



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Justice and Human Rights

JUST • NUMBER 010 • 2nd SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, December 10, 2013

—
Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

Tuesday, December 10, 2013

•(0845)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): Ladies and gentlemen, let me call to order this meeting number ten of the Standing Committee on Justice and Human Rights, this Tuesday, December 10.

Pursuant to the order of reference of Tuesday, November 5, 2013, Bill C-10, An Act to amend the Criminal Code (trafficking in contraband tobacco) is in front of us today, our last day with witnesses on this.

This morning we have with us the Canadian Cancer Society and Rob Cunningham; from the Non-Smokers' Rights Association we have François Damphousse; and from the Heart and Stroke Foundation of Canada, Manuel Arango.

All three are here to talk to us about Bill C-10, and they've asked for a certain order of speakers, so we'll go with the Heart and Stroke Foundation of Canada first. Thank you, sir, the floor is yours.

Mr. Manuel Arango (Director, Health Policy, Heart and Stroke Foundation of Canada): Thank you very much, Mr. Chair.

My name is Manuel Arango, and I'm the director of health policy at the Heart and Stroke Foundation.

The foundation has met with many members of this committee recently to discuss how we can improve the regulatory environment for charitable lotteries through the elimination of red tape, something that could save charities millions of dollars per year. This objective is also supported by many other organizations, including the Cancer Society, which of course is represented here today.

[Translation]

Today, I have the pleasure of discussing Bill C-10 with you.

[English]

First, some information about the Heart and Stroke Foundation. Our mission is to prevent disease, save lives, and promote recovery. We are a volunteer-based health charity, drawing upon the support of 140,000 volunteers across the country. We strive to improve the health of every Canadian family, every day.

Tobacco use is a key risk factor for heart disease and stroke, increasing the incidence of all major forms of heart disease and stroke. Of the premature deaths caused by smoking-related disease in Canada, heart disease and stroke accounted for almost one-third of these deaths, or almost 11,000 deaths. As such, for the foundation, it is crucial that as a society we do our utmost to reduce tobacco use.

Over the years, the foundation has worked with its partners to advance a variety of tobacco control measures across the country at the federal, provincial, and municipal levels. We support Bill C-10 because eliminating contraband tobacco, which is a source of cheap tobacco, is critical given the role that price plays in tobacco consumption. We believe that Bill C-10, within the framework of a comprehensive tobacco control strategy, will help to reduce smoking consumption in Canada, especially among our youth.

Let me be clear, in Canada today the principal cause of contraband tobacco smuggling is criminality and geographic hubs, not tobacco taxes. We know this because we do not have any significant tobacco contraband in those jurisdictions in Canada where tobacco taxes are high. In fact, it is the jurisdictions with the lowest taxes—for example, Ontario and Quebec—where we see the highest rates of contraband, so clearly other factors are at play.

The reality is that tobacco taxes are the most effective tool we have to combat the harm caused by tobacco. A large proportion of the reduction in smoking consumption over recent years can be attributed to our tobacco tax policies. In fact, reducing tobacco taxes would lead directly to increased smoking, death, and disease. Vulnerable populations such as our youth are especially sensitive to tobacco taxes. Preventing smoking among our youth—Canada's future—is important given that once a teenager begins smoking, they typically continue this consumption pattern for at least 20 years. For this reason, nipping the tobacco habit in the bud among youth is critical and tobacco taxes have an important role to play in this regard.

As I mentioned earlier, geographic hubs also play a role in contraband tobacco. An example of the impact of geographic factors is well illustrated through the case of the border post in Cornwall, where simply moving the border post from the middle of Cornwall Island to the foot of the bridge in Cornwall in 2009 made a dramatic difference in tobacco contraband smuggling rates.

Mr. Chair, a number of measures are needed to address tobacco contraband and tobacco consumption in Canada. Deterrence via increased penalties to stop tobacco contraband smuggling is very clearly one of these measures. For this reason the Heart and Stroke Foundation of Canada supports Bill C-10. This bill is clearly a means, within the context of a comprehensive tobacco control strategy, to combat tobacco contraband and tobacco consumption in Canada.

Thank you very much.

● (0850)

The Chair: Thank you for that presentation.

Our next presenter is from the Non-Smokers' Rights Association.

The floor is yours, sir.

Mr. François Damphousse (Director, Quebec Office, Non-Smokers' Rights Association): Thank you, Mr. Chair, and all the members of the committee for granting me this privilege to offer a few of my own comments on the importance of Bill C-10.

First of all, I would like to say that the Non-Smokers' Rights Association is a national non-profit health organization working for more than 35 years in the development and promotion of effective tobacco control policies, including tobacco taxation, to reduce the death and diseases related to tobacco use.

On the issue at hand, as Manny mentioned, it is important to understand that tobacco taxation is the most valuable policy we have at our disposable to reduce tobacco use, especially amongst kids. That is why efforts such as Bill C-10 are always welcome. They provide more powers to the authorities to contribute further to the decline of the tobacco contraband market.

I was quite surprised to learn recently that only RCMP officers have the authority to make arrests of suspected tobacco smugglers. Although the Quebec Tobacco Tax Act does grant some powers to provincial and municipal police officers to immobilize motor vehicles suspected of carrying contraband, and request a warrant to search them, they cannot make any arrest. It is up to the Quebec revenue department to lay any charges. I believe Ontario provincial and municipal police officers don't even have such authority to enforce their own Tobacco Tax Act.

This will all change with the passage of Bill C-10, because contraband trafficking will finally be recognized as a criminal activity.

Another key issue is the fact that many traffickers arrested by the RCMP and found guilty of tobacco smuggling don't even pay their fines. They just go back to the illicit trade. That raises serious concerns about the deterrent effect of existing sanctions.

By adding jail time, Bill C-10 makes contraband tobacco a more serious offence, as it should be, considering the threat it poses to public health. However, the next challenge will be to convince the provincial and municipal police officers to take full advantage of these new powers under Bill C-10, which is under the Criminal Code. Maybe the next step would be to imitate Quebec and create dedicated teams of investigators focusing uniquely on the fight against the illicit tobacco trade.

Thank you.

The Chair: Thank you for that presentation—short, sweet, and to the point. Thank you very much.

The next and final presenter this morning is the Canadian Cancer Society.

● (0855)

Mr. Rob Cunningham (Senior Policy Analyst, Canadian Cancer Society): Thank you, Mr. Chair.

My name is Rob Cunningham, lawyer and senior policy analyst with the Canadian Cancer Society.

[*Translation*]

Thank you for the opportunity to testify before you today.

[*English*]

We support Bill C-10. We urge all parties to support adoption of the bill as soon as possible.

At the outset, let me emphasize the crucial role that higher tobacco taxes play in reducing tobacco use, especially among youth who have less income. There's a vast body of evidence that confirms the obvious: as prices go up, tobacco consumption goes down. Through the clerk, we've provided to the committee for its review extensive studies, reports, and other evidence to this effect, including a 2001 evidentiary compilation—I am showing you the first volume here—as well as a 2011 evidentiary review.

Contraband undermines the public health and public revenue benefits of higher tobacco taxes. Contraband may provide direct access to lower-priced product and may be a concern impeding governments from increasing tobacco taxes.

The cause of contraband as we have it in Canada today is not high tobacco tax rates, but rather proximity to the source of supply: the illegal factories on a handful of territories in or near Ontario and Quebec. This is key to the problem.

In the white binder that has been distributed to you, you will see in tab 1 a tax map, and you can see the comparative tobacco tax rates for provinces and territories in Canada. In western Canada, tobacco taxes are far higher than in Ontario and Quebec, but in Ontario and Quebec, contraband is far higher than in the west. This demonstrates that the cause of contraband in Canada today is not higher tobacco taxes but proximity to illegal sources of supply, as we see in Ontario and Quebec. We can have high tobacco taxes with low contraband, as has been sustained in western Canada.

The tobacco industry acknowledges that contraband has decreased substantially. I invite you to turn to tab 2 in the binder. In a presentation from British American Tobacco, they indicate that there was an increase in contraband through to 2008—33%—but by 2010, it declined to 19%. There are further indications of decline since then. If you turn to the next page, you will see that Philip Morris has some data through to 2011, with very significant declines in contraband.

Bill C-10 will be beneficial to efforts to combat contraband. The bill is reasonable and justifiable.

Bill C-10 is in fact necessary and essential as a mechanism to help drive contraband volumes down further and to do so on a sustained basis. It will provide a prosecutorial option for stronger penalties. Right now, fines are too often simply treated as a cost of doing business, and fines that are imposed are far too frequently ignored and never paid. There needs to be an adequate deterrent available, and Bill C-10 will provide a new optional mechanism. The penalties in existing excise legislation are not doing the job. The bill will also provide new authority to provincial and municipal police officers.

There are 37,000 Canadians who die each year because of the tobacco epidemic, 47 times the total number of homicides, which in 2011 was 598. By reducing contraband and sustaining further tobacco tax increases, lives will be saved and fewer kids will be addicted.

We must recognize that contraband is, in part, an aboriginal health issue. One study found that smoking prevalence among on-reserve first nations was a shocking 59%, compared to the Canadian average, which is now 16%. Illegal factories and other contraband sources provide aboriginal kids and adults with direct access to cheap cigarettes with no taxes paid.

Contraband must be tackled. At the same time, we must not allow the tobacco industry and the associations they fund to use contraband as a public relations tactic to oppose other much-needed tobacco control measures.

Beyond Bill C-10, further federal action measures on tobacco contraband should be implemented.

First, while the RCMP has done considerable good work, we believe that the RCMP should pay more attention to blocking the supply of raw materials, such as leaf tobacco, cigarette paper, and cigarette filters, intended for illegal reserves. We urge the RCMP to gather intelligence and then intercept, off reserve, these shipments that are illegally aiding and abetting the unlicensed factories. This is key in terms of an effective strategy to deal with illegal factories located in Canada.

Second, there is no doubt that relocating the Cornwall border post in 2009 to the bottom of the bridge in Cornwall reduced contraband. It became a choke point for previous smuggling routes from the U.S. side of Akwesasne. The government now intends to move the border post to Massena, New York. We suggest a modification. Instead of simply moving, a better approach would be a two-part border post, with the primary checkpoint in Massena and a secondary checkpoint at the current location in Cornwall. This is similar to arriving in Canada after an international flight, when in the airport there is a two-part check system.

Third, the federal government needs to persuade the U.S. government to shut down the illegal factories on the U.S. side of Akwesasne.

