

**Truscott, D. & Crook, K. (2016). *Ethics and Law for Teachers (2nd Edition)*. Toronto, ON: Nelson Education. Pages: 202. ISBN: 9780176590314 (hardcover/paperback/e-book)**

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Goldwin Smith, who as a distinguished 19<sup>th</sup> century intellectual reviewed hundreds of textbooks for Ontario schools over a long career (Phillips, 2002), once compared the reviewer's task to a rural boy's weekend sport of shooting frogs at a nearby slough. It is relatively easy to aim and knock an immobile creature off a lily pad with rubber slingshot and stone. My aim here is not to target the frog, but rather to describe one or two lily pads of assumptions that undergird undergraduate teacher programs in faculties of education across Canada. Presumptions must be made about what the prospective teacher needs to know or be able to do before they enter a K-12 classroom pond as a professional. Truscott and Crook's 2016 textbook re-edition, *Ethics and Law for Teachers*, no less than any other textbook, is based on several suppositions about teacher preparation that deserve consideration.

Dr. Truscott makes some of these premises clear in the preface where he describes the genesis for the original edition and the evolving aims for the second. He and his late co-author were originally motivated by a desire to write about both ethical and legal expectations on teachers. However, following a pan-Canadian review of programs, Truscott concluded there were two divergent pedagogies for teaching ethics and law to teachers-in-training—one exploring societal expectations on teachers, the other focusing on professional issues that promote self-reflection. Critics had disparaged the former approach in the authors' initial edition as “too prescriptive” (p.xi) and as detracting from “reflective learning” (p.xi). That critique and his own review of professional training in collateral fields including medicine and law have led Truscott to emphasize the latter in this re-edition. Introspective approaches seemed a better antidote to “ethical deterioration” (p. xi) and excessively “rule-bound” (p. xi) instruction, Truscott explains, although neither claim is supported with evidence or citations.

Thus, Dr. Truscott emphasizes self-reflection in his significantly revised textbook. In this rewrite, he stresses the “powerful (yet irrational) role of intuitive processes and social forces” (p. xi) in professional decision-making to counter a tendency toward “the limited (but important) role of reason and facts” (p. xi). In this way, Truscott as a psychologist-colleague here at the University of Alberta, faithfully reiterates a bromide in current cognitive psychology, behavioural economics, and perhaps literary mythology—that there are two contradictory forces in the soul of any adult learner to which one must appeal. Notwithstanding the criticism of such dual process assumptions (Evans, 2008) and more practical, ecological alternatives (Gigerenzer, 2010) in cognitive science, Truscott's textbook seeks to appease the contradictions of snap judgement and careful ethical reasoning within the undergraduate psyche.

Appeasement is sought in cultivating reflective habits. The book's central nostrum is that “reflective practice entails a type of ‘self-research’ for fostering greater awareness of our ethical intuitions” (p.19). Thankfully, the authors go well beyond defining intuition as gut instinct or as an ineffable spiritual antenna to recognize the role of personally-developed beliefs and feelings that so often shape instantaneous choice. In that sense, the textbook closely follows upon J. Haidt (2001) and many others who argue less cogently that we all are emotional

dogs with a rational tail that wags only after a moral bone is thrown. This approach to ethical reflection based on experience is more accessible/usable and helpful for practitioners than the “conceptual framework” approach in Starratt (2005) that is touted by some in the Department where I work. An overly conceptual approach requires undergraduates to assimilate a more difficult set of premises, such as understanding different ontological and epistemological stances. That takes undergraduates too far into philosophic abstraction and away from applications in concrete practice, which are presumably a *raison d’etre* for the course. Truscott and Crook do recognize that there are multiple ethics—those of care, consequences, justice and innate virtue of character—but believe these are grounded in intuition, not in the logical application of concepts as does Starratt.

To get in tune with our ethical intuitions, Truscott and Crook set forth a simple, even simplistic four-step model for novice professionals. The model involves, in sequence: listening while being sensitive to relationships and the perspectives of others; feeling and taking stock of one’s own virtuous intentions; thinking in terms of professional duties; and semi-finally, acting with an eye to consequences only after alternate courses of actions are contemplated. This model is recursive because often,

our actions bring to light additional dimensions of the situation that may lead to a redefinition of the problem or change the circumstances in significant ways, necessitating consideration of further alternatives that have consequences we must deal with, and so on. (p.21)

If a single admonition may be distilled, it is that professionals must slow down and look from a variety of ethical (but not legal) stances before taking decisive action.

