



# Children in Chancery

The controversial story of a mother's battle for the right to educate her children at home.

**JOY BAKER**



In the beginning: Robin (5), David (6), Wendy (3), and Felicity (4)  
in the garden at the Red House, Aspley Guise, 1952

# Children in Chancery

JOY BAKER



*By the same author  
under the name Frances Wilding*

THE HOUSE ON THE HILL

TO

DAVID, ROBIN, FELICITY, AND WENDY

*because they did it*

*and to the Lord Chief Justice of England*

*because, in the end, he said they could.*

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## Chancery

Under the law of Chancery, when a child becomes a ward of the court, the High Court takes control. Every major decision—where they live, how they're raised—requires court approval. They may remain in a parent's care, but the final say belongs to the Court.



# I

## The Law and I

IN THE YEAR 1944, two major events took place in my life, although I was not aware of it at the time. The present Education Act and my eldest son, David, have one thing in common—they were both conceived in the same year. Fortunately, perhaps for my peace of mind, I had no idea to what extent they were going to run foul of each other in the years ahead.

Six years earlier, at the age of fifteen, I had left school myself with the fixed determination that I would never condemn my own children to a similar waste of the happiest years of their lives. My eight years at school had been eight years of hell, and I left totally uneducated in all the things that mattered, with nothing to show for my schooling except an ineradicable horror of being in a crowd.

I had been a shy, nervous child, easily cast down by criticism or jeers, oversensitive to the opinions of others; my outlook and behavior must have been different from those of other children of my age, and to be ‘different’ in school is to be considered silly, to be made an outcast, to be the butt of everyone’s tormenting. I could not mix happily with other children; from my earliest memories, I was shy and uncomfortable with others of my own age, who seemed to move in a world of which I had no knowledge, to find amusement in things that, for me, held no laughter, and to care nothing for the things that mattered to me.

I realized later that the burden of my being ‘different’ was only a desire to be myself, whereas most children seem to be imbued from the start of their school days with a desire to become part of an inseparable mass, in which being like everybody else is the high-

est aim; and that anyone wanting to be an individual in this mass needs to have a very thick skin and an overdeveloped ego, neither of which I possessed. This is, of course, why so many previously likable small children do tend to become truculent and bullying as soon as they start school.

All the fragile world of my childhood, with its idyllic background of an old-fashioned country garden, peopled for me with animals and birds and flowers and the endless fabric of my imagination, was suddenly exposed to what seemed to me a howling mob of strangers; and my daydreams, which were deeply rooted and very precious to me, seemed about as secure as the head of a French aristocrat on the way to the guillotine. Throughout every moment of my eight years of school, I felt myself to be under attack, surrounded by an unreal world of potential enemies and present hostility. To assume that any child could receive a proper education under such circumstances was patently absurd, and its main effect was, in fact, to leave me predisposed to be suspicious and defensive towards all interference by an artificial authority.

What I actually learned during those years was negligible. In all the endless hours sitting in grubby classrooms waiting for the miserable day to end, I succeeded only in falling into the pattern in which I was originally made, but painfully and against opposition. My ability in botany stemmed from my early interest in animals and growing things; out of the fascination I felt for words and my need for self-expression came my achievements in English. I remained virtually untouched by chemistry, foreign languages, and mathematics; neither history nor geography ever came to life for me until after I left school. I never learned to mix with others, and while I was at school, I never acquired sufficient confidence in myself to make life endurable. At the end of my school days, I was looking back on a hopeless patchwork of things half-learned, forgotten, and never understood. I spent the next five years finding confidence in myself again, consolidating the things I could do, and throwing out the things I could not—going back, in fact, to take up my own education from the point at which it had become mutilated at school.

In March 1944, I married Peter Shaw Baker, then editor of

*Animal Pictorial*, in Richmond, Surrey, whom I had met after being for many years a contributor to that magazine. By the time that my eldest son had reached 'school age,' my marriage had begun breaking up, on rocks that do not enter into this chronicle; so, during my ensuing resistance to the education authorities, I was for the most part entirely alone with the children, as a result of my husband's enforced absences from home, his unfortunate state of health, and our eventual complete separation. But although he took no active part in my seven years' struggle, my husband did, in fact, entirely agree with my views on our children's education, his personal experience of schooling having been as unhappy as my own.

