

WEITZ ON RIGHTS

Don Weitz writes us from Ontario. One of the most prolific writers on mental patients' rights in Canada, Don regularly sends us enough material for two or three Nutshells. We admire his productivity and only wish we had many more pages in which to accommodate his ideas. We managed to beat him down to 2 or 3 columns this time.

CIVIL RIGHTS FOR "MENTAL PATIENTS"? ARE YOU CRAZY?

Last March, the Canadian Civil Liberties Association revealed some disturbing findings from a preliminary study on involuntary commitment in Ontario. At least 70% of the committal forms for 200 patients in one year (January, 1972 to May, 1973) were incompetently filled out by doctors, including psychiatrists. Many hadn't bothered to specify the reason/s which had nothing to do with being dangerous (to self and/or others), the only legal grounds for commitment in Ontario and other provinces.

Psychiatrists, however, are notoriously incompetent in assessing or predicting dangerous behavior. It is also a fact that the key concept of "dangerousness" has never been meaningfully or precisely defined in any mental health legislation in Canada and the United States.

The committal clause in Ontario's Mental Health Act, Section 8, is dangerously vague: the key phrase "in the interests of his own

safety or the safety of others"...is followed by the equally ambiguous phrase, "is not suitable for admission as an informal patient" (whatever that means).

Section 13 of Ontario's Mental Health Act authorizes any hospital doctor to commit you for progressively longer periods simply by signing a "certificate of renewal". The first certificate is for 2 months, the second for 3 more months, the third for another 6 months and the fourth and subsequent ones for one year.

The committal sections in other provincial mental health acts are frighteningly similar to Ontario's. In Alberta, one doctor alone can commit you for 24 hours; 2 doctors or a doctor and a therapist can commit you longer. In British Columbia 2 doctors can commit you for 1 year; only 1 doctor can commit you for an "emergency commitment" of 72 hours. In Manitoba, 1 doctor can commit you for 21 days. In New Brunswick, it takes only 1 doctor to commit you for 30 days. In Newfoundland and Nova Scotia, 2 doctors can commit you for 30 days. In

Prince Edward Island 1 doctor can commit you for 30 days. In Quebec, 1 doctor can commit you for 96 hours, then you're supposed to be examined periodically within the first 21 days and the next 3 and 6 months. In Saskatchewan, 2 doctors can commit you for 14 days.

In all provinces, the mental health acts seriously

violate many civil rights of "mental patients". The Ontario Mental Health Act violates at least 11, including due process (the legal right to a public hearing or court trial before incarceration or imprisonment):

- 1) the right to refuse treatment;
- 2) the right to adequate treatment;
- 3) the right to sue the psychiatric facility or any of its physicians or staff for forced treatment, mistreatment or physical abuse;
- 4) the right to be informed of examination for committal
- 5) the right to be warned that information communicated to a physician during examination for committal is not privileged;
- 6) the right to freedom of speech, including uncensored mail;
- 7) the right to select a psychiatrist of his/her own choice, e.g. independent psychiatric evidence;
- 8) the right to a jury trial to determine the issue of mental disorder or "mental illness" (due process);
- 9) the right to remain free from incarceration in a psychiatric facility in the absence of proof;
- 10) the right to remain unencumbered by a "declaration of incompetency" in the absence of proof, and
- 11) the right to representation by legal counsel at every step of civil committal proceedings.

In addition, mental patients and prisoners are denied the democratic right to vote in provincial and fed-

eral elections.

Patients' rights, particularly mental patients' rights, are not high-priority items in Ontario or any other province. They never were.

What is needed?

- 1) immediate repeal of all mental health acts in Canada - and a special section titled Patients' Rights, or Inmates' Rights;
- 2) total abolition of involuntary commitment, and
- 3) independent, full-scale investigations into institutional psychiatry in every province. Until all "mental hospitals" are abolished, these recommendations will do for starters.

- Revised, and based on original article, "Ex-mental patient says too many are locked up", in Toronto Star, May 6, 1977.

Don Weitz is a former psychiatric inmate and community health worker who lives in Toronto. He's also active in the Mental Patients Liberation Movement and is co-editing an anthology on people's personal experiences as "mental patients" in Canadian psychiatric institutions.

