will help First Nations kids quit smoking or not pick up smoking if we pass this bill?

Chief Angus Toulouse: This bill will not reduce smoking, or it will not help kids quit smoking. I think what our First Nation leadership has essentially indicated is that we need to sit down with our young people. We need to be able to educate them in terms of the impacts—positively and negatively—of tobacco, because there is a positive use, in terms of our ceremonies, that we’ve always utilized, and certainly the offerings each day that are given by many of our elders to this day, again, giving thanks to creation and everything that we hold as part of our relations as being part of mother earth.

M^{me} France Gélinas: Other people have said that the bill will actually be an opportunity to start a conversation with the First Nations toward helping First Nations people quit. Do you agree with this?

Chief Angus Toulouse: I believe the First Nation leadership has said quite some time ago that if there’s any infringement on our rights and if they’re going to be trampled on by another piece of legislation—it was recognized nationally that the government has an obligation and a duty to consult with First Nations and accommodate. The United Nations declaration makes it even clearer. They essentially say there’s not going to be anything that’s going to impact us, negatively or positively, without our free, prior and informed consent.

Did that take place? No. I believe one time I did have a very short discussion with one of the members of the provincial Parliament, and the question was, would there be an interest in having some discussion around the tobacco issue in a revenue-sharing kind of an arrangement? I said our chiefs would be prepared to have that discussion, but that was the last we ever heard of it.

Again, I believe what Grand Chief Randall Phillips is saying is that I know they were taking a lead on behalf of many of the First Nations in Ontario, as they were waiting to have some dialogue. He has advised us that

that dialogue never took place. Likewise, with Grand Chief Mike Mitchell and Chief Montour: They've indicated the same thing, that there was some indication that there ought to be some dialogue. They did not, at the end of the day, have that kind of dialogue leading up to this legislation.

M^{me} France Gélinas: So we didn't live up to our duty to consult, it's not going to help First Nations people quit smoking, and am I right in thinking that it may open up the door to a whole lot of conflicts?

Chief Angus Toulouse: Yes. The First Nation leadership, at least that I've talked to, are working within their community to develop the kind of laws, legislation and strategies that would speak to the youth and the young people in terms of educating them on the impacts of tobacco and that, I believe, are what needs to take place.

I know the work is ongoing. I know that there is much to observe in terms of—at least in the case of Grand Chief Mike Mitchell's community, Akwesasne, and the laws and the regulations that they're putting forth now in terms of ensuring that it is the same in terms of the health standards, packaging and notification as any other manufacturer and any other product that you see that has tobacco being distributed in Ontario.

M^{me} France Gélinas: So we didn't consult, we're not going to help people quit, we're going to create all sorts of conflict and you're bringing forward strategies that would be appropriate to First Nations, that you have been working on, that are certainly in line with health promotion and disease prevention. Is the provincial government helping you in any way with some of the First Nations' proposals for health promotion and disease prevention regarding tobacco?

Chief Angus Toulouse: There is some programming that does take place through the Ministry of Health in terms of health promotion at the community level, and that's ongoing. That's just like with any city, with any municipality and any body. In our case, the First Nation community has those kinds of contribution arrangements, if you will, to continue to promote good health and so on, but not for this legislation.

M^{me} France Gélinas: No? Okay. Thank you.

The Chair (Mr. Pat Hoy): Thank you for your presentation before the committee.

We are recessed until 2 o'clock.

The committee recessed from 1019 to 1401.

CHIEF MEDICAL OFFICER OF HEALTH OF ONTARIO

The Chair (Mr. Pat Hoy): The Standing Committee on Finance and Economic Affairs will now come to order for our afternoon session on Bill 186 and our public hearings.

I would ask our first presenter, the Office of the Chief Medical Officer of Health of Ontario, to come forward.

Dr. Arlene King: Can I sit here?

The Chair (Mr. Pat Hoy): Anywhere you like. You have 10 minutes for your presentation. There may be up

to five minutes of questioning. The questioning in this particular case will come from the government side. If you will just state your name, you can begin.