At the time when I married and started my family, my memories and my opinion of school education were quite clear-cut and unequivocal. At worst, it was a system of child destruction, or at least destruction of individuality; at best, it was a waste of time.

My own school education had been instigated, with the best of intentions, by my parents, who felt, like so many other people without really knowing why, that children ought to go to school. But had my parents decided to educate me entirely at home—which they afterwards agreed would have been, in my case, a far better course—they would have been legally entitled to do so. Under the impression that we were a free country, and being too occupied with the birth of my first child to take much interest in the latest Education Act—which, in any case, I would have supposed would be reasonably interpreted—I had no idea of the extent to which the law had been changed. I assumed that I had the right, as my parents had had, to decide when, where, and how I educated my own children; and it would have seemed fantastic to me at that time that this now constituted a criminal offense.

My two elder sons, David and Robin, were aged six and five when, early in the year 1952, they first attracted the attention of the education authorities. This initial encounter was in the shape of a visit from the School Attendance Officer—now euphemistically termed the Welfare Officer—which I would have regarded as an unwarrantable intrusion if I had taken it seriously, but which appeared to me only an example of senseless officiousness, as I did not.

I was still unacquainted with the terms of the 1944 Education

Act; but I knew that, although education in some form was required by law during my own childhood, I was nevertheless kept at home until the age of seven and later kept away from school for a period of nearly a year without any government officials calling on my parents; and I was perfectly sure what kind of reception they would have gotten from my father if they had. It simply did not occur to me that the education and upbringing of my children, provided they did not run wild, were not illiterate, and conducted themselves as civilized members of society, could be anything to do with anyone but myself—still less that it could concern some department of the State. I still believed, indeed, that such a position would be the very reverse of all that this country stood for; and the Welfare Officer, on this and several subsequent visits, therefore received very short shrift.

At the end of July 1952, the Bedfordshire Director of Education wrote to ‘respectfully draw my attention’ to Section 36 of the Education Act, ‘which lays the duty upon the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability, and aptitude.’

‘In this connection,’ he concluded, ‘and in view of the lack of information offered to my Welfare Officer when he recently called upon you, I am entitled to ask what arrangements are being made for the education of your two sons.’

To this, I replied that it was my intention to provide my sons with their education at home. I then received a further letter from the Director of Education.

‘It is noticed,’ he wrote, ‘that it is your intention to provide tuition at home for your two sons. To give effect to the law of education, it is essential that efficient full-time education be provided, and the responsibility for its provision rests upon the parent. I must therefore request that a copy of the timetable and scheme of work which your sons will follow, together with the qualifications of the tutor, be submitted for the approval of the Local Education Authority.’

This appeared to me to be substantially ridiculous. If the responsibility rested on the parent—a statement with which I entirely agreed—then, provided there was no reason to suppose the parent was shiftless or irresponsible, there could be no occasion for interference by the State. Further, the request for ‘timetable, scheme of work, and

qualifications of tutor' with regard to children still in the nursery seemed to me utterly absurd. I was myself taught by my mother, who had no 'qualifications' whatever, until I was seven, and was then ahead of other children of my age when I started school. With what I felt was commendable restraint, I replied:

'I am in receipt of your letter of the 6th of August and would inform you that my two sons are receiving, and will continue to receive, efficient education suitable to their age, ability, and aptitude. If you have any reason to suppose this not to be the case, doubtless you will proceed as authorized.

'Before answering any further questions on the matter, I would be glad if you would forward me a copy of the Education Act of 1944, under which I understand your authority lies.'

To this, the Director of Education replied:

'I have received your letter dated the 7th of August 1952, and I would respectfully point out that the Local Education Authority must be satisfied that your children are being educated according to the law, and the onus of proof rests upon the parent.

'I do not supply copies of the Education Act, but a copy might be obtained at any of Her Majesty's Stationery Offices.'

This concluded the first stage of the battle. I still did not take it seriously; they were my children, and I did not see what it had to do with the State.

