

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISION, DECISION AND ORDER**

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

**AND IN THE MATTER OF** discipline proceedings against Michael Thomas O'Reilly.

The Discipline Committee held a hearing on October 29, 2001, November 26-28, 2001, June 17, July 18, August 15 & 16, and December 18-20, 2002.

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**MICHAEL THOMAS O'REILLY  
CERTIFICATE #254984**

**PRESENT:**

Members of the Panel

Dick Malowney (Chair)  
Larry Capstick  
Solette N. Gelberg

The Honourable Patrick T. Galligan, The Honourable Robert Montgomery, Independent Counsel to the Panel

Caroline Zayid, McCarthy Tétrault, Counsel for the Ontario College of Teachers, assisted by Jennifer Robinson, Law Clerk

Bernard Hanson, Cavalluzzo, Hayes, Shilton, McIntyre & Cornish, Counsel for the Member

Michael Thomas O'Reilly

This decision is subject to a publication ban. On October 29, 2001, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the student involved in this matter.

A Notice of Hearing dated June 1, 2001 was served on Michael Thomas O'Reilly, requesting attendance before the Discipline Committee of the Ontario College of Teachers on to set a date for hearing, and specifying the charges. The hearing date was set for October 29, 2001.

It is alleged that Michael Thomas O'Reilly (Michael O'Reilly) 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 failed to comply with the Education Act, Revised Statutes of Ontario, 1990, chapter E. 2 and particularly section 264 (1) (c) thereof or the Regulations made thereunder, contrary to Ontario Regulation 437/97, subsection 1 (15);
- (c) he performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as being disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1 (18); and
- (d) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19); and
- (e) he displayed a lack of knowledge, skill or judgement or disregard for the welfare of a student or students of a nature or extent that demonstrates that the member is unfit to continue to carry out his professional responsibilities or that a certificate held by

the member under this Act should be made subject to terms, conditions or limitations.

The Notice of Hearing states that Michael O'Reilly is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On October 29, 2001, the Discipline Committee of the Ontario College of Teachers commenced a hearing into whether Michael O'Reilly 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 Michael O'Reilly 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 1 (5), (15), (18) and (19). It was also alleged that he displayed a lack of knowledge, skill or judgement or disregard for the welfare of a student or students of a nature or extent that demonstrates that the member is unfit to continue to carry out his professional responsibilities or that a certificate held by the member under this Act should be made subject to terms, conditions or limitations.

Counsel for the College presented evidence that Michael O'Reilly is a member of the Ontario College of Teachers. At all material times, the member was employed by the Durham Catholic District School Board, as a teacher.

Staff Sergeant Naccarato testified that he was advised by Sergeant Tallon, staff patrol officer, about a sexual assault on female [REDACTED]. He then sent a uniformed officer from Bowmanville to Michael O'Reilly's house to interview Michael O'Reilly. Sergeant Naccarato advised Michael O'Reilly by telephone that he would probably be arrested and the arrest took place when the member attended the police station. At that time, a videotaped interview was conducted by Sgt. Naccarato.

Sergeant Naccarato ultimately conducted a videotaped interview with [REDACTED]. A non-verbatim transcript of the [REDACTED] interview was submitted as Exhibit #4 and a videotape of the actual interview was admitted as Exhibit #5. He testified that that he searched Michael O'Reilly's wallet, because [REDACTED] mentioned that she'd written down her name, address and telephone number on a piece of paper from the model home (Exhibit #1) and had given it to the member. He said that a Vi-CLAS report was made out for Michael O'Reilly. He told the panel that, at trial, Michael O'Reilly was acquitted.

[REDACTED] testified that she was working as a model home 'meet and greet' hostess in Oshawa at the time of the alleged sexual assault. She stated that she knew the member as her Parenting Course teacher for one semester prior to her graduation from school in June 1999. She stated that he was her favourite teacher and that she had confided in him

about her personal family situation and felt that they were friends, though she did not know much about his life. She last saw him at the prom.