Fourth, the Canadian Cancer Society recommends that Canada sign the Protocol to Eliminate Illicit Trade in Tobacco, an international agreement under the WHO Framework Convention on Tobacco Control.

We need a comprehensive strategy to combat contraband, and we need a comprehensive strategy to reduce tobacco use.

In closing, we reiterate our support for the bill. We look forward to your questions.

Merci.

• (0900)

The Chair: Thank you for that presentation.

We will go to questions now.

Our first questioner, for the New Democratic Party, is Madame Boivin.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Thank you, Mr. Chair.

I would like to thank the three witnesses for being here this morning to help us as we consider Bill C-10.

I appreciate that all three of you support this bill. In fact, I would be surprised if you didn't. I am convinced that Bill C-10 is not an end in itself for you and your organizations.

[*English*]

It's not an end to the problem of combatting tobacco use because it's more the name of the game of your associations, I'm pretty sure.

[*Translation*]

The headline this morning on my local newspaper, *Le Droit*, read "Illegal Cigarette Butts by the Ton". The Canadian Convenience Stores Association commissioned a study, and tons of cigarette butts were collected at the Rideau Carleton Raceway. They found that 46.6% were from contraband cigarettes. That shows us just how much of a concern it is.

We have heard from a number of witnesses, and I still don't know how we can solve this problem, strictly from the perspective of contraband. Some people say that if we raise taxes, there would automatically be more contraband. Should we lower taxes to ensure that there is no contraband? But then cigarette use would increase.

Mr. Cunningham, I am pleased that you made other suggestions to indicate that Bill C-10 is not an end in itself. Some witnesses told us that there was less contraband. I would like to hear what you have to say about that. This aspect is important and needs to be studied. When we analyze the methods that the current and previous governments have used, it would help us determine whether Bill C-10 is fine in itself.

My question is for all three of you. Do you agree that there is less contraband, or do you think there is more? Please give us your thoughts.

[English]

I'll start with Monsieur Damphousse.

[Translation]

Mr. François Damphousse: The amount of contraband has very clearly gone down. Even the tobacco companies acknowledge that internally. However, they have started a public relations campaign so that the government mainly draws attention to contraband and nothing else. We aren't saying the problem has been eliminated; the problem still exists. It's impossible to know directly how big the contraband market is because contraband cigarette manufacturers obviously don't provide that information to the authorities. In the 1990s, the three big tobacco product manufacturers acknowledged their guilt and said that they were feeding the contraband market.

That said, it is important to look at the indirect indicators. Take the Government of Quebec's last budget. Its revenues have increased considerably since 2008. With respect to projected revenue from tobacco taxes, the losses have decreased significantly. That clearly means that there has been a shift from the contraband market to the legal market. What happened? The situation can be attributed to the measures taken by the federal government and the governments of Quebec and Ontario.

As Mr. Cunningham said, it is a comprehensive approach that requires a number of measures. I gave a list of all the measures that were put in place in the 2000s by the governments of Quebec and Ontario alone. It's a long list and the measures are working.

• (0905)

Ms. Françoise Boivin: Did you submit that document to the committee?

Mr. François Damphousse: I can, but it is in French; I don't have an English version.

Ms. Françoise Boivin: We could have it translated later. The information would be extremely interesting and would let us see all the steps that have been taken. Bill C-10 is part of a whole.

Mr. François Damphousse: Perfect. I will table it.

I don't know if you have read the report by the Quebec government's advisory committee on the economy and public finances. The committee held public hearings on contraband and issued a report with all the steps take by the Quebec government. It also contains recommendations on another series of steps that the government plans to take in the coming years. I could table that document, as well.

The problem is that taxes are low. You said that if taxes were increased, there would be more contraband, but that's not true. Taxes are much higher in other provinces. There is practically no contraband in Alberta. The problem is the proximity to first nations reserves and the difficulty in intervening to resolve the problem of illegal manufacturers. One of the most important things is to control the inputs. The Government of Ontario will control tobacco farming, but not until January 2015. Cigarette filters and papers can also be controlled, but that hasn't been done yet. We think it is an essential measure that should be put in place.

Ms. Françoise Boivin: Some band chiefs were here last week. Tobacco is very important to them; it is part of their culture.

I see you rolling your eyes. In any event, for someone who is aware of the issue, do you think there has been enough discussion between the various police forces and the band councils?

Mr. François Damphousse: There have been negotiations on sharing income from tobacco tax. The first nations quickly understood that if taxes are charged on their tobacco products, sales would simply disappear.

Yes, tobacco may be part of their culture, but what you probably mean is the traditional use of tobacco, and not the commercial use, or cigarette sales.

I blame tobacco manufacturers for fueling greed in first nations by supplying them with products in the 1990s. Manufacturers succeeded when taxes were lowered in 1994, and they stopped supplying the contraband networks. Aboriginals understood that it was very easy to make cigarettes and that it costs almost nothing. They bought equipment to manufacture contraband cigarettes and started building factories on their reserves. It was then very simple to get them on the legal market.

Ms. Françoise Boivin: Thank you.

[English]

The Chair: Thank you for those questions and answers. They were very good.

From the Conservative Party, Mr. Dechert.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Gentlemen, thank you for sharing your expertise with us this morning.

I wanted to start with the Canadian Cancer Society.

There seems to be some confusion about whether the importation of contraband tobacco is going up or down in Canada. The RCMP seizures in recent years appear to be down. But last week, when we were meeting with a representative of the Canada Border Services Agency, he actually pointed out that their seizures for the last three years were 35,000 kilograms in 2011, 148,000 kilograms in 2012, and 192,000 kilograms in 2013. Either they're getting a lot better at intercepting the inflow of this contraband tobacco or there is more of it coming in.

Do either of you have a view? Can you clarify that point for us.

Mr. Rob Cunningham: Sure.

I think possibly those figures from the CBSA just refer to fine-cut tobacco, they don't include cigarettes.

Mr. Bob Dechert: That's right.

Mr. Rob Cunningham: I think the news for cigarettes is much more encouraging—

Mr. Bob Dechert: Okay.

Mr. Rob Cunningham: —in terms of the trend in seizures.

If you add up the RCMP and CBSA seizures together, the news is far more encouraging. Of course, seizures are only one indication. It is not necessarily representative of contraband. The police are getting better at what they're doing because of the experience and more tools available.

But if we look at all the other indications, including the industry's own studies, including tax-paid sales going up while smoking problems continue to go down, contraband is going down in the aggregate, which is very encouraging. But, still, it's a problem that needs attention, including by this bill.

Mr. Bob Dechert: Right.

So police enforcement is improving things and border security is improving things?

Mr. Rob Cunningham: Yes, including other measures implemented by the federal government and the Ontario and Quebec governments.

Mr. Bob Dechert: Okay, good.

Now you mentioned the use of tobacco on reserves. Did the Canadian Cancer Society do a study on that? You mentioned the use of tobacco on reserves compared to off reserve.

Mr. Rob Cunningham: No, that was a national study.

Mr. Bob Dechert: That was a national study.

Mr. Rob Cunningham: Done for the federal government.

Mr. Bob Dechert: Okay. When was that study done?

• (0910)

Mr. Rob Cunningham: There have been a number of studies, but the most recent one was about four years ago.

Mr. Bob Dechert: Can you just remind me of the statistics again?

Mr. Rob Cunningham: There's a 59% prevalence among on-reserve first nations individuals.

Mr. Bob Dechert: Okay.

When the native leaders were here last week, they mentioned this bill doesn't give them an exemption for the export of product for ceremonial use.

Does that make a lot of sense to you?

Mr. Rob Cunningham: I see no impediment to the trade in tobacco for ceremonial use. In regard to the use of tobacco for traditional ceremonies or religious practices, keep in mind that modern cigarettes have nothing to do with traditional ceremonial aboriginal practices. In terms of the quantities in this bill, I see no problem whatsoever.

Mr. Bob Dechert: Okay.

You mentioned that young people in particular are susceptible to the price of tobacco, and so tobacco taxes work with respect to keeping young people from getting started on tobacco.

In my city of Mississauga studies have shown that a large percentage of cigarette butts, and I think Madam Boivin mentioned a number, about 46% of cigarette butts—perhaps that was nationally, I'm not sure where, but certainly in Mississauga it's a very large

percentage—found around schoolyards are actually contraband tobacco.

Can you tell us how difficult it is for people to kick the tobacco habit if they get started at that young age?

Mr. Rob Cunningham: Nicotine is highly addictive. The U.S. Surgeon General has concluded it's as addictive as heroin and cocaine. So it's essential that we prevent kids from starting.

Mr. Bob Dechert: This question is for all of you, or for anyone who wishes to answer.

Do you have any thoughts on who's selling these cigarettes to school kids in a place like Mississauga? We're at least 100 kilometres away from the nearest reserve where they could go and buy the cigarettes directly. In my view, the vast majority of these school kids are not driving down to Brantford, Ontario, to the Six Nations reserve and buying the cigarettes themselves. Somebody is bringing it to them. Do you have any views on who is selling these products?

Mr. François Damphousse: It's probably people who are going on the reserves and coming back with truckloads of cigarettes. They're not being caught when they drive away from the reserves. Then they go into their neighbourhoods and distribute these products even to kids.

I'm taking Quebec as an example. We discussed with them. We said it's very important to address the source of the contraband, which is blocking what's coming from the reserve. But you also have to address what's going on in neighbourhoods.

The Quebec government created what is called the access committee in 2000. The access committee set aside a budget to put special teams of investigators—there are about 10 of them—across the province in the most important municipalities. There are also roaming investigators from the QPP, who go everywhere to address what's happening on the ground, in the communities.

We don't see that in Ontario. That's missing. One of the problems we're seeing is that it's not necessarily considered a priority, considering the budget cuts to many police forces.

Having the funds available to create these special teams worked in Quebec. Actually, the drop in contraband has been far more effective in Quebec compared to Ontario. So if that were available and you had these investigators working in communities, it would seriously help with that kind of situation, where we're seeing kids get their sources of contraband tobacco in their neighbourhoods.

The Chair: A really quick question.

Mr. Bob Dechert: Do any of you have a view on what other products the people who are selling tobacco to kids might also be offering for sale?

Mr. François Damphousse: This is conjecture on my part. One of the problems we're seeing, and what the RCMP is reporting, is that with the trafficking of tobacco, there is exchange sometimes for illegal drugs as well. So that might be a problem, where illegal drugs, as well, are going into the communities.

But for me, I have no evidence of that. It's the RCMP who has that information.

The Chair: Thank you for those questions and those answers.

