

Editorial

This issue of the Journal comes at a time when there has been a continued growth in interest in legal matters associated with education. This was evidenced, for example, by the range and depth of topics presented at the joint ANZELA-University of Western Sydney Conference held in Sydney in July of this year. It is also evidenced by the interest shown in this Journal which now has a subscription rate of over 400. The appointment of Gaunt Inc as ANZJLE's sole agents in North America will further enhance its distribution outside of Australia and New Zealand and provides an important avenue for encouraging the submission of articles from the international community.

The comparative theme which provided the main thrust of the first volume is continued in this issue with articles from Canada and the United Kingdom while the remaining articles demonstrate the diversity of research that is emerging in Australia and New Zealand in relation to education and the law. The issue also features a Case Note and a review of recent books on education and law in the United Kingdom. It will be readily evident to readers that the topics addressed in each of the articles, the case note and the review of books, have considerable importance for the leadership and management of all educational institutions - whether this be at primary, secondary or tertiary levels.

Harris provides a remarkably succinct statement of recent developments in education law in England and Wales and notes that legislative reform of education will continue to be confronted by the rapidity of change and an 'intensely political character'. The paper provides a useful comparison between former and emergent legislative structures of the education system(s) in England and Wales and the problems created for educators in schools and tertiary institutions in increased accountability and control mechanisms the new systems have introduced. The paper addresses questions related to children's rights, choice of school, and standards of educational provision along with other areas of concern such as peer harassment and indiscipline.

Khan's paper details recent, and potential future, developments in education law in Canada. Drawing on his considerable experience in the UK and Australia as well as Canada he is able to draw our attention to the similarities and differences that exist in our cultural and legal heritages which so strongly influence the development of our various education systems. In particular Khan examines the influence that the Canadian Charter of Rights and Freedoms, which is enshrined in the Canadian Constitution Act of 1982, has on the Canadian education system(s). In this regard considerable attention is devoted to the issue of rights in a multicultural setting and how these impact on specific educational areas such as those with special needs.

Lindsay, in her article on age discrimination in Australian education, raises the question of whether the legislation enacted in the various States serves to counteract perceived discrimination problems. After an examination of legal concepts and the scope of the protection offered, as well as the exceptions to age discrimination allowed in education, Lindsay argues that

there is a need for a reassessment of the scope of the prohibition on age discrimination in education. She concludes that the ‘social sense of “harm” associated with age discrimination in education is strictly muted in comparison with other grounds of discrimination such as sex, race or disability’.

Copyright is for all educators a vexed issue as they strive to provide a comprehensive education that will meet the needs of all students but have to confront the realities of resource restrictions. In her comprehensive article on copyright and distance education, French demonstrates how the New Zealand copyright laws serve to disadvantage a significant proportion of the student population - the distance education student and concludes that amendments to the New Zealand legislation are necessary in order to meet the needs of all students.

Given the recent Australian Commissions of Enquiry into, among other matters, abuse of children, Murray’s paper on teachers’ failure to report suspected cases of child abuse comes as a timely reminder of all educators’ professional responsibilities towards their students’ physical and emotional well-being. In this paper Murray analyses a 1970's Californian case of child abuse and asks whether this case provides lessons for the various Australian jurisdictions. Importantly he concludes that a failure to report has the potential to expose teachers to a successful legal action.

Australian and New Zealand school principals and classroom practitioners will be only too aware of the duty of care owed to students in a range of school-related activities. In this regard the duty owed to children when they are on school grounds before commencement, and after conclusion, of classes for the day is generally well known and accepted. What is less known, and only reluctantly accepted, is the duty of care owed to students - in certain situations - when travelling to or from school. Lindsay’s case notes provides an astute analysis of the majority and minority judgements of a very recent New South Wales (Australia) case where a duty of care was held to be owed - and breached - to a primary school student who was waiting for a bus after the close of the school for the day.

As in the first issue of the journal we are fortunate in having a review of recent books on education law. While in this case the books are from the United Kingdom, Knott makes the point that there is much to be learned, across a range of topics, from the three publications that he has reviewed.

I would encourage readers to promote the Journal and to submit articles for consideration. It is hoped that each issue will contain a diverse range of papers reflecting international and national trends and address topics of importance to educators at all levels of the educational enterprise.

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Editor

