

THE STANDING SENATE COMMITTEE ON ABORIGINAL PEOPLES

EVIDENCE

OTTAWA, Wednesday, February 28, 2018

The Standing Senate Committee on Aboriginal Peoples met this day at 6:45 p.m. to give consideration to the subject matter of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, insofar as it relates to the Indigenous peoples of Canada.

Senator Lillian Eva Dyck (*Chair*) in the chair.

The Chair: Good evening. I would like to welcome all honourable senators and members of the public who are watching this meeting of the Standing Senate Committee on Aboriginal Peoples either here in the room or listening via the Web.

I would like to acknowledge, for the sake of reconciliation, that we are meeting on the unceded lands of the Algonquin peoples.

My name is Lillian Dyck. I'm from Saskatchewan, and I have the honour and privilege of chairing this committee. I would now invite my fellow senators to introduce themselves, starting on my right.

Senator Patterson: Dennis Patterson, Nunavut.

Senator Doyle: Norman Doyle, Newfoundland and Labrador.

Senator McCallum: Mary Jane McCallum, Manitoba.

Senator Pate: Kim Pate, Ontario.

Senator Christmas: Dan Christmas, Nova Scotia.

Senator Lovelace Nicholas: Sandra Lovelace Nicholas from New Brunswick.

Senator Coyle: Mary Coyle from Nova Scotia.

The Chair: Thank you, senators. Tonight we have our second meeting studying the subject matter of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other acts insofar as it relates to the Indigenous peoples of Canada.

We heard from departmental officials yesterday, and tonight we welcome three additional witnesses. First we have, from the First Nations Tax Commission, Manny Jules, the Chief Commissioner.

(1850 follows — The Chair continuing — ** We have Bill Robinson, Executive Director...)

(Following 1840 - The Chair cont'g - . . .the Chief Commissioner.)

** We have Bill Robinson, Executive Director of the Indigenous Peoples Cannabis Association. And we have Chief Randall Phillips from the Oneida Nation of the Thames.

Gentlemen, you have the floor. Mr. Jules, you will go first. After the three presentations, we'll open the floor to questions from the senators.

C.T. (Manny) Jules, Chief Commissioner, First Nations Tax Commission: Honourable senators, good evening. My name is Manny Jules and I am the Chief Commissioner of the First Nations Tax Commission. Thank you for the opportunity to appear as a witness before this committee as part of your study of Bill C-45, the Cannabis Act.

One hundred and fifty years ago, the British North America Act created Canada's Senate and House of Commons and assigned all lands, public services responsibilities and tax powers to the provincial and federal governments. However, Confederation was brought about by pretending that First Nation governments and our pre-existing jurisdiction and title no longer existed.

It was because of this legal fiction that the Indian Act transferred title and control of reserve lands to our public services to the Department of Indian Affairs. The right to collect taxes was systematically taken away beginning in 1881 until it was abolished outright and made illegal in 1927.

This was not a right. First Nations have always existed and always exercised tax jurisdiction. In fact, my ancestors had a word for it; *taksis*. T-A-K-S-I-S.

Tax monies were used for infrastructure, lawyers and to support our fight for our lands, jurisdiction and tax powers to be restored.

We had revenue-based fiscal relationships back then. We collected monies and used them to fund activities according to our priorities. We didn't sit down and negotiate our priorities with another government. Now we have a transfer-based fiscal relationship. Other governments transfer monies to us and we carry out activities according to their priorities and conditions.

We need to restore our tax power and the decision-making power that went with it. We cannot have our priorities subject to second-guessing from Ottawa. No country in history has ever escaped poverty by being dependent on aid and transfers.

As my ancestors said over 100 years ago to Prime Minister Laurier in their historic meeting:

We will struggle to better ourselves so long as justice is withheld from us. We expect much of you as the head of this great Canadian nation and feel confident you will see that we will receive fair and honourable treatment.

Many First Nations leaders have been part of this effort to restore their lands, their tax powers and their governments. Great progress has been made in the courts. We have asserted our rights into the Constitution. The federal government has accepted the United Nations Declaration on the Rights of Indigenous Peoples.

I am particularly proud of our work to restore fiscal powers and a revenue-based fiscal relationships through the First Nations Fiscal Management Act. It created revenues and allowed us alone to decide how to use them.

The FMA has been the most successful First Nations initiative in Canadian history. There are now 230 First Nations using this optional legislation. We have used these revenues to build infrastructure, facilitate investment, provide services and increase our revenue potential.

I remind you that the FMA was passed with all-party support in Parliament. Optional, First Nations-led legislation works. First Nation institutions support the assumption of new responsibilities.

We should build on the FMA model. I, like many other free people, have been inspired by recent statements by the Prime Minister, the Justice Minister and others in support of a nation-to-nation framework supported by an appropriate fiscal relationship that recognizes and implements our jurisdictions.

I believe that the model created with the FMA is the best way forward. It is the essence of a nation-to-nation relationship. It puts tax powers in our hands and gives us the scope to use them according to our priorities. It creates clear jurisdictions and tax powers and reduces bureaucratic oversight. Most importantly, it works.

It is for these reasons I was very disappointed when the provincial and federal governments divided up the excise tax associated with the sales of cannabis — 75 to 25 per cent — among themselves.

The provincial governments argued that they required a large share of this revenue because the regulatory, health and educational requirements associated with the Cannabis Act fell more heavily on provincial responsibilities.

But what about the health and educational responsibilities First Nations have to their members? The challenges they face are even larger than those of the provincial governments.

We need a First Nation cannabis tax jurisdiction to meet our challenges. After all the promises of a new fiscal relationship, UNDRIP and the recognition of our jurisdictions, how could this not have been recognized?

This has happened before, when First Nation's inherent tobacco jurisdiction was ignored. As a result, some First Nations processed, manufactured and sold tobacco products tax free. The

result has been billions in lost federal and provincial — and, for that matter, First Nations — tax revenues and higher health costs associated with tobacco use.

The tobacco experience doesn't need to happen again. We have the legislative and institutional framework to avoid this problem.

I have provided this committee with a proposal for some amendments to the FMA that would efficiently accommodate the First Nation cannabis tax jurisdiction for interested First Nations. Many First Nations have expressed an interest in exercising cannabis tax jurisdiction.

Our four-part proposal is as follows: The FMA would be amended to provide for a First Nation law-making power to levy cannabis excise tax on its reserve lands. The FMA would be amended to include provisions to enable the efficient tax collection option through the cannabis excise tax provisions in the Excise Tax Act. These provisions could be implemented once a First Nation has enacted the required law and entered into an administrative agreement with Canada.

First Nations cannabis revenues would be local revenues, subject to the FMA framework. They could be used to finance infrastructure and improve health care and education.

In addition to the tax powers, First Nations would be responsible for certain aspects of the regulatory framework, including business licensing, zoning and enforcement. This would provide interested First Nations with the fiscal power and institutional support from the First Nations Tax Commission to implement their cannabis tax power and associated responsibilities.

I urge this committee to recommend an expansion of the FMA powers to include tobacco to some of the First Nations and the Goods and Services Sales Tax. These amendments would allow our communities, like the Mohawks of Akwesasne, the Chippewas of the Thames and many others to expand their fiscal powers.

More importantly, these amendments would establish a nation-to-nation framework for interested First Nations and send a powerful signal that the colonial thinking of 1867 has passed and that, in 2018, Canada has truly accepted our governments into the federation.

As my ancestors said in 1910, "Together, we will make each other great and good." Thank you.

Bill Robinson, Executive Director, Indigenous Peoples Cannabis Association: Good evening, honourable senators. Thank you for the opportunity to appear before you this evening.

I'd like to begin by introducing George Robinson, who is behind me, the president and CEO of RavenQuest BioMed Incorporated.

The Indigenous Peoples Cannabis Association, or IPCA, is to act as the collective voice for our members, assisting in the promotion of business development on and off reserve. IPCA will provide guidance regarding industry standards. It will provide support for the development, growth and integrity of the regulated cannabis industry.

IPCA is working to become the coordinated and trusted voice of Indigenous peoples on issues related to the safe and responsible use of cannabis for medical and non-medical purposes.

IPCA shares a philosophy of responsible use and social responsibility surrounding the production and use of cannabis products.