Dr. Arlene King: Good afternoon, everyone. My name is Dr. Arlene King, and I'm Ontario's chief medical officer of health. I'm here today to speak about Bill 186 and its importance from a public health perspective. I'd first like to commend the government for taking another step in the war against tobacco, and while Bill 186 does not signal the end of this war, it is another weapon that we can use in our fight.

The availability of contraband tobacco undermines Ontario's tobacco control efforts and reduces the effectiveness of cessation attempts. Reducing the supply of illegal tobacco is therefore critical to the success of the government's renewed smoke-free Ontario strategy.

The impact of illegal tobacco on youth smoking rates in particular cannot be overstated, and Bill 186, if passed, will help to reduce the supply of cheap, illegal tobacco available to young people and those trying to quit smoking. Low-cost cigarettes make it easier for not only our young people to begin smoking, but also several other high-risk groups in Ontario who are likely to be more price sensitive, including those with lower incomes or working in manual occupations.

I'd like to spend some time now explaining why it is so critical that we address tobacco use head-on. Tobacco use, for public health officials, is the ultimate source of vexation, and that is why, in my 2009 annual report Public Health—Everyone's Business, I identified the war on tobacco as one of the top five areas that public health and its partners simply cannot afford not to invest in. Because when you strip it down to what matters, there is really only one thing anyone needs to know about tobacco: It kills people. Here, in Ontario, it is the number one cause of preventable disease and death. Every 40 minutes, someone in this province dies because of tobacco—it's 13,000 people every year.

We've known for at least a half century that smoking causes lung cancer, a lethal disease with a five-year survival rate of only about 15%. When it isn't causing lung cancer, smoking is contributing to 18 other types of cancer, including stomach cancer, cervical cancer, leukemia and breast cancer.

In addition to cancer, smoking contributes to the development of cardiovascular disease and causes chronic obstructive pulmonary disease, which includes emphysema and chronic bronchitis. It also harms many aspects and every phase of reproduction, such as the growth and development of unborn babies.

Second-hand smoke has also been known to contribute to anywhere from 1,100 to 7,800 deaths in Canada annually; one third of these are in Ontario.

The economic case for tobacco control is, in its own way, as compelling as the human one. In Ontario, tobacco-related diseases cost the provincial economy \$1.9 billion in direct health care costs annually, and result in \$5.8 billion in productivity losses. Tobacco-related

diseases also account for 500,000 hospital days every year.

The facts about tobacco really are beyond dispute. To put it simply: it kills, it sickens, it burdens health care systems and costs all of us lots of money. Ontario has acknowledged this reality and has been fighting to reduce tobacco consumption for many years. There's really a great deal to be proud of in what has been accomplished: a province-wide law for smoke-free enclosed public and work environments; banning the display of tobacco products in convenience stores; prohibiting smoking in cars where children under 16 are present; prohibiting the sale of flavoured cigarillos; surpassing the goal to reduce tobacco consumption by 20% before 2007; and taking new steps to deal with illegal tobacco. This is all well and good, but we must not lose momentum.

In my 2009 annual report, I made it clear that I believe the government must make additional investments in tobacco control, engage in a cross-government approach to tobacco and take more action on cessation. I am very pleased that these recommendations are being heeded. I am pleased to see an increase of \$5 million in the smoke-free Ontario strategy, as well as an increased focus on providing smokers with the help they need to quit.

The fight against tobacco cannot and must not remain the sole responsibility of the Ministry of Health Promotion and Sport. If we are to enjoy increased success in reducing the uptake of smoking and encouraging people to quit, we have to have an all-hands-on-deck approach to tobacco reduction. We need a cross-sectoral, cross-government, and pan-Ontario approach. That's why I am pleased to see the Ministry of Revenue taking new action on tobacco with Bill 186.

When we look to the number of people smoking and the groups that are most vulnerable, it is clear that we all can contribute to creating a supportive environment to prevent tobacco use and promote cessation. Individuals, families, communities, workplaces, schools, boards of health and health providers all have a role to play. We also cannot underestimate the importance of engaging our First Nations communities on this important issue.

