

Chief Del Riley speaks in Millbrook First Nation

Over 80 community members came out to hear former National Chief Del Riley speak about cannabis as an Aboriginal Right.

MILLBROOK FN – On Wednesday, April 6th, 2022, former National Chief Del Riley made a presentation on the topic of “Decolonization, Moderate Livelihood, and cannabis as an Aboriginal Right” to an enthusiastic crowd of over 80 people at the Legends Gaming Centre in Millbrook First Nation. Local cannabis entrepreneur and Millbrook First Nation councillor Chris Googoo organized the event with the **Mi’kmaq Cannabis Association** in order to discuss Aboriginal and Treaty rights as it affects the cannabis industry and possible options for the “regulation” of the Indigenous cannabis industry.

Over the last several years, Chief Riley has been traveling to Indigenous communities throughout Ontario to speak about the constitutionally protected Aboriginal and Treaty right to cannabis. Although there are now over **300 sovereign Indigenous dispensaries** across Turtle Island, many – including some stores in Millbrook First Nation – have been raided by police. In some cases, including those in Aundeck Omni Kaning and Six Nations, the Crown has dropped the charges but not re-

POSTER FOR CHIEF DEL RILEY'S EVENT.

turned the products and money seized by police.

In other cases involving a number of dispensaries along the north shore of Lake Huron, Chippewa of the Thames First Nation, and Millbrook First Nation, dispensary owners have been raided and charged and are now raising **constitutional challenges** to their charges. If these constitutional challenges are successful, Provincial and Federal

cannabis laws as they apply to Indigenous people would be overturned.

Chief Riley has a unique perspective on these issues. Not only has he enjoyed the recreational use of cannabis since the 1960s, and used cannabis as a medicine in a battle against cancer, but he has spent his entire life fighting for Indigenous rights. In addition to his hereditary position as a Crane Clan chief of the Chippewa Nation, Chief Riley was also the last President of the National Indian Brotherhood, a founder of the Assembly of First Nations, a past President of the Union of Ontario Indians, and a past chairman of the World Council of Indigenous Peoples.

Among Chief Riley's many contributions, he helped to author and negotiate Sections 25 and 35 of the Canadian Constitution as the President of the National Indian Brotherhood. These sections enshrined Aboriginal and Treaty Rights in the Canadian constitution and are a central defense in the three constitutional challenges currently in front of the courts.

CONTINUED INSIDE...

LEARN ABOUT CANNABIS AND TREATY RIGHTS: WWW.MIKMAQCANNABIS.COM
“RETURN OUR MEDICINES” SIGN THE PETITION

In his presentation in Millbrook First Nation, Chief Riley spoke about his efforts to entrench Aboriginal Rights into the Canadian constitution. According to Chief Riley, the key was the National Indian Brotherhood's move to open a treaty office in England to put international pressure on the Canadian government. Ultimately the deal to include Sections 25 and 35 in the constitution was made when Jean Chretien – the Minister responsible for constitutional negotiations – offered that they would be included if Chief Riley would close down his office in England. When Canada later tried to renege on the deal, Chief Riley called a national meeting and protest that was attended by 10,000 people on Parliament Hill. After this show of force, the protections to Aboriginal and Treaty Rights were added to the Canadian constitution.

INDIAN ACT AND INDIGENOUS CANNABIS

In discussing the political situation facing Mi'kmaq people today, Chief Riley stressed the fact that no Mi'kmaq land or resources have ever been surrendered to the Crown. Only Peace and Friendship Treaties have been signed. Among them are the **1752 Peace and Friendship Treaty** which explicitly states that Mi'kmaq people are entitled to “bring for Sale to Halifax or any other Settlement within this Province,



CRANE CLAN CHIEF DEL RILEY SPEAKING IN MILLBROOK ON APRIL 6, 2022

Skins, feathers, fowl, fish or any other thing they shall have to sell, where they shall have liberty to dispose thereof to the best Advantage.”

As Chief Riley put it, “You’re actually in a hell of a good position here. The Royal Proclamation [of 1763] said the government had to buy the land from you. How much did they buy from you? Where is that receipt for what they bought from you? Bet you can’t find it.” Indeed, no such surrenders or sale of lands have ever taken place in Mi'kmaq territory.

