

Sydney Morning Herald, 15 February 2001

Strapped for cash: man gets \$2.5m for a 1984 caning

By Ellen Connolly

A man has been awarded more than \$2.5 million in damages for the pain and suffering he has endured as a result of receiving the strap at school 17 years ago.

Dr Paul Hogan, 30, of Randwick, cried in the courtroom after the jury of two men and two women returned with the verdict, which in effect awarded him \$316,000 for each of eight straps he had received to the hand.

Last night the Catholic Education Office described the decision as "manifestly excessive."

The amount is vastly more than victims of crime receive as compensation. Accident victims such as quadriplegics in some cases are entitled to a maximum payout of \$375,000.

Dr Hogan sued the Catholic Church and the then master of discipline of St John's College, Lakemba, Mr Denis Fricot, claiming the two sets of strappings he received at school on March 16, 1984, were wrongful acts, leaving him with a permanent hand injury.

Dr Hogan was given three straps in the morning for a uniform violation and five more later in the day for calling Mr Fricot a "black bastard."

During the 13-day hearing, he told the court that for the past 17 years he had suffered continual pain in his hand, arm, neck and head, as well as psychological problems. As a result he cannot pursue his dream of becoming a highly paid project manager at some of Sydney's top engineering firms.

Dr Hogan said the defendants were guilty of assault and negligence. He sought damages for the physical and emotional effects, loss of income, medical costs, and loss of enjoyment of life.

Yesterday at 3.46pm, after almost 2 hours' deliberation, the jury found that the Catholic Church and Mr Fricot, a father of three who now teaches in Queensland, had breached their duty of care.

The jury found that while Mr Fricot had proper cause to strap him the second time for calling him a "black bastard," the blows to the hand with the leather strap were neither moderate nor reasonable.

Following the decision, counsel for the Catholic Church, Mr Ian Harrison, SC, was lost for words.

"In light of the size of the figure ... I don't know how to respond to that figure, Your Honour," Mr Harrison said.

The acting executive director of the Catholic Education Office, Ms Natalie McNamara, described the verdict as manifestly excessive and said an appeal was being considered.

Before the jury retired to consider the verdict, Mr Harrison reminded them that in the months after the 1984 strapping, Dr Hogan underwent bone scans on his hand at Lidcombe Hospital which showed his right hand was "back to normal" and there was no abnormality.

During his four years at university Dr Hogan saw a doctor on 27 occasions, but never in relation to his alleged hand injury.

A rehabilitation specialist, Dr Jill Middleton, told the court Dr Hogan could be "bunging it on".

She diagnosed him as having a chronic pain disorder, but said she had relied on his descriptions of his symptoms and not on any objective testing such as x-rays.

Mr Harrison - If he was bunging it on, you can't say?

Dr Middleton - I couldn't prove that he's not.

A solicitor for Slater and Gordon solicitors, Mr John Park, said that yesterday's verdict, subject to an appeal, had set a precedent.

He expects other victims of corporal punishment to start coming forward.

The Australian, 16 February 2001

More cash for a strap than a car crash

By Monica Videnieks

MOST people who are left crippled by car accidents can expect the courts to award them about \$350,000 in general damages.

This week, Sydney civil engineer Paul Hogan walked away with \$700,000 in general damages - part of a total \$2.5 million award package - when a sympathetic jury found the 30-year-old was left in chronic pain from a school strapping 17 years ago, when he was 13.

The amount was increased yesterday to more than \$2.9 million after NSW Supreme Court Justice James Wood took into account superannuation and interest.

Dr Hogan's award, understood to be the highest in the state, outstrips the previous record of \$404,000 awarded to a brain-damaged man in 1996.

The shock award, which left defence barristers lost for words, prompted the NSW Attorney-General's department to announce an investigation into the role of juries in civil actions.

While barristers for the Catholic Church are considering an appeal, Justice Wood yesterday granted a stay on the award, on the condition Dr Hogan is paid \$500,000 and an appeal, if there is one, be lodged within 21 days.

Legal commentators expect the church to appeal, saying the decision highlights the unpredictable nature of juries.

"I don't think juries get it wrong very often," NSW Law Society president Nick Meagher said yesterday.

"But appeals from cases before juries would be no more than appeals from cases before a judge alone."

In defamation cases, a jury decides if a person has been defamed and a judge awards damages. But in civil suits such as Dr Hogan's, lawyers have a choice whether the case will be heard by a judge or a jury. The risk is greater if the case is heard - and the damages decided - by a jury.

Mr Meagher said juries were considered a "social barometer", and this jury may have been sending a message against corporal punishment.

Australian Plaintiff Lawyers Association president Peter Cashman said that while Dr Hogan's \$700,000 general damages award was "out of kilter" with other awards, most general damages awards in Australia were too low.

