

INSITE RULING BAD MEDICINE

Decision a Prescription for Crime

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WAVING the flag of the Charter of Rights, judicial activism marches on, oblivious to its over-riding duty to maintain law and order.

Yesterday's judges and magistrates were a muscular deterrence to the anarchy of habitual criminals including those who possessed or sold narcotics. Not so today, as hard-core addicts from across the country flock to the squalor of Vancouver's skid road, comforted by the reality of easy-gotten bail and revolving-door sentences. They know how lenient our judiciary is, the hands-off attitude of our police, and they know all about our supervised injection site (Insite).

Insite is a deceitful first step by bureaucrats in the Health Authority of B. C. in their agenda to decriminalize possession of narcotics and other controlled drugs. Insite is just the cornerstone for introduction of an Orwellian system of bureaucratic regulation and distribution of illicit poisonous drugs. These pro-legalizers shun any discussion of the fact that their scheme will be unable to eliminate deadly competition from criminals engaged in local and worldwide illicit production and sale of drugs.

Insite is a surreal experiment which enables drug abuse. It claims to be managing each addict's "illness" as part of a medical scheme. But there is no medical practitioner at the site doing individual medical assessment of each addict user and providing a management technique that, heaven forbid, would stop the addict from injecting an untested drug and send him into immediate detoxification and an attempt at abstinence.

On the propaganda side it is important to remember that the Health Authority self-evaluates this wacky scheme as the best health care delivery technique to deal with injection drug use. That claim is not even remotely true and is bunkum.

Let's get down to hard, raw basic truth: Insite is a dressed up shooting gallery that provides a nurse to assist addicts in completing a safe and sanitary injection of unsafe and untested illicit drugs.

Insite was to close at the end of June unless granted a further extension of its exemption from proscriptions of the federal Controlled Drugs and Substance Act (CDSA).

However two drug addicts, the Health Authority, and an association of drug users began a civil suit to forestall closure. On May 28, Justice I. Pitfield accepted the plaintiffs' claim and granted Vancouver's Insite a constitutional exemption from the criminal offences of possessing and trafficking in drugs stipulated in the CDSA. Pitfield invoked the Charter and ruled that the provincial health authority

intervention of Insite in treating addiction has constitutional paramountcy over federal criminal law.

In a 159-paragraph judgment Pitfield chewed his way through a legal cud of half-digested arguments and granted lawful status to Insite and its drug abusers.

Although the judgement is long and tedious, the basis for the ruling is concisely stated in the following excerpts:

“117. The difficulty in this case results from the fact that the CDSA prohibition against possession indirectly controls injection ... and in doing so, has an incidental effect upon (Insite).

“119. ...(Insite) is concerned with health care (and) ...directly confronts the operation of the criminal law by permitting the possession of (drugs) ...

...the Province has no capacity to override the criminal law by creating an environment in which individuals can conduct themselves free of its constraints.

“120. ...the conflict must be resolved by application of the doctrine of paramountcy. Absent Charter considerations, the criminal law must prevail.”

Pitfield then asked this question: Does criminalization of the drugs within the premises of (Insite) violate section seven of the Charter, the right to liberty and security of the person? After more ruminating he decided that denying a habitual criminal access to a health facility that enables safe injection was a denial of a fundamental right to justice.

The Plaintiffs took the judge up the garden path and into their briar patch called harm reduction. They convinced him that Insite is an actual health care facility because it provides nurse-supervised injections coated with talk to fuzzed-out addicts about referral to treatment. Without a practising physician on hand at all times, Insite is quack medicine without even a quack cure.

We are forced to live with the absurdity of the estimated 500 addicted habitual criminals, regular users of Insite – only a small fraction of the many thousands who are active in Metro Vancouver – are prowling about 24/7 in search of property to steal and sell, all deserving of a stint in jail, all absolved of their criminal behaviour and patted on the head when they step into the facility. Once inside, the magic of words of Judge Pitfield make criminal behaviour into a health issue. Ill-gotten drugs – paid for by sale of stolen property or robbery – satisfactorily injected.

Judge Pitfield says it is an addict’s fundamental right to management of his “illness.” I say it is a bungling accessory after the fact to rampant property and sometimes violent crime, and it is deserving of scalding condemnation.

It is a gross distortion of Charter rights to reward criminality with immunity.

Contact Judicial Gadfly at wallace-gilby-craig@shaw.ca or by posting your comment on the Writer’s Corner of www.realjustice.ca.