This association and its members are committed to product safety, quality, security and reliable access to, and the promotion of, the safe and effective use of cannabis.

(1900 follows - Mr. Robinson cont'g - In travels across the...)

(following 1850 — Mr. Robinson cont'g — use of cannabis.)

In travels across the country since October of 2017, IPCA has been and will continue to work with communities and governments throughout Canada on a local, regional and national level, something that has occurred to date. To date, IPCA has met with and provided regulatory and business development advice and information to well over 100 Indigenous communities, tribal councils and individuals. All discussions have been in concert with the adoption of Bill C-45 and the existing medical marijuana and hemp industries.

The work of IPCA is ongoing with membership commitments with our community members.

As the Indigenous Peoples Cannabis Association has travelled to provinces across Canada and met with communities, working and speaking with individuals, business groups and a wide variety of tribal councils, many issues have been discussed. The following is a sample of some of the issues that have come to our attention and in which we've been involved as far as providing information and collecting information.

Communities are concerned with a requirement for information; education campaigning; social, medical and addictions impact of cannabis on First Nations peoples of Canada; the development of a robust and consistent dialogue with all major interest groups that support the healthy development of the cannabis industry in Canada, with Indigenous peoples; the recognition of the First Nations' unique role in the development and support of Canada's cannabis and hemp sector. I must mention that the interest in the hemp sector, as we've travelled from coast to coast across Canada, is significant on First Nations communities.

Indigenous producers of cannabis should not be required to pay or collect excise tax, as detailed in the proposed Excise Duty Framework for Cannabis Products on produced or sold products — the need for licensing by First Nations communities — that question the need for licensing — that wish to produce and sell cannabis on First Nations sovereign land. Also, Indigenous producers of cannabis should collect, possess and utilize the excise tax garnered from production on serve land to support their functions as another order of government.

Some of these concerns are derived from the recent Canadian government decision on UNDRIP, as well as past reports, such as the report from the Task Force on Cannabis Legalization and Regulation, and from the Trust and Reconciliation Commission report. These concerns are consistent with jurisdictional approaches to a new fiscal relationship between Canada and its Indigenous peoples. These issues represent action on Articles 4 and 36 of

UNDRIP. The Government of Canada may want to refer to related articles contained in the First Nations Fiscal Management Act to govern the administration of the collection, possession and utilization of this new tax legislation.

The Chair: Thank you, Mr. Robinson. Chief Phillips, please go ahead.

Randall Phillips, Chief, Oneida Nation of the Thames:

[Editor's Note: The witness spoke in his native language.]

Good evening, senators. Thank you very much for the opportunity to speak to you tonight. My name is Randall Phillips, and I'm currently the elected Chief of the Oneida Nation of the Thames. It's located approximately 25 kilometres southwest of London, Ontario. I give you that location because I want you to know that's a remote community. It's a remote community because our community members don't have access to transportation to get to the City of London for a lot of services.

So when we start talking about that, I want you to remember that in that context. Thank you very much.

I'm here on the good wishes of the Ontario regional chief and of the Quebec regional chief. I've known Chief Picard for many years, and I've also gotten to know Chief Day over the past 10 years in terms of his role. I look up to and admire both of those gentlemen, and it's with their confidence that I sit here tonight. So I welcome the opportunity to talk to you about those things.

I'm here tonight, senators, because I've always been a pragmatic and frank gentleman. I think that's the only way you can have honest discussions about important things. What I hope to indulge you with is this: You will get a copy of the notes of the presentation that was made by Ontario Regional Chief Day. I'm going to leave those with you, because I think a lot of those questions and comments are his. He was also involved with this task force, and I don't want to diminish those in any regard whatsoever. You can have the opportunity to read those at your pleasure at some other time.

I'm also going to defer any presentation with regard to the update from the Assembly of First Nations task force, other than to say that they're still looking in terms of trying to find a coordinator so they can begin this work.

So I think it's a good indicator in terms of First Nations in a general sense in terms of when they say, "We're behind." It's a very good indication in terms of what they mean in a practical sense. If our national and regional organizations aren't up to speed with respect to what's going on in the provincial and federal sense, then you can imagine the challenge to many of our First Nations communities that don't have the wherewithal like a policy analyst or somebody to do this work. This is a brand new field, so we don't have experts in that field.

Today I'd like to go through some of the presentation that was prepared for here, but I want to stop at those points I think are important for you in your discussions.

If I tip my glasses, I apologize. It's ageism that's affecting me. Ageism and stubbornism, because I won't get bifocals.

The national chief and everybody here recognize and always will the unceded territory of the Algonquin nation. I come from Haudenosauneeand —, and we've had a long standing in this territory and throughout Eastern Canada. I want to let you know there are other nations that have occupied this traditional territory, and we will continue to work with our brethren on that, but we also want to be recognized as such. In 1701, there was a treaty that was signed down the river in Montreal that involved many of our communities. Although I acknowledge our brethren, the Algonquin, please don't forget that the Haudenosaunee were also around here a long time too. Thank you very much.

What we're here to talk about, of course, is this new piece of legislation, and it is brand new. But the problem is not brand new, nor is the issue brand new. I'm finding out more and more in terms of any of these presentations that I've been lucky enough to attend that we've been dealing with this for a long, long time — maybe not in terms of this manner, where we're actually talking about making it a commodity. I think that's the difference and that's the spin on it.

The other thing is I wanted to focus on the fact I think there's a difference, and I wanted to establish the difference in terms of where I'm coming from, and that's this notion of distinction between cannabis and marijuana.

When I talk about cannabis, I'm talking about the medical evidence and the medical use of this particular plant. When we add this notion of marijuana and the recreational use, this is where the issues get raised in our community, left, right and centre.

So I just wanted to make that distinction. This isn't about medical marijuana. There is no question in terms of the need for it and the use of it in our community. I'll be honest with you, senators; I've had to personally dish out a few hundred dollars for seniors in my community because the Non-Insured Health Benefit doesn't pay for this prescription, yet it does for veterans. We put the same information forward, and there's a distinction. So I bring that to your attention as well that this isn't the only piece. There are many pieces we have to look at as this legislation rolls out in terms of the impact, not only on our children but our elders who are coming to rely on this medicine.

I'll get back to my presentation.

We've had the opportunity now in Ontario to meet with the provincial and the federal government on a couple of occasions. They're starting to understand now that we are dying for information. But we're no different from any other Canadian, from what I'm hearing. From what I'm hearing in discussions with people right across this province, they're saying, "Where is this education piece that the government keeps talking about creating?"

(1910 follows — Mr. Phillips cont'g: ** If this is a . . .)

(Following 1900 - Mr. Phillips cont'g - . . . talking about creating?)

**If this is a danger to our youth, and we're hearing this day in and day out, that the recreational marijuana is going to be dangerous to our youth, not the cannabis, where is this information in terms of getting that out? We need that right now.

I come from a community of a little over 2,500 people. Seventy per cent of them would be considered youth. If this is an issue, then it's an issue in my community right now, and I need that information.

Fortunately, I tried to bring this back, and we're going to hold more information sessions in our community because of this new learning that we all have, but we need resources for that as well.

I was quite taken aback, as my colleague — and you've known Mr. Jules for many years. We've fought on the same sides and we've fought on opposite sides in terms of our opinions, and that still stands today. It's okay to have a difference of opinion. It's okay to provide other solutions, and that's what I'm hoping we come here today to as well.

I come from a community that has a long history with respect to this notion of "nation." It's very difficult for me to put an Indian Act elected chief hat on and still talk about those things without making a distinction.

When I say I'm elected chief, that's because I am the elected chief. I wasn't presented as a candidate by my clan mothers. I wasn't presented as a candidate to speak on behalf of our nation by our people. I was loud enough and smart enough to run for this position, got elected chief, so that I had an opportunity to share what I'm trying to share with you right now — that there's a cultural difference when we talk about this. Cultural understandings that we have to include when we talk about this. Many of our children right now are using marijuana. Why? It's because of the results in terms of the intergenerational impacts of residential schools.

You don't get it. You didn't live it. You didn't miss out on those opportunities, and it's still happening today because we haven't got the wherewithal to transfer that knowledge fully to our kids so we're going to miss another generation of that. The idea of informing our kids and educating them is so important.

