

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 William Caswill.

The Discipline Committee held a hearing from November 29 to December 1, 1999,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

WILLIAM CASWILL

PRESENT:

Members of the Panel
Solette N. Gelberg (Chair)
Larry Capstick
Wayne Cornack

The Honorable Patrick Galligan, Independent Counsel to the Panel

Caroline Zayid, McCarthy Tétrault, Counsel for the Prosecution and Trevor Evans,
Senior Law Clerk.

William Caswill. Mr. Caswill represented himself.

A Notice of Hearing was served on Mr. Caswill requesting attendance before the Discipline Committee of the Ontario College of Teachers on July 5, 1999, to set a date for hearing and specifying the charges. The date agreed upon for hearing was November 29, 1999.

It is alleged that William Caswill is guilty of professional misconduct in that:

- a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- b) he abused a student or students sexually, verbally, psychologically and/or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- c) he failed to comply with the Act and/or the *Education Act*, and/or the Regulations passed thereunder, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- d) he committed an act or act that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonorable, or unprofessional, contrary to Ontario regulation 437/97, subsection 1(18) and,
- e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

The Notice of Hearing states that William Caswill is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers. On November 29, 1999, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether William Caswill is guilty of professional misconduct.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing alleging that William Caswill is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the *Ontario College of Teachers Act, 1996* and filed as Ontario Regulation 437/97 on December 4, 1997, in particular, sections 1(5), (7), (14), (15), (18) and (19).

Counsel presented evidence that William Caswill is a member of the Ontario College of Teachers. At all material times, William Caswill was employed as a teacher by Bluewater District School Board, formerly the Bruce County Board of Education.

[] was called as a witness. [] testified that she attended Annabel-Hepworth Central Public School in September 1993 and Mr. Caswill was her teacher. She told about an incident when a boy and girl were sitting together and talking and she said Mr. Caswill said something to the effect that he knew the girl was sexy and everything but you don't have to talk to her. She said she was surprised and frightened. She said that she and five other students reported it to the principal. She did not tell her parents because she was afraid to do so. She told about another incident involving a ruler where Mr. Caswill is alleged to have tapped someone with the ruler and said "lucky ruler" but she couldn't remember who was the recipient of the tapping.

[] was a student at Annabel-Hepworth Central Public School and was in Mr. Caswill's Grade 6 class. He told about what he called a "strange worship deal" where the class

had to stand and repeat “mumble jumble words”. He said they had to stand and bow.

[] said students were occasionally centered out by Mr. Caswill. He related an incident where a girl wanted to get a drink and Mr. Caswill said it was the wrong time to get a drink and she should “swallow her own spit”. He said Mr. Caswill said “if not, she could swallow his.”

[] related an incident when a female student had gone to the washroom and Mr. Caswill said generally that “we or he should rape her.” He was asked by Mr. Caswill if he was seeing a female student and he thought it meant “was he seeing her sexually?”

[], the mother of student in Mr. Caswill’s Grade 5 class in 1992, told about an incident the first day at Port Elgin Saugeen Central School which so upset her daughter that, although subpoenaed, she could not come to testify at the Discipline Hearing.

She said she went to the police but they told her Mr. Caswill had not done anything illegal. She then reported the incident to the principal, following which Mr. Caswill was put on sick leave. She said that he never returned to her daughter’s class.

Glen Beacock, who was the Principal of Annabel-Hepworth Public School, told the Committee that Mr. Caswill joined his staff in January 1993 as an extra teacher and his job was to assist others teachers. Mr. Caswill also did some supply teaching in the junior grades and in June 1993 was appointed a full time teacher for September 1993. He said three and possibly four girls came to see him about inappropriate comments made in the

classroom by Mr. Caswill. He talked to Mr. Caswill to get his side of the story and eventually interviewed other children from the class. He said the Director received two or three letters and then there was a further meeting at the Board Administration Center with a group of individuals including himself. The end result of that meeting was the Director's decision to terminate Mr. Caswill even though Mr. Caswill denied that the events had happened. In response to Mr. Caswill's questioning, Mr. Beacock said that what he had observed in Mr. Caswill's classroom was satisfactory. Mr. Beacock said that the girls who visited him were upset and complaining rather strongly but they did not refuse to return to Mr. Caswill's class and did so for a period of weeks. Mr. Beacock knew nothing about a "worship service" in Mr. Caswill's class.

