

TEACH Bulletin

Thorough Education Achieved in a Caring Home

Number 8

August 1997

“Home schools are de facto institutions.” — Margaret Austin

And as such should be subject to similar regulations.

Thus spake the Hon Ms Austin as TEACH Bulletin editor Craig Smith presented a submission before the Government's special independent review panel set up to review the ERO (Education Review Office). In addition, she made reference to Section 327 of the Education Act as if it applied to home schoolers, saying that ERO Officers could not only enter our “schools” but also demand copies of any documents. Sections 326, 327 and 328 of the Education Act 1989 are reproduced on this page for the readers' reference, and it will be noted that our homes (under the term “dwellinghouse”) are specifically exempted from these measures.

In other words, ERO Officers DO NOT have right of entry into our homes.....unless we give it to them. And we are not obliged to give it to them. But why would we quibble about that? We are proud of our home education programmes and have nothing to hide. Very true. And as much as we may want to be completely open and up-front with the authorities and do what we can to foster cordial relations with them, we must not be naive.

The Hon Brian Donnelly, Minister in Charge of the ERO, has stated on more than one occasion that he believes the child(ren) and the home of home educators need to be reviewed for safety reasons. But even the Health and Safety in Employment Act 1992 Section 31,

2(a) and (b) specifically excludes entry to a home except by consent of the occupier or by Court warrant. The Health Act 1956 does provide for reviews of private dwellings, but such a move is for the Medical Officer of Health or local authority Environmental Health Officer, *not an Officer of the ERO.*

The concern home educators should have is that ERO Officers may be on “fishing” expeditions, looking for some possible infraction of one set of regulations or another. It is not suggested that ERO Officers would be directed to go “fishing”, although Mr Donnelley clearly wants safety issues looked at, even though our only obligations under the Education Act is to teach as regularly and well as in a registered school. What is being suggested is that there are people in positions of authority who think this way, and we must protect ourselves

from any of their excessive ardour of regulatory enforcement. We need to protect ourselves from such people, as Section 326 below gives little comfort that the ERO will do so.

What we need is a clear set of guidelines, protocols and procedures governing ERO reviews of home educators. This was the thrust of the submission to Margaret Austin's review panel, and also a major issue discussed with Chief Review Officer Dr Judith Aitkin on the same day. It was encouraging to find that Dr Aitkin had already come to the same conclusion. A full report of these visits is included in this issue of TEACH Bulletin.

Extract of Education Act 1989

[326. Review officers]—The Chief Review Officer may designate any suitably qualified person (whether or not an employee of the Chief Review Officer) a review officer; and shall ensure that every person for the time being so designated has a certificate to that effect, in a form approved by the Chief Review Officer.

[327. Powers of entry and inspection]—For the purposes of enabling any functions of the Chief Review Officer to be performed, any review officer may, at any reasonable time and having given reasonable notice to an applicable organisation or any applicable person of the organisation, enter any place (other than a dwellinghouse) occupied by the organisation or person, and—

- (a) Conduct inspections or inquiries:
- (b) Require any person to produce documents or information relating to—
 - (i) An applicable service that the organisation provides; or
 - (ii) People to whom such a service is (or has been) provided,—and permit the review officer to make copies or extracts of the documents or information:
- (c) Require any applicable person of the organisation, or any other person—
 - (i) Employed by the organisation or any applicable person of the organisation; or
 - (ii) Involved in the management of the organisation,—to make or provide statements, in any form and manner the review officer specifies, about any matters relating to an applicable service:
- (d) Inspect the work of any person to whom an applicable service is (or has been) provided:
- (e) Meet and talk with any person to whom an applicable service is being provided.

[328. Review officers to prove identity]—Every review officer who enters any place under the authority of section 327 of this Act shall, on first entering and, if requested, at any later time, produce to the person apparently in charge the review officer's certificate of designation.]

TEACH Bulletin

is a monthly publication of TEACH Publications, and is concerned with those things which may impact on home educators. Articles will deal with political developments, statist and professional trends, correspondence with educationalists, and other items of general interest to home educators. There is also a regular opinion poll regarding educational issues of the day that may impact home schoolers.