I've always been a real strong advocate in terms of talk, and here I have been one of the best talkers I know. I want to see actions. I'd like to see these information packages get out to our communities sooner rather than later. That will give us a big head start with regard to some of the potential negative impacts that you hear. That will give us a big head start with some of the security issues that you're talking about.

I know that I talk a lot and I'm trying to talk fast, but the one thing I also want to mention is this notion of resources. My colleague and I have a different opinion when it comes to this notion of taxation and whether or not we need the rights through Canada to do that.

Those are the new relationships that we're hoping this government will talk about and how we can reconcile those, but we're not there yet. We're talking about new fiscal relations. That's a good thing, but we're not there yet.

Unfortunately, senators, I come from a reality world where I've got to deal with these things on a day-to-day basis, and people are tired of me saying, "What's changed?" I can only pass that on to you. I'm held accountable for what I do every second. I hope you accept that same accountability to provide me with those answers so when those young people ask me that I have a response. Not just words, but I can show them something in detail in terms of how we're moving on that.

Why I bring that up is because we did talk about this notion of revenue-sharing. We talked about how the Canadian government is looking at ways in terms of finding new revenues to deal with First Nations issues, to deal with all of the challenges that we bring to the government's table.

This is a brand-new commodity; this is a brand-new product. The Canadian government and the Ontario provincial government had no access to any of the revenues whatsoever because of this.

When we talk about a new era in terms of revenue-sharing, we talk about new ways in terms of helping our communities. Not once did we talk about it in terms of sharing those things, yet the same problems in terms of what the provinces come up and said, "Oh, we've got additional costs." I ask you to put that same context back to our communities.

I want to add this too. The Indian Act discriminates against large communities. Isn't that ironic, me saying the Indian Act discriminates? Anyway, the Indian Act discriminates against large communities. Why? Because the public services that you're talking about that we're supposed to provide — police, fire, ambulance — are cut off once our population reaches 1,200. Our population reached that years ago, decades ago, yet we still have to find our own dollars to provide for these services. When you talk about something new, that's the reality in terms of us facing that.

There has to be real good dialogue in terms of how you're actually going to do this revenue-sharing. Not with the controls, rules and regulations that everyone seems to want to operate on, just with this notion of new reconciliation and new transfer. That lets us know what we can do at home.

I just came from the Chiefs of Ontario, and they're having a session on health. This was a very important topic. The youth sat down and they also made some comments. The youth are worried about brain development; they're worried about health. It's their first and primary issue. They've already dealt with this notion of life promotions. They don't want to see it again. They're living with it every day in terms of the struggles they have with their friends, their peers and families. They know it is dangerous in terms of their development, and they want to do something about the education piece.

They want training not for us but for everyone else in terms of this notion of Indigenous cultural competency. Unfortunately, many of our young are in care. Many of them have already touched on abuses and drugs, and the numbers are there. They indicated that. But we can't just go by those numbers. We've also got studies that when we allow this kind of interaction on a

positive note, that any indicator we have with regard to other indicators of self-harm go down critically.

Let's look at this. This is why I make this distinction between cannabis and marijuana. Let's make that clear to our kids where the harm is. But they want people to train. They want people to understand who we are, too, and why it's not easy just because Canada says to do this, that we can easily do it within our community.

We also want you to remember — and it was brought up here — that this government has endorsed the United Nations Declaration on the Rights of Indigenous Peoples. They want to see movement on that. They do not want to see language. When they talk about this notion of self-determination, this is how they express themselves. They see this notion of a document, of words. What they want to see is expression of those words. And they talk about this notion in terms of self-determination.

We talk about it in terms of jurisdiction. What does that mean? They're going to be our leaders. They're going to be looking at this in terms of a new lens because they're going to be more culturally aware. That's going to be the harmonization that they're going to challenge in the future.

We're going to talk about this notion of jurisdiction. We have different concepts of those kinds of rules. We don't have laws and regulations. I come from a place where they've got great law. It doesn't always interact with our world thinking or world view, but there are many things we do share in common.

They would like answers. Like the Florida kids, they want answers. It's a very difficult question. They left me to say this with you. It's just the humbleness in terms of our youth and the respect of our youth. I hope they have it because I'm certainly on the edge of losing it every day. They said they don't want these questions to be a burden to you. They don't want these challenges to be a burden to you. They want answers.

On behalf of the First Nations in Ontario, on behalf of some of the First Nations throughout Canada that are working toward this task force, I thank you very much for the opportunity to address the Senate tonight, and I welcome any questions or any clarity with any position we put forward.

The Chair: Thank you, gentlemen, for your presentations. The floor is now open for senators.

(1920 follows - Senator Tannas - Thank you, chair.)

(following 1910 — The Chair — now open for senators.)

Senator Tannas: Thank you, chair. Thank you all for being here. Mr. Jules, nice to see you again.

I want to make sure that I understand what you're looking for and just to test it a little bit as to what the timing is. I suspect I know the answer, but I think it's important that we visit this.

The idea you're putting forward is, essentially, First Nations governments will be able to have the ability to charge and collect excise tax on an equivalency basis to what the provinces are doing, or would they do it on top? You wouldn't want to have the provinces collecting and you charging. Otherwise, you would be at a financial disadvantage.

Are you thinking that there would be some mechanism whereby manufacture of the product in First Nations communities would be where the excise would be collected by the First Nation, and the province would be kind of cut out or reduced? Number one, have I gotten that right?

Mr. Jules: Well, the foundation of the premise is that if this government, the federal government, recognizes nation-to-nation discussions and within that they don't even talk about tax jurisdiction over this area, there's something wrong with that picture, firstly.

The way I envision correcting that is that both the federal and provincial governments are going to have to give up tax for an orderly transition from those jurisdictions to First Nations. The reason I say that is because of the tobacco tax situation we've got now. If we don't fix this now, we're going to have that kind of a problem in the future, and I'm not talking about thousands of dollars; these are billions of dollars.

Senator Tannas: That makes sense to me. I guess that kind of leads to the next question.

There's going to be the narrative that we shouldn't do this now because we're going to get this all sorted out somewhere down the road. We're going to share resource revenue, we're going to address the cigarette issue and other things, so that should all be done at the same time.

You're talking to a committee that's starting to become notable for its impatience for this kind of thing, for that narrative. So would it be your suggestion to us that we look at the potential of amending this bill to provide that right to First Nations now?

Mr. Jules: Well, absolutely. I believe that if this legislation proceeds as it is, we're not going to have that opportunity in the future. We're going to have problems with implementation. There are going to be immediate problems within our communities just over simple things, like the regulatory regimes on how cannabis retailers would operate on a reserve. That isn't even being contemplated right now.

So what I'm proposing is that we do this through the FMA, that we have the regulatory regimes and mechanisms so that First Nations can do this. Otherwise, you're going to be having a dog's breakfast.

Senator Tannas: This is my last question. So the idea would be that we would put some kind of an amendment forward that would say that in respect of excise tax, that excise tax on products manufactured and/or sold on First Nations reserves would be determined by each individual First Nation?

I presume there could be two control mechanisms that would go all the way back to the community. One would be we could have a lower excise tax and make this an economic development opportunity, or we could have a higher one and discourage anyone from coming near our community, if that's what our community decides. Is that fair?

Mr. Jules: Well, when you're dealing with tax policy, you're going to have to look at all of the situations across the country. So what we do as a tax commission, if there's a difference, say, between British Columbia and Nova Scotia, we have to take those differences into account to recommend law approval for an individual First Nation community.

Senator Tannas: I see. Okay.

Mr. Jules: So when we think about national policy as it relates to cannabis, we're going to have to take into account the regional differences that the territories and provinces would have, and then you would have to accommodate that within the First Nations jurisdiction. Because despite what people feel, we want to be able to get as much revenue as possible to the First Nation governments so they can deal with issues like health and education, which are being offloaded to somebody else other than themselves.

Senator Tannas: Thank you.

The Chair: Senator Lovelace Nicholas, you had a supplementary?

Senator Lovelace Nicholas: Yes. Thank you very much. In the 1800s the First Nations were put on reserve, and the government had agreed you could grow whatever you want, how much you want and sell it to whoever you want to make your community economically prosperous. That's not true at this point, correct?

Mr. Jules: That's absolutely true.

Senator Lovelace Nicholas: Okay. So we would have an argument that if we want to grow cannabis, if we want to do this and that, would we have to go to the Supreme Court again?