Our next questioner, from the Liberal Party, is Mr. Casey.

Mr. Sean Casey (Charlottetown, Lib.): Thank you, Mr. Chairman.

Welcome.

All of you have talked about Bill C-10 as one component in a bigger strategy. Mr. Cunningham, you had some specific examples. You referred to it. I'd be interested in hearing your further comments as to what else government and others should be doing over and above Bill C-10.

My question is for Mr. Arango. You have heard the others flesh out a little bit what a more comprehensive strategy would look like. You referred to it. I'd be interested in hearing your further comments as to what else government and others should be doing over and above Bill C-10.

• (0915)

Mr. Manuel Arango: Thank you very much.

It's like anything else. Generally speaking, you never have a magic-bullet solution to problems. They're usually multi-pronged. It's exactly the same situation with tobacco consumption and with contraband consumption.

Certainly with respect to contraband and first nations communities, one other potential solution—and I'm sure you would have heard this from the persons who have testified on behalf of first nations—is to address the issue of social determinants in their communities.

Poverty reduction is important. It's not easy, of course. However, if you address poverty reduction and you give people employment opportunities, it is less likely they're going to engage in contraband trafficking. That is most certainly part of the solution as well—employment and poverty reduction.

Mr. Sean Casey: Thank you.

Mr. Cunningham, you talked about unlicensed factories. I wonder if you could expand a little more on what we know of unlicensed factories.

Mr. Rob Cunningham: Based on reports from the RCMP and others, on Kahnawake near Montreal, there are about ten; there's one on Tyendinaga, near Belleville; and there are maybe a dozen or so on Six Nations near Brantford. Those are in Canada. On the U.S. side of Akwesasne, there were 10 a couple of years ago, but it may be slightly less than that now. These are the primary sources. Well over 90% of the contraband in Canada originates from these unlicensed factories.

Mr. Sean Casey: Thank you.

As part of the overall strategy to combat contraband, you mentioned Canada's signing an international treaty with the World Health Organization. I'd be interested to hear a little more about that, especially the reasons that we haven't signed on yet. To the best of your understanding, what are the impediments standing in the way of our joining in? And what will the impact be?

Mr. Rob Cunningham: There's still an opportunity to sign. It was approved in November 2012. Countries are now in the process of signing it. Canada was an active player in the negotiations. The Canadian delegation was satisfied with the content at the conclusion of negotiations. I know this is something the Canadian government is considering.

Mr. Sean Casey: I recall a few years back—at least 10 years—where there was a dramatic cut across the country in taxes on tobacco. The rationale at the time was contraband. All of you have been unanimous that lower taxes aren't an impediment. I wonder, and this is open to whoever wants to answer it, if you can comment on that experience. You're all nodding your heads so you all know the timeframe of which I speak, although I may be vague on it. You're in the business. Talk to us about that timeframe, what brought it on, and what we learned.

Mr. Manuel Arango: At that time, when the rates were cut, smoking prevalence rates went up. That example definitely supports what we've said about the relationship between taxes and consumption. At that time, the contraband problem was orchestrated by the tobacco industry and they were forced to pay restitution and fines as a result.

Mr. François Damphousse: I started working in tobacco control in 1993, right smack in the smuggling crisis. It wasn't all the provinces that rolled back their taxes. Quebec was the first and it had a domino effect—New Brunswick, Ontario, and a few other provinces in the Maritimes. The other provinces maintained their level of taxation. The federal government lowered their tax, but it was not across the board.

Tobacco taxation was so effective that the tobacco industry was panicking. They recognized in their annual reports that they were losing a lot of their sales because of that. The policy that was brought forward was a suggestion by the health community. If you want to generate revenue, you might as well generate revenue with a product that's killing people and stop some of them from picking up tobacco.

At one point, the tobacco industry realized that, even as they were making the argument that they were losing sales, the policy was working. At one point, they engaged in a public relations campaign across the board. They invested millions. They said that tobacco taxation did not work, while illegally supplying the contraband networks, especially through Akwesasne. All of those operations were done by the tobacco industry.

Unfortunately, the pressure became so intense in the 1990s that the government thought the best way to get out of the problem was to lower tobacco taxes. At the same time, though, they came up with the Tobacco Demand Reduction Strategy. It was only later, through litigation in the United States and the uncovering of internal documents from the industry, that we uncovered a whole conspiracy on their part, in which they admitted to supplying the contraband market. The tobacco industry was sued by the States, and the industry was found liable. In 2008, you had Imperial Tobacco and then Rothmans, Benson and Hedges. After that, you had JTI-Macdonald in 2010. It was a record fine that they had to pay—\$1.7 billion or \$1.8 billion—an amount never before seen in this country.

• (0920)

The Chair: Thank you very much for those questions and answers.

Rob, do you have anything really short to add? You're okay? Very good.

Thank you for that.

Our next questioner from the Conservative Party is Monsieur Goguen.

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for sharing your expertise.

Mr. Dampousse, did you want to finish up what you were completing? We were just getting to the good part.

Mr. François Dampousse: No. I hope it is the type of information....

Mr. Robert Goguen: Thank you.

My question is for Mr. Cunningham. We've heard in committee that there are different concentrations of elements in the illegal cigarettes. We know that even the legal cigarettes are not good for smoking, but there seem to be some surprises in the illegal products.

Can you talk to us about what has been discovered in illegal cigarettes and the effects, I guess the very bad effects, it would have on those who smoke them?

Mr. Rob Cunningham: Health Canada is doing some studies and their basic conclusion is that the health effects of smoking contraband are the same as smoking regular cigarettes. There are some particular cases where the manufacturing processes are different and inadequate, have special flaws, have all kinds of other contaminants in the products. The biggest health problem is the low price which encourages kids to get addicted and which keeps smokers smoking. So there are really huge negative health effects from contraband.

Mr. Robert Goguen: You've all commented that there is no magic bullet for this problem. Of course even the legal cigarettes are bad, but I guess banning them outright might bankrupt the state of Virginia. So I guess that's probably not going to happen.

If you had to dig into your utility belt without the magic bullet, and we know that taxes don't seem to do the trick, what would be the most effective way of countering this? You've mentioned the illegal manufacturers. Dig into your bag of tricks and tell us what would be the most effective thing.

And that's open to whoever wants to venture.

Mr. François Dampousse: You're talking about tobacco consumption altogether?

Mr. Robert Goguen: Yes, and about combatting—

Mr. Rob Cunningham: Combatting contraband...?

Mr. Robert Goguen: Yes.

Mr. Rob Cunningham: I would say that because more than 90% of the source of contraband in Canada comes from the illegal factories we have to have a strategy for illegal factories. The best

way to do that is to intercept the raw materials before they get to the reserve and get to the factories.

If you can't have leaf tobacco or cigarette papers or cigarette filters you can't make cigarettes. So I think it's very feasible.

Quebec has had some success. The United States Bureau of Alcohol, Tobacco, Firearms and Explosives has had some success with illegal factories on the U.S. side of Akwesasne. It's sort of an untapped strategy in most of Canada.

Mr. Robert Goguen: So it's the location of the checkpoints, the choke points, the border crossings, that are the most effective that we can come up with?

Mr. François Dampousse: That's just in the case of Akwesasne, which could be potentially a problem, because Akwesasne is a source of contraband tobacco, but you have some in Kahnawake near Montreal, Tyendinaga, and Six Nations.

So, for the Akwesasne situation we're considerably concerned about the issue of having the border post being moved into New York state. We understand that the decision cannot be reversed, but what Rob is proposing—having a two-tier system—could be very helpful. The international bridge is going to be a conduit. Once the border post is moved to the United States nothing is going to prevent them from moving all those products into Ontario.

• (0925)

Mr. Robert Goguen: We're not reinventing the wheel by having a double checkpoint?

Mr. François Dampousse: No. And for the other reserves, the other territories....

Politically, recalling the Oka crisis, it will be quite difficult to go on the reserves and shut down those manufacturing facilities. I'm from Chateauguay and I lived through what happened during that crisis. My mother had to sell her house and move out of Chateauguay because of what happened. The best way, we believe, is to cut off the supply of other materials.

It's not even illegal for the manufacturers of filters or cigarette paper to supply the illicit manufacturing facilities. How can they do that without paying any kind of penalties for doing that? For raw tobacco, that has changed—you're not allowed to do that. But you need to seize it, and to do that, you have to know where the product is coming from. Ontario made a great move by passing Bill 186. It's the implementation that's taking time. An RCMP document leaked at one point in time showed that a considerable portion of the tobacco grown in Ontario was going to the illicit manufacturing facilities on the reserves. So it's a major concern but there's no control whatsoever on that tobacco right now.

Once this bill is implemented, controlling the tobacco coming from the Ontario belt is going to be very helpful. That's why we need to choke off these illicit manufacturing facilities by preventing the supplies of the materials.

Mr. Robert Goguen: Thank you.

That's good, Mr. Chair.

The Chair: The next questioner is from the New Democratic Party, Mr. Kellway.

Mr. Matthew Kellway (Beaches—East York, NDP): Thank you very much, Mr. Chair. Thank you all for coming today and sharing your thoughts on Bill C-10. Like Mr. Casey, I was struck by all three of you commenting, using almost the same language, about the need for a comprehensive tobacco control strategy. I want to unpack that a little bit, but first I'd like to talk a bit about where Bill C-10 fits in all of that.

As I understand your response to Bill C-10, I think all three of you have referred to it as a deterrent. I'm wondering, because we've talked about other things like tax policy, how much thought from you has actually gone into how that's going to work as a deterrent, whether you have considered such things as differential impact on different parts of society, about the mandatory minimums involved in Bill C-10, and criminalization of possibly youth, and possibly some sections of society.

Have you guys given any thought to that?

Mr. François Dampousse: We obviously have contacts with different police officers and with the RCMP specifically, and one of the things I've learned—it was quite interesting—is that they're frustrated. They are really frustrated because one of the things that's happening is they are catching many of the smugglers coming up, for example, from Akwesasne. They lay charges against them, they have fines to pay, but they don't pay them. They just go back on Akwesasne. So I find that very strange. We never go, and get them back, and force them to pay their fines.

This bill will change that. It will have a much greater deterrent effect by having minimum jail time, and I think that's very important.

Something I did not know even though I worked in tobacco control for 20 years was contraband was not part of the Criminal Code so police officers at the municipal or provincial level are very limited in what they can do. In Quebec they have amended the Tobacco Tax Act so police officers can at the very least immobilize a vehicle, and if they suspect it has contraband in it, they could ask for a warrant and search the vehicle.