I understand that the Ministry of Revenue is currently engaged with many First Nations on matters related to tobacco activities on reserves and that the ministry will be appointing a facilitator to undertake engagement with many First Nations. I want to encourage the government to continue this collaboration with our First Nations partners, as they bring important perspectives to the challenges of reducing smoking and tobacco control.

I would like to end by once again commending the government for taking another important step in its commitment to a smoke-free Ontario. If passed, Bill 186 will be an important weapon in the fight against contraband tobacco and in our fight to protect Ontarians, especially our youth, from the dangers of cheap, illegal tobacco.

Thank you very much for this opportunity to speak, and now I'd be very pleased to answer any questions that you might have.

The Chair (Mr. Pat Hoy): Thank you. The questioning will come from the government. Ms. Jaczek.

Ms. Helena Jaczek: Thank you, Dr. King. This morning, we heard from Grand Chief Phillips and also from the Ontario regional chief, Angus Toulouse. It appeared from the perspective of the First Nations that they were certainly interested in more educational efforts for First Nations—young people and so on—on the risks of tobacco.

Perhaps you could outline to us how public health in Ontario is reaching out to First Nations people and what kind of initiatives we already have in place. And perhaps you could then talk a little bit about the \$5 million that is committed to improving some of these efforts as well.

Dr. Arlene King: In brief, public health units are heavily engaged with trying to promote the reduction of tobacco use in the province of Ontario through preventive efforts—and cessation efforts as well.

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The initial investment in trying to reduce the incidence of tobacco use will be an important step forward, particularly in the area of cessation, working particularly in health care settings to increase the number of people who quit. So in hospital settings, through public health units and other settings, the provision of nicotine replacement therapy combined with counselling are really very important and synergistic measures to reduce the prevalence of tobacco consumption.

I think the increased emphasis on cessation, the ongoing commitment to prevention of uptake of tobacco use as well, complemented by efforts to try to reduce supply of cheap tobacco, are all important and synergistic efforts, because we know from experience that you need that very broad-based approach to be able to actually impact the problem.

It really is all complementary and important. I think that's the one thing we have learned about dealing with tobacco over time.

Ms. Helena Jaczek: And working specifically with First Nations?

Dr. Arlene King: Yes. Again, I think that there's always more that can be done in that area, in terms of working with First Nations. But again, there are efforts being made in order to be able to improve the messaging and education of our youth, particularly in First Nations communities.

The Chair (Mr. Pat Hoy): Are there any other questions? None?

Thank you for your presentation before the committee.

Dr. Arlene King: You're welcome.

ONTARIO TOBACCO RESEARCH UNIT

The Chair (Mr. Pat Hoy): Now I call on the University of Toronto, Ontario Tobacco Research Unit to come forward, please.

Dr. Robert Schwartz: Thank you.

The Chair (Mr. Pat Hoy): Good afternoon. You have 10 minutes for your presentation. There could be up to

five minutes of questioning; in this case, it will come from the official opposition. I'd just ask you to identify yourselves for our recording Hansard, and then you can begin.

Dr. Robert Schwartz: I'm Robert Schwartz, deputy director of the Ontario Tobacco Research Unit and associate professor at the Dalla Lana School of Public Health, University of Toronto.

Dr. Michael Chaiton: My name is Dr. Michael Chaiton. I'm an assistant professor at the University of Toronto and a scientist at the Ontario Tobacco Research Unit.

Dr. Robert Schwartz: The Ontario Tobacco Research Unit is a research unit that is funded by the Ministry of Health Promotion and Sport, as well as through grants and contracts from other organizations. We are based at the University of Toronto and at the Centre for Addiction and Mental Health, and we have affiliated partners at the University of Waterloo. It's a broad-based network-type of organization. We have investigators from across the province and, indeed, from outside the province as well.

