

Submission
No 165

INQUIRY INTO EDUCATION AMENDMENT (ETHICS CLASSES REPEAL) BILL 2011

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Submission to

The Inquiry

into the

Education Amendment (*Ethics Classes Repeal*) Bill 2011

by

The General Purpose Standing Committee No.2

of the

Legislative Council

from

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Anglican Education Commission

on behalf of the
ANGLICAN DIOCESE OF SYDNEY
authorised by Archbishop Peter Jensen

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Summary

The Anglican Diocese of Sydney welcomes the opportunity to contribute to this Inquiry into the *Education Amendment (Ethics Classes Repeal) Bill*. As one of the largest providers of Special Religious Education in government schools in New South Wales we made our views known to the previous Labor Government during the 'ethics' controversy in 2009 and 2010. Since then we have worked together with the Department of Education and Communities and the Director-General's Consultative Committee on Religious Education to revise the Religious Education Policy and its associated Implementation Guidelines. We have been impressed by the manner and spirit in which the *Education Amendment (Ethics) Act 2010* has been implemented. It has not impaired the delivery of SRE. It is premature to be evaluating the effectiveness of Special education in ethics. In our view, the repeal of the legislation would be injurious to the health of public education and compromise the longevity of religious education in government schools in New South Wales.

We believe that it is in the best interests of the students, their parents, schools and the whole community that the teaching and learning of all subjects, including SRE and SEE be of the highest standard. We recommend, within this Submission, that the Department of Education and Communities conduct a professional review in 2014 of the Religious Education Policy and its implementation within government primary schools. There are many reasons for proposing this course of action rather than repealing the *Education Amendment (Ethics) Act of 2010*. Not least of these is the opportunity provided over the next few years through the implementation of the Australian Curriculum for all students in public schools to experience a more comprehensive religious education as well as understanding of and proficiency in philosophical reasoning.

We want to see public education flourish and we believe that the suggestions contained in our Submission are worthy of serious consideration by the Committee.

Introduction

The current Inquiry is, in many ways, the latest manifestation of a controversy which began many years ago when it was suggested that the time set aside and legislatively protected for over 130 years for 'special religious instruction' (subsequently renamed 'special religious education') in government schools should be able to be used for other purposes. In the present case, it was the proposal that a particular brand of ethics lessons be offered to primary students by an external body at the same time as SRE.

The Anglican Diocese of Sydney has been a thankful beneficiary of the arrangements for the provision of SRE since 1880 and welcomes the opportunity to contribute to the current Inquiry into the *Education Amendment (Ethics Classes Repeal) Bill 2011*. Whilst the Anglican Church had significant concerns about many of the processes that have led to the present situation, some of which are discussed in this Submission, it does not believe that repealing the *Education Amendment (Ethics) Act 2010* is in the best interests of students, schools and the future health of public education.

The genesis of the controversy

Throughout 2009 a lot of heat but not much light was generated by the media on whether the government of the day should accede to the calls from the Federation of Parents and Citizens Associations and the St James Ethics Centre to allow 'ethics lessons' to be taught to students in government schools at the same time as Special Religious Education (frequently called 'scripture' or SRE). The St James Ethics Centre had been lobbying successive governments for a number of years and each time the Minister for Education had turned down their requests.

At a number of its annual conferences preceding 2009,, the Federation of Parents and Citizens Associations had discussed and passed motions calling on the Minister for Education to allow 'ethics

lessons to be taught to primary school children whose parents did not want them to be attend SRE lessons. What led the Labor Government in November 2009 to accede to these increasingly persistent requests, when previous governments had refused, was the assertion that up to 25% of the students in government primary schools were not attending weekly SRE lessons because their parents had exercised their right to withdraw them.