Mr. Jules: You would simplify things by amending this particular piece of legislation. That would save all of us, and you know, senator, what it means to go to the Supreme Court of Canada.

Senator Lovelace Nicholas: Yes. Okay, thank you.

Senator Tannas: Just on that, because I want to understand, if I remember, didn't we hear that it's still in the Indian Act that — so an amendment, at a minimum, even just for us looking at this on Indigenous issues, we have to have that repealed. Otherwise, we'll run smack into that, right?

Mr. Jules: What happened is that the Minister of Indian Affairs — I'll say it for simplicity — under section 4 can override different sections of the Indian Act. So this one particular section forbid communities on the prairies from selling their produce off the reserve, so he overrode that.

Senator Tannas: Oh, okay. So we don't have a worry?

Mr. Jules: You don't have a worry, but my suggestion is let's think about those problems now and fix it so we don't need to deal with them in the future.

Senator Doyle: Thank you. I just want to follow up a little bit on Senator Tannas's question to you, Chief Jules. You mentioned having the power to collect, share and use taxes on your terms. You mentioned using tax revenues, say, for educational purposes.

Do Indigenous communities have the health and policing resources at this point in time — now that the bill is going to be in effect on July 1, if it passes — to deal with the implementation of Bill C-45? What is your plan on that? If it comes into effect, where do you go from there?

Mr. Jules: Right. My view is very transparent. If our communities do not have the jurisdiction, they're not going to be in a position to be able to have the necessary policing in their communities, the necessary educational issues they need to address internally all of those matters. That's what tax revenue is used for and used to offset.

Senator Doyle: Okay. Have you had —

The Chair: Excuse me. I think Chief Phillips might want to contribute an answer as well.

Mr. Phillips: Thank you, Madam Chair. Certainly, senator — I forget your name but you're looking at me right now.

Senator Tannas: Tannas.

Mr. Phillips: We've had that experience in Ontario with our sister community, the Six Nations of the Grand River, paying federal excise tax, having that agreement, yet there's no benefit to that community whatsoever. I would just say caution is among the Haudenosaunee with respect to going down that path again.

(1930 follows — Mr. Phillips continuing — But where Mr. Jules...)

(Following 1920 — Mr. Phillips cont'g — . . . going down that path again.)

But where Mr. Jules and I agree is that power that exists to collect that tax or whatever else should be done here. There are big communities like the Haudenosaunee that don't need these institutions to help them get to where they need to get to and end up with the same goal; that's for sure.

Mr. Jules: The issue, when you start talking about an excise tax, it is complex because it's in the federal jurisdiction. The provincial governments can tax you directly. So when we're talking about the excise tax right now, as Chief Phillips talked about, on Six Nations, there's about \$163 million collected off of Grand River Enterprises, the cigarette manufacturer in that community. The federal government collects that money. They also collect money on gasoline and tobacco sales off everybody, even if you're a status Indian purchasing tobacco and gasoline on reserve.

What happens with that money, it's the Department of Indian Affairs that determines where that money is to be spent as opposed to the individual communities. That's what we're hoping to change through this as well, that we be in a position to lever those monies to put into infrastructure. As every one of you knows, without infrastructure you're never going to break the cycle of dependence.

Senator Doyle: Getting back to Bill C-45 again, many Indigenous communities, as you would be aware, have called upon the Government of Canada to probably delay implementation of Bill C-45. Would you be one of these community leaders? Would you be calling upon the government to delay implementation of the bill until you've had the proper health, policing and educational campaigns put in place before this becomes a reality in your community? Is that a concern to you?

Mr. Jules: My feeling is if we don't address what I've proposed right now, we're going to have those problems, in any event, in the future. So in order to solve those problems, my suggestion is accommodate the legislative changes that I'm recommending into Bill C-45, let the First Nations figure out what their priorities are going to be based on their own jurisdiction. A lot of times they're going to come together. As a matter of fact, we're going to be hosting a meeting of about 276 communities in May in British Columbia, talking about all of these initiatives. So there's a lot of support to move ahead.

Senator Doyle: So you wouldn't call upon the government?

Mr. Jules: No, I'm not. Others can, and that's their prerogative.

Mr. Phillips: With all due respect, senator, Mr. Jules is part of a tax commission, not a First Nation leader. But he certainly can, from experience, speak for that. What I'd like to do is answer that question as a First Nation leader and one who has talked to many First Nations leaders, certainly in Ontario.

We've got three officers in our community. It's the fifth largest community in Ontario. We're supposed to have 11. Any new laws coming in that have to be enforced, there's your impact right there. We are already understaffed in terms of doing that. Gone. The little announcement by the federal government might help, but it's certainly not going to close that gap.

Am I one of the ones that want to delay this? I am not. I heard about this two years ago. We're starting to get ready for this. You know what I mean? It's like everybody else. I'm from a big community. I told you, there's a difference. I have to be ready for these things, have to be. So we've been working on it both in terms of an economic development path and a safety path. We've been looking at it both ways.

Senator Doyle: And education.

Mr. Phillips: There are a lot of communities in Ontario, though, that want to slow this, based on that same reasoning, based on the fact that we really haven't had any good discussions with the federal and provincial government. As Mr. Jules said, if we had that discussion, maybe we could have placeholders in this legislation that would recognize how we're going to address this.

The last time I was before a Senate committee was a few years ago when I had to do the same thing with the implementation of the HST on our people in Ontario. It's the same thing. This is the table of last resort that we come to to address these things. That's certainly what it is.

There is an impact. Many communities say "Yes," and many communities say "No," but that's no different from Canadian communities that I've heard in the news as well.

Senator Lovelace Nicholas: Welcome, everybody, this evening.

I'm going to combine one question to two questions.

Mr. Jules, what do you see as an economic prosperity for First Nations in cannabis growing and dispensaries, and should the province be involved? The chief may want to answer too.

Mr. Jules: Obviously, we're talking about federal legislation. You're dealing with federal laws that will apply right across Canada, including the provinces, including Indian reserves. From that perspective, the First Nation band councils have got to be involved in all aspects of their economy. A lot of that is going to be providing land for growing opportunities, for medicinal purposes. Whatever purposes that are going to avail for every other Canadian are going to be availed, hopefully, for First Nations as well. So First Nations governments have got to be able to have the tools that other governments have to regulate that. Right now, we don't.

Mr. Phillips: If I could, a quick answer: Yes. Our community right now is going through the process of applying to be a licensed producer within the framework that's presented right now.

Our community also has a dispensary. Dispensaries are illegal in this country. I've been to at least six First Nations communities that now have dispensaries. I've been to at least seven Ontario cities that have dispensaries. I'm not finding any difference with regard to this notion of "dispensary." But, yes, we're trying to follow into that. Why? Because we see that as a use, as a product, as an economic development engine.

As my colleague said with regard to this notion of tobacco, don't go down that same path. We want to be part of this. This is brand new. We didn't have the same opportunity to get into the tobacco field and fight against the big companies that were already established. But they still happen.

We've got entrepreneurship at home. Let's work together. It's when we are denied the opportunities, and we get shut out of these processes and they don't hear us. They say, "No, we've already created the monopolies, and that's the way we're going to do it." This is where the dissension comes in and the different approaches happen.

Mr. Jules: Just a quick response as well. When you are talking about provincial laws of general application that apply on reserves, that's because of section 89 of the Indian Act. Laws of general application do apply because of the Indian Act. So when you've got provincial laws that it can apply, as Randy and I have talked about a lot over the years, if you don't occupy the field, somebody else is going to. What we want to be able to do is ensure that First Nations have got the ability, like every other government in this country.

Mr. Robinson: I've been listening very carefully to my colleagues' comments. I was the former regulator for the Province of Alberta. I can tell you, being involved for many years in the liquor and gaming industry on reserve in the province of Alberta, I helped, before my retirement from them, start the process of drafting.

As recently as today, we were having a conversation relative to the First Nations' ability to set up retail outlets on First Nations sovereign land, the ability to put production and manufacturing facilities on First Nations land.

(1940 follows — Mr. Robinson cont'g — ** I think that, as I've ...)

(Following 1930 - Mr. Robinson cont'g- ... on First Nations land.)