Chief Riley explained that the BNA Act of 1867 which created the

Dominion of Canada led to the setting up of the Indian Act, a racist law aimed at assimilating Indigenous people and undermining their Treaty and Aboriginal rights. Thanks to the Indian Act, Indigenous people were confined to reserves, their children were forcibly taken from their families and abused and even killed at residential “schools,” and traditional forms of governance were attacked. As Chief Riley noted, Canada established “a system to get easy access to your resources and to not have to pay you. Part of that regime was to introduce their Apartheid act, the racist Indian Act which is still in place today. This makes a joke of truth and reconciliation. Even in South Africa they got rid of the racist law there. Canada unfortunately kept it.”

The first versions of the Indian Act explicitly spelled out Canada’s plan to confer “certain privileges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of municipal powers.” In order to do so, Canada bypassed the traditional system of Indigenous families representing themselves through clan chiefs and clan mothers, and established a band council system under the control of Indian Agents and government officials. As Chief Riley

Sign the Petition!

The Mi'kmaq Cannabis Association has launched a petition on its website at <https://mikmaqcannabis.com/sign-the-petition/> to support Mi'kmaq cannabis rights. Those who leave their contact information and want to be contacted, will be informed of upcoming meetings, events, and news and information about Mi'kmaq cannabis rights. The text reads:

“We, the undersigned support the inherent and constitutionally protected right of Mi'kmaq people to grow, consume, and sell cannabis on their traditional territory in order to provide medicine and economic benefit to their people. We further call upon the RCMP to immediately cease and desist from raiding Mi'kmaq cannabis dispensaries, to drop all charges against those they have charged, and to return the medicines and money that they took.”

has pointed out in **other speeches**, The Band Council is not an “Indian,” signed no treaties, holds no rights, and owns no land – it is an administrative body created by Parliament, and it is responsible to the Minister of Indian Affairs, not the people who elected them.

The Canadian government’s position is that Band Councils do not have the authority or jurisdiction to make their own “sovereign” laws about cannabis. They can only “harmonize” their cannabis regulations with Federal and Provincial laws, not make their own free-standing system of regulations. In practical terms this has meant that Band Councils following this direction have designated Indigenous produced cannabis products as “illicit” and are only able to sell Health Canada approved and regulated products. Furthermore, the cannabis businesses operating in this way pay taxes (often called “community health and benefit fees”) to Band Council, which are then considered “own source revenues” by the Federal government.

As Chief Riley pointed out in his speech, the fundamental issue lies with colonial nature of the Indian Act Chief and Council system. But the solution is not to blame the Band Council officials. “Where they are is not their fault, and I don’t want anyone to blame them for the situation they’re in. The biggest problem is that John A. Macdonald didn’t want to give them any power, so he didn’t give them any authori-

ty... Chief and Council has no authority. That doesn’t sound right does it? It doesn’t sound right not even to them. The problem is most of them have never read the *Indian Act* or had it explained to them what it really is. Not by a lawyer, but by someone who knows the social impacts of it.” Chief Riley ended his presentation by offering to come back to Millbrook First Nation to do a workshop aimed at educating young people in the community about the *Indian Act*.

Chief Riley’s assistant Tom Keefer, who is the editor of the Indigenous cannabis site **dispensingfreedom.com** then made a presentation that provided context about the growth of the Indigenous cannabis movement and the efforts that have been made to regulate cannabis by traditional means and through the formation of grass-roots associations.

A lively discussion was held following the presentations. Rhonda Martin, from Six Nations of the Grand River territory and the driver for Chief Riley’s trip, offered her thoughts on the experience of Six Nations, where the Indian Act band council **has established its own cannabis law** and raided **numerous sovereign dispensaries**. In Six Nations a group of sovereign minded cannabis dispensaries have

united to form the **Six Nations People’s Cannabis Coalition** to self-regulate their industry and to push back against the Band Council’s efforts to tax the shops.

A meal was provided for all attendees at the event, and a series of door prizes were raffled off at the end of the night. The prizes included an iPad, audio speakers, and \$500 in cash. As the raffle progressed, two band councillors donated another \$300 from their own pockets to keep the raffle going. The response from community members was extremely positive, and many expressed their gratitude for Chief Riley’s presence. The video of the discussion session can be viewed at **www.dispensingfreedom.com** website.

In the days following the event, Chief Riley visited dispensaries in two other Mi’kmaq communities – Whycocomagh and Eel River Bar First Nation. After meeting with the dispensary owners, Chief Riley presented them with a certificate he signed that was produced by the **Mi’kmaq Cannabis Association** indicating that the stores were protected by Sections 25 and 35 of the Canadian Constitution.