[REDACTED], a student in Mr. Caswill's Grade 6 class at Annabel-Hepworth Public School, testified about the incident where Mr. Caswill is alleged, after a girl left to go to the washroom to have said "oh well, when she gets back let's all rape her." She said the students talked about it and she told her mother about it a few days later. She said that for morning exercises every day there were strange words on the board and the students were on their knees and bowing and saying the words over and over. She said that if you said the words fast enough they sounded like "oh what a dummy or idiot I am." She said that she told her Mother about the "rape" comment incident a few days or up to a week later. Mr. Caswill said that the bowing down activity was really a "camp activity and the words if spoken quickly became "Oh what a goose I am."

[REDACTED], the mother of [REDACTED*], testified that she works for the School Board as an educational

assistant and that her daughter, [REDACTED], told her about the “rape” comment incident a few days after it happened. She went to Glen Beacock, the Principal and on his advice she wrote a letter to the Board of Education. She can’t remember the timing but her letter was written October 20, 1993. When questioned by Mr. Caswill she said she did not believe the remark constituted sexual abuse but that she believed it was verbal abuse. She did not report it to the Children’s Aid Society or the police. She thought it was a matter for the school board.

Bernard Hills, known as Sandy Hills, testified that he had worked with Mr. Caswill for six or seven years. While at Elderslie Central School he had discussions with Mr. Caswill about some parents’ concerns and he said that Mr. Caswill was receptive to suggestions from him and/or the parents. He said Mr. Caswill was a “bright, creative and innovative” teacher. He said that during the time he and Mr. Caswill were at Elderslie Central School there were a number of incidents that he discussed with Mr. Caswill and some were about inappropriate remarks. He said there came a time when the concern was that Mr. Caswill had an inability to perceive the pitfalls in his interactions with the students. However, Mr. Caswill responded to the discussions with Mr. Hills and by June 1989, the parents were pleased with Mr. Caswill’s teaching. In September 1989, Mr. Hills moved to Port Elgin-Saugeen Central School and Mr. Caswill also moved to the same school. Mr. Hills said some parents had concerns about Mr. Caswill and he advised Mr. Caswill about those concerns. In June of 1991, there was a meeting with Mr. Caswill to discuss parents’ concerns. Mr. Hills said that Mr. Caswill was receptive to those concerns and to the advice he was given. He said Mr. Caswill’s

standards for his students were high compared to those of other teachers. Mr. Caswill gave his students more homework than other teachers and the quality of work being drawn out of students was more challenging than some of the children could produce.

Mr. Hills had the materials used in Mr. Caswill's class assessed and it was reported that some of the reading materials were appropriately challenging but that some were too challenging.

Mr. Caswill showed Mr. Hills two reports Mr. Hills had written following observations of Mr. Caswill's classroom teaching. One was the first report Mr. Hills had done about Mr. Caswill and the second was the last report Mr. Hills did about Mr. Caswill in April 1992. Mr. Hills agreed that both were good reports. In response to questioning from Mr. Caswill, Mr. Hill agreed that he had never observed or heard anything of an unethical or immoral nature on the part of Mr. Caswill. He agreed that Mr. Caswill was of good moral character and that the "rape" comment would be a bizarre statement in association with Mr. Caswill. In answer to a question about whether Mr. Hills would have any qualms about his own children being students in Mr. Caswill's class, Mr. Hills said "no."

[] testified that she was in Mr. Caswill's class in the fall of 1993 when she was a Grade six student. She told about the incident where a female student left the class to go to the washroom and Mr. Caswill is alleged to have said, "OK when she gets back, let's all rape her." She said she thought it was kind of strange but no one in the class said anything

about it. She said that she was standing in line with a male student who was speaking to her and Mr. Caswill said "if you like [] that much why don't you hold her hand". She said she might have gone to the principal's office but she is not sure. She said she told her parents about the "rape" comment and spoke to her friends about it. In answer to a question, she said that the students from the class talked about it at recess.