***I think, as I've travelled from B.C. right across the country, the jurisdictional issue is critically important in this. The reason it's so important is because right now, both provincially and federally, it's silent. The silence is deafening as far as exactly what the response is going to be, to allow First Nations to develop those business opportunities.

I was just in the province of Saskatchewan and I held three sessions, one in Saskatchewan, one in Regina and one in Prince Albert. I had just about every nation, barring a few, in the province come and meet with us in those three areas. I can tell you, there's great confusion around what the outcome is going to be on sovereign land, what the outcome is going to be on taxation and cost share. But, more importantly, one thing that I really do want to focus on here is ownership by First Nations on sovereign land.

Our association is sponsored by RavenQuest, the CEO who is behind me, and they are sponsoring us but not controlling the association. I can tell you that what I've learned from the business development side from First Nations relative to building and approaching First Nations and the use of First Nations land by large corporations versus ownership by First Nations is startling. It's something that's going to have to be addressed.

On my way over here in the cab, I was on the phone with a very large nation who is extremely concerned about how to enter into the process and extremely concerned about the lack of clarity around licensing premises or licensing numbers and licensing ability for First Nations.

I can tell you, as the former regulator, many First Nations have found themselves on the wrong side of the gaming licensing. What they're doing now, in order to get into the gaming licensing business, is they're buying traditional casinos and they're finding themselves not taking advantage of the taxation which casinos on First Nations land provide. In fact, they're losing as much as 60 cents on every dollar from gaming, which turns out to be billions of dollars over the years.

So there is a lot of ambiguity. This association and the company that I'm involved with, the purpose of our travels is to educate and provide clarity. My colleagues here have many meetings, they have certainly many associations coming together and many discussions, but I can tell you that there is a great deal of confusion around this today. I think Chief Phillips talked about going out and explaining the education package.

I'm also a 35-year former RCMP officer. I retired as the commanding officer for Manitoba. I can tell you that I've worked, lived and provided services to Aboriginal communities in the North for nearly 35 years, and I can tell you the impact of addictions and I can tell you the requirements for staffing. I can tell you the requirements for training for addictions. This will be,

I can tell you, having staffed thousands of police officers in my career, this will not be an easy undertaking.

I would like to put that out to you, because I've experienced it on the ground. I've dealt with it every day. The reason I came to this association, this company, was because of these experiences. The reason this association is moving forward is because we have a very clear lens on this from experience. What many of my colleagues here are saying is extremely true, and I know that from speaking to many hundreds across the country.

Senator Lovelace Nicholas: I have a short question; I promise.

What I'm concerned about here, as everything else, is: Okay, if we don't have enough land, can we access Crown land set aside for Indigenous peoples to grow cannabis or to have dispensaries?

Mr. Robinson: I'm dealing with provincial governments across the country. I'm dealing with regulators across the country, speaking to them about this very issue. Right now the unanswered question relative to the creation of policy surrounding growing, production, processing on First Nations land, there's more clarity federally than there is provincially. I think that certainly all of the nations that we deal with, all of the communities that we talk to about production, about facilities, about how to enter the licensing process, the assistance we're trying to give them to get into the licensing process, is making a small dent in it.

I spoke with four nations today. The concern of all of the nations are flowing from the elders about addictions. The company that Mr. Roberson runs is in partnership with a number of universities looking at the impact and the composition of the plant in order that scientific studies can be done, because, of course, you can't do scientific studies on recreational or medical cannabis until you can grow strains that grow to the specific THC level so scientific baselines can be drawn and you can do studies. That's the first challenge in all of this. Because you simply can't do the studies on THC levels.

The second part of this, of course, is the whole production, capacity and licensing piece. Many elders are concerned with the opioid addiction that's occurring. I can speak first-hand as a former police officer about the opioid addictions on First Nations communities, on and certainly off. This is viewed by many as one more brick in that wall.

I sat with retired Chief Justice Binnie at the Supreme Court on an FSD national study. Many of the things that are flowing back, the lack of knowledge and the lack of education on what this is going to mean, is reflective of that.

Mr. Phillips: If I could, senator. This is exactly what I tried to make sure didn't happen, and that's this notion about bringing this whole thing about opioids into this discussion. They're two very different things; they're two very different causes and reasons. What's common is that our First Nations people are hurting, and this is what's given to us in terms of trying to kill that hurt. I take offence to that last one. Again, I want to put this back on topic in terms of cannabis and marijuana, and don't throw this notion of opioids into this discussion.

The Chair: Thank you for that comment.

Manny Jules, did you have a comment?

Mr. Jules: Yes. One of the things that the First Nations Fiscal Management Act would afford, through this particular amendment, is that communities would then be able to use the tax revenue to go into the international bond market through the First Nations Finance Authority, borrow money to put in infrastructure on reserve. So this is a very important part of the discussion that you'll have to be aware of. It puts communities in the position where they can build buildings, hire people, if that's their desire, and they can use the tax revenues that other governments would be able to use.

(1950 follows - The Chair - We will start the questions ...)

(following 1940 - Mr. Jules - . . . other governments would be able to use.)

The Chair: We will start questions with Senator Patterson.

Senator Patterson: I'd like to thank Senator Christmas for suggesting this study. Tonight we've found a very good reason why we need to do this study about the Indigenous aspects.

I'd like to ask Commissioner Jules: It seems to me — and correct me if I'm wrong — that the legislation, which may have been rushed, simply did not address the issues that you have raised tonight. It seems to me that we are faced with not just a missed economic opportunity but perhaps also some threats of worse.

It's pretty clear that you want us to fill the holes, the gaps, or the vacuum that's in this legislation with regard to First Nations lands, in particular. What would happen if we don't fill these legislative holes and deal with these opportunities? And perish the thought; I'm not sure we want to go that way, but what would be the implications of bulling ahead with this multi-billion-dollar economic opportunity, leaving the First Nations Tax Authority and the First Nations out of the picture?

Mr. Jules: You can very quickly see that in a situation where there's no law, no regulatory regime, you're going to have problems, and that's ultimately what happens. You've got grey marketeers coming in utilizing a community's jurisdiction, if you will, for their own advantages. In a lot of communities, that has led to billions of dollars of lost revenue through the cigarette and liquor trades, through human smuggling, and all those other things that lead to that kind of approach.

What we're advocating here is we use an orderly approach to deal with the issues so that we have a standard approach — a regulatory regime — already in place. Because if we don't do that now, it's going to be very difficult to put that in place in the future, even if it's one or two years from now. This work can be done, it can be done on a priority basis and our communities need this. If our communities don't come in through a regulatory regime, you're going to see this not take place in a number of communities in Canada, but virtually every community in Canada is going to have problems, and it's because their jurisdiction is not being adhered to.

Senator Patterson: Thank you.

As I understand from your proposal, it would be necessary to amend the First Nations Financial Management Act to give First Nations law-making power to levy cannabis excise tax on its reserve lands.

I have two questions related to that. First, you've also talked about amending Bill C-45. Could you explain how those two would go together — Bill C-45 and the FMA? Second, could you explain the advantages of having the FMA given that authority, as I understand it, to develop a regime? What would the advantage be for First Nations to have the FMA given that authority?

Mr. Jules: Through the First Nations Tax Commission we've created the Tulu Centre of Indigenous Economics that trains tax administrators.

(2000 follows - Mr. Jules cont'g. - ** So we would be able to . . .)

(Following 1950 — Mr. Jules cont'g — trains tax administrators.)

** So we would be able to train people who would be able to fill all of these positions that are necessary for enforcement. That's one aspect.

We would also be able to come up with draft regulatory regimes that the community would have to adopt because ultimately the legislation is the First Nations. I view the commission as being the caretaker, but the jurisdiction lies with the First Nation community. That's what kicks in the law-making authority. So you would be able to get support for the First Nation community developing laws, developing regulatory regimes, all of those other things that go toward protecting a jurisdiction.

Then also when you're dealing on a provincial basis with all of the discussions that are necessary, we would be able to facilitate that as well. It just makes sense from an economic standpoint so you're not having 600 different discussions. You've got a central authority that's talking on behalf of not everybody. This is optional legislation. One part of it would be amending the FMA so that we would be able to take full advantage of Bill C-45. My feeling is if Bill C-45 is not amended now, it isn't going to happen.

Senator Patterson: What would that amendment to Bill C-45 say, in simple terms?