Today, I'd like to speak with you briefly about the problem of contraband and the scope of the problem in Ontario—at least, what we know of it from what is available from solid research work.

This is not an easy problem to actually understand and to scope out, so you will see that the prevalence of the use of contraband in Ontario is not completely known. We have different estimates of the prevalence of the use of contraband that range from 14% all the way up to 49%, that 49% being from tobacco industry studies, which we have tried to get to the bottom of, in terms of their methodology. We must say that, at this point, we're unable to validate or verify those particular results.

For adult use of contraband, we have our own studies from the Ontario Tobacco Research Unit that indicate that about 26% of Ontario adults report purchasing cigarettes on Indian reservations. That would mean that there would be even more purchasing contraband cigarettes, and you can guess that only a portion of contraband cigarettes are purchased directly on Indian reservations.

There has been an analysis done by Physicians for a Smoke-Free Canada that looked at differences between prevalence estimates and sales data. According to that analysis, there's an estimate that, in Ontario, about 40% of cigarettes used were contraband cigarettes.

Amongst youth, the problem has also been studied. Different estimates also come up with different numbers, but one study indicates that about 25% of cigarettes smoked by adolescent daily smokers in Ontario were contraband. Another estimates that approximately 50% of Ontario high school daily smokers consumed contraband during the previous year. Finally, a more recent study that's still under review suggests that up to 73% of youth in Toronto, 63% in Ottawa and 79% in Montreal report past month use of contraband cigarettes. In addition, those adolescent smokers in all three of these cities reported that acquiring contraband cigarettes is either "easy" or "very easy."

We might say that there is difficulty in coming up with a single agreed number for the prevalence of contraband use, either amongst adults or amongst youth, and there are a couple of reasons for this. One is that the methodology that's used in different studies is different. The second is that it's actually quite difficult to get reliable estimates based on population surveys—at least the surveys that we are currently running. Finally, it seems that the nature of the problem is actually volatile: that the amount of contraband that is used is dependent, somewhat, on the specific supply in specific places at different points in time.

We want to emphasize that related to the problem of the prevalence of contraband is its effects on the potential gains that Ontario might make in decreasing the prevalence of tobacco use. It has been shown over and over again in the literature that there is a strong relationship between the price of tobacco and smoking behaviour. High price, which is achieved through taxation, is one of the most effective, if not the most effective measure to combat the use of tobacco. Contraband undermines this measure by making cheap cigarettes widely available.

Contraband cigarettes in Ontario are not a result of high taxes on cigarettes but, rather, a supply chain that makes the product readily available. We must note that amongst Canadian jurisdictions Ontario has the second-lowest tax on cigarettes but, apparently, one of the highest rates of contraband. This widespread availability of contraband is a risk, and we have pretty much demonstrated that it is working in a very detrimental fashion in that the rate of decrease in the prevalence of cigarette use in Ontario has decreased. We flatlined, pretty much, over the past few years, and that seems to correlate quite strongly with the increase in the prevalence of contraband and the availability of contraband cigarettes.

Thank you.

The Chair (Mr. Pat Hoy): And thank you. The questioning will go to the official opposition. Ms. MacLeod?

Ms. Lisa MacLeod: Welcome to our committee and thank you very much for taking the time out of your—I'm sure—very busy schedules to comment on contraband tobacco.

I enjoyed reading your submission. It talks an awful lot about contraband as a problem. How do you go about solving it? I understand that when you're talking about taxation on legal cigarettes, it is a good idea because it makes it very expensive for people to purchase it. Then, of course, when there is contraband, that undermines that whole notion of making it unaffordable, whether it's for youth or even adults.

You say it's not sort of a revenue problem. But the question is, how do we go about fixing it? Does this bill in front of us go far enough or does it go too far?

Dr. Robert Schwartz: We've done a survey, a knowledge synthesis that was funded by the CIHR, the Canadian Institutes of Health Research, to try and understand the various policy measures that might be put into place to combat contraband. We've identified about 10 different measures that have been used in various

places that run the route of increased enforcement and increased markings and labelling on cigarettes.