I had at this time no clear-cut idea of a personal system of education; I remembered only the misery of my own schooldays, and I would not risk my children suffering in the same way. It seemed to me that the whole school system was wrong; children should grow up and acquire basic learning in their own homes and then study individual subjects in which they showed an interest and aptitude at a later age when their minds were ready for concentrated mental work. They should not spend their most impressionable years getting physical cramp and mental indigestion in the unnatural surroundings of school.

I believed, too, that children could, in any case, absorb knowledge only when their minds were ready for it; and that they would reach out for knowledge as they were ready for it, without any need for enforced instruction in class. I had my first example of this when

David was four, and he stopped suddenly during a walk through the village to look at a 'W' carved on the wall of a building. 'What is that?' he demanded. 'I've seen things like it in books!'

But I did not feel that any of this would interest the Director of Education, so I did not reply to his letter of the 13th of August, and I heard nothing more for the next six months.

Meanwhile, David and Robin, with their two sisters—Felicity and Wendy, then aged four and three—were living the kind of life that I had been brought up to regard as right and proper for children of their age. They had a large, old-fashioned garden in which to play and, adjoining it, a field with a little wood at one end. I had let the grazing to a farmer from the next village, and on the field were four Jersey cows, a mare with foal, and several ponies. All four children played with the cows, sitting on their backs and feeding them with chestnut leaves; when the farmer came to look at the animals, he gave the children rides on the ponies, and they were playing in the field when, one evening in late spring, the foal was born. Felicity especially loved the horses; David spent most of his time with the cows.

They had a large nursery indoors and a varied assortment of toys and an even more varied assortment of what we called 'things'—the odd pieces of wood and metal, broken toys and items of furniture, and so on—that accumulate in any household, and which occupy children so much more effectively than ordinary toys; and I believed were much more effective than schoolroom teaching in developing their imagination, inventive powers, creative ability, and the practical application of ideas. With these, they would build a boat or an airplane one day, a farmyard or a house the next, and I never prompted or interfered with their play, preferring to watch their minds expanding, like opening buds, rather than trying to pull the petals out before they were ready to flower.

During this winter, I started teaching David to read, obtaining various school reading books for the purpose, but I soon found that the process was useless; he made no real progress, often being unable to remember words he had read five minutes before, and was soon distressed and bored. I found, too, that the words and phrases used in these learning-to-read books, being chosen in order

to group together words with the same sounds, bore no relation to ordinary speech, and this caused the children nothing but confusion until I explained what the right word really was. In the end, I gave the children the books to play with and got instead the Pooh books by A. A. Milne and Kenneth Grahame's *The Wind in the Willows*, which I read to them every night; and I abandoned reading lessons altogether. David then frequently came to me wanting to know the meaning of a word he had picked out in one of the books, and I found that these words he remembered and understood.

It seemed obvious to me that David was simply not yet ready to read; neither he nor Robin had reached the point at which they felt any sustained interest in words or had acquired any real ability to concentrate. And in any case, although I myself had learned to read at the age of five, I do not think I gained any advantage from this whatever; in fact, it caused me a good deal of suffering, as throughout my childhood, I was always having nightmares from which I awoke in terror, unable to free my mind from some frightening or unhappy episode which I had read during the day. No one can tell, unfortunately, what is going to appear frightening to any particular child, and a great many children's books, although appearing quite innocuous to an adult mind, may have quite a different effect on the sensitive imagination of a child under ten. The more I considered the matter, the less could I see any advantage in learning to read not only until the child's mind was readily able to absorb the idea of reading but until it was able also to comfortably digest what had been read.

So David and Robin continued to grow up and develop in their own way; they investigated words and numbers in their own time and drew letters and figures for amusement on rainy days; they asked endless questions about everything they thought of and played with great energy and enthusiasm; and they never awoke crying in the night. None of which, apparently, met with the approval of the education authorities.

## Into Battle

IN MARCH 1953, the Bedfordshire Director of Education opened a fresh offensive by sending me two copies of a printed notice, in respect of David and Robin, headed: 'NOTICE TO PARENT OF FAILURE OF DUTY REGARDING EDUCATION OF CHILD.'

