

**Indian Residential Schools Resolution Canada
Media Clips**



**Résolution des questions des pensionnats indiens Canada
Actualité**

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Source: Canadian Press

Ottawa, United Church must pay for abuse

OTTAWA- The Supreme Court of Canada says the cost of claims over physical, mental and sexual abuse at church-run residential schools should be split between the federal government and the church involved.

The federal portion is 75 per cent, the church 25 per cent.

In a case which will have repercussions in other suits against such schools, the high court disagreed with the British Columbia Court of Appeals, which had ruled that the federal government alone was liable for compensating former students.

The original trial judge had decided that the government and the United Church were equally liable for abuse which occurred at the Port Alberni Indian Residential School.

The appeals judges said no, and Ottawa appealed.

The federal government now pays 70 per cent in out-of-court settlements of Port Alberni suits, with the church paying 30 per cent, but similar suits are pending over schools run by the Roman Catholic, Anglican and Presbyterian churches.

Frederick Barney, who brought this case to the high court, lost on several grounds in the decision written by Chief Justice Beverley McLachlin.

Barney was one of a number of children abused by a dormitory supervisor at the schools.

He was awarded \$125,000 in general damages and \$20,000 in aggravated damages from the church and government and \$45,000 from the dorm worker who committed the assaults. The appeal court also awarded him \$20,000 for loss of future earnings.

He sought \$300,000 in general and aggravated damages, \$240,000 for loss of future earnings and punitive damages of \$25,000 against the federal government. The supreme court said no.

"No compelling reason exists to disturb the trial judge's award."

He contended the church and government were negligent, but McLachlin said they were not - by the standards of the 1940s and 1950s, when the abuse occurred.

The trial judge threw out his claim for damages for physical and mental abuse, saying they were covered by a time limitation law. The supreme court agreed.

The time limitation has an exception for sexual abuse claims.

He argued that the government had breached a fiduciary duty to him, which would have laid a much higher responsibility on both. The supreme court disagreed.

He also contended that the policy of forcing aboriginal children out of their homes and into residential schools was an abuse in itself. McLachlin said no.

"Government policy, by itself, does not create a legally actionable wrong," she wrote. "For that, the law requires specific wrongful acts causally connected to damage suffered."

The church also lost, because it is back on the hook for damages.

Source: CBC News Online (lead story on homepage)

Date: 2005.10.21

Ottawa not fully liable for residential school claims

The Supreme Court of Canada ruled Friday that Ottawa should not be held fully liable for damages suffered by students abused at a church-run school on Vancouver Island.

The court also said charities such as the United Church of Canada cannot claim immunity from damage claims because they try to do good work.

"Parties may be more or less vicariously liable for a wrong depending on their level of supervision and direct contact," said the ruling in the case known as *Blackwater v. Plint*.

The United Church carried out most of the day-to-day operations at Port Alberni Indian Residential School, where six aboriginal students claimed they were abused by a dormitory supervisor from the 1940s to the 1960s. The federal government appointed the school's principal and owned the land on which the building was located.

Originally, a British Columbia judge said vicarious responsibility for the students' physical, sexual and mental abuse should be split 75-25 between the federal government and the church. The provincial Court of Appeal then ruled that Ottawa held 100 per cent vicarious liability for damage claims by the former students.

Friday's ruling restored that portion of responsibility to 75 per cent, assigning 25 per cent of the liability to the United Church of Canada.

As employer, church had no immunity

The Supreme Court said people who worked at the school were employed by the United Church of Canada, so the church must accept some responsibility for their actions.

The justices rejected the B.C. Court of Appeal finding that the United Church held charitable immunity from vicarious responsibility in the case.

"Exempting non-profit organizations when government is present would not motivate such organizations to take precautions to screen their employees and protect children from sexual abuse," the ruling said. "The presence of the government does not guarantee the safety of children, particularly where, as in this case, the non-profit organization has day-to-day management of the institution."

Lead claimant to get \$200,000

The lead claimant in the case, Frederick Leroy Barney, will receive roughly \$200,000 in damages as a result of the ruling – 75 per cent from the federal government and 25 per cent from the United Church.

The ruling has implications for other Canadian churches that ran residential schools for native students throughout the 20th century, including the Roman Catholic, Anglican and Presbyterian churches.

Many religious organizations have warned that having to pay damages in abuse cases will leave them severely short of funds, meaning they may have to sell off church buildings and restrict operations.

Source: CTV.ca News

Date: 2005.10.21

Byline: CTV News Staff Writer

Feds, Church liable for residential school abuse

Both the federal government and the United Church of Canada should share the cost of claims over physical, mental and sexual abuse at church-run residential schools. That's the ruling today from the Supreme Court of Canada.

The country's top court disagreed with the British Columbia Court of Appeals, which had ruled that the federal government alone was liable for compensating former students at the Port Alberni Indian Residential School.

The Supreme Court says the feds should cover 75 per cent of the cost of the claims, while the church should cover 25 per cent.

The Supreme Court's decision will likely establish the standard by which similar cases involving the Anglican, Presbyterian and Roman Catholic churches will be measured.

Former students of the Port Alberni Indian Residential School who claimed they were berated, beaten and molested by their instructors during their time at the school launched a lawsuit in 1997, seeking compensation.

In June 1998, Justice Donald Brenner ruled that both the United Church and the federal government were equally responsible for the abuse.

But in December 2003, the B.C. Court of Appeal overturned that decision, saying Ottawa should be held wholly responsible. The court ruled that because the church was a non-profit, charitable organization, it shouldn't be held legally accountable for the actions of its employees.

The federal government appealed that ruling to the Supreme Court, saying that non-profit organizations that have children in their care should be allowed to be liable.

Former Indian Affairs minister Jane Stewart apologized in 1998 for the abuse at the schools, as well as for the suppression of native languages and cultures.

The United Church of Canada also apologized that same year for its role in the pain and suffering that occurred at the school.