While this is good counsel, to what range of “problems” in Canadian schooling do the authors apply this model? The perennial staff room issue of “dress codes” is initially held up as a predicament, but other more substantive school problems are raised. The sexual abuse of students, educational malpractice, teachers’ association power struggles, inclusive education, residential schools and colonialism, professional archetypes and qualifications, teacher competence, collegial conduct, student and parent rights, privacy and confidentiality, religious faith, student discipline and classroom management, bullying, duty of care and teacher supervision, teachers’ private lives and public behaviour, sexual orientation, and academic freedom—this roster might be called the customary list of legal-ethical topics in undergraduate studies. Unavoidably, with three credit hours at one’s disposal, choices must be made, but Truscott and Crook do not venture far off the typical path in ethical matters.

Of course, other important questions must be asked about course content: is this roster of topics and ethical dilemmas actually left unaddressed or inadequately discussed in other undergraduate courses, whether in curriculum or in foundations? My limited experience is that many of these topics are often fodder in other courses, and covered there in some depth, so leading to duplication in discussion if not in term papers. As such, the assumption is that teachers will likely confront ethical situations in one or several of these areas during their first five years in the classroom. But will they? Because we presume they will, dedicated university time for habituated reflection somehow promotes the “right” ethical response after the novice teacher convokes and enters a school where immediate action is often called for. In other words, we assume that you can pre-program ethical behaviour rather than leave moral quandaries to the less formal, spontaneous, and sometimes more “heated” contemplation with friends and colleagues outside the classroom. That is what an economist friend calls the “educators’ fallacy”—that most professional and societal problems can be programmatically solved or at least neutralized in a classroom before they hit the administrators’ fan, court room, or legislature.

Another way of highlighting textbook approaches, and hence content is by way of con-

trast with its primary competitor in the textbook market. A. Wayne MacKay, L. Sutherland, and K. Pochini's (2013) *Teachers and the Law* focuses on legal concepts, and providing a general legal framework for education, while only obliquely addressing ethical issues. Whereas MacKay and colleagues presume that dilemmas in practice derive from conflicting roles that are institutionally expected of teachers, Truscott and Crook assume that ethical dilemmas arise or inhere to day-to-day relationships and incidents. For Truscott and Crook, Canadian law and administrative structure serves largely as obligatory background information, not as source material for textbook tasks or case studies. I could find only a single question among the 200 or so reflective tasks, questions for discussion, and case studies in Truscott and Crook's textbook that explicitly invited students to become familiar with, contemplate, or apply a legal concept. That becomes a problem with a course—and with a textbook title—that explicitly fuses ethics and law. Instead, ethical reflection (not moral reasoning) is the aim, asking the teacher in training to introspect rather than examine issues somewhat objectively.

Neither textbook appears targeted for the demographic characteristics of a particular educator readership. Some American research indicates that teachers and, more recently, school principals may score lower than other career groups on a widely used measure of moral reasoning (Greer, Searby, & Thoma, 2014); others contend that pre-service social workers are better prepared than teachers (Salopek, 2013). Truscott and Crook's implicit presumption is that over a four or five year program of teacher preparation, undergraduates should begin ethical reflection as early as possible. In its diction and conceptual demands, Truscott and Crook's book seems written for a first-year or second-year undergraduate level reader; it is also more accessible to an English as second-language reader than is MacKay and company's (2013). The latter's textbook seems destined for third-year and fourth-year classes in immediate pre-service. The simpler diction and superficial approach to legal and moral issues in Truscott and Crook's book may arguably be seen as desirable features, auguring well for Canadian faculties of education who unfortunately still serve a largely suburban, middle class, white clientele to the detriment of a representative workforce. Truscott and Crook's is also a better-written textbook. Legal and administrative content, so often lampooned as being arid like the prairie landscape, is presented in readily comprehensible terms.

Where Truscott and Crook's book shines is in its presupposition that teachers are autonomous professionals responsible for thinking through issues and developing their own moral stance. For Truscott and Crook, the central problem in practice is balancing rationalist thinking with intuitive impulses within the teacher, whereas for MacKay and associates (2013), the new teacher's challenge is identifying particular school situations where the teacher must shift roles and thus be familiar with particular legal concepts. MacKay and coauthors' work is predicated on many precepts of agency theory in the law (not in sociology where agency is synonymous with self-efficacy), repeatedly describing the professional not as an independent operator, but as the agent (not prisoner) of contradictory institutional forces. A key difference between these textbooks is that one depicts the teacher as autonomous in the face of outside forces, the other as a proxy operating at the behest of others.

