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CONTROLLED DRUGS AND SUBSTANCES ACT

Bill to Amend—Second Reading of Bill C-2—
Debate Continued

Speech by:

The Honourable Larry W. Campbell

Tuesday, April 21, 2015

THE SENATE

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BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Dagenais, seconded by the Honourable Senator Maltais, for the second reading of Bill C-2, An Act to amend the Controlled Drugs and Substances Act.

Hon. Larry W. Campbell: Honourable senators, I'd like to speak to Bill C-2, and I'm going to do it in a question-and-answer form, which I think is easier for us to understand.

In the first place, what is Bill C-2? Bill C-2's proposed legislation currently before us will make it more difficult for health authorities and community agencies to offer supervised consumption services for people who use drugs by setting out an excessive and unreasonable process for applying for an exemption.

In Canada, supervised injection sites need to seek an exemption under section 56 of the Controlled Drugs and Substances Act, the CDSA, to operate safely. Otherwise, clients and staff members would be at risk of criminal prosecution for possession of illegal substances under the CDSA.

Section 56 allows the federal Minister of Health to exempt a service or practice from provisions of the CDSA when necessary for medical or scientific purposes or if it is otherwise in the public interest. However, Bill C-2 would require applicants to submit an onerous amount of information to the federal Minister of Health before she or he may even consider an application for an exemption.

Moreover, and contrary to the spirit of a recent decision by the Supreme Court of Canada, it says that exemptions will be granted only in exceptional circumstances.

Bill C-2 was first introduced by the federal government in June 2013 as Bill C-65, the respect for communities act. It died on the Order Paper when Parliament was prorogued in September 2013, but was quickly reintroduced in October 2013 as Bill C-2. The bill has been widely condemned by public health and human rights experts. The Quebec government has also opposed the bill.

What are supervised consumption services? Supervised consumption services, also called supervised injection sites or drug consumption rooms, are health services that provide a safe, hygienic environment where people can use pre-obtained drugs under the supervision of trained staff. Supervised consumption services are part of a broader harm-reduction approach to substance use, which promotes safety, health and dignity. Many people who use drugs are unable or unwilling to stop using drugs at any given time, despite even the strongest efforts to prevent the initiation and continued use of drugs.

• (1530)

Make no mistake: Addiction is an illness. It is recognized by all medical authorities, and we should come to grips with that fact.

Supervised consumption services, like other harm-reduction services, for instance, needle exchange and syringe programs, are a pragmatic, necessary and compassionate response to this reality. By offering a safe place for people to use drugs with sterilized equipment and to connect with care and other social services without fear of arrest or harassment, supervised consumption services can provide some protection to the most marginalized, whose social, physical and mental-health-related needs are rarely met. Supervised consumption services aim to, first, reduce the health risks that are often associated with drug use, such as the transmission of infectious diseases through the sharing of used injection equipment and overdose-related deaths.

Insite in Vancouver came about for exactly this reason. HIV and hepatitis were going through the roof. We had a larger per capita rate of HIV than New York City, and the only way to stop this was to stop the sharing of needles, to bring people in off the street, stop them from cranking up with water from puddles and stop them from sharing needles and spreading these diseases.

Secondly, it was meant to improve access to health, treatment and social services for the most vulnerable groups of people who use drugs. Make no mistake: When you're in the position these people are in, they are homeless, they may be suffering from mental illness, from addiction and in many cases they're suffering from abuse.

Three, contribute to the safety and quality of life of local communities by reducing the impact of open drug scenes as well as issues of discarded needles, and I will address this a little later on.

Supervised injection sites are only one aspect of what should be a comprehensive health approach to drug use. If just saying "no" would work, I would not be standing here. Just saying "no" is part of the continuum of care that ranges from abstinence to the ability for heroin addicts to get medical heroin when they simply are not going to be able to get off the drugs.

Supervised injection sites are not exclusive of drug treatment programs. I remember years ago going to Toronto and speaking to the city council when they were considering supervised injection sites, and my advice to them was this: It's not a silver bullet. It's part of a continuum of care, and unless you can show me that you have the capacity of injectors, then it probably isn't going to work. This is not something that you set up and no one uses. In Vancouver, 800 injections a day take place at Insite.

