

*Criminal Code*

his victim will now apply to someone who is found guilty by a judge or a jury of the offence with which he or she had been charged. Madam Speaker, I believe that it is important to take a few minutes to explain the difference between compensation and restitution.

Compensation refers to a contribution or payment made by the state to the victim under a compensation program for victims of crime. These programs are subsidized partly by the federal Government, but administered by the provinces or territories.

As the Minister of Justice pointed out, the federal Government has made an offer to the provinces which would more than double the amount they now receive. In passing, Madam Speaker, I must say that Bill C-89 has been very well-received by the provinces, particularly Quebec. The Quebec Minister of Justice, Mr. Herbert Marx, is very satisfied with the negotiations and with Bill C-89, which is the result of these negotiations.

Now with respect to restitution, Madam Speaker, it is a factor which must be taken under advisement by the court when sentence is handed out, if such an order is deemed appropriate. Unlike compensation which comes from the state, restitution is made to the victim by the offender. You will agree with me that one of the first considerations for the person who has incurred material losses or sustained physical injuries is to return to the situation as it was before the crime was committed. In other words, whenever possible it means securing material compensation for damage sustained.

Madam Speaker, this is why the federal-provincial task force on justice for victims of criminal acts published a report in 1983 and recommended changes to the Criminal Code provisions concerning restitution so that, in appropriate cases, the judge would have to consider the advisability of issuing a restitution order. The task force recommended as well that victims be given an opportunity to appear before the court concerning such losses as might be ascertainable.

More recently, in a report released last February the Canadian Sentencing Commission recommended that restitution orders take the following elements into account: first, property damage resulting from the commission of the offence and calculated on the basis of the actual cost of repairing or replacing such property; hospital and medical care expenditures incurred by the victim as a result of the commission of a crime; losses of income resulting from the commission of such crime, including those due to the victim's hospitalization or participation in the investigation or trial.

Madam Speaker, I am convinced that all Members in the House today will agree that the amendments introduced in Bill C-89 adequately respond to these recommendations.

But what exactly is meant by damage whose amount can be easily ascertainable? These could, for instance, include medical bills, property damage or loss of income. It should be understood that only damages where the amount is readily

ascertainable may be the subject of a restitution order in respect of an offence under the Criminal Code. Other damages whose amount is not readily ascertainable, pain and suffering for instance, will continue to be the subject of claims in civil proceedings.

I mentioned earlier that the onus was no longer on the victim to seek a restitution order. In fact, the proposed amendment requires the judge to consider whether a restitution order would be appropriate. This means the victim will no longer have to worry about exercising this right, since in all cases, the judge will do so on the victim's behalf. A restitution order is not restricted to property damage alone. For instance, damages incurred as a result of bodily injury, provided the amount is readily ascertainable, may also be covered by a restitution order.

The proposed amendments expand our concept of "victim" to cover persons who arrested or tried to arrest the offender. However, the Bill does not propose a definition of the word "victim". As a result, the courts will have the flexibility to respond to the particular circumstances of each case. However, it is not enough to require the courts to consider whether the restitution order is appropriate. The court must also be satisfied that the offender will be able to comply with the order.

I shall now describe the procedures available to the Court to decide whether the offender will be able to comply with the order. First, the judge will be able to inquire into the offender's present or future ability to pay. He may also consider his financial status. In this respect, the judge may subpoena the offender to provide the requisite information on his assets. This means that subsequently, the victim may, if necessary, file for execution of the restitution order against the assets thus identified.

Another important detail, Madam Speaker, is that the judge may order that any money found on the offender at the time of his arrest be taken to satisfy the restitution order. Finally, in every case the judge must give priority to the restitution order.

Unfortunately, in some cases the offender will be either unable or will simply refuse to comply with the restitution order. The order must therefore be readily enforceable.

The Bill provides that the order is enforceable as a judgment of a superior court, either in civil or criminal proceedings. The offender may of course be able to provide a reasonable excuse for his default, and the judge may then extend the term of the restitution order.

Madam Speaker, the Government's proposals have been warmly welcomed by victims groups because they respond to a real need. I would like to quote the author to which the Hon. Member for Burnaby (Mr. Robinson) referred earlier, Mr. Robert Ménard, founder of a new association of victims of criminal offences, who also said, and I quote:

Nevertheless, I believe the new Bill before the House is a first step towards improving the status of victims.