'WHEREAS [it continued] under the Education Act 1944, it is the duty of the parent of every child of compulsory school age to cause the child to receive efficient full-time education suitable to his (her) age, ability, and aptitude, either by regular attendance at school or otherwise;

'AND WHEREAS it appears to the Bedfordshire County Council, being the Local Education Authority for the area, that you are the parent of a child of compulsory school age living at Aspley Guise in the area of the Authority and are failing to perform the duty imposed on you as set out above;

'YOU ARE HEREBY REQUIRED, within fourteen days from the service of this notice upon you, to satisfy the said Authority that the said child is receiving efficient full-time education suitable to his (her) age, ability, and aptitude, either by regular attendance at school or otherwise.'

To this, I replied: 'I am in receipt of your printed communications of the 20th of March referring to the education of my sons, David and Robin.

'I have already repeatedly informed you and your representatives, in response to numerous calls and communications, that it is not my intention to send my sons to school at the present time

and that they are receiving efficient education suitable to their age, ability, and aptitude in their own home.

‘I would be glad if you would inform me what reasons you have for stating that it ‘appears to you’ that this is not the case. Perhaps you would also be good enough to inform me how long it has been the practice of the education authorities to conduct what amounts to a deliberate persecution of the parents of young children in this way, without any grounds or foundation whatever? I would suggest that the money spent by the Council on enabling your representatives to travel round in cars for this purpose would be better used to improve the standard of education in the Council schools, which at present leaves much to be desired, judging by what I have seen of the results.’

In response to this, I received a lengthy letter from the Clerk of the Bedfordshire County Council, stating:

‘The County Director of Education has consulted me about his correspondence with you about the education of your two children, Robin and David. Having read this correspondence carefully, it seems to me that there has been some misunderstanding, and I am therefore writing to you to try to clear it up.

‘As you know, Parliament has stated quite clearly that it is the duty of the parent or guardian of every child between five and fifteen years of age to see that he is educated in a proper manner, whether in school or not (§36 Education Act, 1944). At the same time, Parliament has given the County Council the not always pleasant duty of seeing that parents fulfill this obligation (Ibid., §37).

‘The County Council’s task presents little difficulty when the parents send their children to recognized schools; it is only a question of ensuring regular attendance. But many parents prefer to educate their children at home by private tuition, and it is then the duty of the Council to satisfy themselves as to the adequacy of the tuition provided. Parents are usually able to do this either by inviting a visit from the Council representatives so that they may see the sort of education the children are receiving or by sending to the Council a copy of the timetable and the schedule of work, and specimen.

‘May I emphasize that there is no suggestion that you or any

other parents are wrong in deciding to educate your children otherwise than in school. It is only that the Council is put upon their inquiry when children do not attend school and have to ask parents to give full information about the adequacy of the education being provided. It is the inescapable duty of the Council to decide whether they consider it to be adequate or not, and this they cannot do if the parents give no details of the education that the children are receiving or merely reply that 'the education is adequate.'

'In the absence of detailed information, the Council is bound to assume that the education is inadequate and to take the steps which Parliament has prescribed for such cases. I enclose copies of Sections 36 and 37 of the Education Act, 1944, so that you may see what these steps are.

'I am hoping that this explanation will convince you that in writing to you to ask for information about the education you are giving your children, there has never been any intention to criticize or to interfere in any way beyond what is laid down in the Education Act, 1944. I hope also that you will agree that the simplest way to conclude the matter is either to permit a visit by one of the Officers of the County Council or, if this is distasteful to you, to send to Mr. Lucking (the Director of Education) here at the Shire Hall copies of your children's timetable, schedule of work, and specimens of their notebooks.'

What annoyed me most about this letter, as it had in the earlier correspondence, was the apparently automatic dismissal of any statement made by the parent regarding the child's education, as if this must necessarily be worthless. Basing my approach on the law prevailing in my own childhood, I appreciated that it might be the Authority's duty to inquire into the education being given to any child not attending a recognized school; but I was totally unable to accept the position where a straightforward assurance in answer to such an inquiry was discounted as being insufficient. I could not understand a law that gave to paid Government officials the right to disregard a reasonable statement made by someone whose word they had no reason to doubt—a statement concerning that person's own home and child. It seemed to me that this amounted

to putting me on trial for a criminal offense without any evidence having to be produced that any offense had ever been committed.

