

REPORT OF THE DISCIPLINE COMMITTEE

IN THE MATTER OF a charge of unprofessional  
conduct against Arvid Jack Gilberg

The Discipline Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Arvid Jack Gilberg of [Location Redacted] were duly investigated in accordance with the Teaching Profession Act (RSA 1980, Chapter T-3) and the Discipline Bylaws of the said Association. The hearing was held in the Canadian Western Centre (Phase 2), Room 505, 919 11 Ave SW, Calgary, Alberta, Canada on Thursday, December 10, 1992 and commenced at 0900 hours. Discipline Committee members present were:

[REDACTED]  
presented the case against the accused, A J Gilberg. The accused was present but not represented by counsel. The accused was assisted by [REDACTED]. There being no objection to the composition of the Committee and no question of its jurisdiction to hear the case, the hearing proceeded.

A plea of "not guilty" to the following charges was entered by the accused.

1. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 30th day of July, 1991, at or near [Location Redacted], did unlawfully have in his possession a weapon, to wit: A sawed-off Remington 12 gauge shotgun or imitation thereof, for a purpose dangerous to the public peace, contrary to Section 87 of the Criminal Code of Canada.

2. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 30th day of July, 1991, at or near [Location Redacted], did unlawfully have in his possession a prohibited weapon, to wit: A Remington 12 gauge shotgun cut down to a banned length of less than 18 inches, contrary to Section 90(1) of the Criminal Code of Canada.

3. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers'

Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 29th day of July, 1991, at or near [Location Redacted], did have in his possession a prohibited weapon, to wit: A 12 gauge shotgun, serial number S6086460, contrary to Section 91(1) of the Criminal Code of Canada.

4. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 30th day of July, 1991, at or near [Location Redacted], did have in his possession property to wit: Fossils, of a value exceeding one thousand dollars knowing that all of the property was obtained by the commission in Canada of an offense punishable by indictment, contrary to Section 354(1) of the Criminal Code of Canada.

5. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 2nd day of August, 1991, at or near [Location Redacted], did have in his possession property to wit: A New Holland Model 479 Haybine, serial [REDACTED] of a value exceeding one thousand dollars knowing that all the property was obtained by the commission in Canada of an offense punishable by indictment, contrary to Section 354(1) of the Criminal Code of Canada.

6. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 2nd day of August, 1991, at or near [Location Redacted], did have in his possession property to wit: A New Holland Model 1037 Stack Liner, of a value exceeding one thousand dollars knowing that all the property was obtained by the commission in

Canada of an offense punishable by indictment, contrary to Section 354(1) of the Criminal Code of Canada.

7. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 29th day of July, 1991, at or near [Location Redacted], did have in his possession property to wit: Cattle, the property of [REDACTED], of a value exceeding one thousand dollars knowing that all the property was obtained directly by the commission in Canada of an offense punishable by indictment, contrary to Section 354 of the Criminal Code of Canada.

8. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 15th day of August, 1991, at or near [Location Redacted], did have in his possession two (2) cows, of a value exceeding one thousand dollars, the property of [Name Redacted], knowing that all the property was obtained directly by the commission in Canada of an offense punishable by indictment, contrary to Section 355(A) of the Criminal Code of Canada.

9. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 2nd day of August, 1991, at or near [Location Redacted], did have in his possession four (4) cows, of a value exceeding one thousand dollars, the property of [Name Redacted], knowing that all the property was obtained by the commission in Canada of an offense punishable by indictment, contrary to Section 354 of the Criminal Code of Canada.

10. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province

[Location Redacted], was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 3rd day of September, 1991, at or near [Location Redacted], did unlawfully have in his possession quilts of a value exceeding one thousand dollars, the property of The Station, knowing that said property was obtained by or derived directly or indirectly from the commission in Canada of an offense punishable by indictment, contrary to Section 355(A) of the Criminal Code of Canada.

11. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 19th day of August, 1991, at or near [Location Redacted], did unlawfully have in his possession portable corrals of a value exceeding one thousand dollars, the property of [Name Redacted], knowing that said property was obtained by or derived directly or indirectly from the commission in Canada of an offense punishable by indictment, contrary to Section 355(A) of the Criminal Code of Canada.

12. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 3rd day of September, 1991, at or near [Location Redacted], did unlawfully have in his possession art work and pottery of a value exceeding one thousand dollars, the property of Buffalo Jump Arts and Crafts, knowing that said property was obtained by or derived directly or indirectly from the commission in Canada of an offense punishable by indictment, contrary to Section 355(A) of the Criminal Code of Canada.

13. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 5th day of November, A.D., 1991, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 3rd day of September, 1991, at or near [Location Redacted], did unlawfully have in his possession insulation of a value exceeding one thousand dollars, the property of [Name Redacted], knowing

that said property was obtained by or derived directly or indirectly from the commission in Canada of an offense punishable by indictment, contrary to Section 355(A) of the Criminal Code of Canada.

14. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 2nd day of April, A.D., 1992, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 7th day of July, 1991, at or near [Location Redacted], did break and enter a certain place, to wit: A dwelling house located near [Location Redacted], and occupied by a person whose name cannot be published by virtue of a ban under Section 486(3) (hereinafter referred to as Person A), and did commit an indictable offense therein, to wit: An assault on Person A contrary to Section 348(1)(B) of the Criminal Code of Canada.

15. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, on the 2nd day of April, A.D., 1992, at or about the [Location Redacted], in the Province of Alberta, was convicted of an offense under Part XIX of the Criminal Code to wit: He on or about the 30th day of July, 1991, at or near [Location Redacted], did break and enter a certain place, to wit: A dwelling house located near [Location Redacted], and occupied by Person A, and did commit an indictable offense therein, to wit: A sexual assault on Person A contrary to Section 348(1)(B) of the Criminal Code of Canada.

16. Arvid Jack Gilberg is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he, while a member of The Alberta Teachers' Association, breached the Code of Professional Conduct of The Alberta Teachers' Association, in that he on the 5th day of November, 1991, was convicted of thirteen indictable offenses under Part XIX of the Criminal Code of Canada, and that he, on the 2nd day of April, A.D., 1992, was convicted on one charge of assault and one charge of sexual assault, under Part XIX, Section 348(1)(B) of the Criminal Code of Canada.

Witnesses

No witnesses were called by either the prosecution or the defense during the guilt/innocence phase of the hearing. A J Gilberg testified on his own behalf during the penalty phase.

Evidence Adduced and Exhibits Filed Indicated That:

1. A J Gilberg was a member of The Alberta Teachers' Association and employed as a teacher with the [REDACTED] School Division [REDACTED] from 1982 08 30 to 1992 02 05. (Exhibit 5)
2. A J Gilberg was convicted of three weapons offences on 1991 11 05. (Exhibits 6-8)
3. On 1991 11 05 A J Gilberg was convicted on each of ten charges of possession of property of a value exceeding \$1,000 obtained by the commission of an offence punishable by indictment. (Exhibits 9-18)
4. On 1992 04 02 A J Gilberg was convicted of breaking and entering a place and committing an indictable offence therein, namely assault. (Exhibit 19)
5. On 1992 04 02 A J Gilberg was convicted of breaking and entering a place and committing an indictable offence therein, namely sexual assault. (Exhibit 20)
6. A J Gilberg plead guilty in Provincial Court to the weapons and possession charges but plead not guilty to the two assault charges.
7. A J Gilberg testified that at the time of the offences he was in a state of severe [REDACTED] to the point of being [REDACTED]
8. A J Gilberg considered his criminal activities to be caused by his [REDACTED]
9. A J Gilberg was an enthusiastic and competent [REDACTED] teacher in the [REDACTED] Division [REDACTED] (Exhibit 21)
10. A J Gilberg entered favorable character references as evidence. (Exhibit 21)
11. A J Gilberg testified that at the time of the hearing he was living in a [REDACTED] sessions at [REDACTED]