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One of the ones that we identified as of potentially the greatest advantage is collaboration with the people who are involved in the supply chain, specifically in Canada and in Ontario, the First Nations communities. The discussions that we had with those communities, to the extent that it was possible to have those discussions, indicated that the economic benefits that accrue to some of those communities or some members of those communities were an obstacle to their resolution of the problem.

What we understand in Ontario is that it is known where the supply is coming from. It is known, more or less, how the product is moving from the points of production or the points of entry over the border to the consumers. Yet until now, not enough has happened to enforce or to deal with those problems.

My understanding of the bill is that it will make great steps forward. I wouldn't feel in a place to comment on whether it goes far enough.

Ms. Lisa MacLeod: Earlier today, we heard from two chiefs of First Nations. One, I believe, was for all chiefs of Ontario, Angus Toulouse, who's quite well known here at Queen's Park, as well as Grand Chief Randall Phillips, from the Association of Iroquois and Allied Indians. They both brought very good presentations to the committee. It's really interesting in that they both felt that, through this whole process, they had not been adequately consulted, for lack of a better term. You're suggesting that one of the greatest places in the supply chain where contraband is coming from is in First Nations communities?

Dr. Robert Schwartz: What we identified in our study is the need to work closely with the First Nations communities on getting at a solution, yes.

Ms. Lisa MacLeod: Both of the gentlemen who were here today sort of indicated that they weren't part of this consultative process, so I really appreciate that clarification.

You did mention—and I just wrote it down—10 different measures throughout various jurisdictions. It spans from increased enforcement to the markings to working collaboratively with our First Nations communities. In your research, what jurisdiction seems to have addressed this the best in North America, given that we do have some border issues with this challenge?

Dr. Robert Schwartz: I would say that the problem of contraband is very different in each jurisdiction, even within North America. It may be similar in Ontario and Quebec, but it would be different in British Columbia than it is here in Ontario and Quebec. The solutions that we've seen from abroad, from overseas, may or may not be applicable here.

One of the things that came up is that when you try and close the flow in one place, it starts flowing in another. For example, in one country, they worked very hard on making sure that the containers coming in from

the ports were checked better, and they apparently managed to stop much of the flow coming in that way. But it ended up coming up in different ways. Then you had a problem with counterfeit cigarettes, which hadn't existed before. So I would say that it's difficult to learn specifically from what one jurisdiction has done and to apply it to the situation here.

Ms. Lisa MacLeod: The chiefs who appeared—

The Chair (Mr. Pat Hoy): Thank you.

Ms. Lisa MacLeod: Oh, we're finished. That was fast. Well, thanks very much; I appreciate it.

The Chair (Mr. Pat Hoy): Thank you for your presentation.

TORONTO PUBLIC HEALTH

The Chair (Mr. Pat Hoy): Now I will call on Toronto Public Health to come forward, please.

Ms. Carol Timmings: Good afternoon. Thank you.

The Chair (Mr. Pat Hoy): Good afternoon. Let me advise you that you have 10 minutes for your presentation. There could be up to five minutes of questioning, and it will come from the NDP in this case. You can begin, and just state your name for our recording.

Ms. Carol Timmings: My name is Carol Timmings. I'm the director of healthy living at Toronto Public Health, specifically of chronic disease prevention and control. I'm also here in the capacity as past president of the Ontario Public Health Association. This is my colleague Mary-Anne McBean, who is also from the city of Toronto and on the board of the Ontario Public Health Association.

Thank you, Mr. Chair and committee members, for giving me the opportunity to speak to you today.

I have been involved in issues relating to tobacco control for more than 20 years, and most recently had the opportunity to sit as a member of the Tobacco Strategy Advisory Group. I am here to express my strong support for a speedy passage and proclamation of Bill 186.