But they can't arrest the individual. It's the revenue department afterwards that lays charges against that individual, but they can't arrest them. This will change with Bill C-10. It will provide the necessary authority for the police officers to arrest the individual if they have a minimum quantity of contraband tobacco, which is a big help.

In Ontario it's even worse than in Quebec because they don't even enforce their Tobacco Tax Act.

Mr. Matthew Kellway: I get the principle of deterrence, but I'm wondering how much thought has been given to actually deterrence in practice.

Mr. Arango, I see you're anxious. You mentioned, for example, the social determinants behind this in poverty reduction and employment.

I think we all get the principle. If there's a big stick about to hit you over the head, you're less likely to do it, but there are other things pushing people into these practices, and so deterrence in practice doesn't always actually work.

Mr. Arango, do you have any thoughts on that?

Mr. Manuel Arango: I would just add that I think deterrence is part of the solution. It is clearly not going to be the magic bullet as I indicated before.

However, I think one thing about Bill C-10 is it does have a graduated approach. I think that approach can help mitigate the impact of criminalization on youth, etc.

Clearly, it's not a perfect solution. Perfect solutions aren't out there. We just have to make sure if someone comes out of jail, you have to have programs in place to ensure these people can reintegrate into society, and have employment, etc.

It's part of the solution, but not the entire solution.

● (0930)

Mr. Rob Cunningham: To build on that, the police and prosecutors have federally at least three options: charge under the Excise Act, under the Criminal Code offence as a summary conviction offence, or under the Criminal Code offence as an indictable offence. It's only under an indictable offence if there's a prior conviction that there's a mandatory minimum.

Right now there are too many operators where fines are just not being paid or it's just a cost of doing business. So there's a range of accused, but there's a range of mechanisms to address those circumstances.

Mr. Matthew Kellway: Mr. Cunningham, while you were chatting you mentioned the World Health Organization protocol.

Could you elaborate on that. What's included in that, and how is it helpful as a comprehensive approach?

Mr. Rob Cunningham: This is something the European Union just announced they were signing last week. It was under negotiation for several years. The WHO Framework Convention on Tobacco Control is an international treaty. In the same way the Kyoto protocol applies to climate change, this applies to tobacco. Canada was a leader in the original negotiations between 2000 and 2003. Of course, Canada has been a leader in tobacco control globally for some time. Because contraband itself is an inherently international issue, parties felt this was a tool that might be able to assist.

Among the measures in there are ones for tracking and tracing. There's an obligation on parties to document the roots of where tobacco came from, for it to be marked, and to document where it is going, and where it is diverted, in the same way a Purolator package might be tracked at different stages of distribution. There are different timeframes for implementation.

There are other obligations with respect to international cooperation, with respect to licensing, and so on. The Canadian delegation feels this is very feasible for Canada to implement.

The Chair: Thank you very much for those questions and answers.

Our next questioner is Mr. Brown from the Conservative Party.

Mr. Patrick Brown (Barrie, CPC): Thank you, Mr. Chair.

I know we touched on this a bit, but could you provide more detail on the chemical content of these illegal cigarettes and the immediate and long-term health effects from these contraband products?

Mr. François Damphousse: They're the same as legal tobacco products. They're not adding any kinds of chemicals or additives or anything of that sort. The problem is the combustion of a tobacco leaf. The tobacco leaf itself is poisonous. It contains natural nicotine. It contains nitrosamines, which is the most potent carcinogen that we have in tobacco.

You grow a tobacco leaf; you shred it and put it in a cigarette. Being either contraband or legal cigarettes, it's the same thing. You burn it and it will liberate 4,000 chemicals, of which approximately 50 are carcinogens. There's no difference. Health Canada reviewed them to check that. They tested them to see if they were more lethal than the regular cigarettes, and they're the same thing.

That's the principle that people need to understand. It's the combustion of tobacco leaves that creates the problem. It's the dirtiest device that we have to administer nicotine to consumers; whether it is from contraband or legal makes no difference.

Mr. Patrick Brown: We heard last week from some witnesses about concerns with contraband tobacco being associated with other forms of crime.

Can you think of any concerns along that realm, and things that may contribute to the addiction to other drugs?

Mr. Rob Cunningham: There's certainly some evidence that cigarette smoking by youth can be a gateway to other substances. You learn how to smoke cigarettes; you learn how to smoke other things.

There have been repeated reports, for some years, that the distribution channels for people involved in transporting contraband tobacco is that they may bring contraband tobacco into Canada, but when they go back to the United States they may bring drugs. Within Canada there are distribution systems, and on reserves, where there's this tremendous combination of illegal activity for multiple products.

Mr. François Damphousse: There's another issue as well. Many people who are engaged in illicit drugs basically turn toward contraband tobacco because it is a far easier buck to make and the penalties are lower than for engaging in illicit drugs.

The equation is quite easy for them. They switched, saying they could make a lot of money by selling contraband tobacco. Even if they're caught, there's nothing that's going to happen to them, or virtually nothing. The fines are just going to be the cost of doing business. They'll pay them because they're making so much money selling these cigarettes.

• (0935)

Mr. Patrick Brown: That's also a significant revenue source for criminal organizations—

Mr. François Damphousse: Yes.

Mr. Patrick Brown: —so it breeds the larger problem.

We realize that this is one part of the larger puzzle. What other programs have your organization been involved in or observed that have proven effective, or could prove effective?

Mr. Rob Cunningham: Our organization is involved in various education campaigns, smoking cessation programs.

The federal government is to be commended for Bill C-32 with respect to flavours, and for introducing the new picture-based health warnings that have a toll-free quit line. These are very significant measures, by national comparison.

With respect to flavoured tobacco, some new products have since been put on the market, and we would certainly support a government going further to ban all flavoured tobacco products and follow the models of Ontario and Alberta.

There's a series of other measures that could be implemented as part of a comprehensive federal tobacco control strategy. Among those is plain packaging. It was introduced in Australia and was very encouraging.

There's a series of further measures, in terms of a strategy that could be implemented.

Mr. Manuel Arango: If I could add one comment to underscore what Mr. Cunningham said, plain packaging is the next big key thing that we need to do in tobacco control.

The other thing I would point to is that we did have an investment previously in public awareness campaigns. I think it was about \$10 or \$13 million that we put in annually, and we don't have that in place right now. Bringing that back to life, I think, would be very useful—putting dollars back into public awareness campaigns to combat tobacco consumption.

Mr. François Damphousse: To add specifically on contraband, we have been involved in this issue for many years. Education alone won't cut it. We've been advocating for serious or effective policy measures. We can't do that. It's up to governments to implement those policies and enforce them. The three of us have been involved for 15 years in trying to convince governments of some of the measures that they need to bring forward.

Rob was talking about the international illicit protocol, and both Rob and I have been attending the meetings for the negotiations of the protocol. That's a way that we are involved to push for these policies to curb contraband. It's been working. Canada is a model in terms of success in reducing contraband tobacco.

The Chair: Thank you for those questions and answers.

Our final questioner on this panel is Mr. Jacob from the New Democratic Party.

[Translation]

Mr. Pierre Jacob (Brome—Missisquoi, NDP): Thank you, Mr. Chair.

I would like to thank the witnesses for being here this morning.

Mr. Arango said that young people get addicted to cigarettes for at least 20 years.

My question is for all the witnesses, starting with Mr. Arango. Is Bill C-10 a solution? Will it help reduce tobacco use in young people?

It's important to note that a number of witnesses told us that, as with clothing, young people are attracted to brand-name cigarettes, legal cigarettes, particularly flavoured cigarettes.

We know that fear campaigns aren't a solution. Young people are drawn to danger, alcohol, speed, and so on.

Will Bill C-10 help reduce tobacco use in young people? What might the solution be? What do you think, Mr. Arango?

[English]

Mr. Manuel Arango: As indicated earlier it's definitely part of the solution. You have to have some deterrents as Mr. Dampousse said. If you simply have fines that go unpaid that's not going to help the issue at all. It's definitely part of the solution. I would say that the branding is obviously going to appeal to youth, which you don't have with contraband cigarettes. However, the big issue with contraband cigarettes is the low prices and youth. We definitely know there's price sensitivity with youth. The key factor is definitely price. With contraband you're going to have low-price cigarettes.

You absolutely have to address it. We can't kid ourselves. As always, you need to have a multi-pronged approach.

● (0940)

[Translation]

Mr. François Dampousse: Thank you for your question, Mr. Jacob.

Price is a key factor in the lure of tobacco products for youth. The fact that contraband cigarettes are on the market is a very strong incentive for youth.

Contraband makes up 15% of the Quebec market. The focus shouldn't solely be on the contraband market; there is still a legal market, as Ms. Doucas tried to explain. Legal tobacco companies continue to target kids. The court rendered a decision on that. Companies challenged the federal government's Tobacco Act, and the court recognized that tobacco product manufacturers were targeting kids by offering flavours and making cigarette packaging attractive. Those practices need to be addressed, studied and regulated. We're talking about the legal industry here.

In that respect, the Association québécoise des dépanneurs en alimentation is a front, a group whose sole aim is to draw the attention of elected officials to contraband and, as a result, to disregard the legal market. However, 85% of cigarettes are sold on the legal market. So we need to continue to pay attention to that.

That doesn't mean that contraband is not still a priority for health groups. All of it needs to be addressed. That's why we're talking about a comprehensive approach.

Mr. Pierre Jacob: Okay, thank you.

Mr. Cunningham, what do you think?

Mr. Rob Cunningham: I agree with Mr. Dampousse. Most of the cigarettes and tobacco products used by adolescents are legal. A range of measures and an overall strategy are needed to decrease tobacco use. Federal and provincial legislation needs to be strengthened and more effort needs to be made to take on contraband.

Mr. Pierre Jacob: Thank you very much.

This question is for all three of you. Will Bill C-10 be a sufficient initiative to fight against tobacco use among Canadians? If not, what do you suggest?

Mr. François Dampousse: Bill C-10 is very important because it provides police forces with additional tools to do their job. I think it will have an impact on contraband. For example, as mentioned a number of times, contraband measures should include the control of inputs to prevent illicit manufacturers from getting supplies.

As for the legal market, we think the most important measures for reducing tobacco use would be generic packaging and eliminating flavours from combustion products. Considering these two measures would be very important. Australia just adopted something similar. The fact that the tobacco industry was strongly against it is a clear indication that it will work.

[English]

The Chair: Thank you for those questions and answers.