Treatment doesn't work for everyone. Some people are not in a position to stop using drugs, and some people will relapse. It's tough to get off drugs when you don't have a roof over your head or when you hear voices in your head and are suffering from mental illness or when you're a sex-trade worker and you're trying to live. These are the realities.

This is why a comprehensive range of services is needed and why supervised injection sites have been integrated into drug treatment and harm-reduction programs in the last 20 years in Western Europe, in Australia and, I'm proud to say, in Canada.

How do they work? Where do they go? We're all concerned about having them next to a school or community centre. It doesn't happen. It's not going to happen. It's not a question that should even be asked.

Supervised injection sites are often located in areas of concentrated and highly visible drug scenes; for instance, the Downtown Eastside of Vancouver. They are staffed by nurses, counsellors, peer workers and other experienced workers who provide sterilized equipment, education on safe-use practices, as well as supervision and emergency help to prevent complications and to intervene in the case of overdoses.

Staff may also provide primary health care, including treatment for wounds and skin infections. This has led to a dramatic decrease in the use of the emergency rooms at our hospitals. Instead of going to the hospital, they can be treated right there by the nurses.

They receive immunization for all sorts of different ailments that you will find in this situation, screening for sexually transmitted and blood-borne infections and, perhaps most importantly, some counselling.

They bring pre-obtained drugs into the facility; none are provided by staff. There seems to be some idea when I read this act that I'm going to go into a facility with heroin and sell it there. If anybody would like to come to Insite with me any time you're in town, give me a call. You'll realize that the last thing going on there is dealing. These people are sick. They need to have the medication that they are taking, in this case drugs, and it's as simple as that. There is no dealing going on in there or in the area, because outside there, the police are paying close attention.

While supervised injection sites are often embedded in either health units or community-based agencies where other services are available, they may also be offered in stand-alone clinics or through mobile outreach.

I went to Zurich, and they were having great problems with sex-trade workers and communicable diseases. This goes to the idea that supervised injection sites are somehow a honey pot where people will come to. They'll score in New West and say, "I'm going to climb on the SkyTrain and go all the way downtown to shoot up."

In Zurich, they set up a portable or mobile supervised injection unit. They took it down to where they thought the sex-trade workers were working and no one came. When we went to talk to the sex-trade workers, they said that they were a block out of what they considered their safe zone, that it was dark. They were scared. When they moved that unit that one block, they were overwhelmed by people using it.

People do not come to this. You have to go to them. When in Vancouver, I would suggest to you that people using that site are living within 5 to 10 blocks maximum of that place.

We currently have two of them in Vancouver. We always talk about Insite, but the one that perhaps is even braver than Insite is at St. Paul's Hospital, at the Dr. Peter Centre, and I will talk about that.

Insite operates under the legal exemption that is granted by the federal Minister of Health on the condition that the program be rigorously evaluated. Insite is the result of the collaboration between the Downtown Eastside community and local, provincial and federal authorities.

We have 12 injection sites where clients inject pre-obtained drugs under the supervision of nurses and health care staff. If an overdose occurs, the team is available to intervene immediately.

I want you to imagine for a minute 800 injections a day times seven, times 365, times 12 years. Not a single person has died in Insite. Many have overdosed, and the overdose goes from a little light-headed to dropping like a rock, but because they're doing it within that place and because we have staff there, not a single person has died. While I can't quantify that, after being a coroner for 20 years, I can tell you in those numbers, many people would have died.

The second supervised consumption site in Vancouver has been integrated with the Dr. Peter Centre since 2002. The Dr. Peter Centre offers an HIV/AIDS day-health program and a 24-hour nursing care residence for people living with HIV, especially those people who have multiple medical conditions. In January 2014, the Dr. Peter Centre applied for exemption, but it has yet to be granted.

What has been the impact of Insite? What's the impact of supervised consumption sites? Studies from around the world have documented the positive impact of supervised consumption sites, and there is a long-standing experience with their successful operation. Canada's Insite, in particular, has been thoroughly evaluated.

- (1540)

Since 2003, more than 30 articles on Insite have been published in the world's leading peer-reviewed scientific and medical journals. Existing research clearly indicates that Insite has many beneficial outcomes both for people who use drugs and the community as a whole.

First, Insite is being used by the people it was intended to serve. Frequent users are people most at risk for overdosing or becoming infected with HIV and hepatitis C because of their high-intensity injection practices. They are more likely to be homeless and they are more likely to inject in public places.