As neither the Department of Education and Training (DET) nor the SRE providers had been collecting accurate statistics on how many students attended SRE and how many didn't, it was impossible to verify this percentage. In some cases, we know that non attendance at SRE was the result of principals adopting an 'opt-in' practice rather than the DET policy of parents having to formally withdraw their children from SRE if they did not wish them to attend. In other cases, students for whom the preferred and approved SRE providers were not able to supply enough voluntary teachers were categorized as 'non-SRE attendees.' Nevertheless, the argument that there was a significant number of students categorized as 'non-SRE attendees' and they were wasting their time, was accepted as valid by the Minister and formed the basis for her giving serious consideration to a change in the policy in respect to what could or could not be taught to 'non-SRE attendees' during the time set aside for SRE.

Premier Nathan Rees announced in November 2009 that the Government had decided to allow the St James Ethics Centre (in conjunction with the Federation of Parents and Citizens Associations) to trial a series of ten lessons in ten primary schools during the first half of 2010. This announcement ignited a lively exchange of opinions and arguments in the public arena. The Department was criticised for failing to inform and consult with its own principals as well as the approved SRE providers. It was also criticised for allowing the trial to be conducted in schools nominated by the SJEC rather than a more representative sample of schools across the State. The Minister was accused of exaggerating the number of students not attending SRE lessons each week in order to justify the introduction of an

alternative program to SRE. The Minister was accused even before the trial began and also while it was in progress of having made up her mind that the policy would be changed regardless of the outcome of the review. The St James Ethics Centre was criticised for not making the 'ethics curriculum' available to SRE providers and the general public. In the absence of accurate information, the critics of the ethics lessons spoke of them in a pejorative way. The St James Ethics Centre was also accused of setting out to undermine SRE and its frequent claim that it viewed its program as a complement to SRE rather than as an alternative was considered ingenuous. Supporters of SRE from different religious groups saw the trial of the ethics lessons as a plot to remove religion from public schools.

The trial was conducted in second term, 2010 and was reviewed by Dr Sue Knight, a respected academic from South Australia. In her report to the Government, Dr Knight made six recommendations, most of which were accepted by the Government. In December 2010, the Keneally Government secured an amendment to the *Education Act, 1990*, allowing ethics lessons to be delivered by an approved provider as an alternative to SRE from the beginning of 2011 to Year 5 and 6 students whose parents had withdrawn them from SRE. The environment and time of year within which the legislation was debated in Parliament and the haste with which the amendment was passed left much to be desired.

The school year for 2010 was almost over when the process for implementing the new legislation began. The Keneally Government was facing an election in March 2011. There were fears that if the Opposition won the election, it would repeal the *Education Amendment (Ethics) Act 2010*. The advocates of the ethics lessons were keen to ensure that they had a significant number of classes in place before the election. They also needed to know which schools were interested in having an ethics class. The Department was under pressure from principals and from SRE providers to establish some interim arrangements to enable schools to finalise their timetabling for the coming year.

Primary Ethics had already begun to recruit and train school co-ordinators and teachers, and was assisted in doing so by keen Parents and Citizens Branches.

At the beginning of 2011 there was apprehension in some schools that the establishment of classes in ethics might put at risk the maintenance of SRE classes. Some SRE providers interpreted the actions of principals who had announced in their newsletters to parents the possibility of establishing an ethics class if parents were prepared to volunteer to teach it as being unfair and provocative.

The current situation

Looking back over 2011, it appears that most of the students in Years 5 and 6 who have attended the ethics lessons have been drawn from the pool of 'non-SRE attendees' in their respective schools. If this observation is accurate, it is consistent with what the St James Ethics Centre said would be the case. It is also consistent with the policy framed during 2011 by the Department for the implementation of the ethics lessons. The introduction of Special Education in Ethics in 2011 does not appear to have diminished the number and size of SRE classes. Furthermore, with few exceptions, the working relationships at the local school level between SRE teachers, SEE teachers and principals appear to have been quite cordial. Very few concerns have been brought to our attention. Those that have, have been resolved very quickly.