TEACH Bulletin is available for a subscription of \$16 per year for 11 issues (none in December), or by becoming a member of TEACH for a donation of \$30 or more. Some of the benefits of membership are:

- Discounts on Christian Home Schoolers of NZ National Family Conference fees.
- Discounts on TEACH National Leadership Conference fees.
- Coaching on how to participate in the Parliamentary process via letter writing, making submissions, lobbying MPs, etc.
- An annual free gift.
- Discounts on resources, books, T-Shirts, etc.
- Discounts on Sunshine Educational coach tours.
- An official TEACH tax-deductible receipt for your donation.

Your donation toward membership also helps to develop further services exclusively for home schoolers such as scholarships, summer schools, national tours by overseas experts, curriculum and home school resource fairs, national and international field trips.

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Hear, my son, your father's instruction, and reject not your mother's teaching.
— Proverbs 1:8



Office of
The Minister responsible for the Education Review Office
Associate Minister of Education
Wellington, New Zealand

21 July 1997

Mr Craig S Smith
Christian Home Schoolers of Australasia
4 Tawa Street
PALMERSTON NORTH 5301

Dear Mr Smith

Thank you for your letter dated 12 July 1997 about my reported comments on the state of home schooling in 1990.

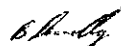
The report to which you refer was broadcast on "Morning Report" on Friday 11 July. The context of the segment of the interview broadcast related to my experience as a Review Officer in 1990. The transcript of the interview records that I said "things were a bit of a shambles at that particular stage" and that I was fearful we would find exactly the same situation now.

I can assure you that the concerns I had about the situation in 1990 to which I was referring related to keeping track of home schoolers and not to home schooling programmes. On the same topic, the Hansard record of my Budget speech quotes me as saying that in 1990 the Education Review Office did not know who was out there being home schooled. I am hopeful that the situation will be better when reviews of home schooling programmes are reintroduced this year, especially in view of the significantly increased numbers of students being home educated.

Most families who educate their children at home do a fine job. However, I am committed to ensuring that all children receive the education to which they are entitled. I am hopeful that the reviews of home schooling programmes will confirm that this is the case and that families will benefit from an external view of how well they are doing.

I trust this response is helpful.

Yours sincerely


Hon Brian Donnelly
Minister responsible for the Education Review Office

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Truancy Troubles

Home educators in Hamilton report their children being stopped by truancy officers, questioned, requested to get into the car, and then taken to their destination! It is all perfectly legal (see accompanying extract from the Act), but incredibly unsafe...any pervert could get "a distinctive badge" and tell kids to get in the car. My own 10-year-old daughter was stopped by a truancy officer here in Palmerston North this morning (22/8/97). We all need to write to the Minister of Education, Hon Wyatt

Creech, c/- Parliament Bldgs., Wellington, saying this legislation needs urgent amendment. In the meantime, tell your children NOT to get into anyone's car except a clearly marked police car with officers in uniform.

Extract of Education Act 1989

81. Ensuring attendance of students—(1) Any Board may appoint any person to be an attendance officer for the schools or institutions it administers.

(2) A person may be appointed an attendance officer by 2 or more Boards.

(3) Every Board shall, by any means it thinks appropriate, take all reasonable steps to ensure the attendance of students enrolled at its school or schools (or institution or institutions).

(4) An attendance officer, on producing a distinctive badge or other evidence of appointment, or a member of the Police may at any time detain any person who appears to have turned 5 and not to have turned 16, and who is not then at school, and question the person as to the person's name and address, the school (if any) at which the person is enrolled and its address, and the reason for the person's absence from school.

(5) If not satisfied by the person's answers that the person has a good reason for not being at school, the attendance officer or member of the Police—

(a) May take the person to the person's home, or to the school at which the officer thinks the person is enrolled;

(b) Repealed by s. 7 of the Education Amendment Act (No. 4) 1991.

(6) A person who, after an attendance officer has produced evidence of appointment, obstructs or interferes with the officer in the exercise of powers under this section, commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000.

**Report on Visits
to Government
Education Personnel
in Wellington
Friday 15 August 1997**

by Craig Smith
of Christian Home Schoolers
of NZ, Inc.