She testified that on November 22, 1999 he arrived at the model home where she was working alone (Exhibit #8) at approximately 3:30 and stated that he had heard a rumour that she was stripping and that he was concerned about her. She told him that she was not stripping, although she testified to the panel that in fact, in August 1999, she did work as a stripper at the Palace in Pickering and didn't want to admit it to him because it was embarrassing for her. They started chatting about her personal family life but he was "primarily concerned about the stripping." They eventually moved to the couch in the living room of the model home, and were chatting. The telephone rang and the call was from a school friend of [REDACTED]. She told her friend that the member was there and that she would say hi to him for her friend. He told her that he'd gotten in trouble with either the school board or the principal in the past when he went to one of the grad nights with the students, attended a bar with them, and ended up kissing one of the students. She updated him about her personal life, that her parents were divorced and that her mother had moved to [REDACTED]. Earlier on in their conversation, he mentioned he wanted to get together for a coffee and asked for her address and phone number and she wrote that down for him (Exhibit #1). She stated to the Committee that the telephone number on that piece of paper had been disconnected in October of 1999. He attended the model home for about two hours. She took him for a tour. He asked about the security camera that was placed over the front door and wondered if it was set up to catch people stealing. She told him that it was not real, but was a decoy. However, she advised him that she did have a panic button at her office desk in the model home. She

stated that, "He asked me if it bothered me that he was staring at my breasts, and I told him no, not really, because I was used to it. It happened quite a bit." They were sitting on the couch, he asked what time it was, she stated that it was approximately 4:45, he said he was going to get in trouble, and got up to leave. He stopped near the door, kind of finishing up the conversation, he told her to come closer, grabbed her by the arms, started kissing her, staring down her shirt and "he said he would like to stick his cock between those", that he wanted to fuck her and he lifted her shirt and touched her breasts. She told him to stop. She kept saying don't, got upset and started crying. He eventually stopped and left. She said "I don't recall yelling very loud, but I know I raised my voice." She denied responding to him in any positive way and said she was upset, scared and mad. She immediately called her boyfriend from the model home at which time she saw the tail lights of the member's car as it was driving away. She then called her grandmother. [REDACTED] was interviewed by the police at the model home. "I was upset and crying, remember sitting on the couch and asking for my mom." Later, [REDACTED] went to the police station to be interviewed (Exhibit #5).

She stated that while in school, she wrote in Mr. O'Reilly's copy of the yearbook "I know you want me, you don't have to hide your feelings any more, give me a call sometime" and she included a telephone number. During the criminal trial, she was asked if the notation referred to sexual contact and she said yes.

[REDACTED] testified that he was [REDACTED]'s boyfriend, and that she had called him upset and crying. He said that when he and his father arrived at the model home, [REDACTED] was still very upset.

He called the police. He testified that she told him that Michael O'Reilly had arrived in a surprise visit at the model home.

Mrs. [REDACTED] grandmother of [REDACTED], testified that she worked in the sales office of the model home. She said she received a telephone call from [REDACTED] and that [REDACTED] was hysterical and she could not make out what she was saying. [REDACTED] was crying that she was assaulted.

Mrs. [REDACTED] told her she would be right over and she went to the model home. On her arrival, [REDACTED] told her "When he grabbed me, he said dirty, dirty things." She stated, "She was very upset, crying and trembling. She calmed down because I was there." She called [REDACTED]'s mother after taking [REDACTED] home.

Bob Soffie, Durham Regional police officer, testified that he received a call from the police dispatcher about a sexual assault. When he arrived at the model home, [REDACTED] was crying and she was very upset and shaking. He took her back to police station and videotaped her statement about the incident. (Exhibit #7)

Gerry Blake, Superintendent of Education, Durham Catholic District School Board, confirmed [REDACTED]'s previous enrolment as well as Michael O'Reilly's employment at the Board since 1991. He testified that, when the criminal charges became known, Michael O'Reilly was suspended with pay, pending the outcome of those charges. He testified that the member eventually started doing home assignments but has not been returned to the classroom since being found not guilty. He stated that, until the board has received the report from a psychiatrist, the member would not be allowed to return to a classroom.