*This article and the newsletter is available as a PDF file with clickable links at **www.mikmaqcannabis.com**.*

Watch the videos!

Videos and the full audio of Chief Riley’s presentation is available on our website **www.mikmaqcannabis.com** and on the Dispensing Freedom YouTube Channel. Visit **www.dispensingfreedom.com/resources** for more Indigenous cannabis resources.



CHIEF DEL RILEY AT THE UGPI'GANJA CANNABIS DISPENSARY IN EEL BAR RIVER.

Assert your rights. They protect you.

Chief Riley has been signing certificates such as the one below for traditional people operating cannabis dispensaries on unceded Indigenous lands. The certificates are provided by the Mi'kmaq Cannabis Association, a group founded by Chris Googoo that is working to unite Mi'kmaq cannabis stores across the Maritimes.

Chief Riley, as the President of the National Indian Brotherhood negotiated the inclusion of Section 25 and 35 into the Canadian Constitution. These sections mean that it is not lawful for the Federal or Provincial governments to make any laws that impede Aboriginal and Treaty Rights.

In order to receive your certificate, contact the Mi'kmaq Cannabis Association at info@mikmaqcannabis.com.



CHRIS GOOGOO, CHIEF RILEY AND STEPHEN GOOGOO

THIS INDIGENOUS CANNABIS DISPENSARY IS PROTECTED BY:

SECTIONS 25 AND 35 OF THE CANADIAN CONSTITUTION ACT

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by

the Royal Proclamation of October 7, 1763; and (b) any rights or freedoms that now exist by way of land claim agreements or may be so acquired.

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Name and Address of Dispensary.

Date of Issue.



Chris Googoo, Founder, Mi'kmaq Cannabis Association

Hereditary Chief Del Riley, Constitutional Negotiator and Author of Section 25 and 35 of the Canadian Constitution.

The MCA Constitution

The following is an excerpt from the draft bylaws of the MCA.

Read the full text at www.mikmaqcannabis.com.

BASIS OF UNITY

1. No plant, animal or person is “illegal” under the customs and conventions of the Mi'kmaq people. The concept of one human being prohibiting another human being from accessing creation is foreign to us.
2. The Mi'kmaq people are a free and sovereign people with the right to individual and collective self-determination, including the development of a self-supporting, self-regulated economy outside of the system of the Crown and its Canadian government.
3. Mi'kmaq people are allies, and not subjects of the Crown and its Canadian government. We have made treaties of peace and friendship with the Crown, but we have never surrendered our lands to the Crown. Because we are a free and sovereign people, we do not pay or collect tax to, or for the Canadian government, the Crown, or anyone else. We do not require Canadian licenses or regulations to run our businesses or economy.
4. The way our system of governance works is that our leaders serve our people, and express the consensus decisions made by the people. In the consensus decision making process of our people, all are equal, and all have a voice that must be taken into account when making collective decisions. As an association, we meet regularly at pre-arranged times in meetings that are open to all of our members.
5. We have inherent individual and collective rights as free and sovereign Mi'kmaq people to consume, cultivate, process, utilize, and trade or exchange any part of creation in our territory for our own sustenance and benefit, as long as we do it in a way that does not harm others.
6. Our individual and collective rights are enshrined in the United Nations Declaration on the Rights of Indigenous People and are further recognized and affirmed in the Royal Proclamation of 1763, Sections 25 and 35 of the Canadian Constitution, as well as through the “Peace and Friendship” treaties our ancestors made with the British Crown in 1726, 1749, 1752 and 1760/61.
7. Mi'kmaq people have the inherent sovereign right to use natural medicines to treat ourselves, and the inherent sovereign responsibility to provide medicines to those who need them. Mi'kmaq people

have the sovereign right to grow, process, and sell cannabis according to the customs and traditions of our people. This includes Nation-to-Nation trading relationships with other Indigenous and non-Indigenous Nations.

