

THE LEGAL POINT OF VIEW

- Deadly Pay-Off?

Most Canadians were shocked to discover that the RCMP had paid a lot of money to Clifford Olson in exchange for information leading to the discovery of the bodies of ten children in British Columbia. The whole episode is viewed by the public as being offensive and immoral. It is easy to understand why paying a murderer \$100,000.00 to pinpoint the bodies is considered immoral, based on the promise that one should not be rewarded for doing "wrong" or for committing a crime. Canadians should, as well, consider what the practical legal and political ramifications of the money-for-bodies exchange might be.

The law of evidence could certainly be affected by this kind of practice if it is more than just the one time event various attorneys general are claiming it is. In the Olson case the accused was paid to provide evidence which would ensure a conviction. If another pay-off by police takes place in the future, can we be sure that the evidence provided in return will be true? The Olson situation may also extend the ambit of what is considered to be "legally obtained evidence" and will give police more discretion and, therefore, power than the already considerable powers they now enjoy.

My major concern about what comes out of the Olson incident is this: apparently the RCMP did not inform Federal Solicitor-General, Robert Kaplan, of the pay-off until almost one month after it took place and, even then, he only found out inadvertently. The RCMP fall under the authority of the federal solicitor-general, who should have been consulted before an unorthodox and, unprecedented decision was made to pay an accused for evidence. It is particularly ironic that the day after the payment was made the McDonald Royal Commission on RCMP activities made its report which included strong criticisms of RCMP practices and of the RCMP's lack of candor in dealing with those who, constitutionally, have jurisdiction

over them.

The RCMP concealment of the pay-off has become more confused because the attorney general's department in British Columbia, Mr. Kaplan's office, and the RCMP all have a different story as to who was informed and when. Someone is not telling the truth.

Further complications arise from The British North America Act, which is still the major component of our constitution. Although the federal solicitor-general is supposed to be responsible for the administration of the RCMP and the criminal law. Generally, the provincial attorney general's department is responsible for the administration of justice in the province. I have a feeling that the principle actors involved in the Olson scheme will somehow manage to hide behind this complication.

Should that happen, the case for adoption of the Charter of Rights in our soon-to-be patriated constitution will be stronger, particularly in view of the fact that police are claiming that the Charter will limit their powers. If the police, the RCMP in particular, are acting independently or without reporting to the federal solicitor general, who, by law, is to preside over them, and, if they have done all, or even some, of the things the McDonald Commission concluded they did, the restrictions on their powers will be welcome.

-Jane Monaghan





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