Insite has reduced HIV-risk behaviour, such as needle sharing. Insite has increased the number of people entering into treatment. Insite has morphed from just Insite to Onsite, which is upstairs, where you can start your treatment when you're ready. Insite has provided safety for women who use drugs. Insite has also reduced overdose risks and prevented overdose-related death.

Finally, Insite has also improved public order by reducing the number of public injections and the amount of injection-related litter near the facility.

To say that the sight of somebody injecting publicly is disturbing would be an understatement, but it is simply a fact of life in my city and in the Downtown Eastside. Eight hundred of those injections are not taking place in alleys, not taking place in single rooms by themselves and are not taking place in washroom stalls. I think that's critical to this because these are human beings. We don't have tag days for junkies. We don't invite them home for dinner, but we have to start recognizing that these are human beings. They are somebody's children and they are somebody's parents.

Studies seeking to identify potential harms of the facility found no evidence of negative impact. Insite has not encouraged drug use. People don't wake up and say, "Boy, I have a supervised injection site. I think I'll go out and shoot heroin, become a cocaine addict, use MDA or MDMA." That's not how it happens. We deter people. We deter people from going out and doing dangerous activities.

Is there any evidence that supervised consumption sites are cost-effective? Yes, evidence indicates that supervised consumption services are cost-effective because they can reduce the risk of HIV and hepatitis C. When we started our program of Four Pillars in Vancouver, and Insite came into being, we watched as the HIV rate dropped. Now, this is over 10 years ago. It was a quarter of a million dollars a year to treat an HIV patient. For every one you stop, a quarter of a million dollars goes back into the health care system for us or other people who are sick.

Research has shown that by preventing new cases of HIV infections, Insite and its syringe exchange program can be associated with \$17.6 million in health care cost savings, which greatly exceeds the operating costs of the facility.

Honourable senators, I don't care whether you want to support this bill or come and fight this bill with me because it's good business and you save money, or whether it's warm and fuzzy and you want to save lives; I don't care. All I know is that both take place here; both are part of this program.

Do supervised consumption services attract public nuisance? Contrary to common fears expressed by many local communities in Vancouver, although I was elected with a huge majority running on this, we spent many nights in community meetings.

Yes, there was opposition, but most of the opposition was based on fear. Most of the opposition was based on misinformation, based on watching new shows where the Downtown Eastside was the place to be. If you have a slow news week, go to Vancouver, take pictures of people shooting up in alleys, unconscious, stumbling around. That's not what it's like and that's not what it should be like.

While local communities may legitimately have concerns that the opening of a new health or social facility might attract noise, litter and other kinds of nuisance, the evidence shows that a health response to drug use that includes supervised injection sites improves conditions in neighbourhoods. Specifically, supervised consumption services have been associated with increased public order, reduced public injection and litter associated with injecting, as well as a reduction in the number of syringes being found in public places.

In Vancouver, the local police are playing an important role in supporting Vancouver's supervised injection site. Without the police support, this would never have happened.

Does supervised consumption increase local crime? No, it does not. In the area surrounding Insite, the evidence shows it has had no impact on drug trafficking, assaults or robberies. Similar observations have been observed in Europe and Australia.

What is the current context for supervised consumption services in Canada? In 2008, the federal Minister of Health chose not to extend Insite's exemption under section 56 of the CDSA, despite evidence that Insite was an effective response to the dramatic spread of infectious diseases such as hepatitis and HIV, and to the high rates of drug-related overdose in Vancouver's Downtown Eastside. At one point over 200 people in Vancouver died from drug overdoses. Imagine that: These were preventable deaths and we didn't do anything.

Proponents of the site, including the PHS Community Services Society, which operates Insite under the contract of the Vancouver Coastal Health unit, the Vancouver Area Network of Drug Users and two individual Insite clients, challenged this refusal all the way to the Supreme Court of Canada. In September 2011, the Supreme Court ordered the federal Minister of Health to grant the exemption that stands today.

According to the court, the decision to deny an exemption violated Insite's clients' rights to life, liberty and security of the person in a way that was both arbitrary and grossly disproportionate.

The right to security of the person is engaged where a law creates a risk to health by preventing access to health care, thus violating the Charter of Rights and Freedoms. Currently, several projects to implement supervised consumption sites are being considered across Canada, but Bill C-2 will create unreasonable barriers to their implementation.

