

Hope You're Not—But If You Are

[A SURVEY OF HOW VICTIMS OF CRIME ARE PAID IN CANADA]

Part of the common law in Canada has always been that a person has the right to bring civil action against anyone who intentionally attacks or injures him. But for a victim of crime that's usually hollow comfort, since the offenders often can't be found or are in jail and broke. If money can assuage the hurt, the only place it's likely to come from is the state.

This concept has long been talked about, and in some places put to practice. New Zealand has paid victims since 1963, Great Britain since 1964, and in the late sixties several of the United States started plans which compensate victims of some crimes. In the 91st U.S. Congress, just passed, Senator Yarborough of Texas introduced Federal legislation to compensate victims of violent crimes, but it wasn't passed into law.

Today in Canada, crime victims in the provinces of Alberta, Newfoundland, Ontario, and Saskatchewan are paid for their woes, and Quebec may be added soon.

Saskatchewan was the first and has been more or less the model for the other provinces. It patterned its own Crime Injuries Compensation Act of 1967 basically on New Zealand's, though it added compensation for people hurt while keeping the peace or helping lawmen.

It pays for pain and suffering or death, and for monetary loss due to an attack—such as lost eyeglasses, medical costs not otherwise covered, loss of work, and so on. It doesn't pay for property lost through crime—none of the provinces do.

As in all the provinces, payments are made through an appointed crime compensation board, whose decision is final. On the three member Saskatchewan board are a lawyer, a farmer, and a housewife, who travel about the huge province holding hearings—usually open to the public and relatively informal, though all legal rights are protected, which includes cross examination.

The role of the boards is to decide whether there has been a crime and what the recompense should

be. For their purpose an incident may be called a crime even though the offender is "legally incapable of forming a criminal intent," such as a legally insane person. In Saskatchewan there's no legal limit to what the board can pay, but considering what you might expect to receive for a grievous assault, they haven't paid much. Any payment over \$1,500 has to be approved by the provincial cabinet, and few claims have gone there.

Ontario soon followed Saskatchewan, but its Law Enforcement Compensation Act, also passed in 1967, only compensated people killed or injured while assisting a police officer or trying to keep the peace themselves. The first application was from the family of a cab driver named Larry Botrie, shot as he left his cab to call police. The board turned down the Botries, saying he wasn't actually assisting a police officer, but the public reaction moved the government to amend the statute—more along the lines of Saskatchewan—and the board subsequently awarded Botrie's mother \$100 a year for life, and his brother \$1,000 for funeral expenses and \$350 for legal fees.

Ontario is much more populous than Saskatchewan, and the latest figures indicate that there are over 30,000 crimes of violence a year there (including attempted assaults), so the board appears less busy than might be expected. By the end of 1970 the board had received only about 1,300 applications in all, had passed on 100 of them, and had made 94 awards. They averaged about

\$2,000 a year, including one \$10,000 payment—the highest lump sum payment permitted in Ontario, though pension-type awards may total more.

There may be several reasons for the seemingly low use of the law by eligible victims. A study of the system made by Professor Allen Linden of the Osgoode Hall Law School in Toronto said that some victims decide against seeking compensation because they think the amount of money involved is too small, or they don't want anything more to do with the incident.

The *Toronto Globe and Mail* recently did an article saying it is also likely that many citizens don't know about the law. The Ontario government does not publicize it, and the board's only report to date had a small distribution. But the board does ask judges and crown attorneys to tell victims of their right to compensation, the paper said.

The cast of the Ontario board is a little different than the Saskatchewan board. It has five members. The chairman, Judge Colin Bennett, is the province's chief county court judge. The vice chairman is chairman of the Ontario Police Commission. The other members are a clothing manufacturer and two retired county court judges.

In the past, neither the Saskatchewan nor Ontario boards have actually investigated incidents themselves. The Attorney General's office in Regina says they don't anticipate the need to, but Ontario suspects it has been getting some one-sided stories, and is hiring an investigator. Already it has reduced pay-

ments because it felt the applicant had been partly to blame for the attack.

Alberta passed its law in October, 1969, and to date has handed down some 30 decisions, the Attorney General's office says. Twenty-two of the decisions resulted in payments totaling about \$50,000. Half of that was paid to a man who was beaten and his leg amputated after helping a woman being attacked.

Alberta's law is much the same as the others. It pays up to \$10,000 for physical disability or disfigurement and pain and suffering, and compensates victims for expenses, financial loss, maintenance of children born of rape, and other losses due to injury.

Newfoundland's law has been on the books since the spring of 1968, but its first use is soon to come. Two claims were made recently, and a board will shortly go into business.

As in all the provinces, Newfoundland's law was not passed because of any great public demand for it. "It just seemed a proper thing for government to do for its people," says Attorney General L. R. Curtis.

British Columbia, too, has a crime compensation law on the books, but it leaves the workings up to municipalities, and, according to the Attorney General's office in Victoria, none to date have made any start.

Quebec does not have a crime compensation law, but it may soon. After a bill was introduced in the Quebec national assembly in December to pay Mrs. Pierre Laporte an annual pension of \$16,000, the premier of Quebec, Mr. Bourassa, said the government is considering legislation to compensate all victims of crime in the province.

For More Information: For public officials, scholars, journalists, or anyone wanting more detailed information, the Embassy Office of Information in Washington has a limited number of copies of the crime compensation laws of Saskatchewan, Ontario, Alberta, and Newfoundland. Write to *Canada Today/D'Aujourd'hui* at the address on page 8.

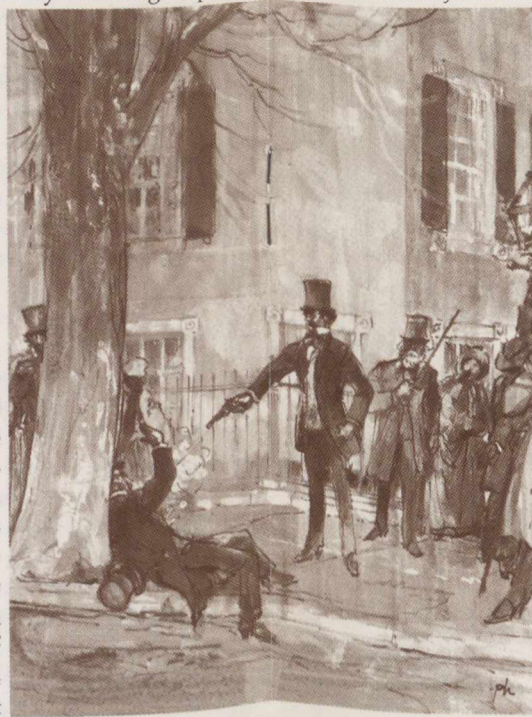


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