Richard Gerson, who is the Administrator Employee Relations for the Bluewater District School Board, testified that Mr. Caswill was terminated effective December 31, 1993 for conduct incompatible with his duties as a teacher. Letters from the Director, Mr. Martindale, to Mr. Caswill were provided as evidence. He said that the Board agreed to withdraw its complaint to the Ontario College of Teachers after it had reached an agreement with Mr. Caswill but that the College said the Board did not have the right to withdraw the complaint and that the College had to proceed.

A report was entered by the prosecution, from Dr. Wolfe, a registered psychologist. This report provided his opinion about the statements that were alleged to have been made by Mr. Caswill about the rape, about drinking saliva, and about a female student being sexy. Dr. Wolfe was asked for his opinion about what the effect of these remarks on the psychological well being of a child of average development in Grade six in a rural community in Ontario.

Although Dr. Wolfe considered the behaviors described to fall into the definition of sexual harassment, the only research on which he could base his opinion about their

effect on the students had to do with high school and university students. He did, however, formulate some opinions about the children at the age of 11 or 12 years being sensitive to comments concerning their appearance, behaviour, competence, etc. He pointed out that teachers are considered to be in a position of trust and authority. He wrote about the possible effects on the children and said that proper clarification of the inappropriate nature of the behavior would serve to diminish the impact.

Mr. Caswill presented a report from Dr. Paul Dagg, a psychiatrist, who wrote in response to Dr. Wolfe's report. Dr. Dagg set out a definition of sexual harassment and pointed out that not all sexual comments constitute sexual harassment. He said that Mr. Caswill's remarks, if made, are disturbing and inappropriate but that does not make them sexual harassment. He said that in the description of the comments, only one of which is even close to a definition of sexual harassment, it is hard to see evidence of the repeated and persistent behaviour that constitutes harassment and is the root of the negative impact of harassment. In summary he says that the "remarks of the teacher constitute at best a very mild experience of sexual harassment that is unlikely to have any serious and long lasting impact on the children involved.

Mr. Caswill testified that he was removed from his classroom on the second day of school in September 1992 and was sent home without being told why. He was called to a meeting at the Board office at 1:30 p.m. where, after discussion, he believed that he was to return to his classroom the next day but that the Superintendent of Personnel suggested, after the meeting, that Mr. Caswill take a few days off. He said the rumour

mill started when he did not return to class the next day. Mr. Caswill said he did not know which girl made the accusation about the “nice legs” statement but that he had not said those things. He said that he refused to return to the classroom because there was no real investigation so he obtained a doctor’s note to be on sick leave. He told of his transfer to Annabel-Hepworth Central Public School as of January 1993 and told the panel about his experience there between January and June 1993. In particular, he pointed out many times when he was left alone and unattended with difficult students whom he was assigned to help. Mr. Caswill said Mr. Beacock went out of his way to help him and in September he began teaching a Grade six class. Mr. Caswill said that on the first day of school a parent sent a letter to the Board office alleging that he was a homosexual and every few days there was another phone call or letter. He said that in September and October during the barrage of rumours he was monitored by Mr. Beacock, by the Vice Principal and by the Superintendent and that all of them were very supportive. In November was the “firing meeting” and he was terminated.

Mr. Caswill said that with regard to the “lucky stick” or “lucky ruler” comment, it was alleged to have happened during an outdoor education class. He said that he had always avoided touching students or other people. He said that he would never touch a student like that and he did not do so. With regard to the “rape” comments, he said he has no recollection of anything remotely resembling that. Mr. Caswill agreed that he could have made an offhand remark about drinking saliva and he might have made a comment when students were talking inappropriately. He said that he might have said why don’t you two just exchange photos instead. Regarding his inappropriate body

language referred to in one document, Mr. Caswill demonstrated the kind of exaggerated wink he said he had made at a student who was daydreaming and staring off into space. It was done in order to get the students attention. Mr. Caswill agreed that he had difficulty avoiding pitfalls with some students as referred to by Sandy Hills. Mr. Caswill said, that in the classroom, he didn't use sarcasm as a teaching device. If he was sarcastic, it was inadvertent.

