

Bill C-10 from the perspective of two lawyers

By Jen Mt. Pleasant

Last Saturday, concerned members of the community packed a room at Six Nations Polytech to listen to various speakers discuss Bill C-10 and what will happen if it is made into law.

Toronto criminal lawyer Mike Leitold informed the crowd that the new Bill C-10 is an attack on economic self-determination of Haudenosaunee people. Before First Nations people try and decide what steps to take next, he explained, "We need to look at the facts before you organize

a response."

"So what is Bill C-10," Leitold asked. "It is an attempt to criminalize possession of any tobacco that hasn't been stamped. Called Tackling Contraband Tobacco, it will allow for mandatory minimum sentencing if a person is found with 10,000 cigarettes or more (approximately 50 cartons). It also includes raw leaf tobacco in the amount of 10 kg or more." Those found guilty of possessing, distributing or transporting tobacco, will be sentenced to mandatory minimum sentences: 90 days in jail

for a second offence; six months for a third offence and two years less a day for a fourth offence.

Mandatory minimum sentencing means your lawyer has no power because the punishment has already been pre-determined and the judge must hand out jail time.

But the biggest deal here, according to Leitold is this, "The RCMP enforce the Excise Tax Act but if Bill C-10 gets legislated, it will then involve provincial and municipal police forces, including First Nations police, who will all be tasked to enforce the contraband to-

bacco law."

According to the Legislative Summary on Bill C-10, "the biggest challenge for enforcement has been the differing interpretations of First Nations and the Canadian government about the content of Aboriginal rights and who has jurisdiction on reserves. These issues have clearly affected how governments and law enforcement agencies address contraband tobacco on and around reserves. Nonetheless, relationships have developed between law enforcement agencies on and off

reserve. For example, in the Cornwall area, there are various efforts such as joint investigative units and a task force to encourage collaboration between various enforcement organizations such as the RCMP, the Canada Border Services Agency, the Ontario Provincial Police, the Cornwall Community Police Service and the Akwesasne Mohawk Police Service."

Leitold also said that the Chief Superintendent of the Ontario Provincial Police told a committee on December 5, 2013 that the 401 corridor is the biggest thorough-fare

for contraband tobacco and also the Quebec side of Akwesasne and suggested that police powers need to be 'ramped up' in those areas.

Enforcement of the Excise Tax Act currently includes search warrants but if this Bill becomes law, this will mean the government will up its capacity especially in the 'investigative front'. More warrants will be sought with certain permissions granted, explained Leitold. With this new Bill, search warrants will be easier to obtain,