Gentlemen, that's your time. Thank you very much for joining us. We'll be dealing with this on a clause-by-clause basis on Thursday morning, so you're welcome to join us again to see how that goes.

Just before we go, madame, there's a request for a budget for our witnesses.

An hon. member: I so move.

(Motion agreed to)

The Chair: Thank you very much.

We'll suspend for a minute.

● (0940)

_____ (Pause) _____

● (0945)

The Chair: Ladies and gentlemen, we're going to call this meeting back to order. We are continuing to deal with Bill C-10, An Act to amend the Criminal Code (trafficking in contraband tobacco).

If our panellists would join us, that would be great.

Just before we introduce the second panel, our clause-by-clause will be on Thursday morning. We're going to start at the regular time of 8:45 regardless of the House schedule, unless we're adjourned. The meeting is in Centre Block, so remember that, 8:45 a.m.

So far, committee members, you should know that three amendments have been submitted, two from an independent and one from the New Democratic Party. The timeframe is coming to a close for any independents, but of course, based on any input we get today, we'll still accept amendments from the parties at the table.

With that, for the last hour on this we have from the Ontario Campaign for Action on Tobacco, Mr. Perley; and from the Ontario Provincial Police, Chief Superintendent Gary Couture, Regional Commander, East Region Headquarters.

Gentlemen, thank you for joining us, and Mr. Perley, the floor is yours.

Mr. Michael Perley (Director, Ontario Campaign for Action on Tobacco): Thank you, Mr. Chairman, and members of the committee, for this opportunity.

On behalf of the Heart and Stroke Foundation's Ontario office, the Ontario division of the Canadian Cancer Society, the Ontario Medical Association, and the Non-Smokers' Rights Association in Ontario, I'd like to offer some comments on Bill C-10. I'm Michael Perley, and I'm the director of the Ontario Campaign for Action on Tobacco. The agencies I mentioned have been working together since 1993 on tobacco control issues.

The Ontario campaign strongly supports Bill C-10. On the earlier panel, Rob Cunningham, François, and Manuel Arango gave you a detailed analysis of why the bill is so important, and I'd just like to add some additional perspective and perhaps answer some questions later about the Ontario situation.

Today, the total Canadian tobacco market is about 40 billion sticks annually. The most serious phase of the current contraband problem occurred in 2007-08 when major tobacco companies estimated that between 32.7% of the market, British American Tobacco's estimate, and 35%, Philip Morris International's estimate, was contraband. Three years later, British American estimated the illegal market had fallen to 18.75% of the total market, and Philip Morris estimated that contraband had fallen to 20% of the total market. The reasons for this decline can be found in the aggressive actions of the federal, Quebec, and Ontario governments and their law enforcement agencies in attacking the contraband problem.

Today, I think as François mentioned earlier, the Quebec finance ministry estimates that contraband makes up 15% of its total market in Quebec. We do not have a similar reliable estimate for Ontario's market, although it appears to be somewhat higher. Thus, overall, the problem persists, but we are making progress. I would like to underline that because I think, as some comments have indicated, the tobacco industry and its retail allies put forward a somewhat different picture of the state of the contraband problem.

The authority Bill C-10 gives to all Ontario municipal and provincial police officers has an importance beyond the purely additional enforcement capacity it provides. Criminalization of contraband tobacco trafficking will send an important deterrence message to those who transport and supply large volumes of contraband off reserve that they can no longer expect to simply pay fines—or not pay fines as Mr. Cunningham underlined—as a form of a business licence to deal in contraband. Equally important, the bill will send a message to police themselves that contraband is now deemed to be criminal activity by the federal government and should be treated as such.

Bill C-10 also provides an important opportunity for public education when it is implemented with the message, of course, that trading in contraband is now a more serious offence with jail time at the end of the road.

Another argument in favour of quick passage of Bill C-10 is that the implementation of regulations governing the proposed Ontario provincial raw leaf tobacco management system has been delayed,

and this was referred to earlier as well. I can speak to it in more detail during questions. These regulations, which will require marking and tracking of all raw leaf shipments in the province were originally to come into force this past September, then were put back until January 2014, and now have been delayed again, this time until January 2015. Over 60 million pounds of tobacco will be grown in Ontario this year, and some of it is bound to make its way into the contraband manufacturing system. The need for the sanctions in Bill C-10 assumes additional urgency in this context.

One final issue that does not bear directly on Bill C-10, but which has been mentioned previously, is the move of the eastern Ontario U.S.-Canada border post from Cornwall to Massena, New York, and the impact this move may have on contraband supply. I have with me a coloured map, but I'm unable to distribute it because unfortunately it's not in two languages, and I haven't been able to find a bilingual version of it. But perhaps I can show it a little later during questions because it's a little easier to understand the importance of this border post issue when you see where it's located. Let me perhaps just show you briefly.

This red section here is Cornwall Island in the middle of the St. Lawrence River. This is on the New York side of the river where the new border post is going to be, and this is where the current border post is in Cornwall.

● (0950)

If the border post is moved here, this leaves Cornwall Island basically unsupervised. What that does is create the potential—I underline that word—for Cornwall Island to become a contraband trafficking zone again, somewhat similar to the way it was a few years ago. If there is no Canadian inspection facility beyond the proposed U.S.-side post, Cornwall Island may again become a focal point for contraband trafficking. A two-part inspection system, as Mr. Cunningham mentioned, would avoid this potential problem in the first place.

In closing, while we don't often agree with the groups representing the tobacco industry and retailers, I would like to mention a comment made by the head of the Ontario Convenience Stores Association at a news conference in Toronto yesterday. He pointed out that the contraband problem “is not driven by taxes, but is driven by cheapness and delivery”.

We agree. We believe effective implementation of Bill C-10 will strike an important blow against both the low prices and the extensive supply lines of the contraband market in Ontario.

Thank you very much.

The Chair: Thank you for the presentation.

Our next presenter is from the Ontario Provincial Police, Chief Superintendent Couture.

[Translation]

Chief Superintendent Gary Couture (Regional Commander, East Region Headquarters, Ontario Provincial Police): Good morning, Mr. Chair and members of the committee.

I will give my presentation today in English, but I will be pleased to answer your questions in English or French.

• (0955)

[English]

It is my pleasure to appear before you today on behalf of OPP Commissioner Chris Lewis, who sends his regrets.

The Ontario Provincial Police sincerely thanks you for the opportunity to appear before you and to provide you with the information about how the Ontario Provincial Police contributes to the efforts to control the manufacturing, distribution, and sale of contraband tobacco. Contraband tobacco is closely linked to smuggling and organized crime. Since these activities cross many jurisdictions, the fight against contraband tobacco, smuggling, and organized crime requires effective partnerships on the part of police services and all agencies.

In 1996, the RCMP, OPP, and Revenue Canada, now known as the Canada Revenue Agency, partnered to fight these types of crimes by forming the Cornwall Regional Task Force. A significant amount of contraband tobacco smuggling was taking place on the St. Lawrence River near Cornwall and through the Akwesasne first nation. There was a period of a few years after 2000 when taxes on cigarettes were equalized on both sides of the border, and smuggling activities were considerably reduced. However, the problem quickly resurfaced when tax breaks ended within Canada.

By 2009, growing concerns about these activities motivated enforcement agencies to meet, discuss public safety concerns, and establish best practices for countering contraband tobacco and related criminal activity.

In 2010, we re-established our policing partnership within the Cornwall Regional Task Force team, which now consists of officers from the RCMP, OPP, Cornwall Community Police Service, the Ontario Ministry of Revenue, and Canada Border Services Agency. Public Prosecution Service of Canada and provincial prosecutions have also been integral parts of agency partnerships. The Cornwall Regional Task Force is a proven, effective joint-forces operation contributing to public safety.

From 2008 to 2012, 36.2% of all confiscated cartons of contraband tobacco nationwide were seized in Cornwall. During the same period, 28.7% of all confiscated loose fine-cut tobacco nationwide was seized in Cornwall. Current provincial legislation, the Ontario Tobacco Tax Act, authorizes a police officer to directly seize illegal, unmarked, fine-cut tobacco and unmarked cigarettes that are found within the course of his or her duty, in plain view, and lay appropriate charges, often done in partnership with the Ministry of Finance staff. These legal authorities support and enhance our front-line ability to effectively respond to contraband tobacco issues within the course of our duties.

New, more severe, fine levels for possessing illegal cigarettes in Ontario were also introduced with new legislation in 2011. The current fine levels for possessing illegal cigarettes in Ontario are: \$100 plus three times the tax for possessing up to 200 illegal cigarettes; \$250 plus three times the tax for possessing between 201 and 1,000 illegal cigarettes; and \$500 plus three times the tax for possessing between 1,001 and 10,000 illegal cigarettes.

From 2010 to the present, Ontario Provincial Police highway enforcement teams have laid 286 charges for possession of contraband cigarettes under subsection 29(1) of the Ontario Tobacco Tax Act. Over the course of this same period, Ontario Provincial Police highway enforcement teams have confiscated more than 100,000 cartons of contraband cigarettes.

The OPP recognizes that smuggling is linked with organized crime groups and activities, and poses a serious threat to the safety and well-being of all Ontario citizens and visitors. Applying the principles of tactical priority setting, the OPP aligns its limited resources to proactively address important criminal activity.

Much of the enforcement responsibility has been assumed by front-line uniform officers, complemented by the dedicated operational teams previously mentioned. Through highly specialized multi-jurisdictional and joint forces capability, the OPP provides specialized support to border agencies in both Canada and the U.S. A., including the border enforcement security teams, known as BEST, led by the United States Department of Homeland Security, Immigration and Customs Enforcement Agency, or ICE.

The OPP also provides resources to support the RCMP-led integrated border enforcement teams, the integrated national security enforcement teams, the marine security enforcement teams, and other joint force operations, to safeguard against cross-border organized crime and terrorism.

The Ontario Provincial Police believes border security demands a concerted, rigorous, and coordinated approach to be successful. Municipal and provincial police services have a role to play in maintaining border security, as they respond daily to incidents at border crossings.

As the price of contraband tobacco has soared, increasing the criminal profits for those involved in its smuggling and distribution, we have seen public safety concerns also increase. Smugglers have taken to using private property, such as docks and waterfront homes, to smuggle contraband tobacco—to break the law. Smugglers have been known to act aggressively with anyone who tries to stop or challenge them. They also use high-powered boats at night, at great speeds and without running lights, creating a navigational hazard.