The revision of the Religious Education Policy and Implementation Guidelines

Part of the reason for the amicable relationship that exists between the SRE and SEE teachers at the school level is the consultative fashion in which Departmental officers have worked with the Director-General's Consultative Committee on Religious Education and the representatives of the many SRE and SEE providers. The legislative changes made in December 2010 required changes in the long-standing *Departmental Religious Education Policy* and the *Implementation Guidelines for Special Religious Education*. The introduction of ethics lessons also required the framing of new *Implementation Guidelines* for what was to become known as Special Education in Ethics.

The Anglican Education Commission wishes to compliment the officers of the Department of Education and Communities as well as the Director-General's Consultative Committee on Religious Education for their work in producing three very good documents. Much care was taken to ensure consistency in the wording and practices between the two implementation documents. Every existing approved provider of SRE as well as Primary Ethics was given the opportunity to contribute to the shaping of these documents.

We are particularly pleased that the *Policy* and the *Implementation Guidelines* reinforce the right of parents to withdraw their children from SRE (that is, they can opt-out) at any time. This is preferable to parents having to opt-in. We are also pleased that the Department has placed obligations on schools as well as providers to establish in Term 4 mutually acceptable arrangements for SRE and SEE for the following year. Both of these are a significant improvement on the previous guidelines and practice.

We have on many occasions expressed our dislike for the term 'Special Education in Ethics' which is used in the Act. We recognise that the term was chosen to complement the equally lazy and misleading term of 'Special Religious Education.' The word 'special' was placed in front of 'religious

instruction' in 1880 to differentiate 'denominationally specific instruction' delivered by visiting clergy from the 'general religious instruction' given about all religions by the regular teacher as part of the regular curriculum for all students. However, in 2010, the term 'Special Education' had and still has a universal meaning that is respected throughout the education profession. It is an unhelpful and confusing descriptor for what students learn in their ethics lessons.

We recognise that while the acronym 'SRE' is used in Departmental documents, the populist term that has been used for over a century in schools is 'Scripture.' In 2012, this term is no longer an apt description of what the plethora of religious groups teach as SRE. At some stage, a wise person will give us some better language to describe what happens in both SRE and SEE. Then we may be released from the burden of having to use exactly the same terms as are used in past legislation.

It is regrettable that the new *Religious Education Policy* and the *Implementation Guidelines* (which we understand were substantially complete by the end of August 2011) have not yet been promulgated on the Department's website. While members of the Director-General's Consultative Committee have been assured that they will be informed as soon as the documents have been approved by the Minister, the delay is unfortunate and is unsettling for some SRE providers and interested members of the community.

This Inquiry: Evaluating the effectiveness of Special education in ethics

The Terms of Reference for this Inquiry refer to reporting on '*the stated objectives, curriculum implementation, effectiveness and other related matters pertaining to the operation of 'special education in ethics....'*

Apart from observing the rather nebulous nature of the brief that has been given to the Committee of Inquiry and the absence of a standard (let alone an objective one) by which to measure any one of these elements, we would suggest that the only people who are in a position to report on these matters are the principals of

schools or their delegates who have observed SEE lessons over a reasonable period of time, the school SEE coordinators who have similarly sat in on lessons and the teachers themselves, and to an extent, the students in their classes. In her commissioned professional Review of the trial of the ethics lessons in ten schools in 2010, Dr Knight admits that her observations were very limited. We doubt that anyone other than those who have been intimately involved with the delivery of these lessons is in a position to respond objectively to the Committee's terms of reference. The same of course could be said about SRE lessons, which, as far as we are aware, have not been systematically or objectively reviewed since the Rawlinson Committee met more than thirty years ago!

It is questionable what relevance a report on 'the stated objectives, the curriculum implementation and the effectiveness (presumably of the teaching and learning) of special education in ethics' could have unless it is correlated in some way with the transference of the students' learning in the ethics lessons to their learning and behaviour in the other parts of the curriculum and school program. Like SRE, SEE is not a 'subject' in which the accumulation of information is the goal so much as the acquisition of skills, processes, attitudes and values which manifest themselves in a student's character and behaviour. Even then, on what criteria is effectiveness to be measured? Is there an expectation of value adding and how and when is it to be observed?