I am not taking sides in that debate. If I have a major criticism of Truscott and Crook's work, it is that the authors conflate axiology (consideration of values as statements of desire) with morals (consideration of goodness and badness), and morality (systematizations of morals) with ethics (study of right and wrong conduct). This potentially leaves the reader with very simplistic beliefs and even homilies, garbled reflection, and serious misconceptions about how the law and courts function. To my way of thinking, many of their reflection tasks are exercises in clarifying values rather than ethical reasoning, and some case studies deal with moral problems rather than ethical issues. Distinctions among these three (values, morals,

and ethics) become crucial to understanding many contemporary public policy debates, and avoiding the polarizations that often occur. I am not just talking about the recent Canadian controversies surrounding the Jian Ghomeshi trial (*R. v. Ghomeshi*, 2016) where a high profile Canadian media personality was charged and acquitted of sexual assault. When discussing the issues emerging on this case, activists, advocates and even political leaders demonstrated deep confusion about the courts' role, yet held unshakeable opinions about whose version of truth should prevail, and whose code of ethics should apply.

In my school workplace experience, the conflation of values, morals, and ethics was recurrently manifest in student evaluation issues—an area that Canadian legal commentators and moral philosophers tend to avoid. Professional dilemmas relating to the assessment, grading and promotion of students revolve around personal values and beliefs meeting the realities of moral judgement. This may be the second most challenging area of new teacher practice after classroom management and frequently provokes deep introspection and angst. The basic arithmetic of report card grades does or ought to elicit much moral reflection because ethical issues abound. Should a teacher assign a final grade of zero to an Indigenous student, or to any student for that matter, for non-submitted assignments? Who is the average student? For a variety of reasons both ideological and interest-based, Canadian undergraduate faculties expend much effort in preparing teachers to teach, less so to assess (Deluca & Bellara, 2013; Volonte & Fazio, 2007). Moreover, there is a body of case law that contradicts the ill-founded claims of those who argue that assessment is inimical to professionalism—whether in the *Sihota* case (*BCTF v. BCPEA*, 2009) about teachers' professional autonomy in administering standardized tests) and the *Kamloops arm band* case (*BCSEA v. BCTF*, 2011) about teachers' freedom of speech about testing in British Columbia, the *Lynden Dorval* case (*Edmonton School District No 7 v. Dorval*, 2016) in Alberta about teachers' grading policy, or the *Germaine v. Ontario Minister of Education* case (2004) about minority student rights and provincial testing in Ontario, as well as in numerous Ontario College of Teachers' rulings that are easily accessible online.

The array of legal cases that Truscott and Crook bring to their work is similar to that in MacKay and associates' (2013) textbook. Unfortunately, neither textbook provides a full-some description of the facts in cases, an overview of the adversarial positions in contention, the court's reasoning, or a detailed rationale for the judgements. Instead, we get info-snippets or what media specialists inelegantly call "factoids". Because I am a case methods type of instructor—that is only one way of engaging students in both legal and ethical issues—this "blurb" approach is unsatisfactory. It does not enhance the case knowledge of pre-service teachers or school leaders, a shortcoming recurrently identified in teacher preparation when compared with that of other professions (Doyle, 1990; Feiman-Nemser, 2001; Shapiro & Stefkovich, 2016; Shulman, 1986). Cases provide the neophyte with vicarious experience.

Using case methods in the classroom requires actual cases, translated in ways that are more accessible to the teacher candidate than simply printing court rulings verbatim from databases. When used appropriately in the university classroom, these cases are the bridges between law and ethics. Courtroom reasoning is a form of ethical reasoning, defining right from wrong conduct in conflicting circumstances. These cases also illustrate legal ideas in action. The rationale for a decision and how reasoning has led the courts to that position is the substance of case knowledge. What is missing for both ethics and law classes in Canadian higher education is an anthology of court or tribunal cases that have been rewritten for the teacher and school administrator as practitioner. Such a compendium would address some of the shortcomings in Truscott and Crook's text, while reinforcing the teaching of legal concepts as stressed in MacKay et al.'s (2013) book. Most importantly, a case anthology will enable undergraduate

instructors to have a wider repertoire of instructional approaches when teaching ethical reasoning. In a pluralist society with multiple ethical stances, we need to foster the growth of more lily pads, rather than sitting immobile on one of the two or three now apparent in the small Canadian pond. My request is for more frogs.

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