Of course, problems with contraband tobacco are not limited to smuggling in the Cornwall area. In addition to the Cornwall area within our east region, the area of Ontario where OPP highway enforcement teams have laid the most charges relating to contraband tobacco has been the southwestern part of the province. The contraband cigarettes confiscated in many of these stops were worth tens of thousands of dollars.

In several cases, the contraband cigarettes were manufactured within the Six Nations of the Grand River community south of Hamilton, the vehicles being registered to businesses located in this first nations community. Southwestern Ontario has also seen the phenomenon of smoke shacks progressively develop in recent years, mostly on the Highway 6 corridor, which borders the Six Nations community.

Properly taxed cigarettes that are legal to sell in Ontario have a yellow band that clearly shows: Ontario, Canada, Duty Paid, *Droit Acquis*. In Ontario, some on-reserve retailers are authorized to purchase limited quantities of cigarette packages to be sold only within their first nations communities and to first nations consumers, as defined under the federal Indian Act, for their exclusive use.

However, it is clear that these smoke shacks on Highway 6 and elsewhere in the province are strategically located so that non-natives can purchase untaxed cigarettes, which is an illegal act. The sale of tobacco from smoke shops is a multi-agency issue and not one that the OPP alone can address. The OPP does not enforce federal tobacco legislation and provincial tax laws, but we do work in cooperation with the agencies responsible. When enforcement action is taken by the federal ministry of revenue, the OPP provides support to ensure public and traffic safety.

While anyone can smuggle or sell contraband cigarettes, the activity in Ontario is often tied to residents of various first nations communities. This can complicate enforcement, as the issues can be compounded with claims related to treaty rights and traditional native practices.

Contraband tobacco is a complex issue. I have only touched on a few aspects of the problem, as well as the responsive and proactive efforts of the Ontario Provincial Police. The OPP enforces laws. We don't make them. We do support any legislative changes that can be shown to reduce and deter the smuggling, distribution, and sale of contraband tobacco.

The Ontario Provincial Police appreciates the opportunity you have provided us today as you consider this bill.

Thank you very much. I would be happy to answer any questions.

Merci.

•(1000)

The Chair: Thank you, Superintendent. We'll go to the questions now.

Our first questioner, from the New Democratic Party, is Madam Boivin.

[*Translation*]

Ms. Françoise Boivin: Thank you, Mr. Chair.

I would like to thank our two witnesses.

My questions are mainly for Mr. Couture, who is representing the Ontario Provincial Police.

The headline in today's *Le Droit* was "Illegal Cigarette Butts by the Ton". Mr. Bryans, a representative for the Canadian Convenience Stores Association, provides a fairly negative overview of the work being done to counter contraband in Ontario. I'll read you some passages from this article by Guillaume St-Pierre. He mentions some statistics, and I'm wondering if they are similar to yours:

A study shows that contraband cigarette use is "out of control" at the Rideau Carleton Raceway. The Ottawa gaming facility topped the ranking of 136 public places across Ontario where cigarette butts were analyzed. Exactly 46.6% of cigarette butts found near the doors of the race track were identified as coming from illegal cigarettes, according to a report commissioned by the convenience store lobby.

The article shows the link between gambling and contraband cigarettes. I'll continue:

In total, Mr. Bryans estimates that 20% of cigarettes smoked in Ontario were sold illegally.

In comparison, we are doing okay:

In Ottawa, 13.4% of the 2,000 cigarette butts analyzed were found to be illegal, placing the region at 21 out of 23, far behind Kitchener (28.9%), Barrie (28.5%), Brantford (28.4%) and Windsor (28%).

Hospitals and schools were also targeted.

...

Mr. Bryans estimates that inaction on the part of the authorities is depriving the governments of at least \$500 million in revenue.

...

Mr. Bryans estimates that there are 50 cigarette manufacturing plants on first nations reserves in these two Canadian provinces.

Does that somewhat match what you have seen?

•(1005)

C/Supt Gary Couture: Thank you.

As I came into the city this morning, I heard a report that was talking about a percentage of 50% or 46% at the race track.

First, I would like to make it clear that the Ontario Provincial Police provides public safety services. We work within the laws that are in force in order to eliminate smuggling. In 2009, we re-established our regional task force and we had a lot of success in this region. Let me give you some figures. When the regional task force was re-established, in 2009-2010, we were seizing 400,000 cartons of cigarettes a year. Last year, we seized about 180,000. You have to understand what that tells us. Personally, I consider it is a success, because we are limiting the number of offenders crossing our region.

As for the impact on contraband tobacco in our communities, if we see that contraband cigarette use is higher in specific places, it probably means that we should deploy our resources to those places.

Ms. Françoise Boivin: When Bill S-16 was tabled, Vic Toews, the Public Safety Minister at the time, said that he would simplify the investigation procedure by allowing provincial and municipal police forces to lay charges.

Do you feel that Bill C-10 is actually going to make your investigation work easier because you will be able to become directly involved in criminal matters?

C/Supt Gary Couture: Yes, it is a tool that will give us more possibilities. We will be dealing with a criminal act. It is still a fact that cigarette smuggling is still an economic activity for a lot of people. If they take the risks, they can reap the financial benefits.

Ms. Françoise Boivin: But the subsequent offences issue is going to be the biggest deterrent. Let us not kid ourselves.

Do you think that the penalties set in the bill for subsequent offences are enough to get the desired results? According to the RCMP report, it takes forever for the offences to get onto a person's criminal record. We found that out this year. It is all well and good to make provisions for subsequent offences, but if the offences do not appear on criminal records, it is not really very useful.

C/Supt Gary Couture: I think that it is a good tool. It is a good start, and things will move forward. First of all, we are going to have to look at what is happening in the courts specifically. Everyone takes this very seriously. Public safety organizations and other organizations want to work together to solve this problem, because it has an impact on our youth and on our communities. It is a good start.

As for knowing whether the provisions are exactly the right ones, I prefer not to comment. If these are the provisions that are implemented, we will see how they work out.

But the fact that it is a criminal offence will certainly make our job easier. Currently, we have good partnerships that help us to deal with the situation. The Minister of Finance supports us. He looks at our figures in Cornwall. We make seizures and charges are laid.

I would like to make a quick comment about the fact that a lot of fines remain unpaid. I do not have the exact figures, but I know that recently, a number of magistrates have started giving harsher penalties, given that the people were not paying their fines. This is still a serious problem, but everyone is trying to work together to solve it. For us, this bill is an additional tool.

•(1010)

[English]

The Chair: Thank you very much.

Our next questioner is from the Conservative Party.

Not on this time, it will have to be another time. Sorry, we're at seven minutes.

Mr. Wilks, from the Conservative Party.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Mr. Chair.

Thank you, witnesses, for being here today.

Mr. Perley, you touched on something that was interesting, and that was public education. I want to go down that road a little further.

Should this bill be passed and enacted, what do you see as a public education tool not only from the Ontario perspective but from the federal perspective that we could utilize to educate people with regard to the enforcement of Bill C-10?

Mr. Michael Perley: I think it is extremely important that we have a clear message about contraband, and by clear message I don't simply mean a message about the new deterrent penalties and so on, but a message about what contraband actually is. While I'm sure most people know something is wrong or perhaps illegal with buying contraband from the smoke shack on reserve, the fact remains that most people who do it get away with it. That's not to criticize our law enforcement personnel, it's just that the numbers are what they are.

If I'm driving to Smokin Joes on Highway 2 outside Belleville, just inside the Tyendinaga line and buying contraband every week and no one bothers me about it, because I'm small fry, do I think it's really illegal? I'm not sure I know whether it's illegal or not. The bottom line is I can get away with it. If I can buy a carton or two from somebody with a truck outside Loblaws—I know several

locations in Toronto where that happens—do I think that's illegal? Probably, but again, I'm getting away with it.

I think part of the challenge for law enforcement with its resources that are somewhat straightened, is getting to these many instances of local purchase. But if there is no message from the government about what is illegal and what isn't.... Especially now with Bill C-10, with the criminalization of trafficking and the whole contraband trade, this is a wonderful opportunity to say that the game has changed. You may have thought that contraband was this or that these cigarettes were not precisely illegal, now they are, now there's jail time, now the game has changed, and then something about the health effects.

It's a wonderful opportunity to change the whole way we look at contraband.

Mr. David Wilks: I completely agree with you. I think there is a great opportunity for the federal government to do a public education piece.

Chief Superintendent Couture, you touched on the fines that are put under subsection 29 (1) of the Ontario Taxation Act. In my former position, I was a police officer as well. I think you would probably agree that getting a fine is part of doing business. In most cases if they do pay it, whether it be through the provincial act and/or through the Criminal Code, what I've seen a lot is they go from the courthouse to the court registry, pay the fine, walk out, and go. That's part of doing business.

But they don't like the imposition of a jail sentence because that takes away their ability to sell, to do business. I won't get into that with you, because I think that you would probably agree with that, but you did say at the end of your speech that you only touched on a few topics and you could speak about many more.

Carry on.

C/Supt Gary Couture: We could probably talk all day about this issue. It's impacting us nationally, provincially; it's impacting our youth, community safety, etc. But as my friend just commented, this is multi-agency, everybody needs to jump into this about the messaging, the activities we undertake. There can't only be enforcement, there has to be education; there has to be a concise, unified message on what we're going to do about contraband tobacco. It's a complicated one because of the first nations impact as well. We have to be conscious of that. In Ontario we have dealt with that considerably over the past few years.

We have to put everything in our favour to try to address that the best we can. I heard they deferred their raw leaf legislation in Ontario, but they are looking to try to establish partnerships with the first nations communities and address regulation in that respect. We are partnering, we are addressing all the aspects we can. We can't be the only agency addressing tobacco issues. Frankly, ladies and gentlemen, we have a lot of other public safety issues to address. We have to find a balance in everything we work on.

I know our commissioner would say that we don't have the resources to just focus on every pack or bag of cigarettes that comes off a certain shack. But there are things we need to put in our favour. Legislation's a great tool.

We've talked about the Akwesasne/Cornwall area already. I know our minister has communicated that we believe the border crossing is being placed in the wrong place. It is going to expose us to further activity. In the last four years we have been very successful with our task force down there to control and limit the contraband activity, and I think the number of seizures speak to it. We are there 24/7.

I talked earlier about the marine activity, the boats. Just three weeks ago we stopped a boat coming on shore, seized hundreds of cases of contraband. We're very effective that way, but I'm not so naive as to believe we've lowered it. I think we've been active there for us and the public safety concerns of our communities. It has unfortunately simply moved to other locations.

