

*Criminal Code*

victim perceives that the criminal justice system is overly concerned with punishing the offender and insufficiently concerned with the needs of the innocent victim?

I am sure that every Member in this House would agree that we must overcome this neglect of the victim. In fact, in July, 1981 the Ministry of the Solicitor General and the Department of Justice undertook a comprehensive review to assess the victims' needs and the gaps in delivery of services to victims, to promote improved services for victims of crime and to develop ways of disseminating information to victims. In addition, to complement this work, in December of that year a federal-provincial task force was created to promote cross-jurisdiction co-ordination in the area of assistance to victims in light of the primary provincial responsibility in administration of justice to provide services to victims. I understand that the task force will submit its report to the Ministers responsible for Justice in a few weeks' time.

I understand that many of the provisions in Bill C-682 are in fact being considered by that task force. It is examining the needs of victims and their experiences in the criminal justice system. It is exploring appropriate legislative opinions to give greater recognition to victims of crime. The task force is also exploring funding implications, both to the federal and provincial Governments, of better and more effective services to victims.

What is perhaps most important from the federal Government's point of view is that the task force is examining the division of responsibility between the federal and provincial Governments and will take this division of responsibility into account when it drafts its recommendations.

This task force seems to meet the need in Clause 2 of the Hon. Member's Bill that the Ministers responsible for Justice "consult with the provincial counterpart". In fact, given their wide mandate and the protracted period of time that the task force has been studying this whole area, it would be less than wise to put forward any kind of Bill which does not take their recommendations into account.

Let me assure the Hon. Member and this House that it is my understanding that the Minister of Justice intends to do just that. The recommendations of the task force will be studied in detail by the Minister, and the options for implementing appropriate recommendations will be assessed in the light of the extensive research that has been done by the Department of Justice for more than 18 months.

Even though the Hon. Member's Bill is to be applauded, it does not in fact address many of the issues that the Department of Justice and the task force are considering. The Minister of Justice, in collaboration with his colleague the Solicitor General (Mr. Kaplan) and their provincial counterparts, intends to address the subject of assistance to victims in a comprehensive manner when they meet in early July to consider the task force report.

Let me now examine the content of Bill C-682. The first Clause deals with compensation to victims of crime. It proposes to add Section 655.1 to the Criminal Code which will allow a court that has convicted a person of an offence, before imposing sentence, to order the accused to pay compensation

to anyone who has suffered physical or mental injury as a result of the offence. The current provision, Section 653, allows a court which has convicted a person of an indictable offence at the time of sentencing to order compensation for damage to or loss of property.

The proposed amendment will broaden the scope of the Section to include summary conviction offences, and would allow an order to be made before, and not as part of, the sentence handed down. Furthermore, it seeks to extend awards of compensation for physical or mental injury or, in other words, for pain and suffering. This would most likely be held by the courts to be unconstitutional. The Supreme Court of Canada held that Section 653 of the Code was *intra vires* of the federal Parliament because it was part of the sentencing process, a process which comes under the criminal law power as set out in the Constitution. The Court indicated furthermore that the provision for compensation was valid only for readily ascertainable loss or damage to property. This is partly because the criminal courts have no experience in determining the quantum of damages, and partly because the introduction of medical evidence at a criminal trial would confuse the civil rules of evidence with the criminal rules.

• (1720)

The second part of Clause 1 allows for the filing and execution of an order for compensation as a civil judgment. This is the same procedure that is already allowed under Section 653 of the Code. In fact, the enforcement of civil orders for damages, and particularly criminal orders filed as civil judgments, are frustrating for the victim and of no particular use at all when the offender has no money or is serving a term in jail.

I have already mentioned Clause 2 of the Bill which calls upon the Minister of Justice and the Solicitor General to consult with their provincial counterparts to develop and implement guidelines for victim assistance. In fact, as I have stated, this is well under way.

Clause 3 lists the objectives to be considered in developing the guidelines. Both Clauses appear to be based on the American legislation which called upon the U.S. Attorney General to develop guidelines for the fair treatment of victims of crime.

As I have indicated, the federal-provincial task force has accomplished much of what Clauses 2 and 3 propose. Many of the matters specified in the Hon. Member's Bill are clearly not appropriate for inclusion in the Criminal Code. Rather, these matters should be the subject of uniform guidelines or policy directives which the provincial Attorneys General may give to police officers and court officials, including Crown counsel, in their respective Provinces.

The proposals set out in Clause 3 reinforce even further the need for federal-provincial co-operation in this area. Let me explain. Paragraph (a) deals with services to victims of crime which should be provided by law enforcement officers. It stipulates that law enforcement personnel are to ensure that victims routinely receive emergency social and medical services