[REDACTED], student, testified that Michael O'Reilly had been her Grade 11 [REDACTED] teacher in the 1992/93 school year. She stated that she discussed her personal life with him, and babysat for him. On one occasion, when she and two friends went to their former school to see former teachers, they met with Michael O'Reilly and went out for coffee. At the end of the visit, they all decided to meet again. At the second meeting, the member advised her that they were alone because the others were unable to make it. He said some things to her that made her uncomfortable, such as "they [other teachers] used to call you perky and they weren't talking about your smile." He said at the prom that he was chaperoning that year, a female student had become upset, and when he went to comfort her and was hugging her, the smell of her had aroused him. [REDACTED] also testified that she wanted to leave and while Michael O'Reilly was driving her home "he spoke of affairs his wife and he had had with others." She said, "To the best of my memory, he said sex with one woman was 'very hot' and he didn't want to give it up. "

He drove her home and parked in the driveway. She told him her parents were away, and he offered to come in and check the house. She made an excuse that the house was messy. She stated, "I didn't want him in my home". " She said that she told him that she was confused about his intentions and he had replied, "I'm not sure what my intentions are here." At that point, she left the car. Up to that time, she had looked up to him as one of her favourite teachers. She testified, "I pointed out fact that I thought his wife wasn't too fond of me in meeting with me. I questioned that because she put her children in my care. He replied 'men fuck their babysitters all the time'. " She stated that she felt uncomfortable that he appeared to be attracted to her. At a subsequent

baby sitting job at his home, he asked her to stay “for a while” when he returned home, and told her gossip about another teacher having a drinking problem, about teachers going onto the roof of the school during school parties to smoke marijuana and that married teachers would fool around with each other. Eventually he asked her to leave because “his wife would be home shortly.” When she left, he asked her for a hug and “I gave him a quick hug and left.” When she got out to her car, she looked back and said he was staring at her, “leaning against the window pane with his chin on his arms, just staring.” She felt very uncomfortable and never babysat for him again. Under examination-in-chief, [REDACTED] testified that she reported the incident to the police after finding out about the criminal charges against him since she had a niece in the Catholic system, and she felt that that she didn’t want him teaching her. After the incident outside her home, she said he called her from home and school for a period of time.

Sgt. Jeff Hewitt, Detective with Durham Regional Police testified about the use of Violent Crime Linkage Analysis Systems (ViCLAS Reports). He said that he could provide no explanation for a description of Michael O’Reilly as having a goatee.

Witness [REDACTED], former student at Leo J. Austin Catholic Secondary School, testified that Michael O’Reilly was her Grade 11 [REDACTED] teacher. She stated that, after the media coverage about Michael O’Reilly, she spoke with [REDACTED], who then told her about the conversation she’d had with Michael O’Reilly when he said, “most men fuck their babysitters.”

[REDACTED], a former student at Leo J. Austin, stated that she and [REDACTED] were good friends in her last year of high school and kept in some contact after graduation until [REDACTED] told her in

April, 2000 that [REDACTED]'s boyfriend did not want them associating, and that that had upset [REDACTED]

Michael O'Reilly testified on his own behalf. He stated that his conversations with [REDACTED] were generally around school life and her family life. She discussed that her parents had separated, that her father had moved [REDACTED] and that her mother was moving [REDACTED] as well. He had follow-up contact with her in the hallway and would sometimes stop and chat about current events. Such meeting was mutual in that matters of a personal nature were discussed. He characterized his relationship with [REDACTED] as a very good teacher/student relationship. He recalled that she wrote into the school yearbook in the fall of 1996, "yes, I know you want me. I've known it all semester. You don't have to hide your feelings any more. Give me a call." He stated that she had written down her phone number. When he asked her about it as she was leaving the classroom and she said she was just kidding around, he told her that wasn't something that she should be writing. After [REDACTED] graduated, he received information from another student that she was working as a stripper. Since he was concerned about her, he went to the club where she was supposed to be stripping, but he did not see [REDACTED]. He made enquiries about whether she was employed there and talked briefly with a server who was there. Having been advised by a friend of [REDACTED] that she was working at [REDACTED], he went there on November 22, 1999. He admitted that he had made a "huge error" in not contacting [REDACTED] at the model home prior to going there. He stated that he arrived at the model home at approximately 2:30 and left at approximately 5:30. He stated that [REDACTED] invited him into the model home. He told her that he was concerned about her stripping and wanted to drop by to see that she was okay. She stated she was fine, but although she had thought