Mr. Jules: It would be recognizing First Nations excise tax jurisdiction, much the same way that you have the federal and provincial governments recognized. I don't think it would be insurmountable to come up with simple wording for legislation.

Senator Patterson: You work with INAC and have for many years. Could you tell us whether you have discussed this proposal with senior officials or ministers of the current government?

Mr. Jules: I've raised with Minister Jody Wilson-Raybould's committee that this issue needs to be addressed. I addressed with her privately, as well as at the committee level, just introducing it, mind you. And then with the two ministers, Minister Philpott and Minister Bennett, I raised it with them saying this is important work that needs to be done. We've actually started looking at what kind of a regime could be developed, so some of that work is already under way.

Senator Patterson: Thank you.

Senator Christmas: Thank you very much, gentlemen, for appearing this evening. I know this is a very complex topic, and I share Mr. Robinson's view that this all seems very confusing. I think there is clarity between the federal government and the provinces and the territories, but I fear there is very little clarity between the federal government and our First Nations. And I agree with Senator Patterson; there seem to be an enormous amount of gaps and holes in jurisdiction on this whole topic.

I guess my first question is, in hindsight, should the federal government have entered into discussions with First Nations and Indigenous communities directly about the cannabis act in the same way that they have done with the provinces?

Mr. Jules: Well, obviously. I think that would have saved us a lot of heartache in terms of the discussions we're having this evening.

I think that the government, in its stated mission, was twofold. One is to have a new fiscal relationship not based on transfers but a real relationship. This obviously should have been part of that discussion.

Then the other component, when the Prime Minister says and recognizes First Nations as a founding nation and we've got to have nation-to-nation discussions and then completely disregarding that, I think it was not good.

The Chair: Chief Phillips, did you have a comment?

Mr. Phillips: Yes. Thank you very much. I would just like to say that's exactly the same position we take at Oneida Nation of the Thames. We're a nation community. We're not governed by an institution, nor will we ever be governed by an institution. We have never been under third party. We have never been late with our audits. We know how to take care of our financial house without the help of so-called others. There are many First Nations communities that do require that help and that assistance, and that's just based on capacity, so I'm not pushing that away. I'm just saying that not all First Nations communities need that expertise.

It's a little disingenuous when they say you have 630 conversations going on. You have one with Oneida Nation and one with the tax commission. That's two

I guess this goes back to this notion of legislation. We're going to continue to fight them. Should you have talked to us? Yes. The Indian Act allows that any legislation you guys have, that you guys make, is going to have an impact on us. The National Chief says no discussion about us without us. Thank you.

Mr. Robinson: I worry because of the lack of clarity and the lack of knowledge that many nations have relative to the basics of not only the legislation but also the basics of the impact of cannabis. And the impacts of cannabis are not only physical or psychological, et cetera, but it's also community impacts as far as policing, infrastructure and treatment, all of those things, which I've experienced in the past.

What I worry about is because of the gap in there — I don't want to make this sound like it's an issue that can be overplayed — First Nations are being approached significantly today by many in the business community, by many that want to begin business processes with them. What I'm finding as I travel and we speak to them about the decisions they have to make going forward and how those decisions are going to do everything from impacting financial well-being going forward for bands, treaty councils, et cetera, when I talk to investment groups, I hear back from many communities is that we don't know enough to even know enough. They're not to first base yet on the knowledge factor, and the pressure is significant. It's significant.

So one of the things that we're trying to do is 50 per cent of it is education, 50 per cent of it is business. If you make these decisions, this is what likely the long-term implication for your community is going to be. That's critically important. This just isn't about understanding what cannabis is going to do to young people, which is critically important, what it's going to do to the long-term viability of communities as far as reputation and looking at the things that will happen to them. But also, this is a critical financial decision that could impact communities, and I can tell you that incorrect financial decisions based in gaming industries and in liquor industries have effects that last for years that tie the hands of nations to invest in what they should be investing in. That is a real concern to me. Those are the types of things I keep hearing back from these communities.

Senator Christmas: It seems we're at a point in time where we're at a fork in the road here. One road that has been taken in the past is to simply ignore First Nations' revenue-generating abilities and their inherent jurisdiction to raise their own funds and just go down the path of the federal government providing endless transfers to First Nations or Indigenous organizations.

(2010 follows — Senator Christmas cont'g — The other path is this...)

(following 2000 - Senator Christmas cont'g - First Nations or Indigenous organizations.)

The other path is this revenue-generating path, where First Nations can establish their own businesses, their own taxation powers, and generate their own revenues. To me, that's the fork in the road.

What I hear you saying, Mr. Robinson, Commissioner Jules and Chief Phillips, is that if we don't go down the right fork here, we could be repeating the same mistakes we've made in the past with tobacco and gaming.

Mr. Robinson: You will repeat those mistakes; there is no question.

Senator Christmas: And unless we develop that ability for First Nations and Indigenous communities to generate their own revenues to meet their own needs — and it appears to me that this legislation is going to create enormous needs, not only of education of the young people you spoke about; it's going to create enormous needs, no doubt, on the health side and on the addiction side.

Mr. Robinson: Today there are universities and colleges that are creating programs right across this country surrounding botany, grow sciences and technology sciences specific to this industry. Many of the production facilities that are being built or will be built on First Nations

land with primary First Nations ownership will provide succession planning for young people to have a career path from high school right up through the sciences. That's why it's so critically important that First Nations communities understand that ownership of production facilities, primary ownership of production facilities, unties their hands and allows them to create that succession plan for youth going up.

This is more than about whether you own or not. This is about that ability to bring young people up through sciences and through use. One facility in a community can employ as many as 50 to 60 people and provide educational opportunities for as many or more. In a lot of communities, that's extremely important. It's groundbreaking.

Senator Christmas: So this path of creating their own revenues and generating their own businesses, basically raising their own resources to look after themselves in their own communities, this is the opportunity that's before us?

Mr. Robinson: Yes.

Mr. Jules: It's like Yogi Berra says: When you see that fork in the road, take it.

Mr. Phillips: It is. Again, this is a multi-faceted approach as well. You asked what happens if you leave us out. Well, we'll get right into it. Why? Because — you've already said it — it's a billion-dollar-a-year industry. Can you always rethink your politics, your legislation and your regulations? As Mr. Jules has said, we've been here for 30 years. No. If you don't take the opportunity to open those paths now, it's going to be very difficult to open them up in a few years.

We've always talked about this notion of placeholders. You don't have to have the exact language. Do that. We've got enough First Nations people and First Nations communities that don't need help of other people like this. I resent the fact that he's talking about First Nations in that notion that we're dumb, that we're stupid, that we're going to be buying snake oil medicine for the rest of our lives from certain people. Yes, that's our reality, but some of us are smart enough to see through that.

Yes, we're smart enough to see the reality too in terms of the potential for all of these products. All we're talking about is one now. We don't know what's going to happen yet. We don't know how many people we can get into the sciences. We don't know how many people we can get into this. Our First Nations communities have lost an opportunity because we don't have access to broadband services. We've lost access to a whole bunch of economic opportunities simply because we're not connected. That's what happens.

So, yes, it's an economic opportunity for sure, and it's the same economic opportunity that the provinces and the feds have. Same one. Let's not forget about this. That's the one thing I want to keep on saying and pushing back here, that the only reason people are in it is because it's a billion-dollar industry. And, yes, we can use some of that revenue, for sure. Thank you.

Senator McCallum: Thank you for your presentations and thank you for taking the time to come and meet with us.

I have to tell you, as a health professional, that I'm very concerned about this bill because of what exists in our communities and the danger that it poses for the children, because there's such a high rate right now that are smoking marijuana, and the damage it does to their brains. There are no resources or education material out right now. They're just developing them. July 1 is coming up so fast.

Everybody here I think agrees when we say there's great confusion, there's a lack of clarity and there are gaps all over the place. From what I hear, the majority of communities haven't been consulted.

When I look at that, my concern is the issue of informed consent and what backs that informed consent. If you don't have all the information — and, yes, I know it's a \$50-million business or whatever it is. If you don't have all the information, you cannot make informed decisions. You can't.

Decisions are being made where they're not getting information from the federal government or the province. I can tell you that the Province of Manitoba hasn't met with the federal, so they're in the same situation as First Nations communities. If you don't have informed consent and you can't make an informed decision, isn't that a legal issue? Shouldn't what you're proposing be strong enough that it would hold up in court? Maybe you can speak about that. That's my concern.