The Committee's terms of reference do not refer to the appropriateness or viability of the strategies which Primary Ethics (which is the sole provider) may have to extend ethics lessons to students in other Grades (in the primary school) and to students in Years 7 to 10. Nor do the terms of reference address the linkages that are currently made by the voluntary teachers between the ethics lessons they teach once per week and the students' learning in other subjects, or the desirable connections that could or should be made to the wider curriculum in the future.

The terms of reference do not address the adequacy of the training (initial and on-going) provided by Primary Ethics to the volunteer teachers who are delivering the lessons on their behalf in the schools. Training is an important issue for all providers, SRE and SEE and pertinent to any serious inquiry into the provision of each part of a student's education.

It is surprising, given the context within which the Parliament agreed to the introduction of ethics lessons into government primary schools, that the proponents of this Bill have not chosen to investigate the extent to which the delivery of SEE has reduced the number of ‘non-SRE attendees.’ A related question that could have been explored is the extent to which schools have taken advantage of the revision of the legislation to insert programs of their own as an alternative option to SRE for ‘non SRE attendees. This was one of the outcomes which some people, including principals, teachers and parents hoped would happen. Others feared that the changed legislation would set a precedent for the elimination of SRE by stealth.

At the end of the Inquiry, we are not sure that the Committee will be in any better position than it is today to draw a definitive conclusion about the effectiveness or otherwise of ‘special education in ethics.’ And even if it is found wanting at this stage in some schools this is hardly grounds for condemning it as a whole and repealing the legislation.

Why we do not support repealing the legislation

We oppose the repeal of the *Education Amendment (Ethics) Act 2010*, not because we think the current arrangements are the best that we can have. We think there are a number of ways in which the current arrangements could be improved, which we will discuss shortly.

First, we believe that it is far too early to be passing judgement on the implementation of the revised *Religious Education Policy* and the two sets of *Implementation Guidelines*. As mentioned above, the new documents are a significant improvement on those that preceded them. At least three years are needed for them to be bedded-down before an informed assessment of their effectiveness can be judged.

Second, we have not seen any evidence that the provision of SEE has had a detrimental effect on the provision of SRE. Our observation is that the Policy and Guidelines are being faithfully implemented, even though they are not yet on the DET website!

Third, from our first hand observations, we believe that the current Director-General's Consultative Committee on Religious Education is quite competent and adequately resourced to address any concerns or misunderstandings that schools, parents or providers may have from time to time.

Fourth, we believe that repealing the *Education Amendment (Ethics) Act, 2010* will create considerable angst within the community. It will anger the hundreds of voluntary teachers and co-ordinators of SEE, not to mention the large number of citizens who have invested heavily in Primary Ethics. It will infuriate thousands of parents and teachers. It will not benefit the teachers and supporters of SRE. Quite the contrary. More likely than not, the repeal of the *Education Amendment (Ethics) Act 2010* will inspire the members of the community who wish to exclude religion altogether from public schools, to step up their campaign to do so.

We acknowledge that those who have proposed the *Education Amendment (Ethics Classes Repeal) Bill 2011* and some people in our own denomination hold a different position to ourselves. They feel that having argued against the introduction of ethics lessons in 2009 and 2010 and having criticized the way the trialling was managed and so forth, they should continue to oppose it no matter what. For some it is an ideological matter: they disagree with the brand of ethics that has been accepted even though very few of them have probably studied the lesson outlines that are being taught. Some object to ethics lessons being held at the same time as SRE, though they have not suggested an alternative time that is practicable.

We believe a more substantial review is needed

However, having said that, we want to recommend to the Committee that the Department of Education and Communities conduct a professional review in 2014 of the Religious Education Policy and its implementation in government primary schools.