I resented the unavoidable implication that my word was worthless and the arbitrary sweeping away of all the normal elemental rights and responsibilities of parenthood. In short, the correspondence got my back up, and the soothing phrases in which the Clerk of the Council's letter was couched did nothing to get it down again. Without, at that stage, having any idea of the full extent of what we were up against, I began to see education as an inexorable net closing in on David and Robin, drawing them into the maelstrom of misery which would distort and destroy their golden days—the shadow of which was already approaching Felicity and Wendy as they played unaware in the sun. My children were threatened, my defenses were up, and the ensuing battle only intensified the determination of my resistance.

I replied to the Clerk of the Council:

'I thank you for your letter of the 9th of April, referring to the matter of the education of my sons, Robin and David. I thank you also for sending me a copy of the relevant sections of the Education Act, 1944, which, as you will see from the previous correspondence in this matter, I first asked for (and was refused) nine months ago.

'I have perused the copy of this Act and your letter with care, but I am still unable to find any answer to the question in my letter to the Director of Education of March 21st—namely, *what reason* have the Education Committee for stating, in the notices served on me by them, that 'it appears' to them that my sons are not receiving adequate education?'

'The Education Act (Section 37, Para. I) only requires the local education authorities to serve such a notice upon a parent 'if it *appears to them* that the parent is failing to perform the duty imposed upon him by the foregoing section,' which (Section 36) provides that the child shall receive efficient education, 'at school or otherwise.'

'I have already informed you—not once, but repeatedly, both verbally and by letter—in response to your enquiries, that my sons are in fact receiving efficient education in their own home. May I then ask *why*, having been given this information, the Education

Committee should state that ‘it appears to them’ that such is not the case? May I ask them to state what grounds, if any, they have for stating that ‘it appears to them’ that my statements are incorrect?

‘Your statement that ‘in the absence of detailed information the Council are bound to assume that the education is inadequate’ is obviously absurd—and it is not mentioned in the Act; nor can I find any provision under the Act for any such inspection or supervision of the work of a child at home as you now say you require. The Act requires the parent only to ‘satisfy’ the authorities that the child is receiving adequate education. What constitutes ‘satisfaction’ on this point is, apparently, left to the Education Committee to decide.

‘What I wish to be informed of, therefore, is on what grounds the Committee have decided that, in this case, my statements in the matter are not sufficient to satisfy them—and what reasons they have for maintaining, in the face of my statements to the contrary, that ‘it appears’ that the children are not receiving adequate education at home.

‘I was brought up in the belief (now rapidly diminishing) that this is a ‘free’ country, in which the State makes no unreasonable interference in the lives of its citizens. I claim, therefore, the right to bring up and educate my children according to my own methods, standards, and beliefs; and I regard your persistent demands as an unwarrantable intrusion into our lives. I was myself taught in my own home for a considerable period of my childhood, without any query, inspection, or investigation on the part of the local authorities.

‘I have already informed you that my sons are receiving—and it is my intention that they should receive—efficient and suitable education in their home; and any School Attendance Order served on me in respect of them will be disregarded. If this makes me guilty of any ‘offence,’ I am quite prepared to deal with the consequences. Meanwhile, I would suggest that some lessons in courtesy would improve the education already received by your officers. I see no reason why my statements regarding my sons’ education should fail to satisfy the Education Committee; and I am not prepared to amplify the statements I have already made until and unless you can inform me of your reasons for refusing to accept them.’

In response to this, I received, on April 16th, two more copies of the 'NOTICE TO PARENT OF FAILURE OF DUTY REGARDING EDUCATION OF CHILD.'

I wrote again to the Director of Education:

'I have been awaiting a reply to my letter of the 10th to the Clerk of the County Council—but I have received in this morning's post two further printed notices repeating the unfounded and (since it now appears obvious that you are quite unable to justify them) rather stupid assertions that 'it appears' to you that my sons are not receiving adequate education.

'If these are intended as an answer to my letters, it seems indeed strange that an education authority should be unable to reply to a plain and straightforward question in simple English, but must resort to the continual repetition of meaningless printed forms. I still await a reply to my letter of the 10th and wish to state clearly that until and unless I receive it, these and any other similar notices will be treated with the contempt which they—and their senders—merit.'

