

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISIONS AND ORDERS**

*IN THE MATTER OF ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:*

**AND IN THE MATTER OF** discipline proceedings against Percy Norman Beirness.

The Discipline Committee held a hearing on April 23, 1999,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**PERCY NORMAN BEIRNESS  
CERTIFICATE #428653**

**PRESENT:**

Members of the Panel

Marilyn Laframboise (Chair)

Jean Hanson

Diane Leblovic

The Honourable Robert Reid, Independent Counsel to the Panel

Ms. Caroline Zayid and Mr. Chris Sach-Anderson, McCarthy Tétrault, Counsel for the Prosecution

Percy Norman Beirness was not present nor was he represented.

A Notice of Hearing, dated December 12, 1998 was served on Percy Norman Beirness by registered mail on February 9, 1999 and in person on February 15, 1999, requesting attendance before the Discipline Committee of the Ontario College of Teachers on February 15, 1999 in order to set a date for hearing, and specifying the charges. The date set for hearing was April 19, 1999.

It is alleged that Percy Norman Beirness is guilty of professional misconduct in that, as per the Notice of Hearing (Exhibit 1):

- a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97/subsection 1(5);
- b) he abused students physically, sexually, verbally, psychologically or emotionally contrary to Ontario Regulation 437/97, subsection 1(7);
- c) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, or the regulations made under that Act, contrary to Ontario Regulation 437/97, subsection 1(15);
- d) he contravened laws and those contraventions are relevant to his suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (e) he contravened laws and those contraventions caused a student, who was under his professional supervision, to be put at risk, contrary to Ontario Regulation 437/97, subsection 1(17);

- (f) he committed acts that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18); and
- (g) he engaged in conduct unbecoming of a member, contrary to Ontario Regulation 437/97, subsection 1(19).

The Notice of Hearing states that Percy Norman Beirness is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit 1).

On April 23, 1999, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Percy Norman Beirness was guilty of professional misconduct.

Percy Norman Beirness was not in attendance at the hearing, nor was he represented by counsel. Proof of service of the Notice of Hearing was presented and accepted by the panel (Exhibit 1).

**EVIDENCE:**

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit 1, alleging that Percy Norman Beirness is guilty of professional misconduct in that his acts

were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 5, 7, 15, 16, 17, 18, 19. Particulars of the alleged misconduct are set out in Exhibit 1 and they are to the effect that Percy Norman Beirness indecently assaulted two students, and that on July 12, 1989, he pleaded guilty and was convicted of three counts of indecent assault contrary to section 156 of the *Criminal Code of Canada*.

Counsel presented evidence that Percy Norman Beirness is a member of the Ontario College of Teachers (Exhibit 1). At all material times, Percy Norman Beirness was employed by the former Durham Board of Education, now named Durham District School Board, as a principal.

Three witnesses were called to testify to the allegations against Percy Norman Beirness.

[■], who was a [■] male at the time of the incidents, testified that Percy Norman Beirness was principal of his school. Mr. Beirness approached him and talked with [■] in the office on a number of occasions. He then invited [■] to a number of hockey games on a regular basis. In the car during these outings, Mr. Beirness started to tickle [■] in the area of the stomach, which proceeded over time to underneath his belt and underneath his underwear, touching and grabbing his penis. This occurred on 10 to 15 occasions. Mr. Beirness also took [■] to his friend's home to enjoy an indoor pool and sauna. On that occasion in the sauna, there was extensive fondling and touching of [■]'s

penis. On another occasion, [REDACTED] was invited to Mr. Beirness' home. Mr. Beirness took [REDACTED] into his bedroom, and made rude comments about nude pictures of women that he showed [REDACTED]. He stroked [REDACTED]'s penis and [REDACTED] then went to a large room with a couch and a TV and VCR where Mr. Beirness put on pornographic movies, pulled him onto the couch and stroked his penis, then masturbated himself to ejaculation. He made lewd remarks about female teachers during some of these outings and referenced [REDACTED]'s penis as keeping his "tallywacker" happy inside his pants. [REDACTED] felt Mr. Beirness' language during these outings was a bit odd in a perverted sort of way. Throughout this, [REDACTED] said he didn't tell him to stop because "he was doing me favours and he was my principal".

Detective Kantautas, Durham Regional Police, Sexual Assault Unit, testified that [REDACTED] came forward in December of 1997 after reading in the newspapers of a previous arrest and of other complaints about Mr. Beirness. The Committee also heard evidence via video in which Detective Kantautas interviewed [REDACTED] to confirm the previous evidence of what had occurred when Mr. Beirness was his principal and [REDACTED] was a student at [REDACTED] (Exhibit 2).

Craig Burch, Superintendent of Employee Relations at the former Durham Board of Education, now known as the Durham District School Board, also testified and confirmed that Mr. Beirness was Principal at [REDACTED] from 1981 to 1985. Mr. Beirness retired from his employment on December 31, 1985 (Exhibit 7).

Mr. Burch also referenced files confirming that Mr. Beirness was Principal at that school

and that [REDACTED] was also a student at that school from 1980 to 1983.

#### **FINDINGS OF FACT:**

The panel finds the following facts:

- (1) Percy Norman Beirness (the “Member”) is a Member of the Ontario College of Teachers.
- (2) The Member was employed by the former Durham Board of Education for over 21 years as a principal until his retirement on December 31, 1985.
- (3) Percy Norman Beirness was principal at school attended by the victim [REDACTED] and [REDACTED] was [REDACTED] when the incidents involving him occurred.
- (4) Percy Norman Beirness was found guilty on September 21, 1998 of three counts of indecent assault on [REDACTED], (Exhibit 5) under the *Criminal Code of Canada*. Two of these males were students in the school where Mr. Beirness was Principal and the third male was a [REDACTED] organization.
- (5) On July 12, 1989, Percy Norman Beirness pleaded guilty to and was convicted of sexual assault on [REDACTED], who was [REDACTED] at the time, in respect of which he received a suspended prison sentence and three years’ probation.

#### **REASONS:**

The Committee finds that principals and teachers have a special responsibility to their students and to their community which requires a high level of trust and authority. It was inappropriate for Percy Norman Beirness to touch students in a sexual way and show them pornographic material. [ ] was [ ] at [ ] where Mr. Beirness was Principal and was under age at the time the incidents occurred. Mr. Beirness took advantage of his position as Principal to involve [ ] in indecent assaults while on outings outside of school as well as at Percy Beirness' home.

The Committee finds Percy Norman Beirness' behaviour toward these students is disgraceful, dishonourable and unprofessional.

The Committee further accepts that the indecent assaults did occur.

#### **DECISIONS AND ORDERS:**

Accordingly, the Committee finds Percy Norman Beirness guilty of professional misconduct under sections 5, 7, 15, 16, 17, 18, 19 of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke Percy Norman Beirness' Certificate of Qualification and Registration immediately.

#### **Notice**

It is important to the College's role in the governance of the profession to provide

evidence to members that the College is active in self-regulation and is vigilant to breaches of its bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's disciplinary Committees, and is, in the opinion of the panel, a practice that has significant general deterrent value.

Pursuant to Section 30(5)(iii) of the Ontario College of Teachers Act, the Committee orders that the findings of this hearing, as well as the name of the member, be published in the official publication of the Ontario College of Teachers and in any other manner or medium that the Committee considers appropriate in the particular case.

**DATED AT TORONTO, THIS 13th DAY OF MAY, 1999  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Marilyn Laframboise, Chair

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Diane Leblovic

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Jean Hanson