After lunch at Christina Coward's (co-ordinator of Wellington Home Schooling Association, Inc.) she and I met with Derek Miller and Elspeth Preddy of the Ministry of Education at their offices in Pipitea St. in Wellington, a stone's throw from the Beehive. The main objective was to meet Elspeth who will shortly take over from Derek the responsibility for homeschooling at the National Office of the MOE. At the same time we discussed a few administrative items Mr Miller had written to Craig about.

These included the fact that the MOE will now turn over "lost" home educators (ones whose mail gets returned to the MOE) to a new section of the MOE known appropriately as "NETS", or Non-Enrolled Truancy Service. They have some connection with local truancy officers. The Ministry has a statutory obligation to keep track of all NZ children of school age, so have formed a special unit to do just that. The MOE has also formed a policy for dropping/retaining home educators' names on their data base, for collecting ethnicity data on exemption application forms, and for making a

new application form. They still don't know what the story is regarding the re-introduction of ERO Reviews or whether we will need to produce an annual report again this year.

We trod upon tricky ground when we mentioned various philosophies of home educators, and how the questions on the application form mirrored an assumption of classroom-style teaching. Mr Miller in particular did not like the idea of the "unschooling" approach popularised by the late John Holt, and indicated that a strong flavour of unschooling all through an exemption application would almost certainly be turned down. (Here we would mention that home educators can circumvent a lot of trouble by working into their answers to the questions on the exemption application the various curriculum areas listed by the MOE on the application forms. In addition home educators could chose their language and expressions advisedly. Rather than say, for example, "I do not have any plan, nor do I intend to make one, but will wait for Johnny to tell me when he wants to learn to read," the parent might consider saying, "Johnny and I are excited about the freedom and flexibility that will be afforded us in our chosen educational philosophy. We will particularly delve into the subjects that Johnny indicates are of special interest, and I will be especially watching for those 'teachable moments' among all our

other educational endeavours." It would be important to then illustrate how you might use a 'teachable moment'.)

I pointed out that I had had negative comments about the question asking for "wide social contact with others". Mr Miller pointed out that it was only one question in a whole range of questions on the application form. A possibly deficient answer on one question is easily counter-balanced by positive answers on other questions. He personally had approved exemptions when the only social contact mentioned was "I will take the child with me to town on Saturdays when we will witness to the wrath of God."

This new exemption form is one they have been trialling in Auckland for a while. They plan to introduce it nationwide soon. The big change is the question asking for a sample plan of how you would tackle a single topic. They were happy to take on board our comment that the application did not make it clear that home educators were free to follow any curriculum, philosophy or methodology they chose, and said they would amend it accordingly. Note that the MOE does not insist at all that home educators follow the National Curriculum, in spite of what the Hon. Margaret Austin may think. Home educators need to be aware of this.

From here we travelled to

Oriental Bay and the Bay Plaza Hotel to meet with the ERO Review Panel, appointed by the Government to review the ERO. This panel is made up of:

Hon Margaret Austin,
MNZM, BSc, Dip Teaching,
AIE (London)

Professor Wayne Edwards
OBE, PhD

and **Apryll Parata-Blane,**
MNZM, BA, Dip Teaching

I had been invited to make a submission in person, and when we arrived, since there were plenty of seats at the table, Christina and I sat together opposite the panel. (It was really good to have Christina along as my support person...I would highly recommend this strategy in dealing with any bureaucrats.) The submission covered two areas of concern: the preservation of professional standards by the ERO Review Officers and the preservation of the privacy of home educators. In particular we felt it unwise to agree to reviews in the home as long as the Minister in Charge of ERO, Hon Brian Donnelly, continues to insist that the child and the home environment are to be reviewed to ensure the child is in a safe environment. I pointed out that this appeared to be outside the parameters of the Act's key words of "teach, regularly and well", that private homes were not registered schooling institutions and that we actually held exemptions

from attending these institutions. Margaret Austin countered with the comment that since we had chosen to school our children at home, our homes were therefore de facto teaching institutions. I mentioned that home schoolers would resist such an idea very strongly.

Other similarly outrageous things were said and asked by the panel, and as Christina was about to bite her tongue through with restraint, one of the panel members motioned to her to please speak. After a couple of exchanges we uncovered the attitude from one or two panel members that perhaps health and safety regulations should also apply to home schoolers. Did we receive any subsidies from the state? We did? Well, wouldn't it then be logical for the state to monitor taxpayers' money, to ensure they are getting value? Government money may soon mean Government controls.