I was in Manitoba last week and I talked to the two Grand Chiefs, to medical doctors and to researchers at the University of Manitoba. They don't have information. So why are we proposing to just jump into this mess and say, "Okay, we can handle it when the time comes?" You know what? We're already in crisis here, and that's what I'm concerned about. I don't want to be seen as someone who said, "Okay, let's pass this legislation." I need to be ethical. I need to look at the moral stuff and say that, with what I see, I really disagree with how fast this thing is moving, considering that we've known about it for — how many years? Two years? It just seems so crazy to me, and I don't know why we want to jump into it. That's the question I have, because I'm really mixed up.

Mr. Phillips: If I could, that's an excellent question and an excellent pondering. First Nations, we didn't bring this law out. I appreciate your question. We're going through the same thing. We're not ready for it, but here it is. Unfortunately, we have to get ready for it. This is just another example in terms of us reacting instead of actually thinking it out in terms of all these things. Thank you for your question.

Senator McCallum: Can I have one more?

The Chair: Just a moment. Does anyone else on the panel wish to respond?

Mr. Jules: Part of the job of the Senate is to review legislation from the house, so that's in your purview. The reason I'm here is to ask for an amendment to Bill C-45 so that First Nations would be in a position to be able to hire their own staff, have their own money for education programs, health programs, policing — all of those issues that you raised. Yes, there are no resources for it because there is no area where we can tap those resources, at least to an adequate level.

(2020 follows — Mr Jules cont'g - What I'm asking for ...)

(Following 2010 — Mr Jules — ... an adequate level.)

What I'm asking for in my brief and addressing you as a senator is to support amendments that would see First Nations jurisdiction over these areas. Right now it's held either by the federal government or by the provincial governments, and that has to change.

Senator McCallum: I think this is a question for the senators as well. I don't know if you know, but I just started in December so I haven't been here very long. But it seems like the people I talk to say this bill is a done deal, and I don't know why people have that attitude. Is it a done deal and the bill is going to pass, or can it be stopped? That's the question I'm asking.

Senator Patterson: It can be stopped.

Senator McCallum: I don't know why, but everybody is talking like that and I'm getting frustrated.

The Chair: Senator, the reason we have the committee is we're studying the bill, and if we decide it needs to be amended, then we propose an amendment. If we decide it's perfect, we pass it as is. If we decide it's no good, then as a group we can decide not to pass it. That's the purpose of having the witnesses. We study it and come to a decision as to how we move forward.

Senator McCallum: Okay, I just wanted to clarify that.

Mr. Jules: They're all important questions.

Mr. Phillips: Senator, if I could, just to provide some clarification with regard to this, we're certainly not looking from a First Nations perspective to extol some type of tax regime. We'd like to have some discussions in terms of how this rolls out so that we can discuss all of those issues in terms of the impacts it's going to have on our community.

We're not asking for anything more than any other Canadian city is asking for or any other municipality is asking for. All I'm saying is we were cut out in terms of that share of that slice of the pie. If we want something back in terms of legislation, make sure that stops. It doesn't necessarily have to be language that we talk about that puts everybody on edge, like resource revenue sharing or this or that.

What I'm looking for is the end result so we have the resources to deal with this, and you can help us with that. You can put it in terms of how those resources get shared with respect to taxation. You can look at that. The province is already gone. We've got another fight with the province. That's not your battle but trust me, senators, I'm not done yet.

It's because it's moving. That's why we're here. That's part of it. We're always First Nations communities reacting to federal laws, and this is just another one.

Senator Pate: Thank you to all of you for coming. I want to follow up on Senator McCallum's questions.

I'm curious as to what the elders are saying in your communities about how this will progress. In particular, Chief Phillips, you talked about the young people and their message. It strikes me that a lot of people, for understandable reasons, are very interested in the economic development components of this bill.

A lot of people — sometimes the same people, sometimes not — are concerned about the impact on communities in terms of the addictions issues and the unresolved trauma that gets anesthetized by the use of drugs, including cannabis.

I'm curious as to what the elders in your communities are saying, what guidance they're giving and how these issues that Senator McCallum has raised are going to be addressed.

Mr. Phillips: Thank you very much. That's an excellent question. I failed to let you know that the elders were at our health conference, so I can tell you what they said directly to all of us.

One, it's a misnomer to think that this hasn't been around. It's been around for a long time and they've known it, but they've approached it in two ways. It's the same presentation with respect to the tobacco. It has a use. It always has. You use it ceremonially. You do the proper protocols with respect to treatment and a plan and then this medicine will work. It's a medicinal plant, it always has been. That's what our elders are saying.

What they're concerned about now is this notion that it's a recreational drug and the potency and product safety in terms of what's going on. This is where the elders are coming back and asking, "What is this?" They've got to understand it's a whole new medicine they're dealing with, as well. What's the impact on it?

They don't know yet. They exercise caution. They say, clearly, keep it away from the kids. That's why we have a different understanding in terms of rules and regulations. We call that common sense at home. We don't need a law or a rule to say keep it away from the kids. But other people do.

Anyway, we'll follow those, but those are the kinds of things we won't have any problem, as a First Nations community, complaining or arguing about. We're talking about safety. We want to know the product is safe. How do we know that? This particular law is trying to make that product safer for everybody.

However those regulatory things go down or however long they take, that's going to be a problem for all of us, and this is part of what we're saying from a First Nations perspective, that we weren't involved in that right off the top for medical marijuana access. There are already monopolies being done with that, so in the rules to set up one, you have to have that major league investment. You have to be committed to go ahead with this. This is not a fly in a pan example in terms of this. We need to come up with \$30 million as a First Nations community.

So I understand what Mr. Robinson is talking about there about who's coming to communities and saying, "I've got something really nice for you to buy, chief." It's nice and shiny, but we've gone beyond that.

There are all kinds of aspects we're looking at here, including what we're talking about here. I'm lost again, senator, so I apologize. I hope I gave you some answer to your question.

Senator Pate: Thank you.

Mr. Robinson: In my travels, I've met with many elders councils and community leaders, and the range of emotions flow from anger that there was no consultation and that they're worried for the kids. And I agree with Chief Phillips that you don't need a written rule to keep it out of the hands of kids, or you shouldn't, but the regulators do, so that will occur.

Many of the communities that I'm dealing with and talking to are going about consultation on this in about four different ways.

In fact, on my way over here, I was talking with one community about getting into a survey situation where they were sending out surveys to all of their members, which would feed back into chief and council and the decision-making process.

I've attended community meetings where a majority of the community has come together and we've been able to provide what I call the basics of cannabis, the historic issues regarding it, how it's used today and how organized crime is fitting into this.

A lot of communities are worried about how the black market is going to react when they bring dispensaries or retail outlets into the communities. They're worried that the black market from outside the communities and some inside the communities are going to cause harm to members through threats, et cetera. That's a big concern.

Then, of course, there are issues relating to how some communities aren't just viewing this as to what's going to happen within the community if we bring in retail or production. They're worried about what's happening on the outside.

In fact, something was said to me by an elder last month that really resonated. She said, "I'm looking to make the right decision because we don't want this to happen to us. We don't want what's happening outside the walls of the community to happen to us." They want some control relative to education and purveying of the product. Medical marijuana has significantly different THC and nanogram levels than will recreational marijuana. These are the questions that need to be answered.

But the elders are the firewall and the protection mechanism in this.

(2030 follows — Mr Robinson cont — **Many of the communities ...)

(Following 2020 - Mr. Robinson cont'g - . . . mechanism in this.)

** Many of the communities that we go to that are holding back and being very cautious, it's because of the elders and it's because of the advice to go slow and it's because of the advice from other types of recreational type of substances that have caused significant harm going forward.

We've talked to many, many, and that's our experience. I hope that helped answer your question.

Mr. Jules: The discussions I've had right across the country with people who would self-identify as elders, and some don't, but basically what everybody else is talking about; health concerns, educational concerns, the youth and how we're going to regulate that.

In my community, it all comes down to who's going to regulate it, because we're an urban community. We have shops in Kamloops that are now coming over to the Kamloops reserve. The band council is saying, "How can that be regulated with nothing being there?" You know, the inadequacy of the Indian Act and the legislation, that it doesn't contemplate these kinds of things.