The panel also considered the following documents entered as exhibits:

- Exhibit #2: A letter to Mr. Caswill, March 24, 1993, from Paul Cole, Superintendent of Personnel reviewing meetings held with Mr. Caswill between June 1992 and the date of the letter on which day another meeting was to take place with Mr. Caswill, Mr. Beacock, the Vice Principal, a Superintendent and Mr. Cole.
- Exhibit #3: An October 1993 letter to Mr. Martindale, Director, Bruce County Board of Education, from the parent of a student at Annabel-Hepworth Public School about inappropriate and sexist remarks alleged to have been made by Mr. Caswill.
- Exhibit #4: An October 20, 1993 letter from a parent to Mr. Martindale about the "rape" comment.
- Exhibit #5: A March 30, 1989 letter to Mr. Martindale, Director of Education from Mr. Hills regarding destructive criticism of students by Mr. Caswill and Mr.

Caswill's too high expectations for some of his pupils. The letter reports that, although Mr. Caswill still has areas of difficulty, he has made efforts to deal with his problems and has made progress as indicated in his written comments. Mr. Hills indicates at the end of the letter that he will continue to work with Mr. Caswill to assist him in becoming more sensitive in his comments to students.

Exhibit #6: An April 7, 1989 letter to Mr. Hills, from Mr. Martindale with reference to Mr. Hills March 30, 1989 report and requesting a further report by the end of June, 1989, Mr. Martindale points that that failure to resolve this problem completely by December, 1989 will require disciplinary action to be taken. Mr. Martindale end his letter by saying that "It is my hope that Mr. Caswill will respond to this form of supervision since I feel he has the ingredients of a fine teacher."

Exhibit #7: A June 16, 1989 letter to Mr. Martindale from Mr. Hills with a positive report about Mr. Caswill. Mr. Hills wrote that he is "pleased to note the positive approach in place in Mr. Caswill's classroom and share his confidence and enthusiasm that this will continue in Port Elgin."

Exhibit #8: A November 1989 letter to Mr. Caswill from Sandy Hills with positive comments about Mr. Caswill's responses to parental concerns and

reminding him about the importance of considering the effect of verbal comments made to students which may be quoted to parents.

Exhibit #9: A December 6, 1989 description of Mr. Caswill's goals written by himself.

Exhibit #10: A summary of a June 7, 1991 evaluation meeting, written by a Superintendent of The Bruce County Board of Education and addressed to Mr. Caswill.

Exhibit #11: A November 1991 letter to Mr. Caswill from Mr. Hills as a follow-up to a conversation they had on November 13, 1991. The letter deals with methods of discipline and Mr. Caswill's pedagogical standards. The letter refers to difficulties in dealing with parents and offers assistance to Mr. Caswill.

Exhibit #12: An October 1987 report about Mr. Caswill's teaching written by Mr. Hills and marked "First."

Exhibit #13: A report about Mr. Caswill's teaching dated April 1992 and marked "Last".

Exhibit #14: A November 24, 1993 letter to Mr. Caswill, from Mr. Martindale, Director of Education for the Bruce County Board of Education informing Mr.

Caswill that his Permanent Teaching Contract was being terminated effective December 31, 1993 for “conduct incompatible with his duties as a teacher.”

Exhibit #15: A November 17, 1993 letter to Mr. Caswill from Mr. Martindale, Director of Education for the Bruce County Board of Education, with examples of the difficulties around Mr. Caswill’s performance and an offer to accept Mr. Caswill’s letter of resignation not later than Monday, November 25, 1993 in order that Mr. Caswill could “avoid the embarrassment of being terminated with cause in public session...”

Exhibit #16: A copy of the 1998 Minutes of Release and Settlement from an Arbitration between The Bluewater District School Board and the Elementary Teachers Federation of Ontario to which is appended Mr. Caswill’s August 25, 1998 agreement to resign from his employment with the Bluewater Board effective February 1, 1999.

Exhibit #17: The Curriculum Vitae of David A. Wolfe, Ph.D., ABPP.

Exhibit #18: The written Psychological Opinion provided to the Bruce County Board of Education by Dr. Wolfe and referred to above.

Exhibit #19: The opinion of Dr. Paul Dagg regarding the Bruce County Board of

Education and Mr. Caswill, to which is attached Dr. Dagg's Curriculum Vitae.

Exhibit #20: Part of a transcript reported to be from the interview with Mr. Caswill at the Board office on September 1992.

Exhibit #21: A June 1992 letter to Mr. Caswill from the Vice Principal of Port Elgin-Saugeen Central School written at the request of the Supervisory Officer as a follow-up to a meeting with Mr. Caswill held June 22, 1992 and noting that a copy of the report would be kept in Mr. Caswill's file.