about the stripping, she had not done it. They spoke briefly about school and she received a telephone call from another student. She gave him a tour of the model home. He noticed a video camera near the door and stated that he assumed the camera was operating. They sat chatting on the living room couch for approximately 1½ hours. Eventually, he told [REDACTED] that he was already late and had to leave. He stated that she gave him a torn piece of paper with an address and telephone number on it (Exhibit #1), though he denied requesting it. He said that as he was picking up his shoes to put them on, she went into another area, then appeared in the doorway of the kitchen naked from the waist up and said, "see, you just never know", to which he replied, "spectacular." He then apologized for quoting a line from Seinfeld. He stated that he then left the model home and that he did not touch [REDACTED]. He stated that while sitting on the couch, he told [REDACTED] about an incident when a former student who he had met in a bar in Whitby, approached and kissed him and that within two days, that story was around the school. He denied asking [REDACTED] if she minded if he looked at her breasts and denied that she had cried or screamed at any time.

Michael O'Reilly stated that [REDACTED] was a student in his [REDACTED] course, and that he had used her as a babysitter some time in 1992.

He stated that one day, after school, [REDACTED] and three other students came by his class to see him and that he and those students continued their conversation at a coffee shop down the street. They discussed meeting at another time and talked about going out for a beer. He drove [REDACTED] home that night. They spoke about meeting for a drink the following week. He stated that there was no further contact with her until he went to

pick her up at her parent's house the following Friday at 7 or 8pm. He stated that he believed there was a misunderstanding about who was going to contact the other two students, and that they were alone. They went to a bar for a drink and conversation. At that time, he made the comment about one of his colleagues referring to her as "perky". He denied saying that the comment was not in regard to her personality or to her smile. He stated that he did say that his wife could be jealous sometimes. He admitted telling her "men fuck their babysitters all the time" and stated that he told her that because he believed it to be true. He stated that he did not mean to indicate any sexual interest in her. He stated that he told her that teenage relationships could be difficult. He testified that he told her that, at the end of the prom, when he saw a student having quite a serious argument with her boyfriend, he went to see if she was all right. As he approached her, she turned around and sobbed, with her head on his shoulder. He denied saying that he was aroused by the girl, or that he was aroused by the smell of the girl. He denied any reference about another woman with whom he'd had sex, or that he told [REDACTED] that sex was "hot" or made any indication about having sex outside of his marriage. He stated that he drove her directly home, where they chatted in the driveway. She told him she was nervous as her parents were away and she was in an empty house. He denied that he indicated any type of sexual interest in [REDACTED]. He denied [REDACTED] asking him anything about his intentions at that time. He stated that he had further contact with [REDACTED] on several occasions during that summer, when she dropped by the school, when she did some babysitting for him and once, when he ran into her at a bar. He denied ever asking [REDACTED] out but said that there was discussion about attending a play. When he called her to babysit on one occasion, he told her that a school play was being

held, that she should come out and see it, and that if she went, they could “chat” afterwards. He never saw her after the play.

He denied telling [REDACTED] that he spoke to Mrs. Perch, a colleague at the school, about her. He denied that he told [REDACTED] that he had advised Mrs. Perch that he had feelings for [REDACTED]. He stated that he told [REDACTED] that he really relied on Ms Perch as someone with whom he could talk about things.

He testified that on one occasion, he asked [REDACTED] if she could babysit for him and if she would lend him her father’s car, which she did. He said they always chatted, as that was the type of relationship they had. He denied that he brought up that one of the teachers was an alcoholic, and stated that [REDACTED] brought up that issue. That was the last occasion that [REDACTED] babysat for the member, though he saw her again when she and another student, [REDACTED], visited him at the school.

Steven Scullion, Michael O’Reilly’s brother-in-law, corroborated an incident where the member met a former student in a bar and they exchanged brief conversation.

Michael O’Reilly testified that he did not think [REDACTED] had a sexual interest in him, and that he felt he had a good relationship with [REDACTED]. He admitted hugging the upset student at the prom. He denied asking [REDACTED] to go to the school play with him, and said that he felt she was nervous about going into her parent’s house when they were not home. He stated that he was just trying to be helpful. He stated that his impression of [REDACTED] taking off her top was to make a joke and to show him that he had misjudged her personality.

He stated that he went to the strip club, not to observe [REDACTED] stripping, but to see if she was okay. When the member stated that he usually referred students to Catholic Family Services but did not in this case, College counsel stated that if he was concerned about [REDACTED], he could have contacted her grandmother rather than going to the strip club, and he agreed. He agreed that what he did was stupid.

Mrs. O'Reilly, the former spouse of Michael O'Reilly, testified that at the time of the incident in question, November 22, 1999, the O'Reillys were married and residing together. She testified that Michael O'Reilly returned home later than expected. She said that she left at 6:30 and returned around 9 o'clock. . Michael O'Reilly had advised her that something had happened earlier that day. Earlier that day, he had given her some vague details about the incident, which led to him being contacted by the police around 9 p.m. She said that based on what he told her later that evening, she was surprised that he was charged criminally. She indicated that Michael O'Reilly and she spoke about students regularly and that is how she came to know, before November 22, about [REDACTED]

The Panel received submissions on the admissibility of similar fact evidence. The Panel agreed to hear such evidence and as a result testimony was received from [REDACTED].

[REDACTED] testified that she had been in a relationship with Michael O'Reilly. She said that he told her, during a discussion about relationships with people of different ages, that when he was kissing [REDACTED] and had his hand up her shirt on her breast, their ages didn't matter. She said, also, that a few days later he expressed, in relation to the alleged

incident with [REDACTED], his disbelief at the hassle he was going through for something he did not do. Ms [REDACTED] indicated that, while Michael O'Reilly did not deny that he made these statements, he became upset and refused to discuss the matter.

Ms [REDACTED] testified that there was an altercation during a meeting with Mr. O'Reilly at a local restaurant that resulted in her going to a women's shelter and calling Mrs. O'Reilly to ask for assistance. Mrs. O'Reilly advised her that Michael O'Reilly had made video and audiotapes of intimate acts between himself and Ms [REDACTED] without Ms [REDACTED]'s knowledge. Upon learning of this, Ms [REDACTED] went by taxi to Mr. O'Reilly's residence to demand that any tapes be given to her. Michael O'Reilly denied having any tapes. When Ms [REDACTED] returned to the taxi, he followed her to continue their discussion.

The taxi driver, later identified as a Mr. Mattice, testified that he overheard the conversation between Ms [REDACTED] who was inside his taxi and Mr. O'Reilly who was at the taxi window. Mr. Mattice indicated that Michael O'Reilly denied having any videotapes but in the next sentence alluded to their existence. He testified to the intensity of the conversation he overheard and that when he drove away, his passenger, Ms [REDACTED] appeared to be upset.

Madeleine Rudkins, a friend of the O'Reilly family, who was also familiar with Ms [REDACTED], testified that Ms [REDACTED] told her that "she would make up stuff about Mike" and that she had been to one of the College's hearings and would know what to say.

Susan O'Reilly Walker, sister of Mr. O'Reilly, testified that Ms [REDACTED] told her that she was going to ruin Michael O'Reilly's life by calling the College of Teachers to tell them that Michael O'Reilly lied about what happened with [REDACTED]

[REDACTED]'s relationship with Michael O'Reilly ended on an acrimonious note involving the police.

### **FINDINGS OF FACT:**

The panel finds the following facts:

- (1) Mr. O'Reilly is a member of the Ontario College of Teachers and was at all times material to this matter, employed by the Durham Catholic District School Board at Father Leo J. Austin Catholic Secondary School in the city of Whitby, Ontario.
- (2) During the 1996-97 academic year, [REDACTED], who was born [REDACTED], was a [REDACTED], female student, at the school and was enrolled in Mr. O'Reilly's Parenting class. Mr. O'Reilly was her favourite teacher.
- (3) [REDACTED] talked to Mr. O'Reilly both in and out of class about her personal life. She viewed Mr. O'Reilly as someone who appeared to be concerned about her welfare. At no time, did she ever have any dispute, conflict or problem with Mr. O'Reilly.
- (4) The evidence presented indicated that the relationship between [REDACTED] and her teacher, Mr. O'Reilly was a proper one.

- (5) During her time as a student, [REDACTED] wrote in the school year book. This note read, "I know you want me. I've known it all semester. You don't have to hide your feelings anymore. Give me a call." She also noted her telephone number.
- (6) [REDACTED] finished high school June 1999.
- (7) [REDACTED] worked as a stripper on three occasions in August 1999. She told no one about this activity.
- (8) November 22, 1999, [REDACTED] was working at her job in the model suite at [REDACTED]. Her job was to welcome visitors to the model home, to show them around, and to answer any questions they may have. She was alone in the model suite.
- (9) At approximately 3:30 p.m., November 22, 1999, Mr. O'Reilly attended at the model home. [REDACTED] had no advance warning respecting his visit. He said he came by because he was concerned about her since he had heard that she had been stripping and he wanted to check that she was okay.
- (10) Toward the beginning of the visit, [REDACTED] received a telephone call from [REDACTED], another former student of Mr. O'Reilly. [REDACTED] was advised of Mr. O'Reilly's presence and they exchanged greetings.
- (11) Following the telephone conversation, Mr. O'Reilly told [REDACTED] she could contact him if she needed to talk. She provided him with a telephone number and address.
- (12) During the approximately two hours that Mr. O'Reilly was present in the furnished model home, they toured both floors of the home and then spent considerable time talking in the living room where they both sat on the same couch.

- (13) Around 5:30, Mr. O'Reilly left. [REDACTED] contends that before leaving, Mr. O'Reilly pulled her close, kissed her, touched her breast and made inappropriate sexual comments. Mr. O'Reilly testified that as he was leaving, [REDACTED] left the hallway and then returned to appear in the doorway of the kitchen, naked from the waist up, and said "see, you just never know" to which he replied "spectacular."
- (14) [REDACTED] called her boyfriend, [REDACTED], who said he would be right over. She then phoned her grandmother and while on the phone, [REDACTED] arrived. He told [REDACTED] to end the call so that he could call the police, which he did.
- (15) [REDACTED]'s grandmother, Mrs. [REDACTED], arrived at the model home from her job at the nearby [REDACTED] sales office to find [REDACTED] crying and shaking.
- (16) P.C. Soffie of the Durham Regional Police arrived at the model home at 6:08 p.m. He testified that [REDACTED] was upset and shaking and that her grandmother was hugging her.
- (17) More than one witness gave similar fact evidence that was contradictory and their evidence did not contribute to the determination as to their credibility.
- (18) [REDACTED] who was Mr. O'Reilly's student in [REDACTED], babysat for the O'Reilly's. She testified that Mr. O'Reilly gossiped about other teachers and some students. On one occasion, Mr. O'Reilly told her that his wife might be jealous. He said that women don't trust baby sitters because "men fuck their baby sitters all the time." Mr. O'Reilly agreed that the use of profanity was something he shouldn't have done.

## REASONS

The charges arising out of [■]'s allegations against Mr. O'Reilly were heard before the Honourable Justice Tallon in 2000 resulting in Mr. O'Reilly's acquittal of the charges of sexual assault. In his opening statement at the Discipline Hearing, Mr. Hanson indicated that the Honourable Justice Tallon found that both [■] and Mr. O'Reilly were credible witnesses. Mr. Justice Tallon's decision was based on the finding that there was reasonable doubt and therefore Michael O'Reilly was acquitted.

The Discipline Panel, at the conclusion of the hearing, found itself in exactly the same predicament as was Mr. Justice Tallon.

In this case against Mr. O'Reilly, the nature of the facts to be proved is quasi-criminal and the consequences of a finding of guilt would result in a suspension or loss of Mr. O'Reilly's certificate of qualification. The panel is mindful of independent counsel's advice with regard to case law (Bernstein et al 1977), that the panel is required to dismiss the complaint if it is of the view that the charges have not been proven by clear, cogent and convincing evidence.

The panel, on the basis of its findings, is satisfied that the case has not been made that Michael O'Reilly is guilty of professional misconduct as charged. Accordingly, the charge is dismissed.

**DECISIONS AND ORDERS:**

The Committee finds Michael O'Reilly not guilty of the allegations as set out in the Notice of Hearing.

**Notice**

Pursuant to section 30(8) of the Ontario College of Teachers Act, the Committee orders that the finding that the allegations of professional misconduct are unfounded be published in the official publication of the College, but only at the request of Michael O'Reilly, the member against whom the allegations were made.

**DATED AT TORONTO, THIS 3rd DAY OF MARCH 2003  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Dick Malowney, **Chair**

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Larry M. Capstick

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Solette N. Gelberg