Decision of the Discipline Committee:

Charge 1 -- Guilty  
Charge 2 -- Guilty  
Charge 3 -- Not Guilty  
Charge 4 -- Guilty  
Charge 5 -- Guilty  
Charge 6 -- Guilty  
Charge 7 -- Guilty  
Charge 8 -- Guilty  
Charge 9 -- Guilty  
Charge 10 -- Guilty  
Charge 11 -- Guilty  
Charge 12 -- Guilty  
Charge 13 -- Guilty  
Charge 14 -- Guilty  
Charge 15 -- Guilty  
Charge 16 -- Dismissed

Reasons for Decision:

1. Regarding Charge 1 and Charges 4 through 15 inclusive: A J Gilberg was convicted in Provincial Court of indictable criminal offences.
2. Regarding Charges 2 and 3: A J Gilberg was convicted of criminal offences. Due to the length of penalty (six months), the committee was unable to determine whether these were summary or indictable convictions.
3. The Discipline Committee found no legitimate reason why a teacher would illegally be in possession of a prohibited weapon, namely, a sawed-off shotgun. Thus the committee found A J Gilberg guilty of unprofessional conduct in Charge 2.
4. Despite the wording in Charge 3, the offence covered by Section 91(1) of the Criminal Code of which A J Gilberg was convicted is possession of an unregistered, restricted weapon, not of possession of a prohibited weapon. The committee was not convinced that this offence, in itself, necessarily constituted unprofessional conduct.
5. Charge 16 specified that A J Gilberg had been convicted of 13 indictable offences. Doubt existed as to whether two of them were, indeed, proceeded with by way of indictment. Further, A J Gilberg was convicted under Section 348(1)(B) of breaking and entering a place and committing an indictable offence therein. As stated, Charge 16 alleges convictions for other offences. For these reasons the charge was dismissed.

Recommended Penalty:

For each of the charges for which there is a finding of guilt, the Discipline Committee recommends to Provincial Executive Council:

That A J Gilberg's membership in The Alberta Teachers' Association be suspended for a period of three years; and

That a recommendation be made to the Minister of Education that A J Gilberg's teaching certificate be suspended for a period of three years; and

That the suspensions of membership in The Alberta Teachers' Association be concurrent and that a recommendation be made to the Minister of Education that the suspensions of teaching certificate be concurrent.

That two and one half years after the effective date of suspension of membership in The Alberta Teachers' Association, application for reinstatement of membership in The Alberta Teachers' Association may be made by A J Gilberg on the following conditions:

- (a) That A J Gilberg provide proof of no further criminal convictions resulting from activities subsequent to the date of this report;
- (b) That A J Gilberg provide a statement from a qualified practitioner indicating the nature and extent of any personal, psychological and/or psychiatric treatment that he has received;
- (c) That A J Gilberg provide a current psychiatric assessment which includes a statement regarding his ability to return to the teaching profession.

This required documentation is to be submitted to the Discipline Committee. If the evidence provided is deemed satisfactory by the Discipline Committee, A J Gilberg would be eligible for reinstatement as a member of The Alberta Teachers' Association upon the expiry of the three year suspension. A recommendation would then be made to the Minister of Education that A J Gilberg's teaching certificate be reinstated upon the expiry of the three year suspension.

Reasons for Recommended Penalty:

1. A J Gilberg was convicted of a minimum of 13 indictable offences. The sheer number and nature of these offences

constitute a grave departure from the conduct that society has a right to expect of teachers.

2. A J Gilberg expressed shame and remorse for the effect his behavior had on his school and community.

3. A J Gilberg was suffering from [REDACTED] which apparently contributed to his criminal behavior.

4. A J Gilberg has acquired numerous support systems including group counselling. He indicated that he has made considerable progress and has come to terms with many of his problems.

DATED at the City of Edmonton in the Province of Alberta,  
Saturday, December 12, 1992.

THE DISCIPLINE COMMITTEE  
THE ALBERTA TEACHERS' ASSOCIATION

