

NEW & USED TIRES

\$36.00 GOOD TO GO TIRE \$36.00

CLICK HERE

HAMILTON LOCATION
905.385.8629
1154 RYMAL RD. E. UNIT 9

BURLINGTON LOCATION
905.631.8473
3485 HARVESTER RD. UNIT 14

thespec.com

<http://www.thespec.com/Opinions/article/650429>

[\[Close\]](#)

Legal Aid needs support

ROBERT HOWARD

The Hamilton Spectator

(Oct 9, 2009)

Putting money into health care is politically popular -- "sexy" to use the infamous insider term -- because every one of us uses, or will use, doctors and hospitals.

Education funding isn't quite as universally supported as medicine, but it goes over pretty well with the public.

But Legal Aid? There's a hard sell. First, it's money to defend people accused of crimes and, second, it goes to lawyers. On the great scale of public support, accused criminals and lawyers don't get a big share.

Until it's us. Or our child. And then, our perspective changes.

Earlier this week, a Hamilton teenager charged with murder -- the most serious crime imaginable and one that could end or restrict his freedom for the rest of his life -- could not get a lawyer. His lawyer on another matter informed the court she could not defend him on the murder charge.

Across the province, criminal lawyers are boycotting legal aid cases involving murder or gangs-and-guns charges. The Ontario Criminal Lawyers Association says inadequate funding in Legal Aid not only penalizes them by paying about a quarter of the going private rate, but also hampers justice by paying experts hired by the defence less than those hired by the Crown. Defence lawyers say Legal Aid needs \$120 million more each year to restore balance to the justice system.

Attorney General Chris Bentley has put \$60 million on the table, but that amount is to be shared between Legal Aid, the family law system and legal clinics. Clearly, there's no meeting of the minds yet -- and equally clearly, as we saw in a Hamilton courtroom this month, justice is not being served.

Frank Addario, president of the Ontario Criminal Lawyers Association, says politicians figure that "antipathy toward lawyers makes ignoring legal aid a tolerable political risk." Right as he is, he could also add that most voters don't care very much about accused criminals.

But we have to care about this. A proper defence within a balanced legal system is an underpinning of a democratic society. Providing a defence to those who cannot afford their own is equally fundamental.

We must care because we know that miscarriages of justice happen with dismaying regularity. Canada has a long roll call of those wrongfully convicted of murder and other serious crimes. If we learn nothing else from that, it must be that every Canadian -- including the poor and marginalized -- is entitled to proper legal representation.

Innocence until proven otherwise is not only a judicial principle, but reflects that reality -- that innocent people often need trained, professional and committed representation to prove that fact.

A complex trial consumes many months, even years, of a lawyer's life. Vast time and effort goes into mounting a defence against the well-funded machinery of police and prosecutors, and lawyers cannot be expected to give that out of the goodness of their hearts.

The gap between \$120 million and Legal Aid's share of the \$60 million leaves a lot of room for compromise. The provincial government and Ontario's criminal lawyers need to find common ground and a plan -- perhaps over three to five years -- to restore adequate, stable funding for Legal Aid.

Criminal lawyers are succeeding in putting this issue on the public agenda. Bentley and boss Dalton McGuinty need to put it on theirs before the courts are in crisis. In a year of political fiascos out of Queen's Park, a major crisis in our courts should be avoided.

Editorials are written by members of the editorial board. They represent the position of the newspaper, not necessarily the individual author.

thespec.com

<http://www.thespec.com/Opinions/article/650429>



© Copyright 2007 Metroland Media Group Ltd. All rights reserved. The reproduction, modification, distribution, transmission or republication of any material from www.thespec.com is strictly prohibited without the prior written permission of Metroland Media Group Ltd.