Having said that, people are accepting of the fact that it is real and that it is going to be legalized, so what do we do? That's why we're here, basically. It's the reality of the realness, if you will.

Mr. Phillips: Just to finish that, senator. We're not done our discussions yet. We'll have some more information in terms of what the elders say. Thank you.

Senator Patterson: I do want to say, as Senator McCallum has said, that I've been doing discussions with remote communities in Nunavut who are struggling severely with social problems. I'm hearing mayors and councils and elders saying they're scared, they don't know what's happening and they are feeling overwhelmed and wanting this to slow down or stop.

I have grave reservations about the implications, especially on young, developing brains. But I also understand — and we've been to reserves where there's been no own-source revenues — how this could be an opportunity, especially if this juggernaut, driven by big money — and it's billions. I've heard staggering figures about the size of this potential business.

If it comes to pass, are First Nations going to be left out and in the same situation that Commissioner Jules talked about, breaking the law, illegal manufacture of cigarettes and other dilemmas that we know all too well.

My question is about, assuming that this may be pushed through — although I do want to say, the Senate must pass this legislation before it becomes law. We now have independent senators who can't be bullied by the government, is the theory. So it will be fascinating to see what happens.

But my question is very simple: Commissioner Jules, you've talked about the tax collection option. Could you explain why it's important that the excise tax be optional?

Mr. Jules: For the very reason — Randy talked about it. He wants a choice. Communities right across the country want to make up their own minds, and I support that. I believe that every individual community has to be able to make up their own mind. That's why I propose optional legislation.

Senator Patterson: If I may, you have 230 First Nations who have developed their own taxing authorities under the FMA and you talked about support for what you're recommending tonight.

Are you referring to the 230 First Nations or does it go beyond that? Could you give us an idea of why you —

Mr. Jules: Everywhere I've gone, every meeting I've attended, this is on the lips of every government official, band council government official that I've talked to. What's going to happen with this jurisdiction? Are we going to lose out again? So it's very much in the discussions. I think that people are very disappointed that we weren't considered early on.

Just to reinforce, the benefits of having a regulatory regime can't be understated here. It makes it easier for small communities to get involved with the jurisdiction and to implement it. We've got resourcing that can make sure that people are trained to be able to take advantage of the situation.

The other thing about FMA is that just recently we've had a \$400 million bond again, so it's generated literally billions of dollars for First Nation communities. The legislation itself, \$1 billion, plus an additional \$1 billion of induced revenue because of the jurisdiction. So when you get jurisdiction, you get everything that comes along with it because you're the government. You can make lots of decisions that enhance your ability to put in infrastructure and to create a viable economic regime.

Senator Patterson: You've got experience and capacity in creating a tax regime and experts that work with you, I'm sure. So where do we go from here? You've recommended amendments. Do you have the capacity to develop amendments that this committee could consider or are you recommending that we — how can we take the next step if we decide we want to support your

Mr. Jules: I will forward some potential amendments for your consideration.

Senator McCallum: When we look at all this revenue that's going to be generated, in a lot of the communities I've worked, the majority of people are on social assistance. Many of them are already — you know, some of the money is being spent, or a lot of it is being spent, on bingo, on different addictions, I would say.

Where is all this money going to come from that's going to be generated when you look at that social structure that we have? And it isn't only in First Nation communities; it's all over Canada.

Where's the majority of this revenue going to come from?

Mr. Jules: Well, with any enterprise, it comes from a number of different sources. In this particular case, it's going to be generated by the growers, people who actually grow it, turn it into different medicines for people to use, different corporations coming in, setting up different

Senator McCallum: I'm talking about First Nations.

Mr. Jules: Yes, but this is also going to include First Nations, because First Nations want to see this as a business opportunity. So you're going to see a whole range of different types of investments that will happen on a national basis, on an international basis and people are going to consume it and people are going to buy. That's what we've got.

Senator McCallum: No. What I'm saying is the people in the communities that cannot afford to spend money, whether it's tobacco, gambling or bingo.

(2040 follows - Senator McCallum cont'g - ** A lot of revenue . . .)

(following 2030 — Sen. McCallum cont'g — gambling or bingo.)

** A lot of revenue is being generated from those. This comes from their —

Mr. Jules: Communities and individuals then have to exercise their own decision-making over their own lives. They have to make the choice to impart. Yes, there are a lot of addiction issues, and those have to be addressed. We don't have resourcing to do that. This would afford us an opportunity to have some resourcing to do that.

It's a complex area, and people will decide on their own basis whether they're going to do it. I've seen people who are so addicted to tobacco, they're smoking like this. I wish the guy would stop, but that's his choice. I've witnessed people literally drinking themselves into oblivion and ultimately into death. Those kinds of things I wish would never happen, but they are social ills every society has. It's about how we've got to address them as a society; our communities have to be able to address them. Right now, we're the poorest of the poor.

Senator Lovelace Nicholas: Welcome, again. I've been consulting constituents in my community, and most of them are on social disability. The question they want me to ask is this: When or if this becomes law, what about those people who cannot afford medical marijuana for their ailments? There are a lot of sicknesses where it does help to have marijuana, it being medicinal.

Do you think it should be covered as a medical resource?

Mr. Jules: I believe these are policy issues that have to be addressed. Some of them will be addressed nationally, some will be addressed provincially and some will be addressed at the local level.

Mr. Phillips: This goes back to what I was saying earlier about the distinction between cannabis and marijuana. Yes, when we're talking about the medical application and the medical use of it, then it shouldn't be listed; it shouldn't be any different than any other drug, be it a diabetes drug or anything else along those lines. Why? Because it's costly. There are a lot of investment, as Mr. Robinson has said, in terms of creating this product. It is going to be costly, so we need that help.

Currently, as First Nations communities, we're still reliant on the First Nations and Inuit Health Branch and the Non-Insured Health Benefits program. That simply doesn't provide enough resources for the coverage we need right now.

Is it going to be strained? Yes, it's going to be strained. Additional resources will be required just on the medical side. We don't want to get into what the increased costs will be with respect to any other treatments or adverse effects once we hit the recreational piece. Remember, medical marijuana has to be prescribed by a doctor. That's not the first resort; that's the second, third or fourth resort. Let's make that distinction. What everybody is talking about with respect to these problems is the recreational piece coming in, and that's what nobody has a clear understanding of or a clear grasp of.

Senator Lovelace Nicholas: Thank you for your answer.

Mr. Robinson: I wanted to speak for a moment to Senator McCallum's comments about where the money is going to come from. Sadly, from my experience, living and policing in communities, the money comes from those who can least afford it. What happens is the symptoms of that problem, as I think we all know in this room, are significant, and it's going to place further strain on social agencies. It will place further strain on the family and for those who have to look after the family.

I can tell you, as a young police officer going and dealing with families every day. That's why, in this case, it's so important for the education and upfront knowledge of what's coming to be in place before it comes. I was always an advocate on everything relative to addictions, not only with First Nations communities but in the recognition that the younger you get into the schools and educate, the better. I don't know if we'll have that opportunity here. Clearly we won't if it goes into July. It will have to be a catch-up on education, and that's unfortunate, in my view.

Dealing with the senator's question relative to cannabis and payments: I need everyone in this room to understand — and I know you do — recreational, smokeable marijuana is one spoke in a much larger wheel. This is just the very first wave to come onto the shore. The second wave is going to be edibles, infused products, and all of the creams, salves — all of these products; like pharmaceuticals — products that are currently behind the deck of cards that are being developed as we speak. This is going to be in everything; it's going to be in hair tonics; it's going to be in products you rub on your skin. It's going to be in cookies and gummy bears and everything else. This is just the very first wave.

That's why understanding the smokeable part of it is just the very first spoke in the wheel. There is so much more coming behind this. It's really quite amazing.

Mr. Phillips: All marketable, too — with regulations.

The Chair: There being no other questions, on behalf of the committee, I would like to thank our witnesses this evening, Mr. Manny Jules from the First Nations Tax Commission; Mr. Bill Robinson from the Indigenous Peoples Cannabis Association; and Chief Randall Phillips from the Oneida Nation of the Thames. Thank you, gentlemen, for answering questions, and for your great comments and answers.

(The committee adjourned.)