OUR MISSION STATEMENT IS TO

1. Advocate for the interests of the members of the Mi'kmaq Cannabis Association who grow, sell, and consume cannabis products.
2. Implement a process of self-regulation of the cannabis industry in Mi'kma'ki through the application of Mi'kmaq custom and convention that will: uphold Mi'kmaq self-determination, protect minors, combat addiction, keep out organized crime, provide for quality control and safe handling and consistency of cannabis, educate consumers, regulate prices, ensure fair standards of wages and benefits to workers, and otherwise promote the public health and social well being of the Mi'kmaq people.
3. Advocate and promote the rights of all Mi'kmaq people to access cannabis and to build an “above ground” self-regulated industry to grow, process, transport, retail, and trade cannabis on a nation-to-nation basis. This advocacy may be done through means including, but not limited to, workshops, publications, advertisements, and public relations campaigns.
4. Encourage the diversification of the Mi'kmaq cannabis industry into a broader “green economy” using hemp and cannabis byproducts to produce building materials, paper, clothing, health foods, etc. in such a manner as to bring health and prosperity to the Mi'kmaq people.
5. Defend and build political and legal support for any Mi'kmaq who face criminalization or state sanctioned targeting for participating in the Indigenous cannabis industry.
6. The association shall create a mechanism whereby a portion of the revenue made through the cannabis industry will be apportioned to economic, social and cultural programs that improve the lives and support the identity and values of Mi'kmaq people.

Band Councils shouldn't regulate cannabis

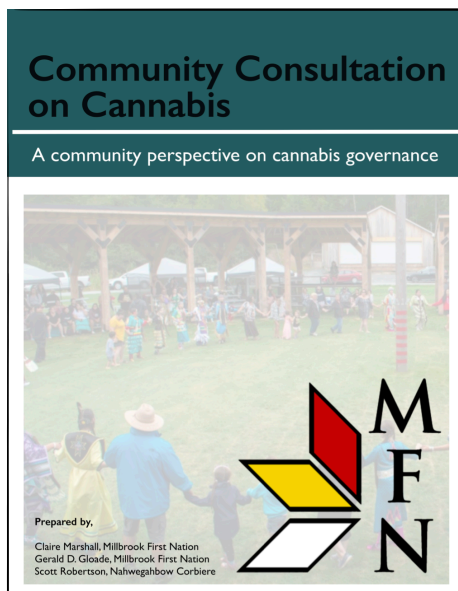
The Mi'kmaq Cannabis Association has serious concerns with the Millbrook Band Council's approach to cannabis regulation.

The following is an excerpt from the June 27th MCA Position Paper. The full text of the document can be read at www.mikmaqcannabis.com.

In January of 2022 the Millbrook First Nation Band Council organized a community consultation directed by Claire Marshall. The purpose was to develop a "community perspective on cannabis governance" at Millbrook First Nation. The process was co-ordinated by Claire Marshall and Gerald D. Gloade with the services of Kahnawake-based lawyer Scott Robertson. One of the results of the consultation process was the release of a 32 page **Community Consultation on Cannabis** report by the Band Council.

In early 2022 the **Mi'kmaq Cannabis Association** (MCA) was created as a body of Mi'kmaq people with the mission of advocating for and promoting the rights of all Mi'kmaq people to access cannabis and to build an "above ground" self-regulated industry to grow, process, transport, retail, and trade cannabis on a nation-to-nation basis. You can learn more about our mission statement and organizational structure [here](#).

We believe that the issues discussed in the Millbrook First Nation report are important ones, and that we need to add our voice to the conversation. Consequently, we have developed the following position paper as a written response to the Millbrook First Nation *Community Consultation on Cannabis* to spur further discussion and dialogue



PROBLEMS WITH THE BAND'S DOCUMENT

Instead of building an analysis based upon the constitutionally protected rights of the people of the Mi'kmaq nation, the *Community Consultation on Cannabis* unconsciously adopts a perspective firmly based in the colonial and racist Indian Act system. The fundamental problem with this approach is that it misunderstands the nature and the jurisdiction of the Millbrook First Nation as it is constituted by the Indian Act.

At issue is the fundamental question of what is "Millbrook First Nation"? At first glance this might seem obvious – it's the section of the Mi'kmaq Nation residing in the territory recognized as Millbrook First Nation Indian Reserve by Canada. But that's not actually the case. Canada has never legally de-

finied the term "First Nation" in its laws or policies. As a result, the term can and often is used to refer to the Indian Act Band Council system that is operating according to Canadian laws and rules – as well as the broader concept of a Nation involving all the people.

However, because the term "First Nation" is not legally defined, Canada is able to talk about First Nation rights and self-governance, when what it really means is the rights and governance for its own Indian Act system. The distinction is crucial. The Indian Act is a racist colonial law that was expressly created for the purposes of assimilation of Indigenous people and the termination of their national rights. While confining Indigenous people on reserve, it conferred "certain privileges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of municipal powers." In other words, if all worked as planned, all Indians would one day be "enfranchised" and leave their Indian status behind to enjoy the legal status of a "person" and the rights and privileges of being a Canadian – rather than being a ward of the state.