In criminal compensation awards, victims of serious crimes or the families of homicide victims are eligible for a maximum payment of \$50,000.

The Sydney Morning Herald

Sydney Morning Herald, 17 February 2001

Letters

Catholic schools should be brought to account

I'm amazed by the letter writers who laugh off cruelty in the Catholic school system as character building. I can only assume these were the same boys you never wanted to be caught alone with in case you got a smack in the mouth.

I often wonder whatever happened to the boy who was delivering a message to my class but who had the temerity to knock on the closed classroom door while the class was saying a prayer at the beginning of the lesson.

His injuries stayed with him for weeks after he was sat down at the front desk and given six of the best with the strap by the Catholic brother, who had just finished leading us in prayer.

Sitting the boy at the desk made sure he got skinned knuckles in addition to the whopping bruises along his forearm and wrist.

It's about time the Catholic schools were brought to account for the years of cruelty and inhumanity inflicted on some students.

Chris Brown, Arncliffe, February 16.

About 70 years ago my schoolmaster caned me on the buttocks for some trivial matter.

According to some, I have been a pain in the arse ever since.

Do you think I can claim compensation from my old school?

Roger Bourke, Wollstonecraft, February 15.



AAP General News (Australia), 21 February 2001

Casey on Thursday

By Bill Casey

My veteran friend says he's going to sue the Police Force.

"Sergeant Kelly kicked me up the bum when I was 10. I was shoplifting and he caught me. He took me home to Mum and said 'Missus, keep this kid out of the shops. He takes things that don't belong to him. I caught him and kicked him up the bum'."

That was apparently 67 years ago. My friend says he has now decided to sue because the policeman could have damaged his bum. "I am going to say so anyway. It was definitely bruised at the time. Sergeant Kelly has long gone to his Maker but I still remember the sudden blow from behind. I didn't see him coming. He was a representative of the coppers and I'll sue them. It stopped me shoplifting and I could have been a rich thief."

He has been inspired by the latest successful case when a man got a hatfull of money for being strapped at school. The court found that man was permanently damaged.

I am not qualified to dispute the decision. I just think it will remind plenty of people that they too were strapped.

There was a bloke at my secondary school, a science teacher, who put split rivets in the end of his strap to make it hurt more.

Naturally he flattened them out. They didn't break the skin. Just stung.

He called it giving six of the best. I dread to think what have would have happened if he'd done his worse. I hated him. But I passed science and my family regarded this as a minor miracle.

But that's not all. Some people are quite proud of being punished. Particularly walloped.

I know a bloke who has kept the leather knout which inflicted punishment on him at his school many years ago. He was apparently presented with it at the finish of his schooling.

Along with his Diploma.

It is a treasured possession and he shows it to visitors. Not the Diploma, the knout.

"That is a strap they hit me with at school," he says.

He does not look badly damaged, but he could be affected psychologically. When people start showing you things that hurt them you are inclined to worry.

I hope this business of suing does not catch on.

My son may sue me for what happened when he was four.

He was under the shower and had been for about half an hour. I told him to get out because he was using all the hot water. He wouldn't.

So I hit him.

With my bare hand across his bare tail.

His scrawny left buttock cheek showed the imprint of my hand. Five fingers and the palm. I didn't realise at the time the hot shower and made him vulnerable to a mark.

I was horrified. "Crikey," I said to my wife. "I've marked him. I didn't hit him hard either. Just slapped him."

He didn't cry when I hit him but did when he saw the imprint mark in the mirror. I think he would have considered suing me if he had known he could. He was a crafty little bloke. Good at debating later on.

"Daddy cruel," he said. I never hit him again. Ever. Believe me, your Honour.

My wife sat next to a girl at convent who was regularly beaten across the knuckles with the sharp edge of a ruler.

"She was left handed," my wife explains. "This Nun didn't like her being left handed, regarding it to be as close to a mortal sin as little girls can get up to. So she hit her. Everytime she passed the desk and my friend was writing left handed. Crack. Sharp edge of the ruler across her knuckles. She was only eight. It didn't do any good, though.

The girl still writes left handed but at least it's copperplate.

"I understand the Devil was left handed."

Strangely the most hurtful thing that happened to me at school came when I was commended rather than punished.

I was not a good student and commendations were few and far between.

In fact this same woman I'm going to tell you about once threw all my school books in a corner of the class room. "They are horrible and grubby," she said. "Like you."

I remember and it's years and years ago. I think I'll sue. They weren't that bad.

One day I was riding home in the school bus and this heartless teacher addressed all and sundry ever so sweetly, "Billy got a green elephant stamp today. He can spell. Stand up and show the bus people your green elephant, Billy."

So I did. Everyone looked at the green elephant on the back of my wrist and laughed.

I hated that. I would have rather copped six of the best.