Again, I want to stress there is not a rush to have a supervised injection site in every town. There is not a need to have a supervised injection in every town but where there is an absolute need, we need to have them to prevent death, and to prevent more misery from this addiction.

What did the Supreme Court say is about supervised injection sites and future exemptions? According to the Supreme Court, the Minister of Health must exercise his or her discretion to grant an exemption in accordance with the Charter, which guarantees the rights to life, liberty and security of the person. The government cannot deprive people of any of these rights except in accordance with the principles of fundamental justice. You seem to be hearing a lot about fundamental justice today. Regarding Insite, the Supreme Court ruled that the minister's refusal to grant an exemption was not in accordance with the principles of fundamental justice because it was both arbitrary and grossly disproportionate. The minister's decision was arbitrary because it undermined the objectives of public health and safety of the Controlled Drugs and Substances Act.

Furthermore, the effect of denying clients Insite's life-saving and health-protecting services was "grossly disproportionate to any benefit that Canada might derive from presenting a uniform stance on possession of narcotics."

• (1550)

For future exemptions, the minister must strike the appropriate balance between objectives of the CDSA: achieving public health, and public safety. Importantly, the Supreme Court ruled:

Where, as here, a supervised injection site will decrease the risk of death and disease, and there is little or no evidence that it will have a negative impact on public safety, the Minister should generally grant an exemption.

The court outlined five broad factors to be considered by the Minister of Health in making a decision about whether to issue a CDSA exemption:

The factors considered in making the decision on an exemption must include evidence, if any, on the impact of such a facility on crime rates, the local conditions indicating a need for such a supervised injection site, the regulatory structure in place to support the facility, the resources available to support its maintenance, and expressions of community support or opposition.

These factors for consideration are meant to prevent any further decision from being arbitrary or creating a grossly disproportionate harm to people by impeding their access to necessary health services.

The Supreme Court did not rule that an application for an exemption could be reviewed or an exemption granted only if all five factors had been addressed and/or satisfied; the court simply said that if there is evidence about these factors, then such evidence must be taken into consideration.

How exactly is Bill C-2 going to affect the exemption process? It creates a much more restrictive exemption regime, specifically designed for supervised consumption services. Under the new regime, exemptions can be granted only for medical purposes. Recall that Insite was originally granted an exemption for scientific purposes and in exceptional circumstances.

Bill C-2 codifies a repressive context that allows for no flexibility or room to facilitate the implementation of supervised consumption services. The federal Minister of Health — and this is critical — is not even allowed to examine an application for exemption unless it has received the 26 different pieces of information listed in the bill. Remember that the Supreme Court had five. Clearly, instead of enhancing access to critical health services as recognized by the Supreme Court of Canada, Bill C-2 would make it exceedingly difficult for public health and community agencies to apply for an exemption.

For those who manage to provide all the excess information required by the bill, there is no guarantee that the application will even be considered or that an exemption will be granted if all criteria are met.

Isn't it fair to ask local communities and police for their opinions before implementing a supervised consumption site? Bill C-2 requires an application for an exemption to be accompanied by evidence of extensive consultations with local community groups and a letter from the head of the local police force. While working with local communities and police can contribute to a better acceptance of the facility, thereby improving its functioning, it is unjustified and excessive to make this a legal requirement. There is no equivalent requirement for other health services for people who do not use drugs. Can you imagine going into a public consultation for a cancer clinic, a pediatric clinic or any other type of health care clinic? It wouldn't happen.

Local residents and police forces have no right to approve who can access health care services. The fact that supervised consumption services are meant to serve people who use drugs seems to be the only reason for such exceptional treatment. This is particularly concerning, as people who use drugs are a marginalized and stigmatized population, and local opposition to the implementation of drug-related services is likely based on misconceptions, fear and unfounded assumptions about addiction, drug treatment and harm reduction.

Bill C-2 fuels misinformation about supervised consumption services. It does not recognize the well-established benefits of supervised consumption services to reduce death and health and social harms often associated with the use of drugs. It is not even mentioned that supervised consumption services can prevent overdose-related deaths and decrease the number of new HIV or hepatitis C infections.