Such a review should be conducted by appropriately qualified educational reviewers and it should include observations of religious education as well as 'special education in ethics.' Its interest should not be in the content of what is taught so much as the quality, relevance, pedagogy and age-appropriateness of the teaching and learning occurring across all Grades and in a variety of demographic contexts.

There are several reasons why we think a professional review of this kind is more appropriate than a pre-emptive strike against ethics lessons now, as if by doing that the quality and quantity of SRE will somehow be enhanced.

First, over the next three years schools across Australia will be in the business of implementing the Australian Curriculum in their respective State contexts. Unbeknown to many involved in the teaching of SRE and perhaps SEE, there are significant opportunities and possibilities to enhance religious and cultural education, ethical behaviour and philosophical thinking through the implementation of the mandated General Capabilities component of the Australian curriculum.

Second, it is important that the Parliament, the community, parents and students have confidence that those who deliver education services, whether in a voluntary or a paid capacity, are delivering quality teaching and learning. Governments are increasing the standards they expect of their paid teaching workforce. There are educational measurement strategies for assessing quality teaching and students learning outcomes in the mainstream subjects. SRE and SEE are privileged to occupy prime learning time in most schools. The community is entitled to know that the schools' use of this time is contributing to the overall quality of learning of its students, especially as the teaching is delivered by visiting voluntary teachers.

Third, quality learning implies that the educators have a suitable curriculum from which they teach. Up until very recently the Department of Education in its various guises has not made it its business to inquire of SRE providers as to whether they have an age-appropriate curriculum or what is in it. SRE providers were not concerned about this Departmental disinterest until a new player, Primary Ethics, came on the scene. This hands-off approach to curriculum has been broken by the Department's curriculum officers perusing the ethics lessons being used by Primary Ethics for their age-appropriateness.

We wish to compliment the Department for its requiring all approved providers (as part of the renewal of their approval) to identify a website on which parents and the general public can see for themselves what is taught in SRE and SEE lessons over the year. We welcome transparency and this new approach and do not regard it as interference. We accept that as part of its supportive role, the Director-General's Consultative Committee

on Religious Education in conjunction with Departmental curriculum officers should exercise a light monitoring of the quality, structure, content and methodology of the various curriculums being used in SRE and SEE.

Fourth, though it is delivered in primary schools mainly by volunteers who have not been trained professionally as teachers, it is in every one's interests that each of these teachers is equipped in an appropriate manner to facilitate effective learning within their lessons. The quality of education must approximate that provided by the average teacher. To this end, some approved providers have put in place a system of accredited initial and on-going training for their voluntary teachers. This should become a basic expectation of all approved providers and the Department should monitor compliance with it.

Fifth, as an approved provider of Special Religious Education, the Anglican Diocese of Sydney is very mindful of the privileged access that SRE and now SEE teachers have to deliver a particular type of education in an increasingly congested and contested school timetable. As the community's expectations of its public schools increases in relation to teaching standards and students' performance in literacy, numeracy, and other areas, the pressure on the school timetable will grow. Lateral and creative thinking will be needed at the macro and the micro level to balance the conflicting claims on limited learning time. While SRE and SEE delivered by voluntary members of the community for a small amount of time each week may save the Government a small amount of money in terms of teacher salaries, it also represents a massive amount of social capital and community goodwill and this should not be summarily discarded. Evidence-based decision-making and great wisdom will be needed to address these challenges.

If the Parliament and this Committee of the Legislative Council is serious about ensuring all students in government primary schools receive a quality education every day, it should acknowledge the significant contribution which SRE and SEE make to its schools and ensure that it is properly reviewed from time to time. A Departmental review of this kind we have suggested should be considered.

Beyond such a review: matters for further consideration by the Committee

We have already alluded in this Submission to the changes that have begun to occur in the curriculum landscape of Australian schools. We believe these changes should be managed for the better of Australian society. Although at first, members of the Committee of Inquiry may think that the following matters are outside the terms of reference of the Inquiry, we would respectfully suggest that they be taken into account in your deliberations.

In the course of the public debate about religious education and lessons in ethics, some mischievous assertions were made.