On April 21st, the Clerk of the County Council replied:

'I refer to your letter of the 10th April addressed to me and also to your letter of the 16th April addressed to the Director of Education. I confirm that the formal notices sent to you pursuant to Section 37 (I) of the Education Act, 1944, were in reply to your letter of the 10th April. The formal notices were not accompanied by any other letter because I had given a very full explanation of the position in my letter of the 9th April, and any further explanation could only be a repetition of that letter.

'I can only say that, in view of your apparent reluctance to give the Authority any information about the nature or efficiency of the education which you say you are providing, the Authority are bound to serve upon you notices under Sub-Section I of Section 37, and if you fail to satisfy the Authority within the fifteen days specified in the notice, the Authority may well decide to serve upon you School Attendance Orders requiring you to cause the children to become registered pupils at a school to be named in the Order. You would then have an opportunity of choosing which school

you prefer, subject to the right of the Authority to appeal to the Minister if they do not agree with your choice.

‘Although it is no part of the County Council’s duty to provide you with copies of the Acts of Parliament, which, as you had previously been informed, are obtainable from Her Majesty’s Stationery Office, I supplied you, as a matter of courtesy, with copies of Sections 36 and 37 of the Education Act, 1944. These are not the only sections relating to the question of compulsory attendance at schools, and I suggest that you should obtain for yourself a copy of the Act or consult your legal advisers. I would draw your attention to the provisions of Section 40 of the Act, which deals with matters relating to legal proceedings in the case of persons guilty of offences under Sub-Section 5 of Section 37.’

To this, I replied:

‘I am in receipt of your letter of the 21st, from which it appears, in the midst of a good deal of verbiage and threats, that you are, in fact, unable or unwilling to answer the perfectly reasonable and pertinent questions put to you in my letter of April 10th.

‘Such a state of affairs in a supposedly responsible authority needs no further comment from me to emphasize its absurdity. I have nothing to add to my letter of the 10th, to which I am still awaiting a reply. If you feel that it will be of any benefit to take such proceedings as you refer to against me—based on an entirely unfounded statement which you are quite unable to substantiate—by all means, do so. Any such proceedings will certainly form an interesting addition to my sons’ education.’

The Clerk of the County Council replied to this:

‘I hardly know how to reply to your letter of the 24th April, since if I am brief, you will doubtless regard me as rude, whilst if I take the trouble to explain the position to you in detail, you will describe it as verbiage.

‘The position simply is that the County Council have got to be satisfied that your sons are being properly educated, and if you will not provide the necessary information, the Committee will have to consider instructing the School Attendance Officer to take the usual proceedings. I felt that it would be much more in your sons’ interests that you should have a friendly discussion with someone

who has the boys' welfare at heart than that we should incur the expense and unpleasantness of court proceedings, but if you are not willing to help, I fail to see how the Council can otherwise discharge their statutory responsibilities.'

To this, I replied:

'I am in receipt of your letter of the 25th and can only say that it seems to me very strange that you should apparently have so much difficulty in replying to the points raised in my letter of April 10th. I am already in possession of all the facts as stated by you in this and previous letters, and frankly, I can see no reason for so much useless repetition.

'You have already received my assurance that my sons are, in fact, receiving adequate education. I, on my part, have done all that seems to me reasonably necessary, or required by the Act (so far as you have had the courtesy to acquaint me with the text of this) to satisfy you in this matter. If you require anything further, I have asked only to be informed of your reasons for refusing to accept the statements I have made. If you are indeed forced, under the Act, to set aside assurances made by parents regarding their children's education, I would be obliged if you would quote the relevant passages requiring you to do so. If this is not the case, may I have your reasons for refusing to accept my statements as sufficient satisfaction on this point?

'I would add that I have at no time been approached with a view to any 'friendly discussion with someone who has the boys' welfare at heart.' The only representative of the Education Authority who has called to see me has been, on all occasions, most offensive.'

The Clerk of the County Council then wrote:

'In reply to your letter of the 28th April, I know that you are satisfied that your sons are being properly educated, but the point is that the County Council must be satisfied. When they know the facts, they might well share your view, but until they know how your sons are being educated, they are unable to form their own opinion. Since you decline to give this information, it does not seem that there is much point in continuing this correspondence.'

And I replied: