

Furthermore, professional standards must include providing a proper service to schools and school boards. If this were not so, school boards would necessarily be less sure of the good services of the teachers whom they employ. Professional ideals draw into themselves some consideration, at least, of the roles of employer and employee and hence the idea of employee misconduct.

*Teachers in Trouble: An Exploration of the Normative Character of Teaching* is an attractively presented book. In addition to its well-structured Chapters and thought-provoking content, it includes a series of appendices which cover a methodological note, the statutory background for Boards of Reference of equivalent tribunals in the several Canadian provinces, a statistical summary relating to aspects of Boards of Reference hearings in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario since the 1970s, and a list of cases cited. There is also a useful Bibliography and an Index. This is a book of which considerable, effective use could be made in Australia and New Zealand as a reference for the teaching of ethical and legal issues in the pre-service education of teachers, and in post-graduate teacher education. It is also a study which might well inspire research into similar legal and professional issues in teacher discipline in the several Australian jurisdictions and in New Zealand, and as such it should be of significant interest to researchers in the fields of educational law and educational administration.

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**Education Law - Second Edition**

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This Second Edition of *Education Law* provides a comprehensive account of the current state of the law relating to education in Canada. As such it provides a useful comparative reference for students and researchers in the field of Australian and New Zealand law and education and for students and researchers in the field of educational administration. For the former group it provides a clearly structured analytical overview of the major aspects of Canadian education law, and the latter group it provides an accessible entry to an accurate understanding of the legal implications of various aspects of the organisation and operation of Canadian education systems.

There are six chapters. The first Chapter deals with School Boards, and covers the provincial jurisdiction over education, including denominational rights, minority language

education rights and Aboriginal education, and the exercise of provincial power over education. Chapter One 'discusses the complex constitutional and statutory framework that governs and directs the delivery of public education generally, with specific reference to Ontario' (p 53). It deals in some detail with the exercise of delegated power by school boards, the issues of procedural fairness and natural justice, public access to board meetings, conflict of interest for board members, access to information, including the operation of Freedom of Information legislation and copyright legislation, the powers of a school board in relation to its property, the election and procedures of boards, and the personal liability of board members. For Australian and New Zealand readers, consideration of the differences and similarities in school governance and the role of school councils in Australia, and of school boards of trustees in New Zealand, is instructive. The discussion of both denominational rights (at pp 3-11) and the legal position of private schools in Ontario (at pp 50-53) is useful for Antipodean readers in that it highlights the need to be aware that there are considerable differences between the position of 'denominational schools' and 'private schools' in the Canadian provincial systems and the non-government schools in the Australian State and Territory education systems and in New Zealand.

Chapter Two deals with the Civil Liability of Schools Boards and Their Employees, and canvasses relevant Canadian decisions relating to negligence, the operation of statutory limitation periods, occupiers' liability, and certain intentional torts such as assault and battery. Much of this is familiar territory to the reader in Australia and New Zealand, and the commentary on School Negligence (at pp 86-88) is a useful discussion of relevant issues, but it should be noted that the Canadian courts do rely upon the standard of the prudent parent in *Williams v Eady* (1893) 10 TLR 41 (CA), a standard with which the Australian High Court expressed some dissatisfaction in *Geyer v Downs* (1977) 138 CLR 91 (*per* Murphy and Aickin JJ at 102). As far as educational malpractice is concerned the authors clearly state that there is 'as yet, no definitive decision by a Canadian appellate court on education malpractice' (at p 103), but warn that it 'will become increasingly difficult for courts to distinguish between educational malpractice and those torts which presently have judicial recognition', (at p 107). This Chapter concludes with a useful discussion of risk management, an area of considerable interest to Australian and New Zealand educators and administrators.

Chapter Three deals comprehensively with the relationship between the school and the family, and covers the issues of parental duty, corporal punishment, freedom of religion, that is religious observance in public schools, child abuse including the educator's duty to report, confidentiality in school communications, the administration of medication, and the rights of access parents under Ontario law. Chapter Four deals with Pupils and the Law, that is with compulsory attendance, suspension and expulsion, parental influence and control, school searches of pupils, including drug testing, school violence, due process, freedom of speech, dress codes, AIDS, the application of provisions of the Ontario *Young Offenders Act*, and the confidentiality of student records. Although much of the discussion of these issues in Chapter Four refers to decisions of the United States' courts, and is related to constitutional rights in both Canada and the United States, the scope and range of the discussion is of interest in the Australian and New Zealand contexts. Similarly the content of Chapter Five, which deals with Special Education, is essentially a comparative analysis of legislative frameworks in place in Ontario and in the USA,

but again the scope and range of the discussion of the legal principles provides valuable insights for the reflective antipodean reader.

Chapter Six provides another wide-ranging survey of issues relating to the regulatory framework governing the work of teachers. Issues such as freedom of expressions, the sexual exploitation of students, sexual harassment, addiction, medical testing, the requirement in the *Canadian Charter of Rights and Freedoms* that 'arbitrators must interpret collective agreements and employment relationships in accordance with the value system imposed by the *Charter*' (at p 257), the role of the concept of 'denominational cause' in issues dealing with teachers' lifestyle issues, the role of the Ontario College of Teachers, established by the *Ontario College of Teachers Act 1996* which deals with the qualification and registration of teachers, are described and discussed with regard to the relevant legislation and cas law. This Chapter includes discussion of what can constitute teacher incompetence, the role of the principal in teacher dismissals, and the evaluation of teachers, and again, although the regulatory framework is not identical with those which apply in Australian jurisdictions, consideration of the principles discussed is instructive for Australian and New Zealand educators. There are salutary messages in the last two sections of this Chapter. One section deals with the concept of negligent hiring, which the authors explain 'is well-developed in the United States, while in Canada, we are slowly seeing courts assigning blame to employers who have failed to ensure that their employees are able to perform in their new positions' (at p 302). The second section notes the tort of wrongful reference, recognised in the United Kingdom by the House of Lords in *Spring v Guardian Assurance PLC* [1994] 3 All ER 129, 16 CCEL (2d) 147 where, the authors explain, at p 304, it was held that employers now have a duty of care when giving a reference for former employee. The possibility that either one or both of these developments could arise, in the future, in relation to the employment of teachers, including beginning teachers, in Australia and New Zealand, gives food for thought for educators and administrators in those jurisdictions.

*Education Law - Second Edition* is attractively presented in hardcover, and includes a Table of Cases, an Appendix which includes the *Canadian Charter of Rights and Freedoms*, and a useful Bibliography and Index. The Preface to the Second Edition notes the legislative changes and key decisions which have occurred in several Canadian jurisdictions since the publication of the first edition three years ago. The fact of change in the regulatory framework of education resonates with the Australian reader, as do the authors' comments that education law 'continues to grow as an important and interesting field', that the perplexing issues in this field 'will not completely disappear', and that educators and lawyers and other professionals involved in education 'must constantly strive to resolve them'. *Education Law* should certainly achieve the authors' hope that it will contribute to that process.

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