The first of these was that religious education should not have a place in public education. We argue that a person's spiritual and religious dimension is very much a part of what it means to be a person or a whole-being. Those who want to exclude any reference to religion from public schools frequently refer to the American doctrine of 'the separation of church and state' and imply that Australian culture and institutions are or should be based on the same philosophy. We contend that a significant number of Australians whose children attend public schools do not want religion or religious education to be removed, even though they may not engage in regular religious practices themselves.

The second assertion is that religion and ethics are somehow the antithesis of each other. Some of the loudest proponents of the introduction of ethics lessons have based their arguments on this premise, though the St James Ethics Centre has not done so. Special education in ethics is not the only place where students are taught about and learn ethical behaviour. In reality, students engaged in SRE encounter lots of teaching and learning that has an ethical dimension and the same can be said about the teaching of other subjects in the school curriculum. The prevalence of this argument (that without SEE public schools are bereft of ethics learning) has led some of us to wonder whether the lessons might be better described as lessons in philosophical reasoning rather than ethics per se. We note that Primary Ethics and the Department describe SEE as 'lessons in decision-making, action and reflection within a secular framework based on a branch of philosophy.'

The long term health of public education in New South Wales

The current discourse has focused mainly on SRE and SEE in primary schools as delivered for barely 30 minutes per week by authorised representatives of approved religious organisations or Primary Ethics. Although the legislation and Policy applies also to government secondary schools, the focus of the implementation has been limited generally to primary schools. At some point in the future, someone is going to ask whether ethics lessons or some other types of lessons can be delivered by an approved provider to students in Years 7 to 12. What will be the Department's response?

The current discourse has focused specifically on Special Religious Education with scarcely a mention of General Religious Education. GRE still exists on the Department's website but its implementation is so diffused throughout the curriculum that it is barely visible. While SRE lessons provide the students who attend them with teaching and learning in their preferred religion (e.g. Catholic, Presbyterian, Jewish, Islamic etc.) they do not provide them with a general knowledge of and appreciation of the religious beliefs, values and practices of the adherents of the other major religions present in Australia. Our graduating students and our society is the poorer for this appalling religious illiteracy. In thinking about religious education in the long term, educators in New South Wales need to consider how best to connect SRE to some sort of meaningful GRE for all. The Australian Curriculum could provide an opportunity and incentive to do this very thing. A higher profile for GRE taught to all students by their class teacher (who would need to have been retrained) could be richly complemented by SRE delivered by knowledgeable volunteers from the community.

The current discourse which has focused in an undefined way on lessons in ethics has avoided the discussion our society needs to have about the absence from the New South Wales curriculum of philosophy and theories of knowledge. While the St James Ethics Centre has done the community a service in highlighting the need for students to experience decision-making within a particular philosophical framework, there is still a debate to be had about how to expose all students from an appropriate age to philosophical reasoning during the course of their schooling. There are different models available in other States and Territories and in independent schools from which a model suited to New South Wales could be constructed.

Conclusion and recommendations

The premise on which this Inquiry is based is that the introduction of lessons in ‘Special education in ethics’ for students in Years 5 and 6 whose parents have already withdrawn them from Special Religious Education is either flawed or it has failed and therefore the lessons should be disallowed by the Parliament repealing the Act on which it is based.

Although, along with many others, we were critical of some of the processes which led to the passage of the *Education Amendment (Ethics) Act 2010*, we do not believe that the flourishing of public schools in New South Wales will be facilitated by repealing this legislation.

Recommendation 1:

We recommend that the Department of Education and Communities conduct a professional review in 2014 of the *Religious Education Policy* and its implementation within government primary schools.

Recommendation 2:

We recommend, in the interests of the long term health of public education in New South Wales, the Committee consider extending the current discourse to include:

- The place of religious education in secondary schools;
- the value of complementing special religious education with a general religious education available to all; and
- consideration of how to grant all students access to appropriate teaching and learning in philosophical reasoning.