It is important to stress that it is the Band Council constituted under Indian Act laws in Millbrook First Nation that produced the *Community Consultation on Cannabis* – not the nation or people as a whole. The Band Council is a body of the Canadian government. Its members are being paid and financially supported by Canada. The Band Council is responsible to the Minister(s) of Indi-

an Affairs of Canada, not to the people who elected it. It can make no major decision without having it approved by the Minister. Any Band Council Resolutions it passes are wishes – statements of opinion by the council – not enforceable laws. These are facts, no matter how much anyone wants to pretend otherwise.

The Millbrook First Nation Band Council is a corporation which can sue and be sued. It has no treaties with anyone, and no land base. The Band Council is not an “Indian” and does not have rights of one. It is a creation of the Federal Government for the purpose of administering its fiduciary responsibility to “Indians” under the Indian Act – and not a structure of the Mi’kmaq Nation.

Baked into the very fabric of its being is the reality that the Band Council of Millbrook First Nation can only operate according to the Indian Act and Canadian laws. If it does not do so, it will be breaking laws and those responsible for breaking the law could be punished by it and could also lose funding and program money from the Government. The Band Council is advised by lawyers who themselves swear an oath to the Crown and who must act in accordance with Canadian laws. There is not and can be no room for Mi’kmaq sovereignty under the Indian Act system.

When we understand this basic fact, the question of “Millbrook First Nation’s” jurisdiction over cannabis is moot. Nothing in the Indian Act gives the Band Council any power of the regulation of cannabis, people’s medicines, or their economy. This is because Canada has never been willing to allow Indigenous people to take real control of their affairs through the Indian Act. According to Canada, cannabis is not legally considered an “intoxicant” under the meaning of the Indian Act, and it is the position of the Federal Government, in the words of spokesperson William Olscamp that “there are no specific authorities or definitions in The Indian Act for the regulation of cannabis.”



POLICE RAID CANNABIS DISPENSARY IN VIOLATION OF INDIGENOUS RIGHTS.

We want to be clear that this is not to say that the Indian Act Band Council cannot take steps to protect the Indigenous cannabis industry in Millbrook First Nation. If the Band Council correctly reflects the customs and conventions of the people on a particular matter, it can express that consensus as the view of the community as a whole, and demand that this position be upheld.

Indeed as Chief Gloade did in a **January 18, 2022 letter**, a Band Council can request that the RCMP consult with the First Nation before attempting to enforce any Canadian cannabis laws, and it can announce its opinion that cannabis is an internal matter for the nation as a whole to handle. Federal and Provincial police forces are aware of the constitutionally protected rights of Indigenous people, and have indicated that if “First Nations” tell them not to enforce Canadian cannabis laws on their territory, they will back off.

One Band Council in Ontario handled the issue by passing a one sentence Band Council Resolution that stated that Cannabis was legal in the community and that cannabis businesses need to follow the same rules as any other business in the community. After the motion was passed, local police forces were communicated the decision and agreed not to attempt any cannabis enforcement. With that, practically the entire elected council then quit their positions and opened cannabis dispensaries along with many other community members.

However, it is important to note that letters asking the RCMP to back off or BCR’s legalizing cannabis don’t actually have any formal legal weight in the Canadian system. However, if BCR’s are reflective of the will of the people, outside policing authorities are often reluctant to interfere because of concerns about escalating matters and intensifying a political or legal struggle they could lose.

It is the case that various Indian Act Band Councils have created so called “cannabis laws” that claim to create a legal framework for the cannabis industry on reserve. But in reality, these laws are no more than local “harmonizations” with Federal and Provincial cannabis laws. The cannabis that is bought and sold must come from the government’s LP system, and it is controlled and monitored by Health Canada. In these systems the Band Councils get to act like municipalities, and set zoning regulations and their “own source revenue” or taxation on the cannabis industry.

Such laws do not reflect Indigenous sovereignty or economic emancipation, because the Band Councils are not empowered to act in such a manner. Instead, they represent a further Federal and Provincial encroachment on the rights of Indigenous people and a new terrain for legal and political conflict between traditionalists and assimilationists.

Read the rest of the document at
www.mikmaqcannabis.com

FOUNDING MEETING OF THE MI'KMAQ CANNABIS ASSOCIATION



SATURDAY AUG 27
MILLBROOK EN
COMMUNITY CENTRE

REGISTER: MIKMAQCANNABIS.COM