•(1015)

The Chair: Thank you very much.

Thank you for those questions and answers.

Our next questioner, from the Liberal Party, is Mr. Casey.

Mr. Sean Casey: Thank you, Mr.Chair.

Thank you for being here, gentlemen.

Mr. Perley, you expressed some frustration with regard to the delay in the coming into force of the raw leaf provisions in Ontario, and the chief superintendent just referenced that.

Can you give us some sense of the rationale for the delay, and when it's likely to come into force, and what difference it's going to make?

Mr. Michael Perley: Following the changeover from a quota system to a licensed system a few years ago, when the federal government spent about \$300 million buying out the quota, and then farmers were able to pick up licences, provided they had contracts with companies, the crop size has more than doubled. We have a huge amount of tobacco circulating around the province, transported here and there and so on, but we have not had a means of actually registering and tracking, by markings, actual shipments as to where they start and where they end up.

The problem with that is, with this great increase in the crop size we've had some expression of concern about the fact that some of the crop is being diverted. We would have had a problem anyway, and there were some anecdotal reports in the Ontario media from law enforcement officers prior to this delay of the regulations and prior to the passage of Bill 186, which created the regulations for the marking system.

There was one story about a farmer who alleged that somebody had stolen it out of his barn, and it turned out, in fact, that he'd sold it to a contraband manufacturer.

There's not been a huge amount, but you don't need a lot to supply a number of smaller contraband manufacturers. So it's not a huge percentage, but it's some.

The reason for the delay, as far as we can tell, is that there are negotiations going on with two bands in particular to set up some form of what I'll just call a tobacco control bylaw on the two reserves whereby the band would take more responsibility for controlling its tobacco manufacturing and sales activities. We certainly don't oppose those kinds of efforts at all.

Fundamentally the problem is that selling tobacco is of benefit to first nations because of the huge price differential between contraband and regular product. If we're looking at changing the way tobacco is dealt with on reserve, how are we going to do that in a way that maintains an economic benefit for the first nations, while controlling the huge levels of smoking prevalence that Mr. Cunningham referred to, and at the same time reducing contraband without eliminating the price differential and therefore the benefit to first nations of making tobacco in the first place?

So there is a fundamental inherent conflict between the idea of trying to give first nations more control over their tobacco manufacturing activities and the ideas that we have in public health about controlling tobacco use, along with this issue of contraband. I don't know how we get to a point where reserves are able to manage their own tobacco supply and derive some economic benefit while at the same time we maintain the price differential between regular product and on-reserve manufactured product without continuing to promote a contraband market. That's the difficulty.

Reserves may have more of a hand in how they do business directly—that's fine, and nobody has a problem with that—but at the end of the day we, as health agencies, want to reduce tobacco use. We don't want to create a system that makes it easier to make and sell more product and give more profit to one group as opposed to another. I don't think that serves public health in any way.

•(1020)

Mr. Sean Casey: This may or may not be related to the answer you just gave, but as parliamentarians, in preparation for these meetings, we receive a briefing from the Library of Parliament. In the briefing we received for this meeting, we were told that:

Statistics Canada also notes that production of tobacco products by Canadian manufacturers has been rising since...2011 while reported tobacco use has remained relatively constant.

Does that come as a surprise to you? Is there an explanation for that, and is it the one you just gave?

Mr. Michael Perley: I don't know whether it's the one I just gave. If production by the manufacturers has been rising, does that mean people who smoke are smoking more? I don't think we have any evidence to indicate that pack-a-day smokers are suddenly becoming pack-and-a-half or two-pack-a-day smokers. Are they exporting more? I don't know the answer to that; they may be exporting more.

Contraband has diminished, and BAP and PMI have been particularly forthcoming with public information about how much product has come back from the illegal market into the legal market. Contraband is still functioning more or less as it was; it's just that people are moving away from that market into the legal market. This may be partly because of law enforcement, but beyond that, we don't know. We still have this grey area. We don't have any indications, despite Mr. Bryans' survey of yesterday. I was at that news conference. He couldn't tell us anything about the makeup of the population that was smoking these illegal butts. It could be that we have a very small number of heavily addicted smokers who buy contraband. We don't know.

The Chair: Thank you very much for those questions and answers.

Our next questioner, from the Conservative party, is Mr. Calkins.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you, Mr. Chair.

I'm going to ask one of you the question. You can do rock, paper, scissors to see which one of you should answer. I would like one of you, in 30 seconds or less, to edify the committee on the difference between selling legal tobacco off reserve and selling legal tobacco on reserve. How do taxes and exemptions and contraband fit into that picture?

Mr. Michael Perley: If I buy a pack of du Maurier from a convenience store, federal and provincial tobacco taxes and excise taxes have been paid or I am paying them on the spot. If I'm buying a bag of cigarettes from Smokin Joes on Tyendinaga, no taxes have been paid—no taxes will be paid either by me or by the manufacturer. It's that simple.

Mr. Blaine Calkins: But if you're buying legal tobacco on reserve, you have to be, my understanding is, a member of that reserve. You have to have some kind of identification.

Mr. Michael Perley: I was talking strictly about the on-reserve manufactured product. If I'm buying Rothmans, I have to be a first nations, carded individual to buy that tax free.

Mr. Blaine Calkins: It is tax free for first nations people.

Mr. Michael Perley: Yes, it is, according to an allocation system.

Mr. Blaine Calkins: Okay, great.

I want to go through section 121.1(1) of the amendments to the Criminal Code:

No person shall sell, offer for sale, transport, deliver, distribute or have in their possession for the purpose of sale, a tobacco product....

You guys have read this. Basically, we cover growers who are knowingly selling or being part of it. We have distributors, processors, transporters, anybody who sells. One thing that seems to be absent is the buyer. Do either of you have a perspective on that?

• (1025)

C/Supt Gary Couture: The buyer is clearly the driver of the business. For us it becomes a resource issue. How do you address every buyer and where are you most effective? I spoke earlier about deploying your resources to where you're going to have the most impact. We go where the smuggler is, where it's entering. That's what

we target the most. Our focus has been on the smuggler and the entry.

Mr. Blaine Calkins: I'm going to move on and talk about something that my colleague Mr. Wilks brought up at a previous meeting. In respect of conspiracy charges and other charges that can be bolted on, we know that there are typical offences for break-and-enter with intent, and we have hit-and-runs causing bodily harm. You can add charges on. There's nothing in here about trading, either. So it's hard to prove a conspiracy. But when you start trading these products, that might be an easier thing to lay a charge on.

Mr. Couture, do you have any insight into that from the OPP's perspective?

C/Supt Gary Couture: I'll have to research that a little bit. It's not something I considered. You're suggesting trading for—?

Mr. Blaine Calkins: Yes.

C/Supt Gary Couture: That's a good point. I apologize, I haven't really considered that.

Mr. Blaine Calkins: No worries.

You mentioned in your testimony, Mr. Couture, that the smugglers are using some very aggressive tactics. I've heard stories and I know what those stories are. Could you give this committee an indication of how aggressive and how intimidating some of the tactics are?

C/Supt Gary Couture: I need to go back to 2009 and to my involvement in that respect.

With regard to the aggressiveness of their tactics, as you said, it was private property, private docks, at any time of day. Regardless of whether the owner was there or not, they were doing their business, they were unloading, they were moving on. That's how aggressive it was.

On the operational piece, we were on the highways, on Highway 401, etc.—

Mr. Blaine Calkins: Are they armed when they're coming across in boats?

C/Supt Gary Couture: No. I don't want to go down that road.

Mr. Blaine Calkins: Okay.

C/Supt Gary Couture: We were constantly in vehicle pursuits with smugglers. There was almost a daily incident going on in the eastern part of the region. We were in marine pursuits and incidents. I just told you about the incident that took place a couple of weeks ago.

Those types of activities were very prevalent. It was aggressive to that extent. Our response was a regional task force, project-targeted. We even went out and did community consultations and had discussions about where and how, etc. Those pieces have been greatly reduced for us in the last couple of years. We're not seeing that type of aggressiveness. Now it's more on the waterways.

As I said earlier, unfortunately I'm not naive enough to believe we've stopped it. I believe it has just moved to other locations. I have spoken to our Quebec friends in that respect.

Mr. Blaine Calkins: Are the penalties that are currently proposed in Bill C-10 commensurate with the risks a police officer would have to take in order to pursue an individual for these charges?

C/Supt Gary Couture: In terms of the penalties in this piece of legislation, I believe it's a step forward. It's a tool. To what extent it will be effective, etc., in the realm of everything else that we utilize now, I do believe it's a start.

But again, as many have said, it can't just be about enforcement. It has to be education, proactive, etc. Everybody needs to be engaged on this, even to the extent... We often talk about the first nations, that partnership, and I believe Ontario is going down the right road there in trying to build stronger relationships around the tobacco issue. It's complex.

The Chair: This is your last question, Mr. Calkins.

Mr. Blaine Calkins: Okay.

I can go to the grocery store, buy a pound of ground beef, and trace that back to some farm, wherever it happens to be, if something is wrong with that package of beef.

Now, I know that the Government of Quebec has implemented some type of traceability mechanism in their growing. Where is Ontario at with this? Can we trace back tobacco? How well can we trace it back to an individual grower and through that whole distribution channel?

Mr. Michael Perley: I think we'll have a better opportunity to do that when the raw leaf regulations are in place, because most, if not all, of the tobacco that's grown in Ontario goes south of the border to be processed and then comes back into Ontario or back elsewhere to be made into actual cigarettes. There's a complex chain of transport.

Right now, if I have a pack of du Maurier that I bought in downtown Toronto, I am almost certain you could not trace back the tobacco in that cigarette to the individual farm. I don't think you could do that now. You may be able to have a better shot at doing that after January 2015, when the raw leaf regulations come in.

The Chair: Thank you very much.

From the New Democratic Party, Madame Péclet.

[Translation]

Ms. Ève Péclet (La Pointe-de-l'Île, NDP): Thank you very much, Mr. Chair.

Good morning.

My first question goes to Mr. Couture.

In its 2012 annual report on contraband tobacco and other illicit goods, the Ontario Provincial Police mentioned that highway 401 is the busiest transportation route in eastern Ontario. It is therefore the police's major concern.

Does that mean that the preferred means of transportation used by traffickers is by road? Which other tools will Bill C-10 give you to help you in the fight against contraband?

•(1030)

C/Supt Gary Couture: In our opinion, highway 401 is the main corridor for distributing contraband goods. You have heard a lot about the Akwesasne area. The vast majority of the products move in

that region. Highway 401 becomes a main route. We conduct a lot of operations on the highway, on the border with Quebec and in the Cornwall region. We have had a lot of success there.