One panel member was surprised that home schoolers do not have to follow the National Education Guidelines. Margaret Austin mentioned that her interpretation of the Act would be that we home educators should be subject to just about all school regulations except the requirements to be enrolled and to attend. She indicated that she would also interpret the powers of the ERO Officers to be such that once they had gained entry to our homes, they could then demand copies of any documents or hard disks they

wanted. They appeared to accept that there could be a privacy problem with the fact that ERO Review Reports AND WORKING PAPERS all become public documents, especially if the reviews do include safety aspects. But two of the panel were far less inclined to accept that there was any problem with Review Officers entering students' bedrooms to see the learning environment although Professor Edwards clearly understood our argument at that point.

Apart from Margaret Austin, the panel appeared to have very little knowledge of home education at all. They did grasp our proposal that a clear set of guidelines, procedures and protocols be drawn up, with input and/or consultation with home educators, and that such guidelines be given to Review Officers and home educators so that each party knows what to expect. They appeared to agree that it was a desirable move.

It was disturbing that two of the panel took the opportunity to have a go at the concept of home education, rather than sticking to their brief of reviewing the procedures of the ERO. It was probably a good thing that we discovered a flat tyre on the car after that, as the confrontational portions of that submission tended to contribute to hypertension, emotional disequilibrium, intellectual invalidation, and general all-round stress. The wrenching movements subsequently required to remove

the wheel nuts proved to be somehow exceptionally satisfying.

We then parked in the Terrace and found the building wherein the ERO offices are located. I had rung to see if we could have a yarn to the public relations person, just to say hi, and to continue to build bridges since our last visit in March. Well, none of the people were available, but the person I spoke to said she would arrange for someone to see us. She rang back when I was out, and my son took down the name Bacon. When we arrived with only this name, the receptionist looked very blank, and suggested we chat to Jo Baker or something like that. We did, and she immediately ushered us into the office of Dr Judith Aitkin, the Chief Review Officer, head of the whole organisation!

We had a most pleasant and encouraging hour with Dr Aitkin who had clearly already thought through most of the same issues with which we were concerned, plus a few more besides. Historically and legally she saw it as significant that in New Zealand we get an exemption from schooling. In other western countries, people like us apply to educate their children in an alternative fashion. She intimated that perhaps we should make more use of the term home educator rather than home schooler. She definitely would not view homes as de facto schools, and said that the last thing any sensible

person would do would be impose regulations of an institutional nature on the home. Self assessments, such as the annual reports we did last year, were seen as a prime form of review, combined with examples of children's work. Dr Aitkin expressed the objective of minimising intrusive regulatory procedures, but still did see safety issues as relevant to the review process since in our cases "the home is the preferred choice of schooling location." In this context she mentioned the Bill of Rights and international documents such as the UN Convention of the rights of the child which made health and safety issues a concern of theirs. The vagueness of the Education Act could cut both ways. In fact, she reckoned the Review Officers used our individual exemption applications as a basis for each review, which of course they don't. But then what could they possibly use as a basis of reviews if not what we had written in the application forms? As we weren't responding directly to that particular question, and as she was only asking it in a rhetorical sense, she summed it up by saying, "the same expectations as in a school, i.e. as regularly and as well, but without some of the specifics." Ultimately, as she said, the ERO simply does what the MOE requests of them.

She acknowledged that no one organisation could possibly accurately represent all the views and concerns

among the home educators. They are careful to remember that when talking to any representative types. A set of clear guidelines, procedures and protocols specifically for home educators was currently being worked on, and she had in mind to have a special set of Review Officers familiarised with the distinctives of home education who alone would do our reviews. We were invited to come back to have an input into these guidelines, and Dr Aitkin thought reviews might start toward the end of this year, or perhaps in early 1998. She had recently been impressed with a British article on home education, and said good-bye to us by giving us a copy of that plus some other ERO publications. The article is in fact the most positive and well-researched article by a non-home educator that I have ever read. Part of it is reproduced in the *Keystone* of July/August 1997.

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