Exhibit #22: Copy of minutes of a meeting of September 9, 1992 held to investigate an incident between Mr. Caswill and a student at Port Elgin-Saugeen Central School and also attended by two Superintendents, the school Principal and the President of OPSTF.

Exhibit #23: Two newspaper articles from Owen Sound about what was opined to be Mr. Caswill's unjustifiable firing.

Exhibit #24: A written piece about the dangers of Gossip.

Exhibit #25: A newspaper article entitled "Rumour runs wild" about an incident in Port Elgin where there had been rumours that a student threatened to

bring a gun to a local high school and the effects of the rumour.

FINDINGS OF FACT:

The panel accepts that Mr. Caswill was an unusual teacher in the schools where he taught. Because of his high standards and sometimes inappropriate remarks and/or responses to both students and parents he did receive counselling from his principal in order to help him avoid those kinds of situations.

Mr. Caswill received good reports about his classroom teaching. Sandy Hills, who was Mr. Caswill's Principal at Elderslie Central School and Port Elgin-Saugeen Central School, agreed that he would be happy to have his own children in Mr. Caswill's class and the step child of the Superintendent was also in Mr. Caswill's class.

Mr. Beacock, who was Mr. Caswill's Principal at Annabel-Hepworth Public School, received no complaints about the "worship" in Mr. Caswill's class. Indeed, he said he knew nothing about it.

Students agreed that they had discussed the allegations against Mr. Caswill among themselves. One student talked about Mr. Caswill hitting a student's bottom with a ruler in class but couldn't remember whom the student was.

There is a discrepancy between the words said to have been required during the worship exercise.

There is a time discrepancy between witnesses of up to a month as to when the alleged “rape” comment was made in the class. The evidence suggests that it happened on the first day of school but one parent who said she heard about it a few days or up to a week after it had happened, did not write her letter of complaint until later in October.

Mr. Beacock agreed that he would have no reason to doubt Mr. Caswill’s character and Mr. Hills agreed that he would have put his own children in Mr. Caswill’s class.

There was an investigation by one principal about one of the allegations but appears to have been no real investigation by another principal about another incident alleged to have taken place in one of Mr. Caswill’s classes.

There was no witness to testify to the “ sexy legs” comment although it was alleged to have been made in a gym full of students.

Mr. Caswill contends that he is not guilty of the allegations made in the affidavit but is guilty to causes of the allegations. He agrees that he had very high expectations for his students and described himself as a “ dinosaur regarding educational standards who holds on to expectations from previous decades. “ No one questioned that he challenged his students to reach heights which he agrees may not be possible. He agrees that he is guilty of pushing his students beyond their reach. He said he was unwilling to accept the reality that a grade level separates the students involved in this case from those he

taught in former boards. Mr. Caswill admits to having pushed his students to catch up even though there were severe differences in their backgrounds and motivation although he did say that he respects his rural students for their resilience and perseverance.

Mr. Caswill, by his own admission and as described by one of his principals, is very creative and in some areas where he has taught he believes this is perceived as weird.

Mr. Caswill agreed that he may have been justifiably fired but he insists he did not make the remarks about “rape” or “sexy legs”.

Although Mr. Caswill was alleged to have made inappropriate remarks with sexual content, there were no reports to the Children’s Aid Society as required under the law when children are abused.

REASONS:

The Committee accepts that Mr. Caswill’s remarks about students swallowing their own or his saliva, are distasteful and inappropriate but believes that, in and of themselves, they do not constitute professional misconduct.

The student who made the allegation about the “lucky ruler” comment is unable to provide information about what or who was supposed to have been “tapped” by the

ruler or where and when it happened.

There is no witness to the “sexy legs” comment.

The Committee is unable to conclude with reasonable certainty that the events around the “rape” comment occurred.

The Committee, on the basis of its findings, cannot find that William Caswill is guilty of professional misconduct as charged.

DECISIONS AND ORDERS:

The Committee finds William Caswill not guilty of the allegations as set out in the Notice of Hearing.

**DATED AT TORONTO, THIS 22nd DAY OF DECEMBER, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE**

Solette N. Gelberg, **Chair**

Larry Capstick

Wayne Cornack