Bill C-2 completely contradicts the spirit of the Supreme Court of Canada's 2011 decision. By touting public safety at the expense of public health, the bill runs counter to the court's emphasis on striking a balance between public safety and public health. By making it even more difficult to implement supervised consumption services, Bill C-2 ignores the Supreme Court of Canada's assertion that these services are vital for the most vulnerable groups of people who use drugs, and that preventing access to these services violates human rights.

Bill C-2 imposes an excessive application process. Again, 26 pieces of information must be provided before an application can even be considered. This bill disproportionately considers "opinions" around access to crucial health services. Bill C-2 requires letters of opinion from at least five different bodies,

including police and government authorities. Applicants must also conduct consultations with a "broad range of [local] community groups" and submit a detailed report summarizing the opinions of consulted groups.

While support for local authorities, communities and police can facilitate the implementation of supervised consumption services, legally requiring their opinions does nothing to build constructive cooperation; it only allows for decisions to be based on unjustified, misinformed and/or politically oriented positions.

Bill C-2 effectively gives certain authorities unilateral veto power over the implementation of supervised consumption services. Because an application for an exemption cannot be examined unless certain authorities have submitted a letter of opinion, the exemption process can easily be delayed or blocked. As with any other life-saving health services, the implementation of supervised consumption services should not be dependent upon whether the local government, police forces or ministry in charge of public safety, for example, feel they are warranted.

Bill C-2 does not provide sufficient certainty or protection against arbitrariness. Bill C-2 creates unjustified opportunities for public opposition and discrimination against people who use drugs. Like they said, "We don't hold tag days for addicts. They're at the bottom — the very bottom." So this just reinforces the thing — it dehumanizes these people; it makes them less than us.

I have to tell you, honourable senators, that there was a time in my life where I did not support supervised injection services, period. I could not see how they could possibly help. Then, one day, a person named Bud Osborn came to me. He was a poet in the Downtown Eastside. He was addicted, and he had hepatitis. We had a long talk. I came out of that experience changed. Even though I had been working in the Downtown Eastside since the early 1970s, and I had lots of friends down there and knew lots of people who were addicted — I was a coroner down there — he put a human face on the situation. He allowed me to take a look at this from a health-care perspective and not my quasi-police experience.

Then I went to Zurich, and the Swiss have a word for street addiction. As only the Swiss can put it, they call it a "nuisance." It's unsightly. It messes up the landscape. It doesn't look good. It goes against the Swiss sensibilities for neatness and order, and so, of course, as the Swiss always do, they looked at it and studied it. They said, "Let's try these supervised injection sites," so they did.

They did some interesting things that we don't even consider here. In Switzerland, you can only access the supervised injection sites in the canton where you were born or where you live. They realized that you need support when you're addicted, and if you're in Zurich but your family is somewhere else, the chances of you getting that support simply aren't going to happen.

• (1600)

They recognize that it was a good thing to have a laundromat and a spare change of clothes for people when they come in off the street because allowing them to go out clean is a dignity. It's something that they need.

Then they started having job fairs and people started hiring addicts. This went on and on. I already told you about the supervised injection site and the sex trade workers and how they had to move it one block.

When I went to the university, they talked to me about heroin maintenance. I mean, we're upset about this. Just imagine if we

started giving heroin to the 10 per cent who will never get off it, no matter what we do, and who will constantly keep using our resources. I don't care if that addict shoots up and sits all afternoon watching Oprah. I could care less. If it's a sex trade worker then they're not out in harm's way. If they're mentally ill then hopefully we've given them a roof over their head and a door they can lock so that they can start the transformation.

Nobody chooses to be an addict. I know what people say: Oh, well, there was a choice. I will admit to you that in the minority of cases, somebody made a dumb decision to start using drugs. But in the majority of these, this is simply self-medication. That's all it is. It's like somebody taking an aspirin every day for a headache, only aspirin is legal and heroin and cocaine obviously are not.

For the reasons I've already said, how many Willie Picktons do we have to produce before we recognize the dangers that are going

on here? How many people have to go missing? How many kids have to be abused? How many people have to have their mental illness ignored?

This is not a pariah, honourable senators. This is a health care facility. Quite frankly, at the end of the day, in my opinion, the federal government has no jurisdiction in this. This is a health care facility. It's supported by the provincial government. It's supported by all the health care providers. It's supported by the police. This is not something to be afraid of. I would urge you to send this to committee, to study it carefully and come back with recommendations that will make this not only legal but honourable.

(On motion of Senator Hubley, debate adjourned.)