Ontario has made significant strides in reducing tobacco use. I know you're all very much aware of the facts about tobacco, but I do believe some of them merit repetition. Over two million people in this province still smoke. This is about the same number of people who live in the city of Toronto. Tobacco use continues to be the leading cause of preventable death and disease in this province. Every year, more than 13,000 people in Ontario die because of tobacco use. This translates into one person dying almost every 40 minutes. Tobacco is the only legal product that, when used as intended, kills half of its users prematurely. It can also kill others through involuntary exposure to second-hand smoke.

The smoke-free Ontario strategy has contributed to reductions in smoking, and we believe that Bill 186 is yet another positive step in our collective fight against tobacco by controlling contraband tobacco. It is well known that ready access to tobacco products, particularly inexpensive contraband, increases smoking initiation,

hampers cessation efforts, increases youth access and, in fact, tobacco use generally.

Bill 186 fulfills some of the key recommendations of the Tobacco Strategy Advisory Group by:

- requiring those who produce, process, sell or distribute raw leaf tobacco to be registered;

- creating a tax-paid marking for fine-cut tobacco, thereby enabling inspectors to seize unmarked product;

- creating a new fine structure, making it easier to get court approval;

- authorizing police and other authorized personnel to seize unmarked tobacco products in plain view; and

- increasing government authority to create agreements with First Nations concerning on-reserve tobacco sales, such as preventing sales of tax-exempt tobacco to ineligible people as well as the development of strategies to address the production, distribution and sale of contraband.

Toronto Public Health and, indeed, the other 35 health units across this province work every day with communities and organizations motivating people to quit and working with people to prevent them from smoking, particularly our youth. Inexpensive, illegal cigarettes flooding the market make it much easier for young people to access tobacco, even if they're underage. Young people, we know, are the most sensitive to the price of tobacco. In other words, low-priced cigarettes make it so much easier for them to access this deadly product, smoke more cigarettes and become very readily addicted. Similarly, low-priced tobacco does not offer the same incentive to reduce or quit smoking as higher-priced, fully taxed cigarettes.

Today, I wanted to do something a little different so I actually brought some exhibits. I wanted to just present you a sample of what we come upon in our day-to-day work, particularly our enforcement staff. I've just brought a sample of a baggie that would normally contain, as a rule, about 200 contraband cigarettes. Our youth in this city can get these cigarettes—and they sometimes show up as little sample baggies too, depending on where they're selling them. They can buy this entire baggie, a big baggie of 200, for as little as \$20 on our streets right now. Normally, if you were to buy the equivalent in cigarettes legally, they're worth about \$95. That's a significant price differential.

A package—and interestingly enough, on my way here on the TTC I happened to run into an empty one of these discarded on the TTC car. A package of contraband, the kids can pick up for about \$4. This would normally be worth in the neighbourhood of \$10 if they were to buy it at their convenience store. This is cheaper than a movie ticket; okay? Kids can get these cheaper than a movie ticket.

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We know in Toronto and in other parts of this province, from the experience of our enforcement staff, our staff out working in schools, working with teachers and youth organizations, that not only do you have to go out and get these, but these can be delivered to your door.

You can get them at your schoolyard. They're available at the local convenience store. They're just not out in the same way—under the counter, in their safes, in various spots. It's this tobacco that actually accounts for 43% of all cigarettes smoked by high school students in this province.

Figures from RCMP reports show a skyrocketing increase in the amount of contraband tobacco available in the last 10 years. Ontario and Quebec are the largest consumers of contraband cigarettes—not a distinction we're proud of; in fact, it's very shameful.

Not only is the health of Ontarians being affected by contraband, but so is our economy. One report indicates that for 2007, Ontario lost \$500 million in taxes due to contraband. Take a minute or two to think about what that kind of lost revenue could have done for communities across this province.

Evidence shows that raising prices of cigarettes is an effective intervention in reducing consumption and smoking prevalence for both youth and adults. Increasing taxes on cigarettes has been a key strategy in our successful fight against tobacco. The availability of contraband tobacco completely circumvents this important tobacco reduction lever. Ongoing availability of contraband tobacco hampers all our efforts to reduce tobacco use. A failure to deal effectively with the contraband issue is a failure, quite frankly, to protect the health of Ontarians.