We also have a team working in the area around Brockville, Leeds and Gananoque. We make some incredible seizures every week, either contraband goods or drugs.

This proposed act will give us more tools. It will allow our officers to act differently. Now that it will be considered a criminal offence, they will be able to investigate further than they can at the moment any time they pull someone over. At the moment, provincial law does not allow us to become involved unless we have probable cause. With the bill, they will have more power along those lines. Now that it will be considered a criminal offence, there may be arrests.

I feel that it is a good tool. However, it complements all the other things we do. I repeat that we must not think that the bill will be the solution to the problem. Basically, it is another tool.

Ms. Ève Péclet: The previous witnesses submitted a document that quotes a report from the ministère des Finances et de l'Économie in Quebec. It says:

Following a rapid growth in smuggling between 2004 and 2007, the government has succeeded, with the ACCES Tabac program, in reducing the market share of contraband products from 30% to 15%, similar to the level observed at the beginning of the decade.

That is a drop of 50%.

I understand that you are the Ontario Provincial Police and it is fine if you cannot answer my question, but do you have an idea of the tools that program has to fight contraband? I am struggling a little here.

C/Supt Gary Couture: I will be struggling with my answer too.

We work with the Sûreté du Québec a lot. They are a great partner. We do not just have partners in Ontario; we do a lot of work with Quebec. As I understand it, the province has new laws that have helped the Sûreté du Québec to do their job. They have an impressive team. They have 20 or 30 officers working just on the other side of the border with Ontario. They have had a lot of success. Our team in the Cornwall area talks with those officers on a daily basis in a spirit of partnership. It is very positive.

In any event, the tools that have given them success are provincial.

Ms. Ève Péclet: Mr. Perley, I see you nodding head in your agreement.

[English]

Perhaps you have something to add to this?

Mr. Michael Perley: Exactly. As François Damphousse mentioned earlier, it's the local groupings of officers who work between municipal...and the Sûreté du Québec, together, that we don't have in Ontario. So apart from the larger population and all that, we don't have the same kinds of locally active groups of officers.

Now, I don't want to say that the OPP and municipal police don't cooperate. They absolutely do, particularly in eastern Ontario, as Gary has mentioned. But what we don't have is the same authority to seize product when it's found as Quebec does. In Bill 50—I think it was the number, if I'm not mistaken—there was additional authority given to Quebec law enforcement to seize product. As Gary mentioned, Bill 186 in Ontario allows officers to seize, and the key phrase is “in plain view”. So if I'm carrying a carton of contraband that I bought somewhere on the seat of my car—

• (1035)

Ms. Ève Pécelet: So those are all provincial initiatives.

Mr. Michael Perley: Provincial initiatives, that's right—

Ms. Ève Pécelet: Those are not federal initiatives?

Mr. Michael Perley: Not federal, no. There's just one thing I should add, which is the federal government has promised repeatedly to add 50 RCMP officers. I hope that happens very soon. That will be very much a good complement to Bill C-10, to add those additional 50 RCMP officers.

The Chair: Thank you for those questions.

The next questioner is Monsieur Goguen from the Conservative Party.

Mr. Robert Goguen: Thank you, Mr. Chair.

Thank you to the witnesses for testifying.

[*Translation*]

My question goes to Chief Superintendent Couture.

Among our previous witnesses, we had chiefs from the reserves near the border. They all expressed the same concern: they were afraid that the bill would adversely affect their young people.

Does this bill specifically target organized crime rather than individuals? How does organized crime bring violence into communities, whether on reserves or elsewhere?

C/Supt Gary Couture: Let me make sure I understood the question. You are saying that the federal act will have an effect on our young people because there is a danger of them being charged. Is that correct?

Mr. Robert Goguen: Chiefs on the reserves are afraid that the bill is targeting young people on the reserves and affecting them adversely. I am inclined to believe that the target of the bill is organized crime rather than individuals, whether or not they are on a reserve.

C/Supt Gary Couture: I will go back to what I said a few minutes ago. We are not focusing on the kids, but on the source, on those responsible for the smuggling and the distribution. We are not looking for kids buying a pack of cigarettes or whatever.

I work in a region where we collaborate with aboriginal committees. I fully understand the importance of that relationship. I would not want the bill to be interpreted like that. It is a federal bill that amends the Criminal Code and that will help us in our work. We have a certain amount of resources and we have to use them where they will do the most good. I do not think we have to go after the kids. Everyone must contribute to the fight against smuggling

because our young people's health is important. Other organizations should also contribute to that.

Mr. Robert Goguen: Nothing targets young people directly. You are looking for the source of the problem and, in many cases, that is organized crime, isn't it?

C/Supt Gary Couture: Exactly.

Mr. Robert Goguen: Thank you.

[*English*]

This panel and previous panels have talked about Ontario legislation, raw leaf legislation. It's hard enough to keep up with all the federal legislation. I realize it's not proclaimed, but could you expound on that a little bit? The other thing that came to mind is that the natives have obviously sought the traditional uses for their tobacco. Would this legislation in any way help distinguish...?

Mr. Michael Perley: Going back to the 1994 Ontario Tobacco Control Act, tobacco use for ceremonial or spiritual purpose has always been exempted and is not targeted, or intended to be targeted, by any of these bills.

Mr. Robert Goguen: How is that tracked? Is it possible to track it?

Mr. Michael Perley: It isn't.

Mr. Robert Goguen: It's impossible.

Mr. Michael Perley: That is left aside. The first nations people make very clear distinctions between what they call commercial tobacco, which is what we're talking about, and raw leaf tobacco, which is used strictly in smudging and other ceremonial settings. It's a very, very small quantity, compared to the amount we're talking about. It's left to the first nations to look after that. That's the simple answer to the use for spiritual purpose.

Mr. Robert Goguen: Faced with the prospect of having to distinguish ceremonial tobacco from commercial tobacco—

Mr. Michael Perley: In terms of the regulations, we're talking about tobacco that's grown under licence and as a result of having a contract with a tobacco company. It's under licence by a farmer, who can demonstrate that he or she has a contract with a properly licensed and registered tobacco company. That product is the raw leaf that's going to be tracked under the raw leaf management system regulations under Bill C-186.

In a nutshell, I'm the farmer; I grow my crop; I package it or prepare it for shipment; I have to mark that shipment and register it, and people from the ministry of revenue and finance can track that. They have to be able to track exactly where it goes, that it goes to the right place. It won't entirely eliminate the leakage into the contraband system, but it will make it much more difficult for anyone to supply any part of the illegal market.

Mr. Robert Goguen: Another arrow in the quiver.

Mr. Michael Perley: Yes, precisely, just as Bill C-10 is.

The Chair: Thank you very much.

Mr. Jacob, I think you're sharing your time, right?

[*Translation*]

Mr. Pierre Jacob: Yes, I am going to share my time with Mrs. Sellah.

My first and only question goes to Gary Couture.

Over the years, have the smugglers managed to figure out and get around your surveillance methods? How do you think they will react to Bill C-10? To what extent can they evade police forces?

•(1040)

C/Supt Gary Couture: Thank you for the question, sir.

In the last five years, in the Cornwall region, we have noticed that they have figured them out a lot.

[*English*]

They are very innovative.

[*Translation*]

They have changed their means of transportation. I wish I had brought photos to show you, because it is really incredible. The vehicles, the boats, the sleds and the snowmobiles have been modified to conceal the contraband they contain. They are very creative. It is a matter of economics for them. There is a potential profit, so they invest.

What will the consequences of the federal act be? I think it is good tool, as I said earlier. Internally, we have absolutely never focused on the kids. But we have discussed the fact that it will eventually be a criminal offence. Will that lead to more dangerous chases and more violence? We do not know. But the risk for the smuggler will be greater. So it will be a good tool, but I cannot tell you exactly what consequences or reaction it will have. I am sure that there will be some.

Mr. Pierre Jacob: Thank you.

I will now hand the floor to my colleague Mrs. Sellah.

Mrs. Djaouida Sellah (Saint-Bruno—Saint-Hubert, NDP): Thank you, Mr. Jacob.

My thanks to the witnesses for coming today. My thanks also to the committee for welcoming me; I am not usually a member.

I know that the problem of tobacco smuggling is complex and that it crosses national and provincial borders as well as aboriginal territories. Do you collaborate with the RCMP in your investigations? Do you think that Bill C-10 will allow for greater collaboration between the RCMP and the Ontario Provincial Police? If so, what form will it take?

C/Supt Gary Couture: At the moment, we collaborate with the RCMP in a major way. The team in Cornwall is made up of about 50 officers, most of whom are RCMP. We have 12 officers assigned to the operation. We work with the RCMP a lot. I mentioned the boat incident a few weeks ago. That case was handled in partnership with the RCMP.

If an incident occurs on the border with Quebec, we work with the Sûreté du Québec. We work with them very well too.

We collaborate with the American authorities on the New York side.

We work a lot with the City of Cornwall Police Service, especially when incidents occur on the north side of the bridge. I feel that the cooperation between the various police forces in the area is very good in our region, as it is all over Ontario. I do not want to talk about the western region very much, but I know that the situation is the same around the Six Nations of Grand River territory, for example. There is the will to keep working together.

As was said earlier, we also depend on all the organizations that are working hard in education, prevention, health, and so on. It is important for that to continue.

In a word, we have very solid partnerships.

Mrs. Djaouida Sellah: You have strong collaboration with the RCMP, but what impact will Bill C-10 have on that collaboration? Will it make it even stronger?

C/Supt Gary Couture: Bill C-10 will give us another tool. When officers stop someone in possession of contraband tobacco or cigarettes, they will have a choice. That person might have to face a criminal charge. We have talked before about this change in perception: it is a criminal offence now.

The Chair: Thank you.

[*English*]

Thank you, gentlemen, for your presentations and your answers today.

As the committee you should know, just as a reminder, that at 8:45 on Thursday morning we're meeting at Centre Block. We're doing clause-by-clause then.

Mr. Storseth, do you have something to add to the committee today?

•(1045)

Mr. Brian Storseth (Westlock—St. Paul, CPC): Is it too early to move a motion to have Mr. Brown as chair of the justice committee?

Mr. Patrick Brown: He doesn't want to meet Thursday.

The Chair: Ah, is that what it is.

Thank you very much.

With that, the meeting is adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the Parliament of Canada Web Site at the following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : <http://www.parl.gc.ca>