Contraband tobacco is just too easily accessible. In Toronto, contraband cigarettes have been found in retail premises hidden in cupboards, inside ATM machines, in cereal boxes, in concealed closets and in vehicles parked in back laneways. Our inspectors can tell so many stories.

I'm here today to really encourage the committee and MPPs to maintain your strong commitment to tobacco control in this province. I believe that Bill 186 is consistent with government investment and actions to date and is a wonderful opportunity to build on those actions. It is absolutely essential that the momentum that we have gained in this province in the fight against tobacco be maintained by passing and proclaiming Bill 186 prior to the end of the current session of the Ontario Legislature.

Ontario needs to continue to be a leader in tobacco control. Please don't let all of our accomplishments go up in smoke.

The Chair (Mr. Pat Hoy): Now we'll go to the NDP. Ms. Gélinas.

M^{me} France Gélinas: I feel like clapping; a very, very good presentation.

Some little questions about the bill: Some people have come and said that we should have given police officers the right to ticket right there on the spot rather than having to bring somebody whose products have been seized through court and the process, where that means that basically the police officer has to prepare for court, rather than: "Your first offence, you're caught with a baggie of illegal cigarettes, you get a ticket." What's your view on that?

Ms. Carol Timmings: I think that would have been very helpful. However, I must say, in terms of looking at

some of what Bill 186 fulfills, I think it is the right direction, an incremental step. I think that would have streamlined the process, absolutely. I think it would have been an opportunity to, very early on, give that message to the individual in terms of what the expectations are around possession of contraband cigarettes. We didn't see that, but I think that would have been very helpful.

M^{me} France Gélinas: It's not too late.

Ms. Carol Timmings: It's not too late. I think that would be a very helpful amendment. Anything we can do to make it less complex in terms of the process and really be able to take action on the spot is, of course, very helpful. That would be a helpful amendment.

M^{me} France Gélinas: The second question I wanted to ask is: In all of the seizures that you and your enforcement officers do—and you didn't touch on this—how aware are the people using those tobacco products? Are they aware that what they're doing is illegal?

Ms. Carol Timmings: I have to say that it's the price that speaks volumes. Many are aware it is illegal. Some, on face value, would say that they are not. Some are misled in the purchasing exchange. I think there is opportunity for more public education in that regard, but I think price speaks volumes. I think ease of access—the consciousness levels are, I think, on a continuum. I think some are absolutely both aware that the sale is illegal and the purchase is illegal; for others, it depends on the age group. So I think it is fairly circumstantial.

M^{me} France Gélinas: You mentioned it depending on age group. Would you have data as to how aware people are that—I can speak for my riding; my riding gets most of their cigarettes from Atikameksheng Anishnawbek,

which has lots of smoke shacks. The police officers go in and buy their smokes there, so it makes it so legitimate. Everybody does it—

Ms. Carol Timmings: It becomes a norm, a normative practice. I would say that's right. Particularly when we see new smokers, they just go where people go to get the cheapest product. It's the price point. It becomes the norm. So their level of awareness may or may not be there.

M^{me} France Gélinas: So then my next question is, there are possibilities to make amendments to the bill, one being that we have to have an awareness campaign roll out before—

Ms. Carol Timmings: Absolutely. I think public education is always a critical part of any legislative change. I think we go about that every day in a more episodic way in our local work in the community, but I think legislative change, such as this, accompanied by good public education is absolutely a recipe for success.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Pat Hoy): And thank you for your presentation.

Ms. Carol Timmings: Thank you so much for your time. I appreciate the opportunity.

The Chair (Mr. Pat Hoy): I just want to remind the committee of a couple of important dates. Amendments to the bill must be filed with the clerk of the committee by 4 p.m. on Wednesday, May 25, and then, of course, the committee will meet again on Monday, May 30, at 2 p.m., for clause-by-clause consideration of the bill. With that, we are adjourned.

The committee adjourned at 1437.

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